



City of Pittsburgh Operating Policies

Policy: Ethics Handbook	Original Date: November 14, 2006
	Revised Date: January 2010

PURPOSE: To insure for responsible conduct of public officials and City of Pittsburgh employees.

POLICY STATEMENT: This policy is presented to provide answers to frequently asked questions regarding the City Code of Conduct. The Code mandates the independent, impartial and responsible conduct of public officials and employees.

Disclaimer: No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees, or to establish an exception to the employment-at-will doctrine beyond that specified in the Civil Service Statutes and Rules or pertinent collective bargaining agreement. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence.

POLICY

See the attached Ethics Handbook - A Summary of the City of Pittsburgh Code of Conduct, developed by the Ethics Hearing Board.

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I. INTRODUCTION

The City of Pittsburgh Ethics Code ("Ethics Code") was established to promote public confidence in the proper operation of our local government. The Ethics Code mandates the independent, impartial and responsible conduct of public officials and employees. This prevents both conflicts of interest that interfere with a public servant's duties and the use of public office for financial gain.

This handbook is being presented as a guide to ethical conduct pursuant to Section 197.14 of the Pittsburgh Code of Ordinances ("City Code"). In addition to providing a summary of the rules, this guide provides answers to frequently asked questions regarding the Ethics Code. This information, found in Appendix D, is an initial means to investigate your ethics concern. If you need further information or if you have a specific situation that you would like addressed, please contact the Ethics Hearing Board or City Law Department. Any City employee may request an Ethics Opinion from the Department of Law (as outlined in City Code section 197.13)

II. CODE OF CONDUCT

The Ethics Code applicable to public officials and employees of the City of Pittsburgh is a combination of certain provisions of the City of Pittsburgh Home Rule Charter ("Home Rule Charter"), the Pittsburgh Code of Ordinances ("City Code") and the Pennsylvania Public Official and Employee Ethics Act (the "State Ethics Act"). All complaints under the State Ethics Act are within the sole jurisdiction of the Pennsylvania State Ethics Commission. The reader of this handbook is referred to literature provided by the State Ethics Commission for specific provisions of the State Ethics Act. Only provisions from the City Code and Home Rule Charter are discussed in this Handbook. The Home Rule Charter provisions are found in sections 308, 705-707, 710 and 801. The City Code provisions are in § 161.17 and Chapter 197.

III. DEFINITIONS

The following terms aid understanding of this summary. For a complete list of defined terms refer to the State Ethics Act (Appendix C) and Chapter 197 of the City Code (Appendix A).

"Agent" means all agents of or persons of entities that enter into agreements with or otherwise act in a fiduciary capacity for the City in connection with contracts supported in whole or in part by public funds. For the purposes hereof, this term includes sub-recipients, sub-grantees and subcontractors of the benefits of City agreements.

“City employee” means any individual employed by the City in any capacity. A city employee may or may not also be a “public employee.”

“Direct family” means a parent, spouse, child, brother, sister, grandparent or grandchild.

“Gift” means any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of these or anything else of value received or given without equivalent compensation. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business.

“Influence” means the proposal of, the voting on or the participation in any legislative discussion of or attempt to influence the course of any proposed legislation of the City; the participation in the selection, award or administration other than of a ministerial nature, of any contract, benefit or award to which the City is a party or which is supported by any public funds administered by the City; and participation in any matter involving, other than on a ministerial basis, the inspection, regulation, licensing or auditing of an entity by or as required by the City.

“Immediate family” means a parent, spouse or domestic partner as outlined in Chapter 186 (City Code), child, brother or sister.

“Interested party” means:

- (1) A person or agent having or seeking to obtain a contract, grant, employment or any financial relationship with the City or any of its departments, agencies, boards, commissions or authorities;
- (2) A principal, agent and/or attorney in legal proceedings in which the City is then an adverse party; or
- (3) A person with an interest that may be substantially affected by the performance or nonperformance of the official duties of the public official or City employee.

“Nominal value” means valued at one hundred dollars (\$100.00) or less.

“Public employee” means any person employed by the City who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- i. Contracting or procurement;
- ii. Administering or monitoring grants or subsidies;
- iii. Planning or zoning;
- iv. Inspecting, licensing, regulating or auditing any person; or
- v. Any other activity where the official action has an economic impact of a greater than de minimis nature on the interests of any person.

“Public official” means any person elected by the public, or appointed by the Mayor and/or City Council to any board or commission, or any appointed official in the Executive or Legislative branch of the City.

