RESOLUTION NO. 2011-07

A RESOLUTION of the City Council of Bainbridge Island, Washington, adopting a revised Ethics Program for the City of Bainbridge Island in accordance with BIMC Chapter 2.07.

WHEREAS, BIMC Chapter 2.07 provides that the City Council shall establish by resolution or ordinance an ethics program for the City of Bainbridge Island; and

WHEREAS, on May 11, 2006, City Council adopted an ethics program for the City of Bainbridge Island; and

WHEREAS, the Ethics Board has proposed the revised version of the current Ethics Program attached hereto; and

WHEREAS, City Council reviewed the proposed revisions at the March 9, 2011 City Council meeting; and

WHEREAS, the City Council finds that it is in the best interest of the City of Bainbridge Island to adopt the proposed revised Ethics Program; now therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND WASHINGTON DOES RESOLVE AS FOLLOWS

Pursuant to BIMC 2.07.010, the revised Ethics Program attached hereto and made a part hereof by this reference is hereby approved and adopted as the Ethics Program for the City of Bainbridge Island.

PASSED by the City Council this 23rd day of March, 2011.

APPROVED by the Mayor this 23rd day March, 2011.

By: _____
Kirsten Hytopoulos, Mayor

ATTEST/AUTHENTICATE:

By: _____
Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK: March 15, 2011
PASSED BY THE CITY COUNCIL: March 23, 2011
RESOLUTION NO. 2011-07

CITY OF BAINBRIDGE ISLAND
ETHICS PROGRAM
Approved 3/23/11
Resolution No. 2011-07

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CITY OF BAINBRIDGE ISLAND ETHICS PROGRAM

ARTICLE I -
INTRODUCTION, PURPOSE, AND ADMINISTRATION OF PROGRAM

A. Preamble

The City of Bainbridge Island has adopted the following Core Values and Ethics Principles to promote and maintain the highest standards of personal and professional conduct among all the people who comprise the City's government. The optimal operation of democratic government requires that all of its decision-makers be fair and accountable to the people they serve.

All elected and appointed officials, City employees, volunteers, members of Commissions and Committees, and all others who participate in the City's government are expected to adhere to these Core Values and Ethics Principles, apply them to their specific responsibilities, and make them a common aspect of their work.

B. Core Values (adopted by Resolution 97-25)

1. Service, Helpfulness, Innovation

We are committed to providing service to the people of Bainbridge Island and to each other that is courteous, cost effective and continuously improving.

2. Integrity

We will treat one another and the citizens of Bainbridge Island with honesty and integrity, recognizing that the trust that results is hard won and easily lost. We pledge to promote balanced, consistent, lawful policies and directives, in keeping with that integrity and the highest standards of this community.

3. Equality, Fairness, Mutual Respect

We pledge to act with the standard of fairness and impartiality in the application of policies and directives and that of equality and mutual respect with regard to interpersonal conduct.

4. Responsibility, Stewardship, Recognition

We accept our responsibility for the stewardship of public resources, and our accountability for the results of our efforts, and we pledge to give recognition for the exemplary work.

C. Ethics Principles

1. Obligations to the Public

Following the highest standards of public service, all those associated with the government of the City of Bainbridge Island will act to promote the public good and preserve the public's trust. In practice, this principle looks like:

a. Public meetings and other proceedings conducted in accordance with the Best Practices articulated and issued by the City's Ethics Board (http://www.ci.bainbridge-isl.wa.us/ethics_board.aspx)

b. Transparency and honesty in all public statements and written communications.

2. Obligations to Others

In order to sustain a culture of ethical integrity, all those associated with the government of the City of Bainbridge Island will treat each other and the public with respect and be guided by applicable codes of ethics, labor agreements, and professional codes. In practice, this principle looks like:

a. Elected and appointed officials, all City employees, and members of citizen Committees and Commissions shall familiarize themselves with the ethical rules governing them (including Washington State statute RCW 42.23 and this Code of Ethics) and obtain annual education regarding such rules.

b. All those associated with the government of the City of Bainbridge Island shall, in all their interactions, conduct themselves in a manner that demonstrates civility and respect for others.

