

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 130249

Amending Chapter 2, Code of Ordinances, by repealing Division 2, Code of Ethics of Article VII, Officers and Employees, and enacting a new Article XV, Code of Ethics, of Chapter 2, Code of Ordinances to implement a comprehensive code of ethics, and amending section 2-48, Code of Ordinances, entitled “Mayor pro tempore” to establish the duties of the Mayor pro tem, including those relating to the Code of Ethics.

WHEREAS, in May 2011, the Mayor’s Transition Team prepared a document entitled “Blueprint for Ethics” which set out certain recommendations for revising the City’s Code of Ethics and for establishing a process for further review and analysis of the City’s Code of Ethics: and

WHEREAS, one of the recommendations for the further review and analysis of the City’s Code of Ethics was the appointment of a special commission “. . . to conduct a comprehensive and substantive review of the City’s Ethics policies and practices that would include drafting a new Code of Ethics”; and

WHEREAS, in June 2011, Mayor Sylvester James, Jr. appointed the following seven persons to serve as the members of the Blue Ribbon Commission on Ethics Reform: Andrea Bough, who served as the Chair of the Commission and is an attorney with the Stinson Morrison Hecker law firm, Reverend Brian D. Ellison who then served as pastor of the Parkville Presbyterian Church, Associate Dean Barbara Glesner Fines of the University of Missouri – Kansas City School of Law, Chris Lester who is a business and media executive and journalist, Robert Patrick, who is the president of Local 500, AFSCME, AFL-CIO, Leo Prieto, who is the Community Health Education Outreach Manager at Truman Medical Center and Erik Stafford, who is an author, historian and small business owner; and

WHEREAS, the Blue Ribbon Commission on Ethics Reform first met on June 29, 2011 to begin its study of the City’s existing Code of Ethics; and

WHEREAS, as suggested by the Mayor’s Transition Team, the Blue Ribbon Commission on Ethics Reform used as their primary references the Model Ethics Code developed by the non-profit organization known as “City Ethics”, the code of ethics adopted by New Haven, Connecticut and the City Auditor’s February 2011 report entitled: “Performance Audit City’s Efforts to Encourage Ethical Conduct” and then expanded those references by reviewing the codes of ethics of several other cities; and

WHEREAS, the Blue Ribbon Commission on Ethics Reform held fifteen meetings, all of which were open to the public; two of which were specifically noticed to receive public comments and one of which was primarily devoted to consideration of a presentation by the City Auditor on his audit work concerning the City’s code of ethics and its implementation during which they conducted a comprehensive and substantive review of the City’s ethics code, policies and practices; and

WHEREAS, the amended code of ethics set out below is the product of the Blue Ribbon Commission on Ethics Reform’s comprehensive and substantive review of the

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City's ethics code, policies and practices which they believe strengthens and improves the City's existing code of ethics; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Division 2, Code of Ethics, of Article VII, Officers and Employees, Chapter 2, Code of Ordinances, is repealed.

Section 2. That Chapter 2, Code of Ordinances, is amended by enacting a new Article XV, Code of Ethics to read as follows:

ARTICLE XV

CODE OF ETHICS

DIVISION 1. GENERAL

- Sec. 2-2000. Declaration of policy; purpose of code
- Sec. 2-2001. Definitions
- Sec. 2-2002. Orientation and training
- Sec. 2-2003. Use of city property
- Sec. 2-2004. Authority to promulgate regulations

DIVISION 2. CONFLICTS OF INTEREST

- Sec. 2-2020. Conflict of interest
- Sec. 2-2021. Disclosure of conflicts and withdrawal
- Sec. 2-2022. Preferential treatment
- Sec. 2-2023. Transactions with subordinates
- Sec. 2-2024. Conflict of interest annual report

DIVISION 3. GIFTS

- Sec. 2-2030. Acceptance of gifts
- Sec. 2-2031. Tickets to city facilities
- Sec. 2-2032. Reporting

DIVISION 4. EMPLOYMENT

- Sec. 2-2040. Honesty in applications for positions
- Sec. 2-2041. Patronage
- Sec. 2-2042. Canvassing elected officials for appointment
- Sec. 2-2043. Nepotism
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DIVISION 5. CONFIDENTIAL INFORMATION

- Sec. 2-2050. Confidential information
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- Sec. 2-2061. Council expense accounts
- Sec. 2-2062. Travel and other expenses

DIVISION 7. POLITICAL ACTIVITIES

- Sec. 2-2070. Permitted and prohibited political activities of employees
- Sec. 2-2071. Prohibition on required political participation.
- Sec. 2-2072. City communications - prohibitions related to city elections

DIVISION 8. REPORTING

- Sec. 2-2080. Municipal hotline
- Sec. 2-2081. Complicity with or knowledge of others' violations
- Sec. 2-2082. Whistleblower protection

DIVISION 9. ENFORCEMENT

- Sec. 2-2090. Municipal officials and officers ethics commission
- Sec. 2-2091. Prohibition on political contributions and support by commission members
- Sec. 2-2092. Jurisdiction
- Sec. 2-2093. Powers
- Sec. 2-2094. Advisory opinions
- Sec. 2-2095. Investigations
- Sec. 2-2096. Waivers
- Sec. 2-2097. Staff
- Sec. 2-2098. Disposition

DIVISION 10. PENALTY AND OTHER RAMIFICATIONS

- Sec. 2-2100. Penalty
- Sec. 2-2101. Other ramifications
- Sec. 2-2102. Commission findings required – councilmembers and certain others

DIVISION 11. REPORTING

- Sec. 2-2110. City manager reports
- Sec. 2-2111. Annual report

ARTICLE XV

CODE OF ETHICS

DIVISION 1. GENERAL

Sec. 2-2000. Declaration of policy; purpose of code

Sec. 2-2001. Definitions

Sec. 2-2002. Orientation and training

Sec. 2-2003. Use of city property

Sec. 2-2004. Authority to promulgate regulations

Sec. 2-2000. Declaration of policy; purpose of code

(a) *Policy of the city.* The proper operation of democratic government requires that

- (1) Officials and employees:
 - (A) Are independent, impartial and responsible to the public;
 - (B) Are agents of the public and hold office for the benefit of the public;
 - (C) Do not use public office or employment for personal gain;
 - (D) Are bound to discharge faithfully the duties of their office, regardless of personal considerations, recognizing that the public interest must be their primary concern and shall be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives;
 - (E) Shall uphold the constitution of the United States, constitution of Missouri, and city charter and carry out impartially the laws of the nation, state and municipality, and thus foster respect for all government;
 - (F) Shall not exceed their authority or breach the law or ask others to do so;
 - (G) Shall work in full cooperation with other officials and employees unless prohibited from so doing by law or by officially recognized confidential nature of their work; and
 - (H) As representatives of the public, their conduct in both official and private affairs should be above reproach.
- (2) Decisions and policy are made in the proper channels of the governmental structure; and

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- (3) People served by the government have confidence in the integrity of their government.

Therefore, the provisions and purpose of this code and such rules and regulations as may be established are accepted as and declared to be in the best interests of the city.

(b) **Purpose.** The purpose of this code is to establish minimum ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. This code is designed to prevent unethical behavior, to avoid even the appearance of impropriety, to provide meaningful redress, and to encourage transparency in government.

(c) **Not exclusive.** The provisions of this code may not be the exclusive source of guidance, rules, regulations, or other requirements addressing ethical behavior of officials and employees. Provisions providing for the ethical conduct of officials and employees will be in addition to the provisions of this code. If there is a conflict between this code and a more specific provision, the two will be interpreted together if possible, but if not the provisions of the more specific provision will govern.

(d) **Cross references – budgetary and financial policies.** There is recognized the additional obligations of persons involved in the city's investment process set out in Sec. 2-1950(d), debt process, Sec. 2-1990(d), and swap transaction process, sec. 2-1990(n)(4).

Sec. 2-2001. Definitions

As used in this code, these terms shall have the following meanings unless it is apparent from the context that a different meaning is intended:

(a) **Board** means any appointive board or commission or other appointive body or authority of the city established by charter, ordinance, resolution or act of the mayor.

