



City of Independence, Missouri

Code of Ethics

Ordinance _____

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DIVISION 1. DECLARATION OF POLICY

Sec. 1.16.001. Statement of purpose.

Public service is a public trust. It is essential in a democratic system that the public has confidence in the integrity, independence, and impartiality of those who act on their behalf in government. To help maintain trust and confidence in the City government it is necessary that all City officials and employees adhere to the principles of ethical conduct in this Code of Ethics and the City Charter and to scrupulously avoid the appearance of impropriety at all times.

This Code of Ethics establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to current and former City officials, employees, board members, candidates for public office, and persons and entities doing business with the City.

Sec. 1.16.002. Definitions.

As used in this Code of Ethics, the following words and phrases have the meaning ascribed to them in this section, unless the context requires other or more specific definitions set forth elsewhere in this code apply:

- (a) *Acceptance.* A written or verbal indication that someone agrees; "Acceptance" of an offer of subsequent employment or business opportunities includes legally binding contracts and all informal understandings that the parties expect to be carried out. An agreement, either by express act or by implication from conduct, to the terms of an offer so that a binding contract is formed.
- (b) *Affiliated.* Entities are "affiliated" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent entities.
- (c) *Affinity.* Relationship by "affinity" is defined as:
 - (1) two individuals are related to each other by affinity if
 - a. they are married to each other, or living together as domestic partners; or
 - b. the spouse or domestic partner of one of the individuals is related by the fourth degree of consanguinity to the other individual.
 - (2) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage (unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives).
- (d) *Before the City.* Representation or appearance "before the City" means before the City Council; before a board, commission, or other City entity; or before a City official or employee. Representation "before the City" does not include representation before a board where members of that board are not wholly appointed by the City Council.
- (e) *Benefit.* "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.
- (f) *Business days.* "Business days" means the days of the week, Monday through Friday, in which the administrative offices of the City are open for business.
- (g) *Candidate.* "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:
 - (1) The filing of a campaign treasurer appointment;

- (2) The filing of an application for a place on a ballot;
 - (3) The making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;
 - (4) The making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication; or
 - (5) The soliciting or accepting of a campaign contribution or the making of a campaign expenditure.
- (h) *City*. "City" means the City of Independence.
 - (i) *Code of Ethics*. "Code of Ethics," or "this Code" means Divisions 1 through 8 of this Article, its amendment(s) and enhanced definitions.
 - (j) *Complainant*. "Complainant" means an individual who has filed a complaint with the City Clerk as provided in section 1.16.035.
 - (k) *Confidential information*. "Confidential information" includes all information held by the City that is not available to the public and any information from a meeting closed to the public.
 - (l) *Consanguinity*. Relationship by "consanguinity" (by blood) is defined by the fourth degree of consanguinity: spouse, children, parents (first degree); brothers/sisters, grandchildren, grandparents (second degree); uncles/aunts, nephews/nieces, great grandchildren, great grandparents (third degree); great nephews/great nieces, first cousins, great uncles, great aunts, and great great grandparents (fourth degree). Step and half relationships are considered the same as blood relationships.
 - (m) *Discretionary contract*. "Discretionary contract" means any contract other than those which are awarded on a low or high qualified bid basis.
 - (n) *Doing business*. Doing or seeking to do business with the City includes, but is not limited to, individuals and entities that are parties, partners and/or parent business entities and/or subsidiary business entities of any individuals and entities that are parties to a discretionary contract that seek or have low-bid contracts with the City.
 - (o) *Economic interest*. "Economic interest" includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a City official or employee as an official, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that City official or employee an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock

in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than ten (10) percent of the voting stock or shares of the entity.

- (p) *Employee.* The term "employee" or "City employee" is any person listed on the City payroll as an employee, whether part-time or full-time.
- (q) *Entity.* "Entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, joint-venture, or any other entity recognized by law, including non-profit entities.
- (r) *Former City official or employee.* A "former City official" or "former City employee" is a City official or employee whose City duties have ended.
- (s) *Gift.* A voluntary transfer of property or the conferral of a benefit having pecuniary value.
- (t) *Household.* All persons sharing a dwelling unit, permanently or temporarily, without regard to whether they are related to each other by marriage or blood excluding guests.
- (u) *Indirect ownership.* A person "indirectly owns" an equity interest in an entity where the interest is held through a series of entities, some of which own interests in others.
- (v) *Notice.* A written, typed or printed characters sent or delivered personally, by mail to the last known private or business address or registered office of the addressee and shall be deemed to have been received when in the ordinary course of mail delivery, it would have been delivered, which shall be presumed to be five business days. Notice sent by SMS to a listed phone or by email to a listed email address shall be deemed to be received on the day sent. Actual notice by the recipient shall be conclusive of notice receipt.
- (w) *Official.* The term "official" or "City official" includes the following persons: all salaried employees of the City, elected office holders, Members of all boards, commissions, committees, and other bodies created by the City Council pursuant to federal or state law or City ordinance, including entities that may be advisory only in nature, who are appointed by the Mayor, the City Council, or who are designated in the by-laws or organization papers of the entity to serve on behalf of the City; and board members of any entity who are appointed by the Mayor or City Council to such board membership. The term shall include any individuals or entities operating under an employment agreement with the City.
- (x) *Official action.* "Official action" includes:
 - (1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an official or employee's duties, and

- (2) Any failure to act, if the official or employee is under a duty to act and knows that inaction is likely to affect substantially an economic interest of the official or employee or any person or entity listed in Subsections 1.16.003(a)(2)-(8).
- (y) *Official Information.* Information gathered pursuant to the power or authority of City government.
- (z) *Ownership.* Having or holding a beneficial interest in property of any kind either directly or indirectly.
- (aa) *Partner.* Someone who engages in an activity or undertaking with another; "partner" includes partners in general partnerships, limited partnerships, and joint ventures. One who shares or takes part with another especially in a venture with shared benefits and shared risks.
- (bb) *Personally and substantially participated.* To have taken action as an official or employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action. The fact that the person had responsibility for a matter does not by itself establish that the person "personally and substantially participated" in the matter.
- (cc) *Representation.* The action of speaking or acting on behalf of someone or an entity, a presentation of fact—either by words or by conduct— made to induce someone to act.
- (dd) *Respondent.* An individual identified in a sworn complaint to have allegedly violated the Code of Ethics.
- (ee) *Solicitation.* Actively seeking or requesting employment or business opportunities including all forms of proposals and negotiations relating thereto.