IV. ETHICS HEARING BOARD

The [City Code](#) establishes the Pittsburgh Ethics Hearing Board. It is composed of five members. Two of the members are appointed by the Mayor and confirmed by City Council. The remaining three members are appointed by the Mayor from a list of nine candidates submitted by City Council and are also confirmed by City Council. Each Board member serves a three-year term or until a successor is appointed, except that the terms of the original Board members shall be staggered.

While serving on the Board, members (a) must be residents of the City of Pittsburgh; (b) may not hold or campaign for any other public position; (c) may not hold office in any political party or political committee; and (d) may not hold a position of employment or appointment with any municipal government, the Commonwealth of Pennsylvania or any other board or commission formed by the City.

The powers and duties of the Pittsburgh Ethics Hearing board are summarized as follows:

- Receive and dispose of complaints of violations of the ethics provisions of the City Code and Home Rule Charter (The Pittsburgh Ethics Hearing Board does not have jurisdiction to hear complaints relating to violations of the State Ethics Act).
- Give advice as to the application of the ethics provisions in [the City Code](#) and Home Rule Charter.
- Conduct investigations, hold hearings, subpoena witnesses and compel their attendance, administer oaths, take testimony, require evidence on any matter under investigation or any questions before the Board, make findings of fact, and issue orders.
- Conduct educational programs to promote the ethical conduct of Pittsburgh public officials and employees.
- Adopt rules and regulations to administer, implement, enforce and interpret the [Ethics Code](#).

V. DISCLOSURE OF INTERESTS

A. May 1 Filing

Each Pittsburgh public official and City employee who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

1. Contracting or procurement;
2. Administering or monitoring grants or subsidies;
3. Planning or zoning;
4. Inspecting, licensing, regulating or auditing any person; and
5. Any other activity where the official action has economic impact of greater than *a de minimis* nature on the interests of any person,

shall file with the City Clerk a **Statement of Financial Interests** for the preceding calendar year in the form and manner provided by the State Ethics Act. This filing must be done by May 1 of each year.

B. January 15 Filing

Elected officials shall file with the Controller a disclosure of interests as required by Section 801 of the Home Rule Charter. This filing must be done by January 15 of each year. (See Section 801 for content of disclosure.)

C. Statement of Affiliation

Contractors who enter into a contract valued at \$1,000 or more with the City or any of its departments, agencies, boards or commissions shall file a Statement of Affiliation.

VI. RESTRICTED ACTIVITIES

A. Receipt of Benefits or Compensation

- No contract shall be made with any City elected or appointed official, officer or employee, or with any corporation, partnership or other nongovernmental entity of which he/she is a member.

A. No elected official, officer or employee shall:

1. Benefit from any contract, job, work or service for the City, or accept any service or accept anything of value, directly or indirectly, upon more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City; or

2. Solicit or receive any compensation, gratuity or other thing for any act done in the course of public work.

B. Gifts and Favors

- No public official, City employee or agent of the City shall solicit or accept from an interested party, nor shall an interested party offer or give anything of value to a public official, City employee or agent, subject to the following exceptions:
 1. Any gift occasioned by an immediate family relationship.
 2. Complimentary food and refreshment of nominal value, not to exceed four (4) times per year from the same organization or individual.
 3. When offered by the sponsoring organization, and attended by the Employee in an official capacity, admission, attendance, food and refreshment at a public event or ceremony sponsored by a non-profit organization, or by a civic, political, community, sports or cultural organization. This exception is limited to two (2) tickets per employee per event, not to exceed four (4) events per year from the same organization or individual. These gifts are subject to the gift disclosure rules set forth in Section (e).
 4. Accompaniment as an immediate family member or spouse to a public event or ceremony where the immediate family member or spouse is acting in an official capacity.
 5. Memberships, events or admissions associated with any boards on which an Employee serves either in his/her official capacity or as a private citizen.
 6. A nonpecuniary award publicly presented, in recognition of public service.
 7. Gifts from one (1) City Employee to another in recognition of a special occasion, illness or holiday.
 8. Gifts of nominal value in recognition of a special occasion such as the birth of child, marriage or retirement.
 9. Nonpecuniary gifts of nominal value.
 10. Reasonable expenses for travel and accommodation where the travel is business related.

C. Conflict of Interest

- No public official or public employee shall exert influence with respect to property or a business with which he/she or a member of his/her direct family is associated.

- Members of City Council and members of boards and commissions shall resolve voting conflicts in the manner provided in the State Ethics Act and the Home Rule Charter.
- Any other public official or public employee shall disclose the nature and extent of his/her conflict of interest with respect to proposed action of the relevant body when, in the discharge of his/her official duties, he/she would participate in discussions or give official opinions or recommendations to City Council or a board of commission.

