

## ARTICLE VII. ETHICS\*

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**\*Cross references:** City council, § 2-56 et seq.; boards, committees and commissioners, § 2-86 et seq.; officers and employees, § 2-326 et seq.; departments, § 2-431 et seq.

**State law references:** Code of governmental ethics, R.S. 42:1101 et seq.

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### DIVISION 1. GENERALLY

Secs. 2-671--2-690. Reserved.

### DIVISION 2. FINANCIAL DISCLOSURE\*

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**\*Cross references:** Mayor, § 2-31 et seq.

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#### **Sec. 2-691. Financial statements; penalty.**

(a) Effective June 1, 1991, within 60 days of taking the oath of office of mayor or member of the council, each such person shall file a financial statement with the city attorney. Thereafter, such person shall file annually a financial statement and within 60 days after the date upon which such person ceases to discharge his duties as mayor or member of the council, a financial statement shall be filed. The financial statement shall include information required in section 2-692 and shall be current as of the date on which it is filed. Attached to the financial statement shall be the affidavit of such person filing same that the information contained in the statement is true and correct to the best of his knowledge, information and belief. The mayor and members of the council who are in office as of the effective date of the ordinance from which this article was derived, shall, within 60 days from such effective date, file a financial statement with the city attorney and annually thereafter as set forth in this subsection.

(b) Within 60 days of being appointed as the chief administrative officer, a mayoral executive assistant at or above range 67 of the unclassified pay plan of the city and a director of a city department, or on regular reporting dates, such appointee shall comply with all provisions of this article. For the purposes of the article the phrase "director of a city department" shall mean the heads of the following chartered city departments only:

- (1) The city attorney;
- (2) The superintendent of police;
- (3) The superintendent of fire;
- (4) Director of the department of safety and permits;
- (5) Director of the department of sanitation;

- (6) Director of the department of streets;
- (7) Director of the department of recreation;
- (8) Director of the department of welfare;
- (9) Director of the department of health;
- (10) Director of the department of finance;
- (11) Director of the department of property management;
- (12) Director of the department of city civil service;
- (13) Director of the department of utilities.

(c) Whoever fails to file a financial statement required by this article, or knowingly and willfully fails to timely file any such statement, or knowingly and willfully fails to disclose or to accurately disclose any information required by this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00. Whoever willfully and intentionally files a false report required by this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined \$100.00, or imprisoned for not more than 90 days, or both.

(Code 1956, § 2-75)

### **Sec. 2-692. Contents of financial statement.**

(a) The financial statement required by this article shall be filed on a form prescribed by the city attorney and shall include the following information for the preceding calendar year:

- (1) The full name and residence address of the individual who is required to file;
- (2) The full name of the individual's spouse, if any, and the spouse's occupation and principal business address;
- (3) The name, address and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, holds an interest worth in excess of ten percent;
- (4) The name, address, type and amount of each source of income, in excess of \$1,000.00, received by the individual or spouse, and the nature of the services rendered therefor, if any. For income derived from mental health, medical health, or legal services rendered, the individual need only show the amount of the income and not the identity of any individual patient or client;
- (5) A brief description, location and address of each parcel of real property, the fair market value of which exceeds \$2,000.00, in which the individual or spouse, either individually or collectively, has an interest;
- (6) A brief description, amount, and date of any purchase, sale, exchange, donation, gift, or other acquisition or disposition, in excess of \$1,000.00 of any real property, and of any stocks, bonds, commodities futures, or other forms of securities, including, but not limited to, any option to acquire and/or dispose of any stocks, bonds, commodities futures, other forms of securities, negotiable instruments, movable or immovable property, or any other interest;
- (7) The name, address, and amount of each liability owed to any creditor by the individual or spouse which exceeds \$10,000.00, excluding any loan secured by a personal motor vehicle, household furniture, or appliances, if such loans do not exceed the purchase price of the item which secures it.

(b) When an amount is required to be disclosed pursuant to this article, it shall be sufficient to report the amount by category of value. The categories shall be:

- (1) Category I, less than \$5,000.00;
- (2) Category II, \$5,000.00--\$24,999.00;
- (3) Category III, \$25,000.00--\$49,999.00;
- (4) Category IV, \$50,000.00--\$99,999.00;
- (5) Category V, \$100,000.00--\$199,999.00;
- (6) Category VI, \$200,000.00 or more.