DIVISION 2. CURRENT CITY OFFICIALS AND EMPLOYEES

Sec. 1.16.003. Conflicts of interest.

- (a) *General rule.* A City official or employee shall not take any official action that is likely to affect the economic interests of:
 - (1) The official or employee;
 - (2) The official or employee's parent, child, spouse, domestic partner, or other family member within the fourth degree of consanguinity or affinity;
 - (3) The official or employee's outside client;
 - (4) A member of the official or employee's household;
 - (5) The outside employer of the official or employee or a parent, child, spouse, domestic partner, or member of the household of the official or employee;

- (6) An entity or an affiliate or partner of the entity in which the official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) holds an economic interest as that term is defined in Section 1.16.002;
- (7) An entity for which the City official or employee serves as an official or director or in any other decision or policy making position;
- (8) A person or entity with whom, within the past twelve (12) months:
 - a. The official or employee, or the official's or employee's spouse or domestic partner, directly or indirectly has:
 - 1. Solicited an offer of employment for which the application is still pending;
 - 2. Received an offer of employment which has not been rejected; or
 - 3. Accepted an offer of employment; or
 - b. The official or employee, or the official's or employee's spouse or domestic partner, directly or indirectly engaged in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated.

(b) *Future Employment of City Officials.*

- (1) A City official is prohibited from making, participating in making, or using an official position to influence a decision involving the interests of a person with whom the City official, or the City official's parents, spouse, domestic partner, children, or household members are seeking, negotiating, or securing an agreement concerning future employment.
- (2) It is prohibited for any person who has a matter pending before the City to negotiate, directly or indirectly, the possibility of future employment of a City official, or the City official's parents, spouse, domestic partner, children, or household members, if that City official is making, participating in making, or using an official position to influence, a decision concerning the matter.

(c) *Recusal and disclosure.*

- (1) A City official or employee whose conduct would otherwise violate Section 1.16.003(a) must recuse oneself.
- (2) From the time that the conflict is, or should have been recognized, the official or employee shall immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter.

- (3) If a City official or employee other than a member of a board must recuse, they must promptly bring the conflict to the attention of the immediate supervisor who will then, if necessary, reassign responsibility for the matter to another person.
- (4) If a member of a board must recuse, they must promptly disclose the conflict to other members of the board and not be present during the board's discussion of, or voting on, the matter.

Sec. 1.16.004. Unfair advancement of private interests.

- (a) *General rule.* A City official or employee may not use their position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A City official who represents that an advantage to a person will be provided based on the official's position violates this Section.
- (b) *Special rules.* The following special rules apply in addition to the general rule:
 - (1) *Acquisition of interest in impending matters.* A City official or employee shall not acquire an interest in, or be affected by, any contract, transaction, zoning decision, or other matter, if the official or employee knows, or has reason to know, that the interest will be directly or indirectly affected by impending official action by the City.
 - (2) *Reciprocal favors.* A City official or employee may not enter into an agreement or understanding with any other person if that action by the official or employee will be rewarded or reciprocated by that person, directly or indirectly.
 - (3) *Appointment of relatives.* A City official or employee shall not appoint or employ or vote to appoint or employ any relative within the fourth degree of consanguinity or affinity or any member of the City official's or employee's household to any office or position within the City.
 - (4) *Supervision of relatives.* No official or employee shall be permitted to be in the line of supervision of a person within the fourth degree of consanguinity or affinity or any member of the official's or employee's household. Department heads are responsible for enforcing this policy. If an employee, by reason of marriage, promotion, reorganization, or otherwise, is placed into the line of supervision of such a person, one of the employees will be reassigned or other appropriate arrangements will be made for supervision.
- (c) *Violations.* A City official or employee whose conduct would otherwise violate this section shall adhere to the recusal and disclosure provisions provided in Subsection 1.16.003(c).

Sec. 1.16.005. Gifts.

(a) *General rule.*

- (1) A City official or employee shall not solicit, accept, or agree to accept any gift or benefit:
 - a. That reasonably tends to influence or reward official action; or
 - b. That the official or employee knows or should know is being offered with the intent to influence or reward official action.
- (2) A City official or employee may accept a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion, and it is not prohibited under state law.
- (3) A City official or employee shall not solicit, accept, or agree to accept any gift or benefit, from:
 - a. Any individual or entity doing or seeking to do business with the City; or
 - b. Any registered lobbyist or public relations firm; or
 - c. Any person or entity seeking action or advocating on zoning or platting matters before a City body,

(b) *Special applications.* Subsection 1.16.005(a)(3) does not include:

- (1) A gift to a City official or employee relating to a special occasion, such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and recipient;
- (2) A public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;
- (3) A loan from a lending institution made in its regular course of business on the same terms generally available to the public;
- (4) A scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;
- (5) Admission to an event in which the City official or employee is participating in connection with the City official's or employee's spouse's or domestic partner's position; or

- (6) Ceremonial and protocol gifts presented to City officials from a foreign government or international or multinational organization and accepted for the City.
- (c) *Campaign contribution exception.* Section 1.16.005(a) does not apply to a campaign contribution made in compliance with Missouri law and City ordinances.
- (d) *Gifts to closely related persons.* A City official or employee shall take reasonable steps to persuade parent, spouse, child, or other relative within the fourth degree of consanguinity or affinity, or an outside business associate, not to solicit, accept, or agree to accept any gift or benefit:
 - (1) That reasonably tends to influence or reward the City official's or employee's official action, or
 - (2) That the official or employee knows or should know is being offered with the intent to influence or reward the City official's or employee's discharge of duties.
- (e) If a City official or employee required to file a financial disclosure report under Division 5 knows that a gift or benefit meeting the requirements of Section 1.16.005(d) has been accepted and retained by a person identified in Section 1.16.005(d), the official or employee shall promptly file a report with the City Clerk disclosing the donor, the value of the gift or benefit, the recipient, and the recipient's relationship to the official or employee filing the report.

Sec. 1.16.006. Confidential information.