D. Misuse of Authority and Public Property

- No public official or public employee shall:
 1. Appear for compensation on behalf of any private person other than himself or his direct family, before any quasi-judicial tribunal of the City;
 2. Accept a fee from another for referring a matter to such person for action when the official or employee is barred by the City Code or Home Rule Charter from taking action directly;
 3. Use or permit the use of his/her title; insignia or position in connection with any private business from which he/she receives compensation; or
 4. Use or allow the use of any City facilities, property, staff, or information obtained in the course of his/her employment for personal use other than would be generally available to the public at large.

E. Solicitation, Political Activity and Campaign Contributions

- No solicitation may be made of City employees for any purpose **during working hours.**
- City employees are prohibited from engaging in political activity **during working hours and at all times in City offices.**
- City employees may **not** hold a salaried elected public office unless a leave of absence is taken without pay while a candidate for elected public office.
- No City employee may contribute more than **\$100 during any consecutive four year period** to any political campaign of his/her employer or supervisor (for this purpose, the employer of the executive branch is the Mayor, the City Controller is the employer of the City

Controller's office, and members of City Council are the employers of their personal staffs, the City Clerk and the employees of the City Clerk's office). With respect to Department Directors, the Mayor's Executive Secretary and Chief Administrative officer, the limit shall be \$200 for any four year period.

F. Employment or Appointment of Relatives

- No public official or public employee shall appoint, hire, advance or advocate the appointing, hiring or advancing a member of his direct family to a City position.
- No public official's direct family member shall be appointed, hired or advanced to a position under the direct jurisdiction or control of the official or employee.
- Exceptions: these provisions may be waived by the Board upon finding that the public interest would not be harmed in light of the person's experience, qualifications and the responsibility of the position.

G. Post Employment Restrictions

- For a period of twelve (12) months following termination of employment or service, no person who has served as a public official or public employee shall, with or without compensation:
 1. Represent a person before a governmental body with which he/she was associated; or
 2. Represent a person with respect to any case, proceeding, approval, contact or other matter with respect to which he/she had substantial participation during the course of his/her service or employment with the City.

H. Special Restrictions Applicable to Police Bureau Employees

City Code Chapter 195 prohibits Department of Police employees from holding or running for any public or political office. Also, no employee of the Department of Police is permitted to campaign for any public office while on active duty with the Department. If a Department employee becomes a candidate for election to any public or political office, the employee must take a leave of absence without pay. This leave of absence must be taken the day the employee requests nomination papers or subscribes his/her statement of candidacy. The leave of absence must continue until either (1) the nomination or election fails at primary; (2) the employee fails to become a candidate; or (3) the employee withdraws as a candidate.

“Holding any office in a political party” is defined as membership in a ward, city, county, or State committee of any political party, or holding any office of committees or any political party. Public office is any office that is filled by vote of the electorate. A person is a candidate for office if his/her name appears on any ballot that is used in any scheduled public election.

Violation of this special provision constitutes grounds for dismissal.

I. Special Restrictions Applicable to City Council

Section 308 of the Home Rule Charter addresses several prohibitions specific to members of City Council. First, members of Council are prohibited from holding any office, position or employment in any corporation holding or applying for franchises from the City.

Second, Council members can not have a personal or private interest in any legislation proposed or pending before Council, unless they both disclose the interest to other members of Council and refrain from voting or participating in the discussion of the matter.

Third, members of Council are prohibited from holding any other office, position or employment in the government of the United States, the Commonwealth of Pennsylvania, the City of Pittsburgh, or Allegheny County, subject to several exceptions. These exceptions include (1) officer or member in the federal reserve; (2) officer or member in the National Guard of Pennsylvania, or (3) Member of an Authority. No council member may serve on more than one Authority board at the same time.

VII. ADVISORY OPINIONS

Public Officials and City employees may request an advisory opinion from the Board or City Solicitor. An advisory opinion may be used as a defense in any subsequent investigation or prosecution, provided that the official or employee who sought the opinion acted on it in good faith and only to the extent material facts were not omitted or misstated in the request for the opinion.

VIII. COMPLAINT AND INVESTIGATION PROCEDURES

A. Who may File a Complaint

- Any person may file a complaint about alleged ethics violations of the City Code or Home Rule Charter. In addition, the Board may initiate proceedings by its own motion. A person signing a complaint shall:
 1. Reasonably believe in the existence of the facts upon which the claim is based; and
 2. Reasonably believe that the complaint may be valid under the ethics provisions of the Home Rule Charter and the City Code.

