

CITY OF BAINBRIDGE ISLAND ETHICS PROGRAM

ARTICLE I INTRODUCTION/PURPOSE

It is the intent of the City of Bainbridge Island that all elected officials (referred to as a group as "covered persons"), together with other persons who contract with the city, adhere to high levels of ethical conduct. In this manner, the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public. These covered persons, and others who contract with the City, should comply with both the letter and spirit of this Ethics Code, and should strive to avoid situations that lead to impropriety or even the appearance of impropriety. By following this Ethics Code and Program, they are creating an ethical culture for all citizens of Bainbridge Island to enjoy.

Potential conflict of interest or the appearance of any bias may arise in the course of public service. It is therefore the purpose of this Program to:

1. Establish standards of ethical conduct;
2. Provide training and clarification concerning ethical standards;
3. Establish a system that enables all affected persons to seek advice and assistance regarding possible or potential ethical violations; and
4. Create a Board of Ethics to assist with the administration of this program.
5. Provide a means to enforce the Code of Ethics.

This Program supplements the statements of the "Core Values of the City," which apply standards of ethical conduct for City employees and appointed officers.

ARTICLE II CODE OF ETHICS

A. Gifts to officials.

1. Prohibited gifts. Except as permitted under subsections (2) and (3) below, no elected official or any member of their immediate families shall, directly or indirectly, accept or offer any compensation, gift, favor, reward or gratuity for a matter connected with or related to the official's services and/or duties with the City of Bainbridge Island. Such compensation, gift, favor, reward, or gratuity includes but is not limited to the following:

- a. Any goods, service, dispensation or other thing of value that is given to a person without fair market compensation.
- b. Any honoraria or payment for participation in an event.

- c. Any loan or rental of money, goods, equipment, or other items that are not available to the general public on the same terms and conditions.
- d. Any ticket or other permit of admission to a sporting, recreational, or cultural event.
- e. Transportation, lodging or other travel expenses.
- f. Any reduction in price or any discount that is not similarly available to the general public.

2. Gift exceptions. The following are exceptions to gifts listed in subsection (1) and may be accepted by an elected official:

- a. Unsolicited items of trivial value. "Items of trivial value" means items or services with a value of twenty-five dollars (\$25.00) or less, such as promotional tee shirts, pens, calendars, books, or other similar items.
- b. Gifts from other City of Bainbridge Island officers, officials, or employees and their family members on appropriate occasions.
- c. Campaign contributions as permitted and reported in accordance with law.
- d. Awards that are publicly presented by a non-profit organization in recognition for public service if the award is not extraordinary when viewed in light of the position held by the recipient.
- e. Reasonable and necessary costs to attend a conference or meeting that are directly related to the official or ceremonial duties of the elected official.
- f. Gifts offered while visiting other cities, counties, states, or countries or hosting visitors from other cities, counties, states, or countries, when it would be a breach of protocol to refuse the gift, provided that any such gifts received shall become property of the City.
- g. Gifts appropriate to the occasion and reasonable and customary in light of a familial, social or official relationship of the donor and beneficiary, such as weddings, funerals, illnesses, holidays and ground breaking ceremonies.
- h. Items which are similarly provided to the general public on the same terms and conditions.

3. Immediate family gift exception. Additionally, it shall not be a violation of this section for a member of an official's immediate family to accept a gift which arises from an independent relationship, if the official does not use the gift or significantly benefit from the gift, and it cannot reasonably be inferred that the gift was intended to influence the official in the performance of his or her duties.

B. Use of City Property.

1. Except for limited incidental personal use or emergency circumstances, no elected official shall request, permit, or use City vehicles, equipment, materials and/or property for personal use, personal convenience or profit.
2. From the time that an elected official declares/discloses that he or she is going to run for re-election until the conclusion of the respective general election, that elected official shall not request or direct that City funds be used to purchase any media (including newspaper, radio, television or bulk mailing) that contains the name or image of that elected City official unless the names or images of all City elected officials appear in the media being purchased.

C. Confidentiality.

Elected officials and former elected officials shall not disclose or use privileged, confidential or proprietary information obtained in executive session or otherwise in the course of their duties as a result of their position. No elected official and former elected officials shall disclose any such information except as required by law.