(b) **Commission** means the municipal officials and officers ethics commission, unless the context dictates otherwise.

(c) **Contract** means any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for valuable consideration to be paid by the city or is to be sold or transferred by the city.

(d) **Councilmember** means any member of the city council, including the mayor.

(e) **Domestic partner** is an adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses. To be a domestic partner within this code, registration with the city clerk of a domestic partnership is not required.

(f) **Elected official** means the mayor or any member of the city council.

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(g) **Financial benefit** includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

(h) **Household** includes anyone whose primary residence is in the official or employee's home.

(i) **Immediate family member** means a spouse or unemancipated child, or a domestic partner and the domestic partner's unemancipated child.

(j) **Interest** means a pecuniary, property, or commercial interest, or any other interest the primary significance of which has been, will be, or might be the realization of economic gain or the avoidance of economic loss to an elected official, board member, his or her relative, or his or her designee whether direct or indirect; provided, however, that "interest" shall not include any matter involving the common public good or necessity, or any matter in which a similar benefit is conferred to all persons or property similarly situated; and further, that ownership individually or in a fiduciary capacity of any securities, or of any beneficial interest in securities, of a corporation shall not be deemed to create an "interest" in the corporation unless the aggregate amount of such securities, or interest in such securities, amount to five percent (5%) or more of any class of the securities of the corporation then outstanding or constitutes a controlling interest in the corporation.

(k) **Official or employee** means the mayor and the mayor's assistants; a member of the city council and a member's assistants; a member of any city board, commission, authority, task force, committee or other organized group of people called to serve the city; a member of any other board, commission or other organized group of people appointed to that group to serve as a representative of the city; the city manager and all assistant city managers; department directors, including the city clerk and city auditor, and their deputies; contract employees; and all other employees of the city. Official or employee shall also include all volunteers unless the office or department in which the volunteer service is offered has adopted a special code of ethics applicable to volunteers. Official or employee shall also include the judges of the municipal court insofar as this code is not inconsistent with the Code of Judicial Conduct promulgated by the Missouri Supreme Court.

(l) **Personal benefit** includes benefits other than those that are directly financially advantageous. These include financial benefits to relatives, business associates, and others, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

(m) **Relative** means any of the following persons related to the employee or the employee's spouse or domestic partner:

- (1) Children, parents;
- (2) Grandchildren, grandparents, brothers and sisters;

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- (3) Great-grandchildren, great-grandparents, nephews and nieces, uncles and aunts; or
- (4) Great-great-grandchildren, great-great-grandparents, grand nephews and grand nieces, first cousins, great uncles and great aunts.

(n) *Subordinate* means another official or employee over whose activities an official or employee has direction, supervision or control.

Sec. 2-2002. Orientation and training

(a) *Orientation and training for mayor and council members.*

- (1) *Ethics training prerequisite to assuming office.*
 - (A) Elected officials. A person shall receive orientation training on ethics after election as either a council member or mayor and before the city clerk administers the oath of office to that council member or mayor.
 - (B) City manager to provide training. The city manager shall provide this training. The city manager may delegate specific matters for presentation to the mayor-elect and council members-elect.
 - (C) Training topics. Training provided by the city manager shall include, at a minimum, the following:
 - (i) Rights and responsibilities of the mayor and council members;
 - (ii) Legislative procedures;
 - (iii) Code of ethics;
 - (iv) Conflicts of interest;
 - (v) Financial disclosure requirements;
 - (vi) Public records; and
 - (vii) Campaign finance.

Applicable local, state and federal laws shall be included within the training.

- (2) *Structure of government.* The city manager shall furnish each council member-elect and the mayor-elect with a written synopsis of the functions and responsibilities of each city department and a synopsis of the city financing sources, including definitions of terms. Council members-elect and the mayor-elect will have the opportunity to meet with each

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department head and receive orientation on that department's functions and responsibilities and to meet with the director of human resources and receive orientation on salary and benefits.

- (3) *Legislative process.* The city attorney shall provide an explanation of the procedures required by law to enact the types of legislation that may be considered by the council.
- (4) *Periodic training.* Updates on orientation training topics shall be furnished to council members and the mayor by the city manager every six months.

(b) *Orientation and training for other officials and all employees.*

- (1) *Ethics handbook.* The city manager shall furnish each other official and all employees with a current copy of a handbook that contains this code of ethics, as well as Missouri statutes and city administrative regulations relating to ethical conduct, within the first month after their service or employment has begun.
- (2) *Periodic training.* The city manager shall periodically furnish ethical training updates to all other officials and all employees.

Sec. 2-2003. Use of city property

(a) *Prohibition.* No official or employee shall request or permit the use of city-owned or city-leased vehicles, equipment, materials or property for personal convenience or profit.

(b) *Exceptions.*

- (1) *Availability to the public.* This prohibition shall not apply when such services are available to the public generally, and the official or employee complies with all rules and requirements applicable to the public.
- (2) *Provided by city to public official.* This prohibition shall not apply if such services are provided as municipal policy for the use of such official or employee.

Sec. 2-2004. Authority to promulgate regulations

(a) *Mayor.* The mayor is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to any or all employees of the mayor's staff.

(b) *Mayor pro tem.* The mayor pro tem is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to members of the city council and any or all employees of the staff of the city council.

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(c) *City manager.* The city manager is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to any or all employees under the ultimate supervision of the city manager.

(d) *Board of parks and recreation commissioners.* The board of parks and recreation commissioners is authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. Such rules may apply to the commissioners and any or all employees under the ultimate supervision of the board of parks and recreation commissioners.

(e) *Department directors.* All department directors are authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics. The director of parks and recreation is also authorized to establish rules or regulations in addition to or stricter than those promulgated by the board of parks and recreation commissioners. Such rules may apply to any or all employees under the ultimate supervision of the director.

(f) *Boards and commissions.* All boards and commissions acting by a majority of the board or commission are authorized to establish rules or regulations in addition to or stricter than the rules found in this code of ethics for their members.

DIVISION 2. CONFLICTS OF INTEREST

- Sec. 2-2020. Conflict of interest
- Sec. 2-2021. Disclosure of conflicts and withdrawal
- Sec. 2-2022. Preferential Treatment
- Sec. 2-2023. Transactions with Subordinates
- Sec. 2-2024. Conflict of interest annual report

Sec. 2-2020. Conflict of interest

(a) *Benefits received.* An official or employee may not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows, or has reason to believe, may result in a personal or financial benefit, not shared with a substantial segment of the city's population, for any of the following persons or entities:

- (1) Himself or herself;
- (2) A member of his or her household, his or her spouse or domestic partner, or the employer or business of any of these people;
- (3) A sibling or step-sibling, step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people; or
- (4) A nongovernmental civic group, union, social, charitable, or religious organization of which he or she (or his or her spouse or domestic partner)

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is an officer, director, or board member, or which he or she holds any other position on the organization's administrative or governing body.

(b) ***Government employee groups excluded.*** No group of government employees may be considered "a substantial segment" for the purposes of this section.

(c) ***Service on boards or commissions.*** An official or employee serving as a member of a board, commission, or any other entity as a representative of the city shall not have a conflict of interest when the business of that entity is before the city. An official or employee serving as a member of a board, commission, or any other entity not as a representative of the city but as a private citizen, even if the board or entity seeks out an official or employee because of their position with the city, shall have a conflict of interest when matters touching upon the business of the board, commission, or any other entity comes before the city.

(d) ***Labor contracts.*** A Council member has a conflict of interest with respect to any labor contract to which he or she, or a member of his or her household, may be a party, and with respect to an appropriation to any city department or agency through which he or she, or a member of his or her household, is employed.

(e) ***Private financial transactions.*** An official or employee must disclose at the beginning of any transaction, project, or discussions about any transaction or project, if a known person with a substantial financial interest is a customer or client to which an official or employee has supplied goods or services through one or more private transactions during the previous twenty-four months, having, in the aggregate, a value of or greater than \$1,000. Such circumstances must be disclosed to the City Clerk. These records shall be available to the internal auditor, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if assigned to a council member or the council office or the city manager if assigned to the city manager's office or not otherwise assigned. Such disclosure will include a statement that in the opinion of the official or employee no conflict of interest exists and the reason why that is stated.