Amounts required to be disclosed shall be valued at actual or fair market value, whichever is greater.

(c) For purposes of this article, the following words shall have the following meanings:

*Business* means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.

*Income* means any income from whatever source derived, including, but not limited to, the following items: Compensation for services, including fees, salaries, commissions, and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from interest in an estate or trust.

(d) The financial statement shall be filed with the city attorney and shall be accompanied by the affidavit of the public official filing it certifying that the information contained in the financial statement is true and correct to the best of his knowledge, information and belief. The financial statement shall be a public record, subject to the provisions of R.S. 44:1 through 44:41. The city attorney shall additionally file a copy of his financial statement with the clerk of council who shall preserve the city attorney's financial statement as a public record.

(e) For the purposes of this section, an individual or spouse shall not transfer any asset, interest, or liability required to be disclosed pursuant to the subsection (a) of this section to any person or business for the purpose of avoiding disclosure, unless such transfer is irrevocable. A transfer shall not be irrevocable if there exists any contract, letter, counter letter, note, or any other legally enforceable agreement or authority which if exercised or enforced would require or authorize any asset, interest, or liability transferred by an individual or spouse to a person or business to revert back to such individual or spouse.

(Code 1956, § 2-76)

Secs. 2-693--2-715. Reserved.

## **DIVISION 3. CODE OF ETHICS**

### **Subdivision I. Generally**

#### **Sec. 2-716. Civil penalties.**

(a) Classified employees shall be subject to disciplinary action by their appointing authority for

violation of this division.

(b) Unclassified employees and appointed officials shall be subject to suspension or dismissal in accordance with section 3-125 of the Charter for violation of this division.

(c) Members of boards, commissions, and agencies shall be removed and/or shall forfeit their appointment in accordance with section 9-104 of the Charter for violation of this division.

(d) Elected officials shall be subject to censure by city council resolution for violation of this division.

(Code 1956, § 22B-31)

### **Sec. 2-717. Criminal penalties.**

Any person who violates the provisions of this division shall be punished by a fine not exceeding \$500.00 or by imprisonment for not more than six months or both such fine and imprisonment.

(Code 1956, § 22B-32)

### **Sec. 2-718. Advisory opinions.**

The ethics review board shall prepare and promulgate procedures for requesting official advisory opinions pertaining to the city code of ethics. All such official advisory opinions shall be in writing. All such official advisory opinions shall be distributed to all agencies of city government and be accessible to all city employees.

(Code 1956, § 22B-33; M.C.S., Ord. No. 17,613, § 1, 6-20-96)

### **Sec. 2-719. Ethics review board.**

An ethics review board is hereby established and authorized to enforce the provisions of the code of ethics of the city.

(1) *Powers.* Pursuant to section 9-402 of the Home Rule Charter, the ethics review board may establish additional recommendations for the code of ethics, issue advisory opinions, promulgate rules regarding the interpretation and enforcement of the city's code of ethics, refer cases for investigation on referral or complaint, retain counsel, and impose fines.

(2) *Membership.* The board shall consist of seven members. Six members of the board, all of whom are domiciled in and electors of the city, shall be appointed by the mayor from lists of three nominees each submitted by the presidents or chancellors of Dillard University, Loyola University, Southern University in New Orleans (SUNO), Tulane University, University of New Orleans (UNO), and Xavier University. One additional member shall be appointed by the mayor. Each appointment is subject to approval by a majority of the members of the city council.

(3) *Qualifications.* No member may hold any elective or appointed position with the city nor any other government or political party office or have held such position within two years before appointment to the ethics review board.

(4) *Removal.* A member of the ethics review board may be removed by the mayor only for cause in accordance with the procedures established in section 9-104 of the Home Rule Charter and by the council in accordance with the procedures and for the reasons established in section 3-125 of the Home Rule Charter.

(5) *Vacancy.* Within ten days of a president's or chancellor's recommended appointee's vacancy being created, the mayor shall request the university presidents or chancellors to submit within 30 days lists of three nominees each to the mayor for consideration to fill the unexpired term. Within 30 days of receiving the lists of nominees, the mayor shall submit a selection to the council for its consideration. Within 30 days of an unaffiliated appointee's vacancy being created, the mayor shall submit a suggested replacement to the council for its consideration. Within 30 days of receiving a mayoral nomination, the council shall approve or reject the appointment.