D. Conflict of Interest – General.

1. Applications of conflict of interest. Except as permitted in subsection (b) below, an elected official shall not directly, or indirectly through a subordinate or fellow officer, official or employee, take any direct official action on a matter on behalf of the City if he or she, or a member of the immediate family:
 - a. Has any substantial direct or indirect contractual employment related to the matter;
 - b. Has other financial or private interest in that matter (which includes serving on a Board of Directors for any organization); or
 - c. Is a party to a contract or the owner of an interest in real or personal property that would be significantly affected by the action.
2. Conflict of interest exceptions. Subsection (1) above shall not apply when the elected official:
 - a. Is required to take or participate in an action based upon the rule of necessity;
 - b. Decides to represent himself or herself before the City Council, Hearing Examiner or any other City board, commission or agency, provided that they do not also participate in any way in that board's deliberations or decision in their official capacity;
 - c. Acquires an interest in bonds or other evidences of indebtedness issued by the City if acquired and held on the same terms available to the general public;

- d. Officially participates in the development and adoption of the City's budget; or establishes the pay or benefit plan of City officers, officials, or employees; or
- e. Makes decisions on any other legislative or regulatory action of general applicability, unless these actions directly affect, or appear to affect the official's or immediate family member's employment.

3. Disclosure for officials. All elected officials are required to comply with the Washington State Public Disclosure Commission requirements for financial disclosure. In addition, all elected officials shall publicly disclose their financial interest in any matter that comes before them. All elected officials shall annually complete a conflict of interest statement (Attachment A) to be submitted to the City Clerk by April 15th.

E. Conflict of Interest—After Leaving Elected City Office.

1. For two {2} years after leaving elected City office, no former elected official shall obtain employment in which he or she will take direct or indirect advantage of matters with which he or she took direct official action during his or her service with the City. This includes contractual negotiations or solicitation of business unavailable to others.

2. For two {2} years after leaving elected City office, no former elected official shall engage in any action or litigation in which the City is involved, on behalf of any other person or entity, when the action or litigation involves an issue on which the person took direct official action while in elected City office.

F. Conflict of Interest – Family Members.

1. Appointment of family members. Unless he or she obtains a waiver from the Board of Ethics, no elected official shall appoint or hire a member of his or her immediate family for any type of employment with the City. This includes, but is not limited to, full time employment, part time employment, permanent employment, temporary employment, and contract employment.

2. Supervision of family members. No elected official shall supervise or be in a direct line of supervision over a member of his or her immediate family. If an elected official is placed in a direct line of supervision of a member of his or her immediate family, he or she shall have three {3} months to come into compliance or to obtain a waiver pursuant to section (3) below.

3. Waivers. Waivers from this section may be sought from the Board of Ethics to allow a member of the immediate family to be hired or to be in the direct line of supervision of a member of the immediate family. Procedures to consider such a waiver are set forth in Section 3(C)(6).

G. Conflict of Interest – Contractors.

Major contractors submitting bids to the City shall include a conflict of interest statement. (Attachment A).

ARTICLE III BOARD OF ETHICS

A. Purpose of the Board of Ethics.

The creation of a Board of Ethics will help to ensure that City government adheres to the highest standards of public service. The Board is responsible for:

1. Training all elected officials covered by the Code of Ethics.
2. Working with City Administration so that major contractors and employees (even though they are not covered by this document) read and are familiar with the Code of Ethics in this document and other applicable City documents regarding ethical behavior.
3. Providing advisory opinions and waivers regarding the Code of Ethics.

The Board of Ethics shall promote an understanding of ethical standards for City officials, officers, and contractors working with the City, and the general public. Respect for all citizens, including elected officials, will be one of the highest priorities of the Board. The Board's responsibilities are described below, along with a description of the creation of the Board of Ethics.

B. Training.

The Board shall perform the following training related duties:

1. At least biannually, the Board of Ethics shall prepare and distribute a pamphlet describing this Code of Ethics to all covered persons, after obtaining the City Attorney's review.
2. The Board shall disseminate any change in policy that results from a finding of the Board.
3. The Board shall ensure that every new elected official receives a pamphlet on this Code of Ethics.
4. The Board shall develop and present a training course on the Code of Ethics to be presented to all elected officials on a biannual basis.