- (a) *Improper access.* A City official or employee shall not obtain information about any person or entity for any purpose other than the performance of official actions.
- (b) *Improper disclosure or use.* A City official or employee shall not disclose any confidential information gained by reason of that official's or employee's position concerning the property, operations, policies or affairs of the City. This does not prohibit:
 - (1) Any disclosure that is no longer confidential by law;
 - (2) Any disclosure required by law or court order; or
 - (3) Confidential reporting of illegal or unethical conduct to authorities designated by law.

Sec. 1.16.007. Representation of private interests.

- (a) *Representation of private interests before the City by City officials and employees.*

- (1) *General rule.* A City official or employee shall not represent any person, group, or entity, other than the official or employee, or their spouse, domestic partner, or minor children, before the City.
 - (2) *Exception for board members.* Section 1.16.007(a)(1) does not apply to a person who is classified as a City official only because he or she is an appointed member of a board or other City body.
- (b) *Representation of private interests before the City by a board member.* A City official or employee who is a member of a board or other City body shall not represent any person, group, or entity:
- (1) Before that board or body;
 - (2) Before City staff having responsibility for making recommendations to, or taking any action on behalf of, that board or body, unless the board or body is only advisory in nature; or
 - (3) Before a board or other City body which has appellate jurisdiction over the board or body of which the City official or employee is a member, if any issue relates to the official's or employee's official duties.
- (c) *Representation in litigation adverse to the City.*
- (1) *Officials and employees (other than board members).* A City official or employee, other than a person who is classified as an official only because the official is an appointed member of a board or other City body, shall not represent any person, group, or entity, other than the official or employee, or their spouse, domestic partner, or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City.
 - (2) *Board members.* A person who is classified as a City official only because the City official is an appointed member of a board or other City body shall not represent any person, group, or entity, other than the board member, or the board member's spouse, domestic partner, or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to interests of the City and the matter is substantially related to the official's duties to the City.

Sec. 1.16.008. Conflicting outside employment.

- (a) *General rule.* A City official or employee shall not solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, the official's or employee's duties.

- (b) *Special application.* The following special rule applies in addition to the general rule: A City official or employee shall not provide services to an outside employer related to the official's or employee's duties.
- (c) *Other rules.* Section 1.16.008 applies in addition to all other rules relating to outside employment of City officials and employees, including requirements for obtaining prior approval of outside employment as applicable.

Sec. 1.16.009. Public property and resources.

- (a) A City official or employee shall not use, request, or permit the use of City facilities, personnel, equipment, supplies, or time while on City duty for private purposes (including political purposes), except:
 - (1) Pursuant to duly adopted City policies, or
 - (2) To the extent and according to the terms that those resources are lawfully available to the public.

Sec. 1.16.010. Political activity.

Limitations on the political activities of City officials and all employees, whether full time or part time, are imposed by State law, the City Charter, and City personnel rules and are incorporated into this provision by reference. In addition, the following ethical restrictions apply:

- (a) *Use of City Resources.* Prohibited use of City resources in support of or in opposition to any issue or candidate includes, but is not limited to:
 - (1) using equipment, materials, and resources of the City;
 - (2) using one's city uniform, badge, or position while off duty;
 - (3) actively campaigning while on duty; or
 - (4) displaying campaign materials on city vehicles or city property.
- (b) *Influencing subordinates.* A City official or employee shall not, directly or indirectly, induce or attempt to induce any City subordinate of the official or employee, or to retaliate, intimidate or discriminate for refusing to do the following, except that a general statement merely encouraging another person to vote does not violate this subsection:
 - (1) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue, or
 - (2) To refrain from engaging in any lawful political activity.

- (c) *Allowing Solicitation.* No City official or employee shall permit any solicitation for support for or opposition to a candidate for elective office or ballot issue on City property unless the space is operated by the City for open use of the public at the time of solicitation.
- (d) *Paid campaigning.* A City official or employee shall not accept anything of value, directly or indirectly, for political activity relating to an item pending on the ballot.
- (e) *Resignation Required.* A board member or employee shall be considered to have resigned one's position if said person is elected to the position of mayor or council member.

Sec. 1.16.011. Actions of others.

- (a) *Violations by other persons.* A City official or employee shall not assist or induce, or attempt to assist or induce, any person to violate any provision in this Code of Ethics.
- (b) *Using others to engage in forbidden conduct.* A City official or employee is prohibited from violating or attempting to violate the provisions of this Code of Ethics through the acts of another.

Sec. 1.16.012. Prohibited interests in contracts.

- (a) No official or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or service, except on behalf of the City as an official or employee. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the Council. This provision shall not apply to competitive bid items or real estate transactions where the person is the owner of the property.
- (b) *Financial Interest.* An official or employee is presumed to have a prohibited "financial interest" in a contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:
 - (1) The official or employee;
 - (2) The official or employee's spouse, domestic partner, sibling, parent, child, or other family member within the fourth degree of consanguinity or affinity;
 - (3) An entity in which the official or employee, or the official's or employee's parent, child, spouse, or domestic partner directly or indirectly owns:
 - a. Ten (10) percent or more of the voting stock or shares of the entity, or
 - b. Ten (10) percent or more of the fair market value of the entity; or

- (4) An entity of which any individual or entity listed in Section 1.16.012 (b)(1-3) is:
 - a. A subcontractor on a City contract;
 - b. A parent or subsidiary entity.
- (c) *Board of Ethics Determination.*
 - (1) If an official or employee has or may potentially have a presumed prohibited financial interest in a contract with the City, or in the sale to the City of land, materials, supplies or service under subsection (b), the official or employee may request a hearing by the Board of Ethics for a determination and decision on whether the official or employee has an actual direct or indirect financial interest in that contract or transaction.
 - (2) *Hearings.* The Board of Ethics will conduct the hearing in accordance with procedures set out in Division 7 of this Code of Ethics.
- (d) Any contract or transaction already in place at the time the individual becomes a City official or employee may remain in place until the contract expires or the transaction is completed without creating a prohibited financial interest for the official or employee.

Sec. 1.16.013. Persons required to report suspected violations.

A City official, employee, or person subject to this Code of Ethics who has knowledge or a reasonable belief of a violation including a self-violation, of any of the provisions of this Code of Ethics shall report this violation as provided in section 1.16.035 within a reasonable time after the person has knowledge of a violation. A City official or employee shall not delegate to, or rely on, another person to make the report.