Sec. 2-2021. Disclosure of conflicts and withdrawal

(a) ***Withdrawal required.*** An official or employee must refrain from acting on or discussing, formally or informally, a matter before the city, if acting on the matter, or failing to act on the matter, may personally or financially benefit any of the persons or entities listed in section 2-2020. Such official or employee should join the public if the withdrawal occurs at an open meeting, or leave the room if it is a closed meeting.

(b) ***Involuntary withdrawal.*** If a board or agency member is requested to withdraw from participation in a matter, for the reason that he or she has a conflict of interest, by

- (1) Another member,
- (2) A party to the current matter, or

- (3) Anyone else who may be affected by a decision relating to this matter, the member must decide whether to withdraw. If the member decides not to withdraw, the member must announce in an open session of a meeting of the board or agency why the member will not withdraw from participating in the matter.

(c) *Reasons for voluntary withdrawal.* Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.

(d) *No appearance of impropriety.* By disclosure and recusal pursuant to this section, there is no appearance of impropriety.

Sec. 2-2022. Preferential Treatment

No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

Sec. 2-2023. Transactions with Subordinates

(a) *Prohibition.* No official or employee may engage in a financial transaction exceeding \$50.00, including the giving of loans or receiving of loans or monetary contributions, including charitable contributions, with a subordinate or person or business over which, in the official or employee's official duties and responsibilities, he or she exercises supervisory responsibility.

(b) *Exception.* This prohibition shall not apply when the financial transaction is in the normal course of a regular commercial business or occupation.

Sec. 2-2024. Conflict of interest annual report

(a) *Disclosure to Missouri Ethics Commission.* Councilmembers, the city manager and assistants, the city clerk, the city auditor, the internal auditor, the general services department's manager of procurement, the city attorney, and the directors of all departments of the city, shall file with the city clerk and the state ethics commission the long form of the state ethics commission's personal financial disclosure statement completed in conformance with state law. All other city officials, including members of boards and commissions, shall file with the city clerk the approved personal financial disclosure statement.

(b) *Disclosure to the Supreme Court.* Judges of the city municipal division of the circuit court shall file disclosure reports required of judges by the supreme court of the state, and will not be required to duplicate filings with the state ethics commission or the city clerk.

(c) *Disclosure to the city clerk.* Members of all boards, commissions and other entities of the city or who receive substantial funding from the city or which make recommendations on the expenditure of public funds, and the city manager and assistants,

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the city clerk, the city auditor, the internal auditor, the general services department's manager of procurement, the city attorney, and the directors of all departments of the city shall file an annual conflict of interest disclosure report on the form provided by the city clerk before May 1 of each year, which shall include at least the following:

- (1) Employers who are contractors and/or suppliers of the city, and from whom the person reporting received income of \$10,000.00 or more during the period covered by the report;
- (2) Sole proprietorships who are contractors and/or suppliers of the city, owned by reporting person;
- (3) Each general partnership and joint venture who are contractors and/or suppliers of the city, and in which the reporting person is a partner or participant;
- (4) Each closely-held corporation or limited partnership who are contractors and/or suppliers of the city, and in which the reporting person owns ten percent or more of any class of the outstanding stock or units;
- (5) Each publicly-traded corporation or limited partnership who are contractors and/or suppliers of the city, and which is listed on a regulated stock exchange or automated quotation system in which the reporting person owns two percent or more of any class of outstanding stock, units or other equity interests;
- (6) Miscellaneous income of \$9,999.99 or more from any single sources who are contractors and/or suppliers to the city, and not otherwise included in the report;
- (7) Each corporation who is a contractor and/or supplier to the city, and in which the reporting person served as a director, officer or receivers;
- (8) Each not-for-profit corporation, association, organization or union in which the reporting person served as an officer, director, employee or trustee, except church, fraternal or service organizations where no pay was received;
- (9) Spouse and children who were employed by the city, and what department they worked for; and
- (10) Real property owned and/or managed in whole or in part by member, spouse or dependent children within corporate boundaries.

(d) ***Boards, commissions and other entities defined.*** Members of boards, commissions and other entities receiving substantial funding by the city or which make recommendations on the expenditure of public funds required to file annual financial disclosure reports with the city clerk shall include those persons who are members of the following boards and commissions:

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- (1) American Jazz Museum;
- (2) Board of Trustees of City Trusts - all members file
- (3) Board of Zoning Adjustment;
- (4) Brownfields Commission;
- (5) Building and Fire Code Board of Appeals;
- (6) Employees Retirement System Board of Trustees;
- (7) Citizen Advisory Committee, Housing;
- (8) City Market Oversight Committee;
- (9) City Plan Commission;
- (10) Construction Workforce Board;
- (11) Convention and Visitors Association of Greater Kansas City;
- (12) Convention Hotel Steering Committee;
- (13) Convention Management Advisory Authority;
- (14) Downtown Economic Stimulus Authority;
- (15) Economic Development Corporation;
- (16) Enhanced Enterprise Zone Board;
- (17) Environmental Management Commission;
- (18) Fairness in Construction Board;
- (19) Fairness in City Contracts Board;
- (20) Firefighters Pension System Board of Trustees;
- (21) Global Commission, Kansas City;
- (22) Healthcare System Board of Trustees
- (23) Historic Preservation Commission;
- (24) Housing Authority - only mayoral appointees;
- (25) Human Resources Board;
- (26) Human Rights Commission;

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- (27) Impact Fee Advisory Committees;
- (28) Industrial Development Authority;
- (29) Jackson County Board of Equalization - only mayoral appointees;
- (30) Kansas City Area Transportation Authority - only mayoral appointees;
- (31) Kansas City, Municipal Assistance Corporation;
- (32) Kansas City Museum Advisory Board;
- (33) Kansas City Parking and Transportation Commission;
- (34) KCTGA Comprehensive HIV Care Plan;
- (35) Land Bank of Kansas City, Missouri – only mayoral appointees;
- (36) Land Clearance for Redevelopment Authority;
- (37) Land Trust of Jackson County - only mayoral appointee;
- (38) Liquor Control Board of Review;
- (39) Metropolitan Ambulance Services Trust;
- (40) Municipal Art Commission;
- (41) Municipal Judicial Nominating Commission;
- (42) Municipal Officials Ethics Commission - all members file;
- (43) Neighborhood Tourist Development Fund Committee;
- (44) Parks and Recreation Board of Commissioners;
- (45) Planned Industrial Expansion Authority;
- (46) Police Retirement Board - only mayoral appointees;
- (47) Port Authority;
- (48) Property Maintenance Appeals Board;
- (49) Public Improvement Advisory Committee;
- (50) Special review boards and business districts, including Main Street Special Review Board, the Independence Avenue Special Design Review Districts, the Union Hill Special Business District, and the Westport Special Business District;

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(51) Tax Increment Financing Commission; and

(52) Technical Review Committee

(e) ***Time for filing.*** The first disclosure report required of persons shall be filed with the city clerk prior to assuming a position on the designated entity. An annual revised disclosure report shall be filed by May 1 of each calendar year.

(f) ***Failure to file.***

(1) ***Boards and commissions.*** Any member of a city board, commission or other entity who is appointed by the mayor or one or more members of the city council who fails to report by June 1 of each year shall be deemed to have resigned membership, and this resignation shall be deemed accepted as of June 1 of the respective year. Any entity listed in subsection (d) with a member not appointed by the mayor or one or more members of the city council failing to file the required disclosure report shall be subject to termination or suspension of any funding or other assistance provided by the city until all required disclosures are made.

(2) ***Employees and other officials.*** The internal auditor shall verify filing of reports with the city clerk for all city employees and other appointed officials. Failure of the city manager and assistants, the city clerk, the city auditor, the internal auditor, the general services department's manager of procurement, the city attorney, and the directors of all departments of the city shall be reported to the city manager and to the mayor by June 1 of the respective year. Failure of the internal auditor to file the appropriate report shall be reported by the city clerk to the city manager and the mayor.