C. Advisory Opinions and Waivers.

When appropriate, the Board shall issue advisory opinions. This provision is an important avenue for everyone involved to prevent or address possible violations of the Code of Ethics. Prevention is accomplished when an elected official asks the Board of Ethics to rule on an anticipated action, such as hiring a relative or making a land-use decision that could affect their personal property values.

1. Advisory Opinion. The Board of Ethics may provide advisory opinions as to whether a particular situation or specific, contemplated action would violate the Code of Ethics. Any person may submit a written request to the Board of Ethics for an advisory opinion regarding a current/past situation or possible future action.

2. Submitting a request for Advisory Opinion. The request shall be submitted in writing to the City Clerk on a form approved by the Board, and shall have the following information:

- a. A description of the facts (or hypothetical facts) that constitute the violation(s) of the Code of Ethics; provided, however, that request shall not identify the elected official(s) and other persons and/or entities involved in the past/current situation or potential future action.
- b. The home address and phone number of the complainant.
- c. A statement that the information in the complaint is true to the best of the complainant's knowledge, information and belief.

The requestor may also identify what specific section(s) and subsection(s) of the Code of Ethics that are alleged to have been or would be violated. To the extent permitted by law (including Washington State public disclosure laws), the complaint, the contents of the complaint, and the identity of the person making the complaint shall remain confidential.

3. Rendering an Advisory Opinion. The Board of Ethics shall render an advisory opinion pursuant to written rules adopted by the Board. In no case shall the Board take longer than six (6) weeks from the time it received the request to issue an advisory opinion unless it provides a written notice explaining the reason for delay and stating an expected issuance date.

4. Publishing an Advisory Opinion. The Board of Ethics shall publish its advisory opinions. In so doing, it shall include deletions as may be lawful and necessary to prevent disclosure of the identity of the individuals and entities involved. The Board may publish guidelines based on advisory opinions.

5. Compliance with Advisory Opinion. An elected official whose conduct is in accordance with an advisory opinion or a published standing advisory opinion of the Board of Ethics, shall not be found in violation of any of the provisions of the Code of Ethics with respect to the action addressed by the advisory opinion or published standing opinion.

6. Obtaining waivers. Any current, former, or prospective elected official, may submit a written request for a waiver of any provision of the Code of Ethics. The Board of Ethics is empowered to grant a waiver if it finds that the waiver will serve the best interests of the City and its citizens. The Board shall issue appropriate notice of its meeting on the waiver and its meeting shall be open to the public. The Board shall either issue or deny the waiver in writing within six (6) weeks of receiving the request unless it provides a written notice explaining the reason for the delay and stating an expected issuance date.

D. Annual Report.

By February 15 of each year, the Board of Ethics shall submit an annual report to the Mayor and the City Council summarizing its activities during the previous calendar year. The report shall include any recommendations for modifying the Code of Ethics.

E. Creation, Terms, and Appointments.

1. Creation of Board of Ethics. The Board of Ethics consists of five members appointed in accordance with this section.
2. Qualifications of Board members.
 - a. Members of the Board shall represent a diverse set of backgrounds and interests.
 - b. No more than one officer or official of the City may serve on the Board.
 - c. At least one member of the Board of Ethics shall be a former judicial officer or have expertise in ethics acquired through education or experience.
3. Method of appointment.
 - a. The Mayor shall nominate Board members for confirmation by the City Council. Members shall be nominated individually not in groups of two or more person. Confirmation of each member shall require a unanimous vote of the City Council.
 - b. The Mayor and City Council shall work cooperatively to ensure that any person who is nominated enjoys the required support. Nominations shall be presented at meetings of the City Council where all seven Councilmembers are present.
4. Terms of Appointment. *no term limit*
 - a. Board members shall be appointed to terms of three years; however, the first two members nominated by the Mayor and confirmed by the shall initially serve one year terms to achieve staggered ending dates.
 - b. If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.
 - c. Each member shall continue to serve until a successor has been appointed, unless the member is removed or resigns.