B. How to File a Complaint

- Complaint forms are available upon request from the City Solicitor. The complaint should state the name, job or office held by the alleged violator and a description of the facts that are alleged to constitute a violation. It must be signed under penalty of perjury.

C. How to File a Complaint

- A violation is any activity restricted by the ethics provisions set forth in the Home Rule Charter and/or the City Code.

D. Course of Events After a Complaint is Filed

a. Preliminary Inquiry

- If the Board has no jurisdiction over the matter, the complainant will be so notified. Otherwise, the City Solicitor will conduct a preliminary inquiry within 60 days. If the inquiry fails to establish a violation of City ethics provisions, the inquiry will be terminated, and the complainant and the subject of the inquiry will be so notified.

b. Continuing Inquiry

- If the City Solicitor determines that further inquiry is justified, an independent investigator will be assigned to further investigate the matter. The independent investigator must complete his/her inquiry within 30 days. If the independent investigator finds no violation of City ethics provisions, the inquiry will be terminated, and the complainant and the subject of the inquiry will be so notified.

c. Full Investigation

- If preliminary investigation by the City Solicitor and further investigation by the independent investigator both establish a possible violation of City ethics provisions, a full investigation will be initiated. The subject of the investigation will be notified and provided with a general statement of the alleged violation(s) and the identity of the complainant. The Board will notify the complainant within 72 hours of the commencement of the investigation. Until the investigation is terminated, the Board will advise both parties of the status of the investigation at least every 90 days. Within 180 days, the Board must, unless an extension is obtained, either terminate the investigation or issue a findings report to the subject.

E. Findings Report, Evidentiary Hearing, and Board Decision

- The findings report sets forth the pertinent findings of fact. The subject, within 30 days after the report is issued, has the right to respond to the report and request an evidentiary hearing, unless an extension is obtained.
- The evidentiary hearing must be instituted within 45 days after the filing of the response. The subject will have access to any evidence intended to be used at the hearing. The hearing will be closed to the public, unless the subject requests an open hearing.
- Following the hearing, the Board will determine whether the subject violated City ethics provisions and shall issue a final order accordingly. The subject may file a petition for reconsideration of the order.

IX. PROTECTION FROM COMPLAINANTS

No official or employee may be penalized for good-faith filing of a complaint with the Board, providing information, or testifying in any Board proceeding. No person may be discharged, suffer change in his/her official rank, grade or compensation, be denied a promotion, or be threatened as a result of any of the above.

X. WRONGFUL USE OF THE ETHICS PROVISIONS

A person who signs or causes a complaint to be filed may be liable for wrongful use of the City ethics provisions if:

1. The complaint was frivolous or without probable cause, and was made primarily for a purpose other than to report a violation of the City ethics provisions; or
2. The person publicly disclosed or caused to be disclosed that a complaint against a person has been filed with the Board.

Allegations of wrongful use are investigated in the same manner as other complaints under the City ethics provisions. If the Board establishes wrongful use of the City ethics provisions, the subject of the complaint may bring action in a court of appropriate jurisdiction, and may recover for:

1. Harm to reputation by a defamatory matter;
2. Reasonable expenses incurred by the individual;
3. Resulting pecuniary loss;
4. Emotional distress caused by the proceedings; and
5. Punitive damages according to law where appropriate.

XI. PENALTIES FOR VIOLATING THE ETHICS PROVISIONS

The Board may impose any of the following penalties upon finding a violation of any of the City ethics provisions including the wrongful acts described in the preceding section:

- A letter of admonition to the perpetrator and all relevant parties, indicating that the respondent has been found to have violated City ethics provisions.
- A letter of public censure to the perpetrator and all relevant parties, as well as the news media, indicating that a violation of City ethics provisions took place, and that the Board strongly disapproves of the official's or employee's actions.
- Recommendation to the Mayor of suspension without compensation, with notification to the perpetrator and all relevant parties.
- Recommendation to the Mayor of termination, with notification to the perpetrator and all relevant parties.

- Recommendation of impeachment of an elected official, with notification to the perpetrator and all relevant parties.
- Return to the City Treasury a sum of money up to the amount of financial gain resulting from violation of any City ethics provisions, in addition to any other penalty provided by the law or this Chapter. The Board shall determine the amount of financial gain realized.
- Barring a person or entity from participation in business dealings with the City for a period to be determined by the Board.
- A fine of up to \$1,000 per violation.
- Criminal prosecution by the proper authority where there is a violation of federal or state law.

XII. APPENDICES

APPENDIX A

Chapter 197 CODE OF CONDUCT City of Pittsburgh Code of Ordinances

§ 197.00 PREAMBLE.