(g) ***City clerk's responsibility.*** The city clerk will distribute to members of the entities named in subsection (d) and to the city manager and assistants, the city clerk, the city auditor, the internal auditor, the commissioner of purchases and supplies, the city attorney, and the directors of all departments of the city by February 1 of each year forms on which they may make the required filing. The failure of a person required to file a disclosure report to receive a form shall not be an excuse for the failure to file the required report. The city clerk will have available copies of appropriate forms in the office of the city clerk for persons to obtain.

DIVISION 3. GIFTS

Sec. 2-2030. Acceptance of gifts

Sec. 2-2031. Tickets to city facilities

Sec. 2-2032. Reporting

Sec. 2-2030. Acceptance of gifts

(a) ***Definitions.*** Unless the context specifically indicates otherwise, the terms as used in this division are defined as follows:

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- (1) Gift means anything of more than \$200.00 of value given to a person whether tangible or intangible, which would reasonably be considered of worth, use or service to the person to whom it is conferred. The term gift includes but is not limited to:
- (A) Money;
 - (B) Products or merchandise;
 - (C) Works of art or collectibles;
 - (D) Stocks, bonds, notes or options;
 - (E) An interest in real property;
 - (F) Contracts or a promise of a future interest in a contract;
 - (G) An interest or a promise of a future interest in a business;
 - (H) Meals, beverages or lodging;
 - (I) Transportation for noncity purposes;
 - (J) Services, including loaned employees;
 - (K) Loans, loan guarantees, cosigning;
 - (L) Forgiveness of a debt;
 - (M) Discounts or rebates not extended to the public generally;
 - (N) Preferential treatment;
 - (O) Tickets or admissions to events, concerts or performances, other than those provided by the City;
 - (P) Free or discounted use of office facilities;
 - (Q) Loan of office equipment;
 - (R) Promise or offer of present or future employment;
 - (S) Use of autos, boats, apartments or other recreational or lodging facilities;
 - (T) Intangible rights such as cause of action;
 - (U) Licenses, patents, copyrights or any interest therein;

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- (V) Fees and honorariums for an appearance or speech, or for participation at any event, in his or her official capacity; excluding payment or reimbursement for reasonable and necessary expenses related to any such activity; and
 - (W) Any other items tangible or intangible having economic value.
- (2) A gift for purposes of this section does not include:
- (A) Gifts from any immediate family member, parent, emancipated child, grandparent, grandchild, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, great uncle, great aunt, first cousin, second cousin, or the spouse or domestic partner of any of these persons;
 - (B) Campaign contributions which are reported under RSMo. Ch. 130, as amended;
 - (C) Contributions to any cause or organization, including a bona fide charity, made in response to a direct solicitation from an officer or employee;
 - (D) Wages or salary paid for work or services from outside employment; or
 - (E) Compensation paid for goods or services to self-employed individuals; or
 - (F) Travel, expenses, registrations, and similar items provided to a person by a city department or affiliated entity such as the Economic Development Corporation or any of its agencies, Port Authority, or as a result of their membership in a not-for-profit organization existing to assist local governments, such as the National League of Cities, National Black Caucus, Missouri Municipal League, and the Mid-America Regional Council, and other similar groups.
- (3) Gifts totaling in value more than \$200.00 given to the official or employee or a member of his or her immediate family at the same or substantially the same time shall be deemed a single gift to the officer or employee.
- (4) Substantial interest in legislative or administrative action means persons or organizations which:
- (A) Are regulated by the city;

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- (B) Provide goods and services to the city for compensation or profit;
 - (C) Seek employment with the city or any agency thereof;
 - (D) Will be directly and substantially affected, either financially or personally, by any contemplated legislative or administrative action; or
 - (E) Have or seek contracts for goods or services with any department or agency of the city.
- (b) ***Acceptance of gifts.***
- (1) No official or employee or an immediate family member of an official or employee shall knowingly accept any gift having a value in excess of \$200.00 but less than, or equal to, \$1,000.00 or the maximum allowed by Missouri law, whichever is less, from any person or business entity having a substantial interest in any legislative or administrative action of the city, unless such gift is disclosed as required in this article.
 - (2) No official or employee or an immediate family member of an official or employee shall knowingly accept any gift having a value in excess of \$1,000.00 or the maximum allowed by Missouri law, whichever is less, from any person or business entity having a substantial interest in any legislative or administrative action of the city.

(c) ***Disclosure.*** Any official or employee who accepts a gift having a value of more than \$200.00 but less than, or equal to, \$1,000 or the maximum allowed by Missouri law, whichever is less shall disclose the receipt of that gift within fifteen (15) days of the end of the quarter in which the gift was received on a disclosure form provided by the City Clerk by filing the original disclosure form with the City Clerk. These records shall be available to the internal auditor, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if a council member or the council office or the city manager if assigned to the city manager's office or not otherwise assigned. Failure to file this gift disclosure form when required to do so shall be reported by the internal auditor to the City Clerk, internal auditor, ethics compliance officer and director of the department to which assigned, the mayor if assigned to the mayor's office, the mayor pro tem if a council member or assigned to the council office or to the city manager if assigned to the city manager's office or not otherwise assigned.

Sec. 2-2031. Tickets to city facilities

(a) ***Tickets to city facilities not considered gifts.***

- (1) ***Tickets to officials.*** When tickets are provided by the city to the mayor and members of the city council or to the city manager to events held in city facilities, such as the Sprint Center, Kemper Arena, Municipal

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Auditorium, Music Hall, Hale Arena, as a result of contract negotiations for use of the city’s facilities, those tickets are not considered gifts.

(2) *Tickets to certain employees.* If an employee of the city receives tickets for attendance at events in city facilities to carry out that employee’s duties, those tickets shall not be considered gifts.

(b) *Tickets from promoters or other sources.* When tickets are provided to the mayor or members of the city council or city manager by any person other than the city, the tickets are gifts.

Sec. 2-2032. Reporting

(a) *Quarterly reporting.* Any official or employee and any official or employee upon behalf of any immediate family member receiving a gift as defined in this article shall report such gift within fifteen (15) days of the end of the quarter in which the gift raising the total above \$200.00 was received on forms as provided by the city clerk to the city clerk according to the following schedule.

	<u>Quarter</u>	<u>Filing Deadline</u>
1	January, February, March	April 15
2	April, May, June	July 15
3	July, August, September	October 15
4	October, November, December	January 15

(b) *Public records.* All such reports shall be considered public records.

(c) *Other reporting requirements.* This reporting requirement shall be in addition to any other gift reporting requirements imposed by other ordinances or by state or federal law.

DIVISION 4. EMPLOYMENT

Sec. 2-2040. Honesty in applications for positions

Sec. 2-2041. Patronage

Sec. 2-2042. Canvassing elected officials for appointment

Sec. 2-2043. Nepotism

Sec. 2-2044. Prohibited activities after leaving municipal service

Sec. 2-2040. Honesty in applications for positions

No person seeking to become an official, employee, or contractor may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or service for the city.

Sec. 2-2041. Patronage

No official or employee may promise an appointment or the use of his or her influence to obtain an appointment to any position as a reward for any political activity or contribution.

Sec. 2-2042. Canvassing elected officials for appointment

(a) ***Prohibited.*** Canvassing of the mayor or members of the city council, directly or indirectly by an applicant, in order to obtain preferential consideration in connection with any appointment to the municipal service is prohibited.

(b) ***Disqualification for appointment.*** Canvassing of the mayor or members of the city council, directly or indirectly by an applicant, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment.

(c) ***Canvassing defined.*** Canvassing means soliciting the assistance of, intercession by, or any other interference in the hiring process, directly or indirectly by an applicant, and actual assistance of, intercession by, or any other interference in the hiring process by the mayor or other members of the city council.