3. Obligations Regarding the Use of Public Resources

In recognition of the importance of stewardship, all those associated with the government of the City of Bainbridge Island will use and allocate public monies, property, and other resources in a responsible manner that takes into consideration both present and future needs of the community. In practice, this principle looks like:

a. All those associated with the government of the City of Bainbridge Island shall, to the extent possible, seek advice regarding the use of public resources from citizens and staff experts in order to ensure that public resources are used and conserved for the public good.

b. All those associated with the government of the City of Bainbridge Island shall ensure that paid experts and consultants who provide advice regarding the use of public resources shall be impartial and free of conflicts of interest.

D. Ethics Program

1. Purpose of the Ethics Program

All those associated with City government, including elected officials, employees, members of City Committees and Commissions, seek to earn and maintain confidence in the City's services and the public's trust in its decision-makers. Our decisions and our work must meet the most rigorous ethical standards and demonstrate the highest levels of achievement in following the Core Values and Ethics Principles. It is therefore the purpose of this program to:

a. Articulate the Core Values and Ethics Principles that will guide the conduct of City affairs and of all people associated with City government;

b. Establish standards of ethical conduct in a Code of Ethics for elected officials and members of City Committees and Commissions;

c. Provide training and clarification concerning the Core Values, Ethics Principles, and the Code of Ethics;

d. Establish a system that enables all citizens, including members of City government, to seek advice and assistance regarding possible ethical violations;

e. Provide a process to review possible violations of the Code of Ethics by elected officials and members of City Committees and Commissions;

f. Maintain an Ethics Board to assist with the administration of the program; and

g. Provide a comprehensive Ethics Program for the City, ensuring that the ethics standards and the procedures for enforcing them that apply to City employees, including policies and collective bargaining agreements, are consistent with the Core Values and Ethics Principles which apply to all persons associated with City government.

2. Administration of the Ethics Program

The Core Values and Ethics Principles apply to all persons associated with City government. However, there are two sets of rule-based standards, which are separately enforced. The Code of Ethics (Article II of this document) applies to elected and appointed officials, and members of City Committees and Commissions.

The Code of Ethics is enforced by the City Council (as detailed in Article III of this document). A set of guidelines and ethical standards included in the *City of Bainbridge Island Employee Manual* applies to all City employees and is enforced by City administration.

ARTICLE II -
CODE OF ETHICS

Except where specifically stated, the rules articulated in Article II apply to elected officials, and citizens serving on City Committees and Commissions.

A. Gifts and Compensation

1. Limitations on City-Related Gifts and Outside Compensation

Except as permitted under subsections (2) and (3) below, no elected official or member of a City Committee or Commission, or any member of their immediate families shall, directly or indirectly, accept any gift (as defined below) for a matter connected with or related to his or her services or duties with the City of Bainbridge Island or accept any non-City compensation for the performance or non-performance of those services or duties.

2. Exceptions to Gift Limitations

The following are exceptions to the limitation on gifts 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 fifty dollars ($50.00) or less, such as promotional tee shirts, pens, calendars, books, or other similar items.

b. Gifts from other City officers, officials, or employees, or their family members on appropriate occasions.

c. Gifts appropriate to the occasion and reasonable and customary in light of a familial, social or official relationship of the giver and recipient, such as weddings, funerals, illnesses, holidays and ground-breaking ceremonies.

d. Campaign contributions as permitted and reported in accordance with law.

e. 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.

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. Reasonable and necessary costs to attend a conference or meeting that is directly related to the official or ceremonial duties of the elected official, *provided* that any payment of substantial travel or lodging expenses by any person or entity regulated by

the City or doing or seeking to do business with City must be approved in advance by the Mayor or, if the Mayor is the recipient, by the Mayor Pro Tem.

3. Immediate Family Gift Exception

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 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 by Elected Officials

1. Except for limited incidental personal use or emergency circumstances, no elected official shall request, permit, or use City vehicles, equipment, materials, or property for personal use, personal convenience or profit.

2. From the time that an elected official declares or publicly states that he or she intends 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 official unless the names or images of all City elected officials appear in the media being purchased.

C. Confidentiality

Except as required by law, an elected official, former elected official, or current or former member of a City Committee or Commission shall not disclose or use privileged, confidential or propriety information obtained in executive session or otherwise in the course of their duties as a result of their position.

D. Conflict of Interest - General

1. Applications of Conflict of Interest

Except as permitted in subsection (b) below, an elected official or member of a City Committee or Commission 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 for Elected Officials

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 the individual does not also participate in any way in that board's deliberations or decision in an 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. Conflict of Interest Exceptions for Members of City Committees and Commissions

Subsection (1) above shall not apply to a member of a City Committee or Commission provided that the member fully discloses the financial interest on the public record of the City Committee or Commission and the Committee or Commission votes to allow the person to participate in discussion or the vote.