5. Removal of Board members.

- a. The absence of any member of the Board from three {3} official consecutive meetings, unless the Board has excused the absence for good and sufficient reasons as determined by the Board, shall constitute a resignation from the Board.
- b. The appointing authority may remove a member for inappropriate conduct before the expiration of the member's term. Before removing a member, the appointing authority shall specify the cause for removal and shall give the member the opportunity to make a personal explanation. Before removing the member who is jointly appointed, either the Mayor or the council shall specify the cause for removal and shall give the member the opportunity to make a personal explanation.

6. Compensation. Members of the Board of Ethics shall serve without compensation. A member who is an officer or employee of the City shall not receive any additional compensation for serving on the Board of Ethics. Members may be reimbursed for reasonable expenses pursuant to the rules of the City.

7. Rules. The City Council shall approve all rules, which have been adopted by the Board of Ethics, by resolution.

8. Consultation with City Attorney. The Board of Ethics may consult with the City Attorney or special counsel appointed by the City Attorney regarding legal issues which may arise in connection with the Board's duties and functions under this Ethics Program.

ARTICLE IV ENFORCEMENT

A. Submission of Complaint.

1. In the event that the Board issues an Advisory Opinion that a violation of the Code of Ethics has occurred and/or is occurring, the person who requested that the Board review the matter may then file a complaint with the City Clerk. The complaint shall be submitted in writing to the City Clerk on a form approved by the Board and shall now identify the accused official(s) and other persons and/or entities involved in the past/current situation. A copy of the original complaint reviewed by the Board, the Board's Advisory Opinion, and supporting documents and witness statements shall be attached. The witness statements shall be made under the penalty of perjury.

2. The City Clerk shall provide a copy of the complaint and attachments to the Mayor and the City Council and to the accused official.

3. Upon receipt of the complaint, the City Clerk shall provide written notification to the accused official of the time, date and place of a City Council executive session to review the complaint and attachments.

B. Initial Review of Complaint.

1. The Council shall initially review the complaint and attachments in executive session to determine whether there appears to be a sufficient factual basis to prove the alleged Code of Ethics violation(s) by clear and convincing evidence; provided, however, and consistent with RCW 42.30.110(1)(f), upon request of the accused official, the review shall be open to the public. The accused official shall have an opportunity to respond to the complaint. If Council determines that the complaint and attachments do not provide a sufficient factual basis to prove the alleged Code of Ethics violation(s) by clear and convincing evidence, the Council shall dismiss the complaint, and the complainant and the accused shall be so informed. The action to dismiss the complaint shall be done by a majority vote of the Council in open public session; provided, that the accused official shall not participate in said vote.

2. If the Council finds that the complaint and attachments appear to provide a sufficient factual basis to prove the alleged Code of Ethics violation(s) by clear and convincing evidence, the accused official shall be so informed. Such a finding shall be done by a majority vote of the Council present in open public session; provided, that the accused official shall not participate in said vote. At that point, the accused official may:

- a. Admit the Code of Ethics violations alleged in the complaint.
- b. Not admit the alleged Code of Ethics violations but expressly forego and waive any right to a hearing to contest the violations and any resulting sanction(s) imposed by City Council.
- c. Request a hearing before the City Hearing Examiner to present evidence to dispute, rebut, mitigate, explain and/or otherwise defend against any or all of the Code of Ethics violations alleged in the complaint.
- d. Remain silent.

3. If the accused official admits the Code of Ethics violations or remains silent, the City Council shall schedule and hold an executive session to hear from the accused official, and deliberate upon the appropriate level of civil sanction(s) to be imposed, except to the extent that the accused official requests that he/she be heard in open public session. The written findings, conclusions, and sanctions shall be approved by a majority vote of the Council in open public session; provided, that the accused official shall not participate in said vote. A copy of the findings, conclusions and sanctions shall be forwarded by registered mail to the person who made the complaint and to the accused official at addresses as given by both persons to the City Clerk.