DIVISION 3. FORMER CITY OFFICIALS AND EMPLOYEES

Sec. 1.16.014. Continuing confidentiality.

A former City official or employee shall not use or disclose confidential information acquired during service as a City official or employee. This rule does not prohibit:

- (a) Any disclosure that is no longer confidential by law;
- (b) Any disclosure required by law or court order; or
- (c) Confidentially reporting illegal or unethical conduct to authorities designated by law.

Sec. 1.16.015. Subsequent representation of private interests.

Prohibitions found in Section 1.16.007 shall apply for former officials, employees, and board members for two (2) years after the termination of all duties.

Sec. 1.16.016. Prior participation in the negotiation, awarding or administration of contracts.

- (a) *Performing work for compensation.* A former City official or employee shall not, within two (2) years of the termination of all duties for the City, perform work for compensation relating to a discretionary City contract, if the official or employee personally and substantially participated in the negotiation, award or administration of the contract.
- (b) *Disclosure.* A former City official or employee, within two (2) years of termination of official duties, must disclose to the City Clerk immediately upon knowing that work will be performed for compensation relating to a discretionary City contract for which the official or employee did not personally and substantially participate in its negotiation, award or administration. This subsection does not apply to a person who was classified as a City official only because the City official was an appointed member of a board or other City body.

Sec. 1.16.017. Prohibited interest in discretionary contracts.

- (a) *Impermissible interest in discretionary contract or sale.* This subsection applies only to contracts or sales made on a discretionary basis and does not apply to contracts or sales made on a competitive bid basis. Within one (1) year of the termination of official duties, a former City official or employee shall neither have a financial interest, direct or indirect, in any discretionary contract with the City, nor have a financial interest, direct or indirect, in the sale to the City of any land, materials, supplies, or service. Any violation of this section, with the knowledge, expressed or implied, of the individual or entity contracting with the Council shall render the contract involved voidable by the City Manager or the Council.
- (b) *Attributed Interest.* A former City official or employee has a prohibited "financial interest" in a discretionary contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:
 - (1) The former official or employee;
 - (2) The former official's or employee's parent, child, spouse, or domestic partner;
 - (3) An entity in which the former official or employee, or the former official's or employee's parent, child, spouse, or domestic partner, directly or indirectly owns:
 - a. Ten (10) percent or more of the voting stock or shares of the entity, or

- b. Ten (10) percent or more of the fair market value of the entity; or
- (4) An entity of which any individual or entity listed in subsection (1), (2) or (3) is:
 - a. A subcontractor on a City contract;
 - b. A partner; or
 - c. A parent or subsidiary entity.
- (c) *Exception: Prior employment or status.* Notwithstanding Subsections 1.16.017(a) and (b) and Section 1.16.016, a former City official or employee may upon leaving official duties return to employment or other status enjoyed immediately prior to commencing official City duties.

DIVISION 4. PERSONS DOING BUSINESS WITH THE CITY

Sec. 1.16.018. Business with the City.

This Division 4 applies to an individual or entity seeking:

- (a) A discretionary contract;
- (b) The purchase, sale, or lease of real estate to or from the City;
- (c) A development project, land use decision, tax incentive, or the issuance of bonds.

Sec. 1.16.019. Prohibited and permitted contacts.

- (a) *Discretionary contracts and real estate transactions.* An individual or entity who seeks or applies for a City discretionary contract or real estate transaction, or any person acting on behalf of such person or entity, is prohibited from contacting City officials, and employees regarding such a contract after a request for proposal (RFP), request for qualification (RFQ) or other solicitation has been released. If contact is required with City officials and employees, such contact will be with the appropriate employee or in accordance with procedures incorporated into the solicitation document.
- (b) *Proposals before the City.* It is not permitted for any individual or entity to seek a commitment to approve or deny any application for land use prior to a required vote on the application.
- (c) *Penalty for violation.* In addition to any penalty which may be imposed, an individual or entity violating any provisions of Division 4 may be disqualified from doing business with the City.

Sec. 1.16.020. Disclosure of contact with City official or employee.

- (a) *Disclosure of prohibited contacts.* Prior to approval or rejection of a contract or application listed in Section 1.16.018 by the City Council or appropriate City board or commission, all prohibited contacts must be disclosed publicly to the body considering the matter.
- (b) *Benefit to a City official.* An individual or entity seeking City approval for an item listed in Section 1.16.018(a) shall disclose in a timely manner if the individual or entity knows the action will benefit a City official or employee.

Sec. 1.16.021. Political contributions.

- (a) *Political contributions.* Any individual or entity seeking City Council action on a matter listed in Section 1.16.018 must disclose all political contributions made by, or on behalf of the individual or entity, within the past twenty-four (24) months made directly or indirectly to any current member of the City Council or to any political action committee that contributes to the election of a current City Council member.
- (b) *Limit on future political contributions.* No political contributions to or on behalf of City elected officials may be made for one (1) year following a decision on matters listed in Section 1.16.018 (a) by entities involved in the matter.

Sec. 1.16.022. Rescission of approval.

Representations made in seeking approval of matters listed in Section 1.16.018 which are found to be false will be grounds for terminating or rescinding the approvals.

Sec. 1.16.023. Prohibited actions by lobbyist compensated by the City.

A person or firm who has been hired by the City to represent the City as a lobbyist shall not participate in, or render services to, including campaign contributions, any person running for City office. This prohibition shall be included in any contract the City has for lobbying purposes.

DIVISION 5. FINANCIAL DISCLOSURE

Sec. 1.16.024. Statement of Purpose.

The proper operation of government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interest in matters affecting the City of Independence.

Sec. 1.16.025. Persons required to file disclosure form.

- (a) *Annual Filers.* Each elected official; members of the Planning Commission, Board of Adjustment, Board of Building and Engineering Appeals, Board of Ethics, the Industrial Development Authority; the city manager, city counselor, chief purchasing official, subordinate city managers, department directors and municipal judges shall complete and file the Personal Financial Disclosure (“PFD”) statement provided by the Missouri Ethics Commission (“MEC”).
- (b) *Candidates for Elective Office.* PFD statements required by the MEC shall be filed by candidates for Mayor and City Council.

Sec. 1.16.026. Filing of reports.