4. Disclosure for Elected 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 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 on 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 of Elected Officials

1. Appointment of Family Members

Unless he or she obtains a waiver from the Ethics Board, 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 Ethics Board 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 Article (V) Section C.6 (Obtaining Waivers).

G. Conflict of Interest – Contractors

Every major contractor submitting bids to the City shall include a statement affirming that he or she has read the Code of Ethics and agrees to abide by its guiding principles and rules. Further, the contractor affirms that neither the contractor nor any agent of the contractor has made any prohibited gift to an elected official who is involved in direct official action on the bid or has a relationship to such an official that would create a conflict of interest for that official.

H. Conflict of Interest - Citizens serving on City Committees and Commissions

Citizens serving on City Committees and Commissions shall sign a conflict of interest statement upon appointment and reappointment.

I. Conduct of Public Meetings

1. Meetings involving elected officials or City Committees and Commissions should be conducted in a manner that maximizes transparency of relationships among individuals or groups that could affect decision-making.

2. Meetings of the City Council and City Committees and Commissions shall have a standing agenda item for disclosure of possible conflicts of interest. Members are encouraged to disclose relationships with persons and issues on the agenda, including potential conflicts of interests. If necessary, discussion among the members may be

undertaken to judge the significance of these relationships and whether a possible conflict of interest exists.

ARTICLE III -
ENFORCEMENT OF THE ETHICS PROGRAM

A. Responsibilities of the Ethics Board

1. In considering any matter brought to its attention for action, the Ethics Board shall interpret and apply the Code of Ethics in favor of promoting the City's Core Values and Ethics Principles, protecting the public's interest in full disclosure of conflicts of interest, and promoting ethical behavior.

2. The Ethics Board shall handle the following matters:

   a. Complaints involving alleged violations of the Code of Ethics, Article II, by elected officials, members of City Committees and Commissions, and persons who contract with the City;

   b. Advisory opinions concerning the application of the Core Values and Ethics Principles, City policies and practices, or the applicability of the Code of Ethics to the requestor's own behavior; and

   c. Waivers of certain restrictions, as provided in the Code of Ethics.

B. Submission of Ethics Complaints

Any person may submit to the City Clerk an ethics complaint alleging violations of the Code of Ethics, Article II, or the ethics standards contained in the City of Bainbridge Island Employee Manual. Complaints concerning an elected official, a member of a City Committee or Commission, or a major contractor will be referred to the Ethics Board. Complaints concerning the conduct of City staff will be referred to the City Manager. The Ethics Board may on its own initiative identify a possible violation and initiate its own complaint.

Complaints must include the name and address of the complainant, along with a detailed statement of facts, supported by a declaration in compliance with RCW 9A.72.085, on a form supplied by the Ethics Board (available through the City Clerk's office or on the City website: http://www.ci.bainbridge-isl.wa.us/ethics_board.aspx).

C. Review of Complaints Concerning City Employees

1. The City Manager will review any ethics complaint forwarded by the City Clerk and authorize such investigations as may be necessary to determine whether a violation has occurred, consistent with relevant policies and procedures.

2. The City Manager may request advice from the Ethics Board.

3. If the City Manager determines that no violation has occurred, a written response will be made to the complainant.

4. If a violation of ethics rules has occurred, the City Manager or other appropriate City officer will take action as guided by state law, and relevant policies and procedures.

5. In the event of a violation, the City Manager will provide a response to the complainant and to the Ethics Board outlining the substance of the violation and the action taken, subject to governing rules regarding confidentiality articulated in state law, City policy, and collective bargaining agreements.

6. Apparent violations of law will be reported to the appropriate authorities.

D. Review of Complaints by Ethics Board

1. The Ethics Board will review any complaint forwarded to it by the City Clerk.

2. In the course of reviewing a complaint, the Ethics Board may request clarification of the complaint or other additional information from the complainant.