(6) *Term.* The terms of the initial members shall be as follows: One member shall be appointed for a term to expire on June 30 of the first year; one member shall be appointed for a term to expire on June 30 of the second year; one member shall be appointed for a term to expire on June 30 of the third year; one member shall be appointed for a term to expire on June 30 of the fourth year; one member shall be appointed for a term to expire on June 30 of the fifth year; one member shall be appointed for a term to expire on June 30 of the sixth year; and one member shall be appointed for a term to expire on June 30 of the seventh year. At the expiration of the term of each initial member and of each succeeding member, a successor shall be appointed to serve for a term of seven years. Each such term shall expire on June 30 of the seventh year.

(7) *Public meetings.* The meetings of the ethics review board shall be open to the public in accordance with applicable state and municipal law.

(8) *Quorum.* Four members of the ethics review board shall constitute a quorum for the purpose of transacting the business of the board.

(9) *Rules and regulations.* The ethics review board, pursuant to section 4-107 of the Home Rule Charter, shall adopt rules and regulations governing the transaction of its business.

(10) *Staff.* The board may employ necessary staff in accordance with applicable civil service law and subject to appropriations by the council. The board's operation and procedures shall be governed by chapter 1 of article IX of the Home Rule Charter and by applicable state and municipal law.

(11) *Investigations.* For purposes of an investigation or a hearing, the ethics review board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records which the ethics review board deems relevant or material to an investigation or hearing.

(12) *Amendment.* Pursuant to section 9-402(3) of the Home Rule Charter, this section may only be amended by an ordinance receiving a two-thirds favorable vote of the entire membership of the city council.

(M.C.S., Ord. No. 17,612, § 1, 6-20-96)

Secs. 2-720--2-740. Reserved.

## **Subdivision II. State Code of Governmental Ethics**

### **Sec. 2-741. State code of ethics.**

The state code of governmental ethics (state ethics code) is established by R.S. 42:1101 et seq. The state ethics code applies to all officials and employees of the city and its various departments,

boards, commissions, offices, and other agencies.

(Code 1956, § 22B-10)

### **Sec. 2-742. Dissemination of state ethics code.**

The chief administrative officer shall cause a copy of the state code of governmental ethics to be given to each official and employee of the city and its various departments, boards, offices and other agencies.

(Code 1956, § 22B-11)

### **Sec. 2-743. Advisory opinions; complaints.**

The chief administrative officer shall advise all officials and employees of procedures for obtaining advisory opinions from the state ethics commission and for filing complaints under the state code of governmental ethics.

(Code 1956, § 22B-12)

### **Sec. 2-744. City ethics code supplemental.**

The city code of ethics in subdivision III of this division is intended to supplement the provisions of the state code of governmental ethics. In some matters, the city ethics code is intended to be more restrictive than the state code of governmental ethics. If any provisions of the state code of governmental ethics are more restrictive than any provisions contained in the code of ethics for the city, the provisions of the state code of governmental ethics prevail.

(Code 1956, § 22B-13)

Secs. 2-745--2-765. Reserved.

## **Subdivision III. City Code of Ethics**

### **Sec. 2-766. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board* applies to boards, commissions, authorities, and other public bodies that are subject to the provisions of the Home Rule Charter of the city, except the city council.

(Code 1956, § 22B-21)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 2-767. Application.**

The code of ethics for the city shall apply to all officials of the government of the city, whether elected or appointed; to all employees, whether classified or unclassified; and to members and/or

employees of all boards, agencies, commissions, advisory committees, public trusts, and public benefit corporations of the city.

(Code 1956, § 22B-1)

### **Sec. 2-768. Purpose.**

The code of ethics is established to remind each public official and employee that individually and collectively, public officials and employees must adhere to high ethical standards not simply to avoid sanctions or criticism, but because it is the right thing to do. Standards and guidelines established by or pursuant to the code of ethics should be construed and implemented with sensitivity, integrity, and a good faith commitment to advance rather than evade or circumvent the evident or stated spirit and purpose of ethical rules. Public officials and employees should not give unduly narrow or legalistic constructions to specific provisions of applicable ethics codes, standards, or rules and regulations.