- (a) The PFD statements shall be filed at the following times, but no person is required to file more than one PFD statement in any calendar year, unless a material change occurs in information reported in the PFD, or as otherwise required by the Code of Ethics.
 - (1) *Annual Filers.* PFD statements must be filed between January 1 and May 1 by annual filers for each year they hold the position.
 - (2) *New Appointments of Employment.* Each person appointed to office or employment in section 1.16.026 shall file a PFD statement within thirty (30) days of appointment or employment for the calendar year before the date of appointment or employment.
 - (3) *Candidate for Elective Office.* A PFD statement must be filed by candidates for elective office no later than fourteen (14) days after the close of filing for candidacy.
 - (4) *Where to File.* PFD statements must be filed with the City utilizing the MEC system.
- (b) In the event of an unforeseen circumstance, which prevents an official or employee performing their assigned duties, including, but not limited to, military service or acute illness or leave without pay under the Family Medical Leave Act, the deadline for receipt by the City Clerk is extended until such time as the official or employee resumes their duties.

Sec. 1.16.027. Responsibilities of City Clerk

The City Clerk shall:

- (a) Submit every two years to MEC an ordinance identifying City official and employee positions required to file PFD statements, and provide annually to MEC a list of individuals required to file a PFD.

- (b) Maintain copies of the PFD statements and make them available for public inspection and copying according to the open records statutes of the State of Missouri.
- (c) Provide to the City Council copies of filed PFD statements of elected and appointed officials, municipal judges, the city manager, and city counselor.
- (d) Provide to the City Manager copies of all filed PFD statements of subordinate city managers and department heads.
- (e) Notify annual filers of missed deadlines for filing and inform them of penalties for not filing.
- (f) Notify the City Council of failure by an elected or appointed official or candidate for elective office to file a PFD statement and notify the City Manager of any employees who have failed to file a PFD statement.

Sec. 1.16.028. Penalties.

The penalties for failure to file a PFD within 30 days after receiving notice from the MEC that the filing deadline was missed are:

- (a) *Elected Officials.* Until a proper PFD is filed, elected officials will be suspended from office.
- (b) *Appointed Officials.* Removal of appointed officials from their positions will be automatic.
- (c) *Employees.* Compensation to employees will be withheld until a PFD statement is filed or employment may be terminated.

Sec. 1.16.029. Penalties specific to candidates for elected office.

Failure to file a PFD statement by the 14-day MEC deadline will result in a minimum \$10 per day late fee. Failure to file by the 21-day MEC deadline will result in late fees, candidate disqualification, and removal from the ballot.

DIVISION 6. CAMPAIGN FINANCE

Sec. 1.16.030. Statement of purpose.

Disclosure of financial contributions protects the ability of city residents to be informed of the financing used in support of, or against, campaigns for locally elected office. Spending limits combat the potential for, and appearance of, corruption, and preserves the ability of all qualified community members to run for public office.

Sec. 1.16.031. Compliance with State and Federal law.

All candidates, committees, candidate committees, campaign committees, continuing committees, and connected organizations shall comply with all applicable State and Federal election and campaign finance laws.

Sec. 1.16.032. Primary and general elections.

Primary and General elections are considered to be two separate elections, and the following provisions will apply to both primary and general elections:

(a) *Disclosure.*

- (1). Candidates for all elective positions must disclose and report all campaign contributions.
- (2) All monetary donations of any amount must be disclosed so the total amount of contributions will be known.
- (3) Monetary donations exceeding \$100 or more cumulative from each contributor must include the name, address, employer, and occupation of the contributor.
- (4) The same disclosure must be made for in-kind donations, including the nature and value of the donation.

(b) *Limits on contributions.*

No person or entity may make monetary or in-kind contributions to a candidate which cumulatively exceed \$1,000 for a primary or for a general election. For clarity an individual or entity may make up to a \$1,000 contribution for each a primary and a general election.

(c) *Time Limits.*

Fundraising may not begin before one year prior to the elections. Receipt of contributions must conclude within six months following the election.

(d) *Responsibility of Others.*

- (1) Political Action Committees and anyone other than the candidate's campaign committee must disclose the names of their management team.
- (2) All mailings and electronic communications advocating for or against a candidate must provide the name or entity responsible for the mailing or communication, including the name, address, and phone number of a responsible person.

- (e) *Prohibited Contributions.*
 - (1) Contributions may not be received from individuals or entity which have a contract or are actively pursuing a contract with the City within six months of making the contribution, if the contract exceeds \$50,000.
 - (2) All contracts for purchases exceeding \$50,000 shall include a prohibition of making a campaign contribution in any amount from the business or its principals during the time of the contract and for six months thereafter.
 - (3) Contributions in violation of Section 1.16.021(b) are prohibited.
- (f) *Disclosure before voting by Councilmember or Mayor.* To provide assurance to the public that the City Council and Mayor act in the best interest of the public and City, a councilmember or mayor who accepts campaign contributions in any amount from a union or organization of city employees, directly or indirectly, shall publicly disclose any such contribution prior to any vote on a matter affecting that union or organization.
- (g) *Filing of Disclosures.* All required disclosures shall be filed with the City Clerk and may be in the form of the MEC filing and any supplemental information necessary to comply with this section.

DIVISION 7. BOARD OF ETHICS

Sec. 1.16.033. Structure of the Board of Ethics.

- (a) *Powers and duties.* In accordance with Article V of the City Charter, the independent Board of Ethics has the powers and duties specified in Article V of the City Charter and other powers and duties prescribed by ordinance. In order to exercise any powers of the board a quorum defined as three members shall be present and any action of the Board requires three affirmative votes.
- (b) *Promulgation of Rules.* The Board of Ethics may promulgate rules and regulations as are necessary to carry out its responsibilities.
- (c) *Composition.* The Board of Ethics shall consist of five (5) members appointed by the City Council.
- (d) *Terms of office.* Appointments shall be for a term of four (4) years on a staggered basis.
- (e) *Qualifications.*
 - (1) Members of the Board shall have good moral character and shall be residents of the City. No member of the Board shall be:
 - a. A City official, employee, or member of any City board or commission other than the Board of Ethics;