3. After reviewing a complaint, the Ethics Board may take any of the following actions and inform the complainant, the respondent, and the City Clerk:

a. Determine that the complaint lacks reasonable credibility;

b. Determine that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Ethics;

c. Determine that facts stated in the complaint, even if true, would not constitute a material violation of the Code of Ethics because any potential violation was inadvertent or minor or has been adequately cured, such that further proceedings on the complaint would not serve the purposes of the Code of Ethics;

d. Issue an advisory opinion if the subject of the complaint is more appropriate for such action;

e. Hold the complaint for action at a future time if the matter is the subject of litigation; or

f. Make a preliminary determination that the facts stated in the complaint, if true, could potentially constitute a violation of the Code of Ethics such that further proceedings are warranted.

4. If the Ethics Board makes a preliminary determination that the facts stated in the complaint, if true, could potentially constitute a violation of the Code of Ethics such that

further proceedings are warranted, the Board will inform the respondent of its preliminary determination and provide the respondent with a reasonable period of time to submit a written response in which the respondent may provide a statement of facts, supported by a declaration in compliance with RCW 9A.72.085, in opposition to the complaint and any further explanation of the respondent's position on the complaint.

5. After receiving the written response from the respondent, the Ethics Board may take any of the following actions and inform the complainant, the respondent, and the City Clerk:

a. Determine that the complaint lacks reasonable credibility;

b. Determine that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Ethics;

c. Determine that facts stated in the complaint, even if true, would not constitute a material violation of the Code of Ethics because any possible violation was inadvertent or minor or has been adequately cured, such that further proceedings on the complaint would not serve the purposes of the Code of Ethics;

d. Issue an advisory opinion if subject of the complaint is more appropriate for such action;

e. Hold the complaint for action at a future time if the matter is the subject of litigation;

f. Determine that the existence of a violation of the Code of Ethics would depend on whether the facts are as stated by the complaint or as stated by the respondent; or

g. Determine that, based on the submissions of the complainant and the respondent, a material violation of the Code of Ethics has likely occurred.

6. If the Board determines either: (1) that the existence of a violation of the Code of Ethics would depend on whether the facts are as stated by the complaint or as stated by the respondent, or (2) that a material violation of the Code of Ethics has likely occurred, the Board will forward its determination, along with the complaint, response and relevant supporting materials, to the complainant and respondent. The Board may also, on its own initiative, forward such a determination to the City Council for its review.

7. Regardless of whether a particular violation of the Code of Ethics has occurred, the Ethics Board may find that City processes or policies could better reflect ethical shared values and principles, and may publish an advisory opinion to this effect.

8. In the course of reviewing any complaint, the Board shall report any apparent violation of law to the appropriate authorities.

F. Advisory Opinions

1. Any person may request an opinion from the Ethics Board as to whether their own behavior has violated or might in the future violate the Code of Ethics or shared values and principles.

2. The City Manager or City Council or any citizen may request an advisory opinion from the Ethics Board regarding City policies or practices in relation to the Code of Ethics.

3. Citizen Committees and Commissions may request an advisory opinion from the Ethics Board regarding operating rules or practices in relation to the Code of Ethics.

4. Any person may request an advisory opinion from the Ethics Board regarding operating policies of the City Council or Citizen Committees and Commissions in relation to the Code of Ethics.

5. The Ethics Board, on its own initiative may prepare and publish its own advisory opinion.

6. The Ethics Board will inform the requestor and publish its advisory opinions.

G. Waivers

Elected officials and members of City Committees and Commissions may apply to the Ethics Board for a waiver from provisions of the Code of Ethics. The Board will publish both the request and its response.

H. Effect of Advisory Opinion or Waiver

An individual who receives a waiver, or who acts in reliance on an advisory opinion, shall not later be found to have violated the Code if the individual acts in a manner consistent with that advisory opinion or waiver.

I. Reporting

1. The City Manager will meet with the Ethics Board annually to discuss the function of the Ethics Program as it applies to City employees.

2. The Ethics Board will report annually on the function of the Ethics Program.

ARTICLE IV -
FOLLOW-UP TO ETHICS COMPLAINTS

A. City Council Review of Complaints

1. If, after reviewing a complaint, the Ethics Board has determined: (1) that the existence of a violation of the Code of Ethics would depend on whether the facts are as stated by the complaint or as stated by the respondent, or (2) that a material violation of the Code of Ethics has likely occurred, either the complainant or the Board may submit the determination to the City Council so that the Council may decide whether further action is warranted. The City Clerk shall provide written notification to the complainant and the respondent of the time, date, and place of any City Council meeting at which the complaint will be discussed.