(d) ***Exception.*** When the position is filled by appointment by the mayor or city council, such canvassing is not prohibited or a disqualification for appointment.

Sec. 2-2043. Nepotism

(a) ***Hiring, appointing, accepting volunteers.*** No official or employee may appoint or hire, accept as a volunteer or participate in influencing the appointment or hiring of any disqualified person for any type of employment, including by contract, with the city.

(b) ***Disqualified person.*** The following persons are disqualified persons for purposes of subsection (a):

- (1) ***Spouse or domestic partner.*** Spouse or domestic partner of the official or employee;
- (2) ***Relatives.*** The following persons related to the employee or the employee's spouse or domestic partner:
 - (A) Children, parents;
 - (B) Grandchildren, grandparents, brothers and sisters;
 - (C) Great-grandchildren, great-grandparents, nephews and nieces, uncles and aunts; and

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- (D) Great-great-grandchildren, great-great-grandparents, grand nephews and grand nieces, first cousins, great uncles and great aunts.
- (3) *Members of household.* Members of the employee's household.

(c) ***Supervision***

- (1) *Prohibited.* No official or employee may supervise or be in a direct line of supervision over his or her spouse or domestic partner, child or step-child, sibling or step-sibling, parent, or member of his or her household.
- (2) *Waiver.* If an official or employee comes into a direct line of supervision over one of these persons, he or she will have six months to come into compliance or to obtain a waiver from the municipal officials and officers ethics commission.

Sec. 2-2044. Prohibited activities after leaving municipal service

(a) ***Prohibition.*** No elected official, or employee of the city serving in an executive or administrative capacity, shall perform any service for any monetary or in-kind compensation during one year after termination of his or her office or employment by which performance he or she attempts to directly influence a decision of the city or any department or agency thereof.

(b) ***Exception.*** This section shall not be construed to prevent any person from:

- (1) Performing such service and receiving compensation therefor in an adversary proceeding having a record or right of appeal or in the preparation or filing of any public document; or
- (2) Submitting any bid and participating in any contract from a successful bid with the city for any goods or services which will be awarded to the lowest and best bidder.

DIVISION 5. CONFIDENTIAL INFORMATION

Sec. 2-2050. Confidential information

Sec. 2-2051. Use of confidential information

Sec. 2-2050. Confidential information

(a) ***Defined.*** Confidential information means information which is not available to the general public under applicable laws, ordinances, and regulations and which is obtained by reason of the official's or employee's position with the city. In the event the information is in written form, the document containing said information shall be marked "confidential." If the document is not so marked, the information contained therein shall not be deemed to be confidential information under this code. Any person creating or

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disseminating a document containing information of a confidential nature shall be responsible for marking the document as "confidential."

(b) ***Disclosure of confidential information.***

- (1) ***Prohibited.*** No official or employee shall disclose any confidential information to persons not entitled to such.
- (2) ***Exceptions.*** This prohibition shall not apply to a disclosure if:
 - (A) The city council authorizes such disclosure upon an affirmative vote by a majority of the members of the city council present at a properly convened and authorized meeting of the council; or
 - (B) Pursuant to a final order of a court; or
 - (C) Pursuant to a final judicial determination that information conveyed or received at any closed session was improperly classified as confidential.

(c) ***Closed sessions.***

- (1) ***Disclosure prohibited.*** No person attending a properly convened and authorized closed session shall disclose to any person not in attendance at the closed session or not entitled to be in attendance at the closed session any confidential information which was made or received by any person present in the closed session and which is related to the topic(s) for which any such properly convened and properly authorized closed session was called.
- (2) ***Disclosure permitted.***
 - (A) ***Authorization of the body.*** During the course of any closed session of the city council or any other body, any member may ask the other members who are present for the closed session to allow disclosure of any confidential information from the closed session, but such disclosure shall be authorized only upon an affirmative vote by a majority of those attending the closed session and entitled to vote.
 - (B) ***Post-meeting information.*** The provisions of this section shall not prohibit the disclosure of any information made or received after the matters discussed at the closed session and to which the information pertains have been lawfully released to the public.
 - (C) ***Application to persons entitled to attend a closed session.*** The provisions of this section shall apply to any person entitled to be in attendance at a closed session and who is later informed of the discussion at the closed session.

- (D) ***Persons subject to the closed session discussion.*** The provisions of this section shall not apply to any person whose claim, employment or contract is the subject of the closed session.

(d) ***Conflicts of interest.*** No person may attend a closed session at which a topic is to be discussed which creates a conflict of interest for that person, nor shall that person be entitled to the minutes of the closed session.

(e) ***Policy.*** It is the expectation of the city council that councilmembers and other persons authorized to be present at properly convened and authorized closed sessions will refrain from disclosure of confidential information received at such closed sessions, subject to the right of any person attending such closed session to obtain a judicial determination of the matter.

(f) ***Missouri Sunshine Law.*** Failure to mark any document "confidential" shall have no effect on the status of the document as an open or closed record under the Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri.

Sec. 2-2051. Use of confidential information

It shall be unlawful for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

DIVISION 6. EXPENSES

Sec. 2-2060. Business expenses

Sec. 2-2061. Council expense accounts

Sec. 2-2062. Travel and other expenses

Sec. 2-2060. Business expenses

(a) ***Public purpose required.*** The use of public funds is limited to public purposes, which may include appropriate business expenses. Business expenses will differ from department to department and from official to official.

(b) ***Recognized public purposes.*** Participation in entities that encourage business and tourism in the city, encourage professional development of elected officials, officers and employees, and encourage other public activities are appropriate public expenses. Expenditures for city purposes shall be deemed to include registration fees, transportation costs, lodging expenses and meals, employee expense, office supplies and equipment, books and subscriptions, and similar operational expenses. Listing examples of public purposes does not limit the possible activities that may constitute a public purpose.

(c) ***Recognized non-public purposes.*** Participation in political affairs or self-promotion by any elected official or employee is not a public purpose. Expenditures for city purposes exclude donations of money or goods to organizations and the purchase of advertising, and other nonoperational expenses.

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(d) *Commission guidance.* If in doubt concerning the expenditure of public money, officials or employees should consult with the commission.

Sec. 2-2061. Council expense accounts

(a) *Reimbursement.* No councilmember shall seek or cause others to seek reimbursement from city funds in a manner inconsistent with sound financial procedures.

(b) *Sound financial procedures defined.* For purposes of this section, sound financial procedures shall require that:

- (1) *Reconciliation of prior expenses required.* No councilmember shall be eligible for expenditure from council or mayor expense accounts unless prior expenses are reconciled;
- (2) *Receipts or statement of expenses required.* No councilmember shall seek reimbursement unless receipts are provided therefor, or in lieu of receipts, the councilmember signs a statement verifying the amount expended, the date of expenditure, the purpose of the expenditure, and the place such funds were expended;
- (3) *Limited to public business.* No councilmember shall seek or receive reimbursement for any expenditure other than those incurred by such councilmember and related to city business. Reimbursement of any funds for political or personal purposes is prohibited; and
- (4) *Communications equipment.* No councilmember shall seek reimbursement for use of any communication equipment except for city business. "Communication equipment" shall include personal computers with communication capability, modems, fax machines, cellular telephones, radio equipment with telecommunication capability, mobile data terminals and related software.

(c) *Consent to paycheck deductions.* To be eligible for travel advances councilmembers will execute their consent to paycheck deduction in accordance with this section for the recovery of advances not properly reconciled as required by this section.

(d) *Deadline for reconciliation.* Expenses shall be reconciled within 30 days of incurring the expense, or the completion of travel, whichever is later.

(e) *Role of the internal auditor.*

- (1) *Quarterly review.* In order to affirm the fiduciary relationship of the council members to the expenditure of public funds, the internal auditor shall quarterly review all reimbursements to the council and mayor. A written summary report will be provided by the internal auditor to the councilmembers within 30 days of the end of each quarterly review period.

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- (2) *Additional reviews authorized.* The internal auditor shall also have the authority to review other expenditures authorized by the mayor or council members on the internal auditor's own initiative or at the request of the mayor or mayor pro tem.