- b. An elected public official;
 - c. A candidate for elected public office;
 - d. An official of a political party;
 - e. A campaign treasurer, campaign manager, official or other policy or decision-maker for the campaign of any candidate for elected public office or any political action committee; or
 - f. A lobbyist.
- (2) Further, no member of the Board of Ethics shall have been convicted of a felony or a crime of moral turpitude or have been found in violation of any provision of the Code of Ethics.
- (f) *Removal.* Members of the Board of Ethics may be removed from office for cause by a majority of the City Council only after a public hearing at which the member was provided with the opportunity to be heard. Grounds for removal include: failure to satisfy, or to continue to satisfy, the qualifications set forth in Section 1.16.031(e); substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; or violation of any provision in this Code of Ethics or a conviction of a felony or crime of moral turpitude.
- (g) *Vacancies.* The City Council shall fill any vacancy on the Board by a person who will serve the remainder of the unexpired term.
- (h) *Recusal.* A member of the Board of Ethics shall recuse from any matter before the board in which, because of familial relationship, employment, investments, or otherwise, impartiality might reasonably be questioned.
- (i) *Temporary Replacements.* If any Board members recuse themselves, the City Council may appoint temporary replacements for the recused members for the matter in question.
- (j) *Chair.* Each year, the Board shall meet and elect a chair from among its members, who will serve a one-year term and may be re-elected. The Chair or a majority of the Board may call a meeting of the Board. The Chair shall preside at meetings of the Board of Ethics and perform other administrative duties.
- (k) *Reimbursement.* The members of the Board of Ethics shall not be compensated but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.
- (l) *Training.* The Board shall receive training about its duties when it meets to select a Chair.

Sec. 1.16.034. Jurisdiction and powers.

- (a) *Jurisdiction.* The Board of Ethics has jurisdiction to investigate and make findings and conclusions concerning an alleged violation of the Code of Ethics enacted from time to time by ordinance.
- (b) *Powers.* The Board of Ethics has the power to:
 - (1) request from the City Manager the assignment of staff necessary to carry out its duties;
 - (2) make notifications, extend deadlines, and conduct investigations on referrals and complaints;
 - (3) compel the submission of evidence and production of sworn testimony including issuing subpoenas;
 - (4) recommend cases for prosecution by appropriate authorities and agencies regarding an alleged violation of the Code of Ethics;
 - (5) enforce its decisions by assessing sanctions authorized by ordinance;
 - (6) request the City Council to provide an independent counsel to advise and represent the Board, when appropriate or necessary to avoid a conflict of interest;
 - (7) assist in the training and education of City officials and employees with respect to ethical responsibilities;
 - (8) recommend to the City Council and City Manager needed or desirable changes in ordinances or regulations;
 - (9) initiate its own investigations and complaints; and
 - (10) exercise such other powers and duties as may be established by ordinance.
- (c) *Limitations.* The Board of Ethics shall not consider any alleged violation that occurred more than two (2) years prior to the date of the filing of the complaint unless a continuing pattern of behavior outside of the two-year period is discovered.
- (d) *Discretion over previously resolved complaints.* The Board of Ethics has the discretion to accept or decline consideration of an alleged violation that has been resolved by the City Council or the City Manager.
- (e) *Termination of City official's or employee's duties.* The termination of a City official's or employee's duties does not affect the jurisdiction of the Board of Ethics with respect to alleged violations occurring prior to the termination of official duties.

Sec. 1.16.035. Requests for Advisory Opinions

Who May Request Advisory Opinions.

- (1) The Mayor or any Councilmember may in writing request a hearing and advisory opinion of the Board of Ethics upon any officer or employee of the City Government.
- (2) The City Manager may request in writing a hearing and advisory opinion upon any salaried City official or employee.
- (3) The Mayor, any Councilmember, and all other officers or employees of the City Government may in writing request a hearing and advisory opinion upon their own situation as guidance for present or future conduct.
- (4) The Mayor and/or Council may, before making any future appointments to any board or commission, request in writing an advisory opinion of the Board of Ethics concerning all potential appointees under consideration.
- (5) Individuals qualifying under Section 1.16.012(c)(1).

Sec. 1.16.036. Complaints.

- (a) *Filing a complaint.* Any person who believes that there has been a violation of the ethics laws may file a complaint with the City Clerk to allege such violation, except that a complaint may not be filed against a candidate for City office within fifteen (15) days prior to a City election.
- (b) *False statements.* It shall be unlawful for any person to knowingly provide false information in a complaint or make a false statement, whether oral or written, in any proceedings before the Board of Ethics.
- (c) *Provided assistance.* The City Clerk shall provide information to persons who inquire about the process for filing a complaint.
- (d) *Complaint form.* A complaint filed under this section must be in writing and must set forth in simple, concise, and direct statements:
 - (1) The name (and position or title, if any) of the complainant;
 - (2) The mailing address and the telephone number of the complainant;
 - (3) The name and position or title, if known, of each person complained about;
 - (4) The nature of the alleged violation;
 - (5) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

- (6) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material relevant to the allegation and available to the complainant but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material relevant to the allegation but unavailable to the complainant, including the location of the documents, if known.
- (e) *Alleged violation.* The complaint must state on its face an allegation that, if true, constitutes a violation of a law or ordinance administered and enforced by the Board.
- (f) *Referral to the Chair of the Board of Ethics and the City Counselor.*
 - (1) A copy of a complaint shall be forwarded promptly by the City Clerk to the Chair of the Board of Ethics and to the City Counselor's Office who shall each independently review the complaint for compliance with the filing requirements within five (5) business days of receipt from the City Clerk.
 - (2) If it is determined by either the Chair of the Board of Ethics or the City Counselor that the complaint alleges a violation of the Code of Ethics, and substantially complies with the filing requirements, the complaint shall be forwarded by the City Clerk to the members of the Board of Ethics and the respondents within five (5) business days after notice to proceed from either the Chair of the Board of Ethics or the City Counselor. If the complaint does not substantially comply with the filing requirements, the City Counselor shall return the complaint to the complainant with a letter explaining the defects in the complaint.
- (g) *Notice to Respondent(s).* The City Clerk shall include a copy of the Complaint, provide access to the Code of Ethics, and inform respondent(s) of their right to request a hearing when notifying respondent(s) of a complaint.
- (h) *Responses.* The City Clerk shall forward any responses to the Board of Ethics and the City Counselor.
- (i) *Confidentiality.*
 - (1) The Board of Ethics and any staff shall not communicate any information about a pending complaint, including whether or not a complaint has been filed, to any person other than the respondent, the complainant, and a witness or potential witness.
 - (2) Information otherwise confidential under this section may be disclosed by entering it into the record of a formal hearing or Board of Ethics proceeding.