2. The Council shall initially review the complaint, response, and relevant supporting materials in executive session to determine whether there appears to be a sufficient factual basis to prove one or more Code of Ethics violations by clear and convincing evidence; provided, however, and consistent with RCW 42.30.110(1)(f), upon request of the respondent, the review shall be open to the public. The respondent 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 one or more Code of Ethics violations by clear and convincing evidence, the Council shall dismiss the complaint, and the complainant and the respondent 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 respondent shall not participate in such a vote.

3. If the Council finds that the complaint and attachments appear to provide a sufficient factual basis to prove one or more Code of Ethics violations by clear and convincing evidence, the respondent 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 respondent shall not participate in such a vote. At that point, the respondent may:

a. Admit the one or more of 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 or otherwise defend against any or all of the Code of Ethics violations alleged in the complaint.

d. Remain silent.

4. If the respondent admits the Code of Ethics violations or remains silent, the City Council shall schedule and hold an executive session to hear from the respondent, and deliberate upon the appropriate level of civil sanctions to be imposed, except to the extent that the

respondent requests that he or 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 respondent shall not participate in such a vote. A copy of the findings, conclusions and sanctions shall be forwarded by registered mail to the complainant and to the respondent at addresses as given by both persons to the City Clerk.

B. Hearing before City Hearing Examiner

1. Hearings conducted by the Hearing Examiner shall be informal. The respondent may be represented by legal counsel. The City Attorney shall designate special counsel to present the Code of Ethics violations charges and case. The respondent 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 respondent, special counsel, or on his or 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 the 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 one or more Code of Ethics violation 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 respondent at addresses as given by both persons to the Hearing Examiner.

C. Action by City Council upon Hearing Examiner's Findings and Conclusion

1. Upon receipt of the Hearing Examiner's findings and conclusions that sustain a Code of Ethics violation, the City Council shall schedule an executive session to consider the findings and conclusions, hear from the respondent, and deliberate upon the appropriate level of civil sanction(s) to be imposed, except to the extent that the respondent requests that he or 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 respondent 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 respondent 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 Tem to the official who has violated the Code.

b. Reprimand: A reprimand shall be a letter prepared by the City Council, signed by the Mayor or Mayor Pro Tem, and directed to the official who has violated the Code.

c. Censure: A censure shall be a written statement administered personally by the Mayor or Mayor Pro Tem to the official who has violated the Code violation. 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 has violated the Code 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 - ETHICS BOARD

A. Purpose of the Ethics Board

Maintaining an Ethics Board 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, and members of City Committees and Commissions 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 responses to complaints, advisory opinions and requests for waivers regarding the Code of Ethics.

The Ethics Board 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 Ethics Board. The Board's responsibilities are described below, along with a description of the membership of the Ethics Board.

B. Training

The Ethics Board shall perform the following training related duties:

1. At least biannually, the Ethics Board shall prepare and distribute a pamphlet describing this Code of Ethics to all covered persons, after obtaining the City Attorney's review.

2. The Ethics Board shall disseminate any change in policy that results from a finding of the Board.

3. The Ethics Board shall ensure that all new elected officials and members of City Committees and Commissions receives a pamphlet on this Code of Ethics.

4. The Ethics Board shall develop and present a training course on the Code of Ethics to be presented to all elected officials and members of City Committees and Commissions on a biannual basis.

C. Annual Report

By February 15 of each year, the Ethics Board 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.

D. Creation, Terms, and Appointments

1. Membership of Ethics Board

The Ethics Board 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 Ethics Board 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 persons. 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 of the City Council. Nominations shall be presented at meetings of the City Council where all seven Councilmembers are present.

4. **Terms of Appointment**

a. Board members shall be appointed to terms of three years; however, the first two members nominated by the Mayor and confirmed by the City Council 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 Ethics Board 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 Ethics Board. 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 Ethics Board, by resolution.

8. **Consultation with City Attorney**

The Ethics Board 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 VI -
DEFINITIONS

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

"Confidential Information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

"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, City Manager, or other official as required by law, unless the official 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.

"Elected Official" means the members of the City Council.

"Gift" means any favor, reward, or gratuity and any money, good, service, travel, event ticket lodging, dispensation, or other thing of value that is given, sold, rented or loaned to a person without reasonable compensation and that is not available to the general public on the same terms and conditions. Any honoraria or payment for participation in an event will be considered a gift.

"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.

"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.

"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.