(f) ***Sanctions.***

- (1) *Prosecution and other actions.* Unless otherwise provided, the provisions of this section shall be subject to the penalty and sanctions provided in division 10 of this article subject to the determination by the ethics commission as set forth in that division.

(2) *Failure to reconcile expenses.*

(A) *No prosecution.* A violation of subsection (d) shall not result in prosecution under section 2-2100.

(B) *Automatic deduction from council member's paycheck.*

(i) *Notice by the internal auditor.* The internal auditor shall inform the mayor and mayor pro tem of a failure to comply with subsection (d).

(ii) *Mayor pro tem to direct withholding of pay.* Within seven calendar days the mayor pro tem shall direct that the amount of any advance received by the mayor or council member that is not reconciled within the terms of subsection (d) shall be deducted from the mayor's or council member's next paycheck consistent with the policy and practices of the finance department. An advance that exceeds the net amount of a paycheck shall be spread over two or more pay periods until the advance is recovered.

(iii) *Reconciliation of expenses not precluded.* The mayor or council member may reconcile their expenses in accordance with this section and the policy and practices of the finance department after the recovery of the expense advance.

(g) ***Preclusion of travel advances.*** Nothing in this code of ethics precludes the mayor or the mayor pro tem for the members of the city council from establishing a policy that denies travel advances to the mayor or members of the city council and their staffs.

Sec. 2-2062. Travel and other expenses

- (a) *Travel expenses - All officials and employees.*
- (1) *Report required.* An official or employee traveling on business for the city shall report all expenses incurred by the city for every business trip.
 - (2) *Third party expenses.* When expenses for an official or employee are incurred by a person other than that official or employee, the reimbursement request will clearly state by whom the additional expenses were incurred.
 - (3) *Maintenance of reports.* These reports shall be maintained by each department or office. The mayor's office shall maintain reports for the mayor and all employees of that office. The mayor pro tem shall maintain reports for the members of the council and all employees of the council.
 - (4) *Reconciliation of advances.*
 - (A) *Deadline for reconciliation.* Expenses shall be reconciled within 30 days of incurring the expense, or the completion of travel, whichever is later. The director of finance is authorized to reduce this period through the director's manual of instructions applicable to all employees.
 - (B) *Consent to paycheck deductions.* To be eligible for travel advances, an official or employee will execute their consent to paycheck deduction in accordance with this section for the recovery of advances not properly reconciled as required by this section.
 - (C) *Automatic deduction from paycheck.* Within seven calendar days after the reconciliation is due, the director of finance shall notify the delinquent public official, including an employee, that the amount of any advance received by the official or employee that is not reconciled within seven days shall be deducted from the next or following paycheck depending upon administrative ability of the finance department to provide for the deduction, consistent with the policy and practices of the finance department. An advance that exceeds the net amount of a paycheck shall be spread over two or more pay periods until the advance is recovered based upon a plan authorized by the director of finance.
 - (D) *Reconciliation of expenses not precluded.* The official or employee may reconcile their expenses in accordance with this section and the policy and practices of the finance department after the recovery of the expense advance.

- (5) *Preclusion of travel advances.* Nothing in this code of ethics precludes the city manager or any department director from establishing a policy that denies travel advances to any or all officials or employees.

(b) *Department expenses incurred for mayor and council members.* When a city department, other than the office of the mayor or the city council office, incurs any expense, the benefit of which goes to a councilmember, whether reimbursed to another or paid directly by the department, a report will be forwarded by that department to the internal auditor within ten days of incurring the expense.

DIVISION 7. POLITICAL ACTIVITIES

Sec. 2-2070. Permitted and prohibited political activities of employees

Sec. 2-2071. Prohibition on required political participation

Sec. 2-2072. City communications - prohibitions related to city elections

Sec. 2-2070. Permitted and prohibited political activities of employees

(a) *Scope.* This section applies to all employees of the city, whether full-time or part-time, classified or unclassified.

(b) *Contributions.* An employee may make contributions to federal, state, and local candidates, committees and other entities authorized by law to accept contributions for political purposes.

(c) *Passive displays of support.* No button, cap, hat, shirt or other passive display may be worn during work hours or if wearing a city uniform or any badge or other insignia indicating the person is a city employee, such as a name tag. An employee may wear a political button, display a bumper sticker, post political signs or make any other passive display in support of a political candidate or position for any election if not wearing a city uniform or any badge or other insignia indicating the person is a city employee. Such passive displays include, but are not limited to, caps, hats, and shirts.

(d) Campaign participation.

- (1) *Permitted.* An employee may participate in an election campaign. This may include attendance at social events, including fund raising events.
- (2) *No city support.* An employee may do nothing to imply that the employee is acting with the approval or disapproval of the city. An employee must make an appropriate effort to indicate that participation in a political campaign is one in a personal capacity.
- (3) *Interference in elections.* No employee shall use official authority or influence for the purpose of interfering with any partisan election or any nomination for office, or affecting its result.

- (4) *Employee as candidate.* An employee may run for and hold political office so long as that office is not inconsistent with the employee's municipal duties.

Sec. 2-2071. Prohibition on required political participation

(a) *Participation.* No official or employee shall require or attempt to coerce, directly or indirectly, an employee to participate or to refrain from participating in any election campaign, whether for or against a candidate, or for or against an issue.

(b) *Contributions.* No official or employee shall require or attempt to coerce, directly or indirectly, an employee to contribute, or to refrain from contributing, money, time or other services to any election campaign or political organization.

(c) *Solicitation.*

- (1) *By officials or employees.* No official or employee shall solicit, by way of any explicit or implied threat of any kind, coercion or force, or any promise any employee to contribute money, time or other services to any election campaign or political organization.

(2) *City property or work sites.*

(A) *Prohibition – solicitation.* Solicitation for any political purpose by any person of employees for support, opposition, participation or contributions while in any City building or other work site is not permitted, except employees not on duty and voluntarily in attendance at a rally, meeting or other gathering, may receive solicitations as part of a group.

(B) *Prohibition – allowing solicitation.* No official or employee shall permit any solicitation for support, opposition, participation or contributions in any city building or other work site, unless the space is operated by the city for use of the public at the time of the solicitation.

- (3) *Ramifications of political activity.* Lawful participation in political campaigns by an employee shall not result in any benefit or any detriment to the person's employment.

Sec. 2-2072. City communications - prohibitions related to city elections

During the period of time beginning with, and including, the ninetieth day immediately prior to the date of the general election for candidates for mayor or councilmember and ending with, the date of the general election, no elected official shall, or cause another person to, use or utilize city employees within the scope and course of their employment, or city funds, equipment, materials or other resources, including, but not limited to, the city's website, electronic mail and internet systems, duplicating services, ground mail services, postage, telephone systems, equipment, television and

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recording services and any hardware or software associated with the transmission or storage of electronic media, to do any of the following:

(a) Prepare, publish or distribute a newsletter bearing the picture or other likeness of the elected official;

(b) Prepare, publish or distribute a newsletter or other communication on the city's website bearing the picture or other likeness of the elected official; other than a single photograph accompanied by the name of the elected official and the elected office held on the webpage of the city's website designated for the mayor's office or the city council office;

(c) Prepare, publish or distribute any advertisement associated with any convention, meeting or event that bears the picture or other likeness of the elected official,

(d) Prepare, publish or distribute any written, electronic or televised communication for inclusion on a city manager or city departmental webpage on the city's website, on a pamphlet, brochure, poster, letter or other writing intended for distribution to the public by, or on behalf of, the city that bears the picture or other likeness of the elected official; or

(e) Prepare, publish, produce, record, distribute or broadcast any televised communication on the city's Channel 2 that bears the picture or other likeness of the elected official; other than the live and repeat broadcasts on Channel 2 and the city's website of city council legislative, committee and business sessions and any meetings of the city's boards and commissions.

DIVISION 8. REPORTING

Sec. 2-2080. Municipal hotline

Sec. 2-2081. Complicity with, or knowledge of, others' violations

Sec. 2-2082. Whistleblower protection

Sec. 2-2080. Municipal hotline

(a) *Maintenance of hotline.* The city manager will establish and advertise a municipal hotline for the purpose of reporting suspected abuse and wrongdoing by officials or employees and those doing business with the city.