Sec. 1.16.037. City Counselor's Office.

- (a) *City Counselor's Office.* The following duties shall be performed by the City Counselor:
- (1) Act as legal counsel to the Board of Ethics;
 - (2) Review complaints for legal sufficiency; and
 - (3) Issue advisory opinions to City officials and employees about the requirements imposed by the ethics laws.
 - (4) Review proposed advisory opinions from the Board of Ethics.
 - (5) Attend meetings and hearings of the Board of Ethics when requested to do so by any member of the Board of Ethics.
- (b) *Independent Counsel.*
- (1) An independent attorney, who does not otherwise represent the City, shall be appointed to serve as the independent Counsel when a complaint is filed relating to an alleged violation of the ethics laws by the Mayor, a member of the City Council, a candidate for City Council, or a member of the City Counselor's office.
 - (2) The City Counselor or Board of Ethics may request the appointment of an independent counsel for a particular matter.

Sec. 1.16.038. Board of Ethics procedure.

- (a) *Review by Board of Ethics.* The Board of Ethics will meet to review the complaint, responses, replies to responses and any other information it has requested be provided to assist in consideration of the complaint. The Board shall consider whether the facts of the case establish a violation of any provision in the ethics laws, regardless of which provisions, if any, were identified in the complaint as having been allegedly violated. If the Board finds that the complaint fails to be a violation of the Code of Ethics when assuming all facts set forth in the complaint to be true, the Board may dismiss the complaint without further proceedings.
- (b) *Notice to respondent.* The Board may not find that there has been a violation of a particular rule before the respondent has an opportunity to respond. Notice is conclusively established if the Board or the City Clerk provides the respondent with written notice of the alleged violation and a ten (10) business-day period within which to respond in writing to the charge.
- (c) *Scheduling.* The Board of Ethics shall establish a timeline for conducting the matter, including any preliminary matters. The Board of Ethics has discretion over whether to hold a hearing.

- (d) *Ex parte communications.* It is a violation of this code:
- (1) For the complainant, the respondent, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in ex parte communication about the subject matter of a complaint with a member of the Board of Ethics, or any known witness to the complaint; or
 - (2) For a member of the Board of Ethics to:
 - a. Knowingly entertain an ex parte communication prohibited by Subsection 1.16.038(d)(1); or
 - b. Communicate directly or indirectly with any person, other than a member of the Board of Ethics, staff, or the City Counselor's Office, about any issue of fact or law relating to the complaint.
- (e) *Duty to cooperate.* All City officials and employees shall cooperate with the Board of Ethics and shall supply requested testimony or evidence to assist it in carrying out its duties. Failure to abide by the obligations imposed by this subsection is a violation of this Code of Ethics.
- (f) *Extension of deadlines.*
- (1) A complainant or respondent who fails to meet a deadline to submit a filing with the Board of Ethics may request the Board to accept the late filing. The request shall include a statement of good cause for the Board to grant the request. The Board may grant a request to accept a late filing for good cause. Any extension given shall extend the deadline for the Board to issue a decision.
 - (2) The Board, under its own initiative or at the request of a respondent or investigative agency, may defer consideration of a complaint if the respondent is under investigation by any agency for the activity comprising the subject matter of the complaint, until such time as the investigation has concluded.
- (g) *Timeliness of notices or submissions.* When the Code of Ethics requires a notice or other document to be submitted or otherwise given to a person or to the Board of Ethics, sufficient notice will be made according to "Notice" in Section 1.16.002 Definitions, unless another method of submission is expressly required.

Sec. 1.16.039. Hearing rules.

At any hearing held by the Board of Ethics the following rules apply:

- (a) *General rules.* All witnesses must be sworn, and all questioning of witnesses shall be conducted by the members of the Board of Ethics or by counsel to the Board. The Board of Ethics may establish time limits and other rules relating to the participation of any person in the hearing.

- (b) *Evidence.* The Board of Ethics shall rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs.
- (c) *The respondent.* The respondent has the right to attend the hearing, the right to make a statement, the right to request witnesses, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the respondent may advise respondent during the course of the hearing, but may not speak on his or her behalf, except with the permission of the Board. The time permitted for presentation will be at the discretion of the Board.
- (d) *The complainant.* The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel or another advisor.

Sec. 1.16.040. Disposition.

- (a) *Time Limit.* The Board shall issue a decision within one hundred twenty (120) calendar days after the filing of a complaint. This deadline may be extended by any amount of time granted to a request for additional time to respond or to attend proceedings.
- (b) *Written Opinion.* The Board shall state in a written opinion its findings of fact and conclusions of law. The written opinion shall either:
 - (1) Dismiss the complaint; or
 - (2) Upon finding that there has been a violation of the Code of Ethics:
 - a. Impose sanctions;
 - b. Recommend prosecution and/or civil remedies; or
 - c. State why no remedial action or sanction is imposed or recommended.
- (c) *Notification.* Copies of the opinion shall be forwarded to the complainant, the respondent, the City Counselor's Office, and any member of the Board of Ethics who did not participate in the disposition of the case. A copy of the opinion shall also be forwarded to the City Clerk, who shall make it available as authorized by law.
- (d) *Recommendation for Prosecution.* A recommendation for prosecution shall be forwarded to the appropriate agency.
- (e) *Similar charges barred.* If the complaint is dismissed because the evidence failed to establish a violation of the Code of Ethics, the Board of Ethics shall not entertain any other similar complaint based on substantially the same evidence.

(f) *Factors relevant to sanctions.*

General violations. In deciding whether to recommend, in the case of a violation of the Code of Ethics, prosecution or civil remedies, the Board of Ethics shall take into account relevant considerations, including, but not limited to, the following:

- (1) The culpability of the person charged in the complaint;
- (2) The harm to public or private interests resulting from the violation;
- (3) The necessity of preserving public confidence in the conduct of local government;
- (4) Whether there is evidence of a pattern of disregard for ethical obligations; and
- (5) Whether remedial action has been taken that will mitigate the adverse effect of the violation.