(Code 1956, § 22B-3)

### **Sec. 2-769. Responsibility of public office.**

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the constitution of the United States and the constitution of this state and to carry out impartially the laws of the nation, state and city and thus to foster respect of all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

(Code 1956, § 22B-2)

### **Sec. 2-770. Nonpartisanship and nondiscrimination.**

Public officials and employees should take action and make decisions based on the merits, objectively and without partisanship. In taking action and making decisions, public officials and employees should not discriminate against any person because of racial, ethnic, religious, political, sexual or personal prejudice or because of age, disability or sexual orientation.

(Code 1956, § 22B-4)

### **Sec. 2-771. Development of internal standards.**

Each department, board, office, or other agency of city government is encouraged to develop internal minimum standards of ethical conduct or behavior for situations or transactions that may be unique to the particular department, board, office or other agency. The opinions of employees and customers of the agency should be sought and used in the development of such internal standards, rules, regulations and guidelines for ethical conduct. Members of all boards and commissions of the city shall act as prudent administrators.

(Code 1956, § 22B-5)

### **Sec. 2-772. Freedom from reprisal and disclosure of improper acts.**

(a) Any public employee who reports information which the employee reasonably believes is a

violation of any ordinance, statute, policy, order, rule, regulation or other ethical mandate shall be free from discipline or reprisal for reporting such acts of alleged impropriety. An employee with authority to hire and fire, supervisor, agency head, or elected official may not subject to reprisal any public employee because of such employee's efforts to disclose such acts of alleged impropriety.

(b) The provisions of this section are in addition to the protection afforded by the state code of governmental ethics and the rules of the city civil service commission to public employees who report acts of impropriety to the employee's agency head, civil service, the ethics review board, or the state board of ethics for elected officials or commission on ethics for public employees.

(Code 1956, § 22B-6; M.C.S., Ord. No. 17,613, § 1, 6-20-96)

### **Sec. 2-773. Matters of public information.**

The state Public Records Law, R.S. 44:1 et seq. applies to public records of all departments, boards, offices and other agencies of city government. With certain exceptions, the records and documents in the possession of city government officials and employees are public records that citizens, the news media, and other interested parties are entitled to review and copy. When citizens make a request to review public documents, city officials and employees should respond with courtesy and as expeditiously as possible within the requirements of the state Public Records Law. Officials and employees who have questions as to whether particular information is confidential under the state Public Records Law should contact their supervisor or request assistance from the law department. The chief administrative officer shall advise all officials and employees of the provisions and requirements of the state Public Records Law.

(Code 1956, § 22B-7)

### **Sec. 2-774. Other laws, rules, and policies related to standards of conduct.**

City officials and employees should be generally aware that laws, rules, and policies established by the federal and state government and agencies thereof and by the chief administrative officer and supervisors in city government prescribe standards of conduct for government and city employees. Some of these rules, laws, and policies are the following:

- (1) The state Code of Governmental Ethics, R.S. 42:1101 et seq., popularly known as the State Ethics Code.
- (2) The state Dual Office Holding Law, R.S. 42:61 et seq.
- (3) Civil Service Law, La. Const., art. 10, and the rules of the city civil service commission.
- (4) Policy and circular memoranda issued by the chief administrative officer.
- (5) Departmental rules and regulations issued by department heads and supervisors.
- (6) The state Public Records Act, R.S. 44:1 et seq., sometimes referred to by citizens as the Freedom of Information Act.
- (7) The state Open Meetings Law, R.S. 42:4.1 et seq., popularly known as the Sunshine Law.

(Code 1956, § 22B-8)

### **Sec. 2-775. Dissemination of code of ethics.**

The provisions of the code of ethics for the city shall be distributed to each elected or appointed official and employee of the city. Upon election or appointment to office or employment with the city, all public servants shall be given a copy of the code of ethics. The chief administrative office shall establish rules providing for the dissemination of the code of ethics.

(Code 1956, § 22B-9)

### **Sec. 2-776. Specific prohibitions.**

The provisions of sections 2-777 through 2-783 shall be considered as specific prohibitions applicable to city officials and/or employees and/or board members as the case may be.