(b) *False statements.* It is unlawful for any person to knowingly make a false report or statement through the municipal hotline.

Sec. 2-2081. Complicity with, or knowledge of, others' violations

No one may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an official or employee has actual knowledge that someone has violated this code, he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the official sits or before which the official

or employee is appearing or will soon appear, or the Commission if the violation is past or if it is not immediately relevant to a decision, to discussion, or to actions or transactions. Anyone who reports a violation in good faith will be protected by the provisions of section 2-2082.

Sec. 2-2082. Whistleblower protection

(a) **Whistleblower defined.** A whistleblower is a present or former city employee or applicant for city employment who discloses information to appropriate officials he or she reasonably believes evidences:

- (1) A violation of any law, rule, or regulation;
- (2) Mismanagement, a gross waste of funds, or an abuse of authority; or
- (3) A substantial or specific danger to public health or safety.

(b) **Personal human resources issues.** Where the information disclosed affects only the personal situation of the complainant, it is generally to be regarded as an allegation of a prohibited personnel practice or violation of other personnel ordinance, rule, or regulation, and the complainant will not be considered a whistleblower.

(c) **Whistleblower protection.** No personnel action will be taken or not taken with respect to any employee or applicant for employment as a reprisal for being a whistleblower.

DIVISION 9. ENFORCEMENT

Sec. 2-2090. Municipal officials and officers ethics commission

Sec. 2-2091. Prohibition on political contributions and support by commission members

Sec. 2-2092. Jurisdiction

Sec. 2-2093. Powers

Sec. 2-2094. Advisory opinions

Sec. 2-2095. Investigations

Sec. 2-2096. Waivers

Sec. 2-2097. Staff

Sec. 2-2098. Disposition

Sec. 2-2090. Municipal officials and officers ethics commission

(a) **Creation.** In accordance with article XI division III of the city charter, there is created a municipal officials and officers ethics commission.

(b) **Appointment.** The mayor shall appoint seven members to the commission, naming one member as chair. Of the remaining six members, no two members will be residents of the same council district.

(c) **Restrictions on members.** No member of the commission shall:

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- (1) Hold any other public office;
- (2) Be a candidate for any public office;
- (3) Be an elected or appointed member of any local, state or national committee of any political party;
- (4) Be an active member of any political party; or
- (5) Be an active member of any partisan or nonpartisan political club or organization.

(d) *Contributions.* Contributions to a candidate or political party otherwise not prohibited by this code do not constitute participation in a political party, club or organization as an active member.

Sec. 2-2091. Prohibition on political contributions and support by commission members

No member of the municipal officials and officers ethics commission shall, during the member's service on the commission or within one year thereafter:

(a) Permit the member's name to be used, or make contributions, in support of or in opposition to any candidate for city elected office or any city proposition; or

(b) Participate in any way in any election campaign for any candidate for city elected office or any city proposition; except that a member shall retain the right to register and vote in any election, to express the member's opinion privately on political subjects or candidates and to participate in the activities of a civic, community, social, labor or professional organization.

Sec. 2-2092. Jurisdiction

(a) *Subject matter.* The commission shall have jurisdiction to investigate and address questions concerning alleged violations of:

- (1) The code of ethics;
- (2) Campaign finance regulations;
- (3) Administrative regulations governing ethical obligations of applicable officials and employees; and
- (4) Any other matter referred to it by the city council.

(b) *Time limitations.* The commission shall not commence any investigation or other action to consider any alleged violation that occurred more than two years prior to the date of the complaint.

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(c) *Personnel action*. The commission shall have no jurisdiction to administer employee discipline or to take any job action, including the declaration of the forfeiture of a person's employment or office.

(d) *Termination of duties*. The termination of an employee's employment or of an official's position does not affect the jurisdiction of the commission to address alleged violations occurring prior to termination of the person's official duties.

(e) *Persons subject to the commission's jurisdiction*. In addition to those persons specifically named in the city charter as persons subject to the commission's jurisdiction, by this section the council expands the commission's jurisdiction to all other employees of the City. The City is also authorized to include by contract other appropriate people within the commission's jurisdiction. Advisory opinions may also be rendered to address possible conflicts of interest if a person assumes a public office.

Sec. 2-2093. Powers

In addition to all other specific grants of authority the commission has the power:

(a) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances pertaining to the code of ethics and municipal campaign finance;

(b) To request from the city manager the assignment of staff necessary to carry out its duties;

(c) To review, index, maintain on file, and dispose of sworn complaints;

(d) To make notifications, extend deadlines, and conduct investigations, both on referral or complaint;

(e) To compel the production of sworn testimony, witnesses and evidence;

(f) To recommend cases for consideration of prosecution or other action by appropriate authorities and agencies;

(g) To request the city attorney to provide an independent counsel to advise and represent the board, when appropriate or necessary to avoid a conflict of interest;

(h) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;

(i) To prepare an annual report and to recommend to the city council needed or desirable changes in ordinances under its jurisdiction;

(j) To grant waivers in accordance with this code; and

(k) To exercise such other powers and duties as may be established by ordinance.

Sec. 2-2094. Advisory opinions

(a) **Authority.** The commission may render advisory opinions. The commission may authorize the ethics compliance officer to issue advisory opinions in the name of the commission under rules established by the commission.

(b) **Requesting advisory opinions.**

- (1) Any official or employee may request in writing an opinion from the commission on a matter that may impact the official or employee personally.
- (2) Any potential applicant for employment, election to office or appointment to a board or commission or other city entity, may request in writing an opinion from the commission on a matter that may impact the person personally.
- (3) The commission shall timely consider all requests and upon the concurrence of at least four members of the commission and without the request of any third party, the commission may issue advisory opinions on any matter within its jurisdiction.

(c) **Reliance.** A person who reasonably and in good faith acts in accordance with an advisory opinion issued hereunder shall not have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

- (1) He or she requested the issuance of the opinion;
- (2) The request for an opinion fairly and accurately disclosed all relevant facts;
- (3) No changes have been enacted to the law that is the subject of the advisory opinion or was the basis for the advisory opinion; and
- (4) Less than two years elapsed between the date the opinion was issued and the date of the conduct in question.

Sec. 2-2095. Investigations

(a) **Initiation.**

- (1) **Complaint.** The commission, with the affirmative vote of at least four of its members, upon the sworn complaint of any person may investigate any alleged violation.
- (2) **Commission's own initiative.** The commission, with the affirmative vote of at least four of its members may investigate any alleged violation.

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- (3) *Mandatory investigation.* When directed by ordinance the commission shall investigate any alleged violation.

(b) ***Availability of witnesses and evidence.***

- (1) *Oath or affirmation.* The commission shall have the power to examine witnesses under oath or affirmation.
- (2) *Subpoenas.* The commission shall have the power to issue subpoenas for persons, documents and other things necessary for an investigation.
- (3) *Duty to cooperate.* Officials and employees have a duty to cooperate with the commission.

(c) ***Procedure.***

- (1) *Notification to the person.* The commission shall, upon receiving such sworn complaint, following their own affirmative vote to consider an investigation, or when an investigated is otherwise required, notify the person, in writing, of the nature of the alleged complaint.
- (2) *Response of the person.* The person shall be given at least ten days to provide the commission with such information as the person deems appropriate to explain or justify the circumstances.
- (3) *Decision to continue investigation.* The commission may, by an affirmative vote of at least four members, proceed to commence an investigation for the purpose of producing a final report and recommendations on the matter.
- (4) *Hearing.* At the request of the person the commission shall hold a hearing where the person can provide evidence and testimony and examine any other witnesses called to testify.
- (5) *Response of the person.* Prior to the issuance of its final report and recommendations, the commission shall provide an opportunity for the person to respond to the report and recommendations.

(d) ***Exculpatory evidence.*** The commission shall disclose to the subject of the investigation any matter known to the commission or its staff tending to negate guilt or mitigate the seriousness of the violation.