To impose or recommend sanctions for a first violation of the Code of Ethics, other than a letter of notification, a letter of admonition or a referral to training, the Board must find by a preponderance of the evidence that the person acted knowingly, unless otherwise provided by this code.

(g) *Civil sanctions for Code of Ethics violations.* The following civil remedies may be recommended by the Board of Ethics which finds that the Code of Ethics has been violated:

- (1) *Disciplinary action.* City officials and employees who engage in conduct that violates this code may be notified, warned, reprimanded, suspended, or removed from office or employment by the appointing authority, or by a person or body authorized by law to impose such remedies. Disciplinary action under this section may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law. The Board of Ethics may refer a violation to the City Manager or the City Manager's designee for disciplinary action;
- (2) *Disqualification from contracting or lobbying.*
 - a. If the Board of Ethics finds that any person (including business entities and non-profit entities) has intentionally or knowingly violated any provision of the Code of Ethics, or has intentionally or knowingly assisted another person in violating any provision of the Code of Ethics, or has violated a provision or assisted another in a violation that the person should have known was a violation of the Code of Ethics, the Board of Ethics may recommend that the person be prohibited from entering into any contract with the City or prohibited from lobbying on behalf of clients before the City for a period not to exceed three (3) years.

- b. It is a violation of this Code of Ethics:
 - 1. For a person debarred from contracting with the City to enter, or attempt to enter, into a contract with the City during the period of disqualification from contracting; or
 - 2. For a City official or employee to knowingly assist a violation of Section 1.16.040(g)(2)(b).
 - c. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility which is generally available to the public, according to the same terms.
- (3) *Civil fine.* The Board of Ethics may recommend imposition upon any person, City official, or employee of the City, who violates any provision of this Code of Ethics a fine not exceeding five hundred dollars (\$500.00).
 - (4) *Letter of notification.* The Board of Ethics may issue a letter of notification to any person, City official, or employee of the City, when the Board finds that a violation of the Code of Ethics was unintentional or inadvertent. The letter must advise the person to whom it is directed of any steps to be taken to avoid future violations.
 - (5) *Letter of admonition.* The Board of Ethics may issue to any person, City official, or employee of the City, a letter of admonition when the Board finds that the violation of the Code of Ethics was minor or may have been unintentional or inadvertent.
 - (6) *Letter of reprimand.* The Board of Ethics may issue to any person, City official, or employee of the City, a letter of reprimand when the Board finds that the person has violated the Code of Ethics.
 - (7) *Referral to ethics training.* Upon finding of violation of the Code of Ethics, the Board of Ethics may require a City official, or employee to attend Code of Ethics training.

Sec. 1.16.041. Procedure for Handling Frivolous Complaints.

- (a) *Frivolous complaint.*
 - (1) For purposes of this section, a "frivolous complaint" is a complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.
 - (2) The filing of a frivolous complaint is a violation of the Code of Ethics.
 - (3) The Board may order a complainant to show cause why the Board should not determine that the complaint filed by the complainant against a respondent is a frivolous complaint.

- (4) In deciding if a complaint is frivolous, the Board may also consider:
 - a. The timing of the complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the respondent is a candidate or is involved with a candidacy, if any;
 - b. The nature and type of any publicity surrounding the filing of the complaint, and the degree of participation by the complainant in publicizing the fact that a complaint was filed with the Board;
 - c. The existence and nature of any relationship between the respondent and the complainant before the complaint was filed;
 - d. The relationship between the complainant and any group opposing the respondent; and
 - e. Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless.
- (5) Notice of an order to show cause shall be given to the complainant, with a copy to the respondent, and shall include the date, time, and place of the hearing to be held under this Section.
- (6) Before making a determination that a complaint against a respondent is a frivolous complaint, the Board shall hold a hearing at which the complainant may be heard; the complainant may be accompanied by counsel retained by the complainant.
- (7) The Board may determine that a complainant filed a frivolous complaint against a respondent and may recommend sanctions against that complainant.

(b) *Sanctions for filing frivolous complaints.*

- (1) Before recommending a sanction for filing a frivolous complaint, the Board shall consider the following factors:
 - a. The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
 - b. The sanction necessary to deter future violations; and
 - c. Any other matters that justice may require.
- (2) The Board may recommend the following sanctions:
 - a. A civil penalty of not more than five hundred dollars (\$500.00).

- b. Imposition of attorneys' fees incurred by the respondent;
 - c. Any other sanction permitted by law.
- (3) The Board may notify the appropriate regulatory or supervisory agency or prosecuting authority for their appropriate action.

Sec. 1.16.042. Finality of Opinions and Findings.

The findings of the Board of Ethics shall be final and no appeal from any such decision shall be taken or permitted to be taken to any other City official, administrative board or commission, or to the City Council.

Sec. 1.16.043. Public records and open meetings.

Meetings and other proceedings, including records requests, of the Board of Ethics will be conducted in compliance with the Missouri Open Meetings and Records Law.

DIVISION 08. ADMINISTRATIVE PROVISIONS

Sec. 1.16.044. Other obligations.

This Code of Ethics is cumulative of and supplemental to applicable State and federal laws and regulations. Compliance with the provisions of this Code shall not excuse or relieve any person from any obligation imposed by State or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Even if a City official or employee is not prohibited from taking official action by this Code of Ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

Sec. 1.16.045. Distribution and training.

- (a) *Availability to the public.* A copy of the Code of Ethics shall be made available to the public through the City's website.
- (b) *Orientation and training.*
 - (1) *Elected officials.* The City Clerk shall provide newly elected officials with a copy of the Code of Ethics, and the City Counselor's Office shall brief them on the contents of the Code within thirty (30) days of assuming office.
 - (2) *Board and Commissions.* The City Clerk shall provide copies of the Code of Ethics or training materials to newly appointed board and commission members.
 - (3) *New and Existing Employees.* The City Manager shall provide new and existing employees with materials and training to inform them of provisions of the Code of Ethics which are likely to be relevant to their duties.

- (4) *Amended provisions.* When the Code of Ethics is amended, new copies of the Code of Ethics shall be provided to all City officials and employees. The City Counselor's Office shall brief City officials and employees on such amendments within thirty (30) days of the effective date of the amendments.

Sec. 1.16.046. Severability.

If any provision of this Code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision or application.