(Code 1956, § 22B-21)

### **Sec. 2-777. Prohibited financial interests.**

No city officer or employee shall have a financial interest in any contract with the city, and no contract for professional or other services shall be awarded on the basis of fee kickbacks. For purposes of this section, the word "contract" shall include remunerative contracts to provide goods or services to the city or for public work and shall not include:

- (1) A contract with the city which a city official or employee is required to enter in order to receive state or federally-funded grants, loans or other public assistance, or
- (2) A sale of abandoned property, as defined by R.S. 33:4720.12(1), to a city employee, when said sale is approved by the mayor, the director of the department by which the employee is employed, and the city attorney, and when such sale is for the purposes of rehabilitation.

(Code 1956, § 22B-21(a); M.C.S., Ord. No. 20966, § 1, 2-6-03)

### **Sec. 2-778. Leases, concessions restricted.**

No lease or concession shall be granted to any corporation in which one or more city officers, employees, or board members hold or control the majority financial interest.

(Code 1956, § 22B-21(b))

### **Sec. 2-779. Borrowing from, interest in contractors.**

No member, officer or employee of a board shall borrow money or receive anything of value from any contractor doing business with the board. No member, officer or employee of a board shall have any interest in any contract let by the board of which he is a member.

(Code 1956, § 22B-21(c))

### **Sec. 2-780. Forfeiture of board membership.**

Any member of a board who shall qualify as a candidate for any public elective office or who shall accept an appointive office or position of public employment for which compensation is paid by the city shall forfeit membership on the board. The provisions of this paragraph shall not apply to ex officio board members nor to any board member who serves in such capacity by virtue of an elective office in

city government.

(Code 1956, § 22B-21(d); M.C.S., Ord. No. 22810, § 1, 9-6-07)

### **Sec. 2-781. Political activities.**

With regard to employees in classified service, the provisions of section 4-1504 of the Charter and article 10, section 9 of the state constitution prohibit certain political activities.

(Code 1956, § 22B-21(e))

### **Sec. 2-782. Recusal of board members.**

Except as otherwise provided in this subdivision, no member of a board, commission, advisory committee, or other entity covered by this article who is excepted from the provisions of R.S. 42:1112 of the state code of governmental ethics with regard to voting or participating in a transaction involving a charitable, religious, nonprofit educational, public service, or civic organization because of the provisions of R.S. 42:1123(1) shall vote on or participate in a transaction otherwise prohibited by R.S. 42:1112 and, in such a case, the member shall, verbally or in writing at a public meeting, announce his recusal from participation in the transaction and the reason for recusal. The intent of this section is to require recusal of board, commission, or committee members who serve on the boards of certain nonprofit corporations in cases where a conflict of interest arises. The provisions of this section shall not apply to the council. The council may provide in its rules and regulations for the recusal of its members.

(Code 1956, § 22B-21(f))

### **Sec. 2-783. When financial interests permitted.**

Nothing in this subdivision shall deprive city officials or employees from having a financial interest in any activity or enterprise which is not in conflict with their respective positions or with any provisions of this article, the city Code, the Charter, applicable civil service or departmental rules, or applicable state or federal law.

(Code 1956, § 22B-21)

### **Sec. 2-784. Filing complaints.**

(a) Any person may file a complaint concerning violations of this article with the ethics review board, the office of municipal investigation, or municipal court.

(b) Any qualified elector of the city may file a written complaint in the form of an affidavit with any member of the city council concerning violations of this article involving a member of the city council.

(c) Subject to the provisions of applicable law, members of the city council receiving complaints in the form prescribed in subsection (b) of this section may request an executive conference of all members of the city council to consider the complaint and may proceed in accordance with the Charter.

(d) Complaints concerning violations of this subdivision involving the mayor shall follow the same procedure as for those involving a councilmember, as authorized under section 3-124 of the Charter, except that a majority vote of the elected membership of the council shall be required to call a public hearing and to adopt a resolution of censure for violations under this

subdivision.

(Code 1956, § 22B-30; M.C.S., Ord. No. 17,613, § 1, 6-20-96)

Secs. 2-785--2-810. Reserved.