(e) ***Ex parte communications.*** No person will have an *ex parte* communication with any member of the commission about a matter that is, or may be, before the commission.

Sec. 2-2096. Waivers

(a) **Authority.** Acting within its sole discretion, the commission may waive any provision of this code when the situation does not create a potential for:

- (1) Undue influence;
- (2) Unfair advantage; or
- (3) Serious appearance of impropriety.

(b) **Application.** An application for a waiver will be in writing and fully describe in detail the facts about the situation and the circumstances and reasons justifying a waiver.

(c) **Process.** A waiver must be granted in writing with an explanation by the commission of the justification for the waiver.

(d) **Hearing.** The commission may hold a hearing on any application for a waiver, and if requested by the applicant will hold a hearing.

(e) **Notification.** Copies of the commission's written decision shall be forwarded to the following people:

- (1) Applicant;
- (2) Applicant's department director;
- (4) City manager;
- (5) City clerk, who will retain the decision according to law; and
- (6) Councilmembers.

Sec. 2-2097. Staff

(a) **Ethics compliance officer.** There shall be an ethics compliance officer to perform the following duties:

- (1) Receive and promptly transmit to the members of the commission complaints and responses filed with the commission;
- (2) Investigate, marshal, and present to the commission the evidence bearing upon a complaint;
- (3) Prepare draft advisory opinions for consideration of the commission about the requirements imposed by the ethics laws;
- (4) Assist when requested in the training and education of officials and employees with respect to their ethical responsibilities;

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- (5) Recommend acceptance or rejection of complaint made to the commission;
- (6) Request additional information from complainant as needed;
- (7) Render informal, nonbinding opinions upon request; and
- (8) Serve as an advisor on issues of ethics to the Mayor and Council members.

(b) **Counsel.** The city attorney or an assistant city attorney will serve as legal counsel to the Commission. The city attorney may appoint special counsel under appropriate circumstances. In the absence of the appointment of an ethics compliance officer, the city attorney will serve in that role, with all powers and duties of the position, until a permanent ethics compliance officer is named.

(c) **Access to staff.** The Commission and ethics compliance officer may call upon the city clerk, city auditor, internal auditor, or other appropriate official or employee to assist in an investigation.

(d) **Outside assistance.**

- (1) **Availability.** Contingent on the availability of funds, the commission may utilize outside counsel or staff if it is reasonable and necessary to properly complete its work.
- (2) **Factors.** Use of outside assistance may be appropriate:
 - (A) When a complaint is filed relating to an alleged violation of the ethics laws by:
 - (i) The mayor or a member of the city council, or
 - (ii) A city employee who is a department head or of higher rank; or
 - (B) When the commission requests such an appointment; or
 - (C) When requested by the city attorney.

Sec. 2-2098. Disposition

(a) **Time for decision.** The commission shall issue a decision within 90 days after the filing of a complaint, exclusive of time granted to a respondent pursuant to the person's request for additional time to respond or to attend proceedings. This time may be enlarged by the commission, but any enlargement beyond 90 days will be accompanied by a specific statement explaining the reason for the enlargement of time.

(b) **Violation found.** If the commission finds the ethics laws or municipal campaign finance laws have been violated, the commission will issue a written opinion including findings of fact and conclusions of law and which will include an explanation of:

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- (1) The violation of the ethics laws or the municipal campaign finance laws; and
- (2) Any appropriate action that should be considered by an appointing authority or other appropriate party.

(c) **Violation not found.** If the commission does not find the ethics laws or municipal campaign finance laws have been violated, the commission will dismiss the complaint. The commission may also issue a written explanation of its conclusion.

(d) **Notification.** Copies of the opinion shall be forwarded to the following people:

- (1) Complainant;
- (2) Subject of the complaint;
- (3) Employee's department director;
- (4) City manager;
- (5) City prosecutor; and
- (6) City clerk, who will retain the opinion according to law.

DIVISION 10. PENALTY AND OTHER RAMIFICATIONS

Sec. 2-2100. Penalty

Sec. 2-2101. Other ramifications

Sec. 2-2102. Commission findings required – councilmembers and certain others

Sec. 2-2100. Penalty

(a) **Penalty.** Violation of any provision of this code may be punished by a fine of not less than \$1.00 and not more than \$1,000.00, by imprisonment for a period not to exceed six months, or by both fine and imprisonment.

(b) **Municipal court.** All proceedings for imposing penalties under this section shall be prosecuted in the municipal division of the circuit court of Jackson County, unless ordered otherwise by the presiding judge of the circuit court of Jackson County.

(c) **Commission determination.** No prosecution shall be commenced absent a recommendation of the commission that such violation be prosecuted.

(d) **Restitution.** Should a person be found to have unlawfully used city-owned vehicles, equipment, materials or property for personal convenience or profit, within the meaning of section 2-2003, the court may and is encouraged to, in addition to any other lawful order, require restitution be paid to the city.

Sec. 2-2101. Other ramifications

(a) *Administrative sanction.* Violation of any provision of this code may constitute a cause for suspension, removal from office or employment, disciplinary action, or other actions which may be recommended by the commission.

(b) *Reprimand and censure.* The commission may, when appropriate, issue letters of reprimand or censure. Reprimand is indicative of serious ethical misconduct or a pattern of ethical misconduct. Censure reflects the commission's judgment that the ethical misconduct found to have occurred merits condemnation.

(c) *Civil actions.* Nothing contained in this code shall preclude any civil action to recover the costs incurred by the city by the misconduct of the official or employee.

(d) *General considerations.* Violation of any provisions of this code should raise conscientious questions for the member of the council or other official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interest of the city.

Sec. 2-2102. Commission findings required – councilmembers and certain others

(a) *Prerequisite to prosecution.* No penalty or other sanction provided for under this division shall be imposed against any councilmember, the city manager, any assistant city manager, any department head, the city attorney, the city clerk or the city auditor, in the absence of a hearing and a determination of the commission that a provision of this code has been violated.

(b) *Councilmember exception.* Nothing contained in this code shall preclude any action of the city council authorized by city charter section 211 to judge the qualifications of the mayor and members of the city council or to discipline councilmembers.

DIVISION 11. REPORTING

Sec. 2-2110. City manager reports

Sec. 2-2111. Annual report

Sec. 2-2110. City manager reports

Before February 1, May 1, August 1, and November 1, the city manager will submit to the commission a written report on the actions taken by the city concerning any complaint or advisory opinion issued by the commission during the periods January through March, April through June, July through September, and October through December respectively. Matters not reported during the proper quarter will be reported during the next quarter. The commission may request specific information from the city manager.

Sec. 2-2111. Annual report

The commission shall prepare and submit an annual report to the mayor and city council detailing the activities of the commission during the prior year. The format for the report shall be designed to maximize public and private understanding of the commission's operations, and shall include a summary of the content of ethics opinions issued by the commission. The report may recommend changes to the text or administration of the code of ethics.

Section 3. That section 2-48, Code of Ordinances, is amended to read as follows:

Sec 2-48. Mayor pro tempore.

(a) ***Job responsibilities.*** The mayor pro tempore shall have the following job responsibilities:

- (1) Preside over legislative and business session in the absence of the mayor.
- (2) Manage the council office including the staff, budget, purchasing and office assignments, but take only an advisory role regarding the staff and offices of individual councilmembers.
- (3) Suggest guidelines for council office ethics and office procedures training for city council aides.
- (4) Approve travel expense requests for city council members prior to departure.
- (5) Administer the legislative account.
- (6) Review and suggest updates to the Standing Rules at the beginning of his/her term as mayor pro tempore.

(b) ***Compensation.*** The compensation of the acting mayor of the city, during the absence of the mayor from the city or when for any cause the mayor is unable to perform the mayor's official duties, is hereby fixed at the sum of \$25.00 for each and every day such acting mayor shall perform the official duties of mayor. Such compensation shall be paid in the same manner and at the same time as employees of the city are now paid.

Approved as to form and legality:

William Geary
City Attorney