C. Hearing before City Hearing Examiner.

1. Hearings conducted by the Hearing Examiner shall be informal. The accused official may be represented by legal counsel. The City Attorney shall designate special counsel to present the Code of Ethics violations charges and case. The accused official and special counsel may present and cross examine witnesses and give evidence before the Hearing Examiner. The Hearing Examiner may also call witnesses and compel the production of books, records, papers, or other evidence

needed. To that end, the Hearing Examiner may issue subpoenas and subpoenas duces tecum at the request of the accused official, special counsel, or on his/her own initiative. All testimony shall be under oath administered by the Hearing Examiner. The Hearing Examiner may adjourn the hearing from time to time in order to allow for the orderly presentation of evidence.

The Hearing Examiner or designee shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided that the Hearing Examiner or designee shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

2. Within 30 days after the conclusion of the hearing, the Hearing Examiner shall, based upon a standard of proof of clear and convincing evidence, make findings of fact and conclusions of law. If Hearing Examiner determines that the alleged Code of Ethics violation(s) have not been proven, the Hearing Examiner shall dismiss the complaint. If the Hearing Examiner determines that the alleged Code of Ethics violation(s) are proven, the Hearing Examiner shall forward the matter to City Council for a determination regarding the appropriate level of sanctions to be imposed for the Code of Ethics violations. In either event, a copy of the findings and conclusions shall be forwarded to the City Council, by registered mail to the person who made the complaint, and to the accused official at addresses as given by both persons to the Hearing Examiner.

D. Action by City Council upon Hearing Examiner's Findings and Conclusions.

1. Upon receipt of the Hearing Examiner's findings and conclusions that sustain a Code of Ethics violation(s), the City Council shall schedule an executive session to consider the findings and conclusions, hear from the accused official, and deliberate upon the appropriate level of civil sanction(s) to be imposed, except to the extent that the accused official requests that he/she be heard in open public session. The written findings, conclusions, and sanctions shall be approved by a majority vote of the Council in open public session; provided, that the accused official shall not participate in said vote. A copy of the findings, conclusions and sanctions shall be forwarded by registered mail to the person who made the complaint and to the accused official at addresses as given by both persons to the City Clerk.

2. In the event that the City Council concludes that a Code of Ethics violation(s) has occurred, the Council may impose any of the following sanctions:

- a. Admonition – An admonition shall be a verbal non-public statement made by the Mayor or Mayor Pro Tempore to the official who committed the violation(s).
- b. Reprimand – A reprimand shall be a letter prepared by the City Council, signed by the Mayor or Mayor Pro Tempore, and directed to the official who committed the violation(s).
- c. Censure – A censure shall be a written statement administered personally by the Mayor or Mayor Pro Tempore to the official who committed the violation(s). The individual shall appear at a time and place directed by the City Council to receive the censure. The censure shall be given publicly and the official who committed the violation(s) shall not make any statement in support or opposition thereto or in

mitigation. A censure shall be deemed administered at the time it is scheduled whether or not the member appears as required.

- d. Other sanctions – Any sanction imposed under this Ethics Program is in addition to and not in lieu of any other penalty, sanction or remedy which may be imposed or sought according to law or equity.

ARTICLE V DEFINITIONS

For purposes of the Ethics Program, the following definitions shall apply.

“Official” or “Elected Official” means the Mayor and the members of the City Council.

“Major Contractor” means any person, corporation, company, firm, business or other entity doing business over \$5,000 with the City under one contract or annually.

“Immediate family” means husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, domestic partner and spouse of the above. The term includes any minor children for whom the person, or his or her domestic partner, provides day-to-day care and financial support. A "domestic partner" is an unmarried adult, unrelated by blood, with whom an unmarried officer, official, or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

“Direct official action” means any action which involves:

1. Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant, or other similar instrument in which the city is a party. With regard to "recommending," direct official action occurs only if the person making the recommendation is in the formal line of decision making;
2. Enforcing laws or regulations or issuing, enforcing, or regulating permits;
3. Selecting or recommending vendors, concessionaires, or other types of entities to do business with the city;
4. Appointing and terminating employees, temporary workers, and independent contractors.
5. Doing research for, representing, or scheduling appointments for an officer, official, or employee, provided that these activities are provided in connection with that officer's, official's, or employee's performance of 1 through 4 above.

Direct official action does not include acts that are purely ministerial (that is, acts which do not affect the disposition or decision with respect to the matter). With regard to the approval of contracts, direct official action does not include the signing by the Mayor, the Finance Director, the City Clerk or other official/officer as required by law, unless the Mayor, Finance Director, City Clerk or other

official/officer initiated the contract or is involved in selecting the contractor or negotiating or administering the contract. A person who abstains from a vote is not exercising direct official action.

“Direct line of supervision” means the supervisor of an employee and the supervisor of an employee's supervisor.

“Rule of Necessity” shall be interpreted and defined in accordance with RCW 42.36.090, which provides: In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

ARTICLE VI REFERENCES

- 6.1 Denver Board of Ethics, in effect as of February 2, 2001
- 6.2 King County Board of Ethics www.metrokc.gov/ethics/history.htm
- 6.3 Lakewood Code of Ethics dated 06-16-97
- 6.4 Marysville Code of Ethics dated 10/86
- 6.5 Core Values of the City of Bainbridge Island, 1997, <http://www.ci.bainbridge-isl.wa.us/>
- 6.6 Bainbridge Island Core Values of City
- 6.7 Conflict of Interest Policy, February 1997 - Conduct 500-003
- 6.8 Bainbridge Island Police Department, Chapter 2, Ethics
- 6.9 Spokane Code of Ethics, January 18, 2006
- 6.9 *Government, Ethics, and Managers: A guide to solving ethical dilemmas in the public sector*, by Sheldon S. Steinberg and David T. Austern

Attachment A - Conflict of Interest Form (2 pages)

City of Bainbridge Island Conflict of Interest Policy

Annual Disclosure

I have read the City of Bainbridge Island's statement of **Conflict of Interest Policy**.

I hold the position of trustee, board member, director, officer, employee with the following organizations which potentially could cause a conflict of interest with my elected position as

_____ of the City of Bainbridge Island:

ORGANIZATION

POSITION

To the best of my knowledge and belief, except as disclosed herewith, neither I nor any person with whom I have or had a personal or business relationship, is engaged in any transaction or activity or has any relationship that may represent a potential competing or conflicting interest, as defined in the statement of the **Conflict of Interest Policy**.

Further, to the best of my knowledge and belief, except as disclosed herewith, neither I nor any person with whom I have had a personal, business, or compensated professional relationship, intends to engage in any transaction, to acquire any interest in any organization or entity, or to become the recipient of any substantial gifts or favors that might be covered by the statement of **Conflict of Interest Policy**.

(A) Without exception

(B) Except as described below

Signature: _____

Date: _____

City of Bainbridge Island Conflict of Interest Policy

Background

This document outlines the City of Bainbridge Island's conflict of interest policy as it relates to elected officials. It is not the intent of this Policy to eliminate all situations which may give rise to a conflict of interest, but rather to enable citizens to recognize situations that may create a conflict of interest and therefore to ensure that such situations are properly disclosed.

Statement of Policy

No elected person shall use his or her position, or the knowledge gained therefrom, in such a manner that a conflict arises between the interests of the City of Bainbridge Island and his or her personal interests, or the interests of other organizations.

Each elected person has a duty to place the interest of the City of Bainbridge Island foremost in any dealings with City, and has a continuing responsibility to comply with the requirements of this policy.

If an elected official has an interest in: 1) a proposed transaction with the City of Bainbridge Island in the form of a significant personal financial interest in the transaction, or 2) any organization or member of an immediate family involved in such a transaction, or 3) holds a position of trustee, director, employee or officer in such an organization; then he or she must make full disclosure of such an interest before any discussion or negotiation of such transaction, and shall abstain from any vote in connection with the matter.

Disclosure

To implement this policy, elected officials will submit reports annually on the attached form. From this information a list of those organizations on which elected officials serve will be distributed annually to all members of the City Council, Planning Commission, other citizen committees, and be made available to the public at large. In addition, if such information has not been previously disclosed, members will make appropriate disclosures before any relevant board or committee action is carried out.