Public service is a public trust. These prohibitions on the conduct of public servants are enacted to preserve the trust placed in the public servants of the City, to promote public confidence in government, to protect the integrity of government decision making, and to enhance government efficiency.

(Ord. No. 6-2009, § 1, eff. 5-15-2009)

§ 197.01 ADOPTION.

There is hereby adopted by the City a Code of Conduct applicable to public officials and employees as defined hereby. This Code of Conduct is comprised of the following:

(a) Sections 2, 3 and 4 of the Pennsylvania Public Official and Employee Ethics Law (65 P.S. Section 1101*et seq.*) (the "State Statute"), as the same may be amended;

(b) Sections 308 (Prohibitions), 705 (Political Activity of Employees-Gifts), 706 (Prohibitions in General), 801 (Disclosure of Interests) and 807.5 (Ethics, Training if Required to File Statement of Financial Interests) of the City Charter, as the same may be amended;

(c) Section 161.17, as the same may be amended; and

(d) The provisions of this Chapter (collectively, the "Code of Conduct"). The terms of the State Statute, the Pittsburgh Charter and the Pittsburgh Code referred to above are incorporated herein by reference.

(Ord. 28-1990, eff. 11-28-90)

§ 197.02 DEFINITIONS.

All terms used in this Chapter, unless the context clearly requires otherwise, shall have the meaning set forth in the State Statute as supplemented by the below listed definitions and definitions set forth elsewhere in this Chapter. The definitions shall include both the singular and plural. Whenever any pronoun is used in this Chapter, it shall be deemed to include both singular and plural and to cover both genders.

(a) **AGENT.** All agents of or persons or entities that enter into agreements with or otherwise act in a fiduciary capacity for the City in connection with contracts supported in

whole or in part by public funds; for the purposes hereof, this term includes sub-recipients, sub-grantees or subcontractors of the benefits of City agreements.

(b) **BOARD.** The Ethics Hearing Board of the City of Pittsburgh created pursuant to this Chapter.

(c) **CITY EMPLOYEE.** Any individual employed by the City of Pittsburgh in any capacity. A City employee may or may not also be a public employee as that term is defined in the State Statute.

(d) **DIRECT FAMILY.** A parent, step-parent, child, step-child, sibling, step-sibling, grandparent, grandchild, parent-in-law, sibling-in-law, aunt, uncle or first cousin.

(e) **QUASI-JUDICIAL TRIBUNAL.** A board or commission of the City which is required to investigate or ascertain facts and draw conclusions as a basis of its official action and to exercise discretion of a judicial nature. The term shall include, but not be limited to, the Zoning Board of Adjustment, the Planning Commission when considering a conditional use, the Historic Review Commission, the Board of Code Review, the Board of Standards and Appeals, the Board of Water Assessors, the Human Relations Commission and the Civil Service Commission.

(f) **INFLUENCE.** The proposal of, the voting on or the participation in any legislative discussion of or attempt to influence the course of any proposed legislation of the city; the participation in the selection, award or administration, other than of a ministerial nature, of any contract, benefit or award to which the City is a party or which is supported by any public funds administered by the city; participation in any matter involving, other than on a ministerial basis, the inspection, regulation, licensing or auditing of an entity by or as required by the city.

(g) **INTERESTED PARTY.**

(1) A person or agent having or seeking to obtain a contract, grant, employment or any financial relationship with the City or any of its departments, agencies, boards, commissions or authorities;

(2) A principal, agent and/or attorney in legal proceedings in which the City is then an adverse party; or

(3) A person with an interest that may be substantially affected by the performance or nonperformance of the official duties of the public official or City employee.

(Ord. 28-1990, eff. 11-28-90)

(h) **CONTRACTOR.** A person who enters into a contractual relationship with the City to provide a service or product, or to perform construction in exchange for compensation.

(i) **PUBLIC OFFICIAL.** Any person elected by the public or appointed by a governmental body or an appointed official in the executive legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other

than reimbursement for personal expenses or to otherwise exercise the power of the State or any political subdivision thereof.

(j) **PUBLIC EMPLOYEE.** Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- (1) Contracting or procurement;
- (2) Administering or monitoring grants or subsidies;
- (3) Planning or zoning;
- (4) Inspecting, licensing, regulating or auditing; or,
- (5) Any other activity where the official's action has an economic impact of greater than *ade minimus* nature

The term shall not include individuals who are employed by this Commonwealth or any political subdivision thereof in teaching as distinguished from administrative duties.

(k) **IMMEDIATE FAMILY.** A parent, spouse or domestic partner as outlined in Chapter 186, child, brother or sister.

(l) **GIFT.** Any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of these or anything else of value received or given without equivalent compensation. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business.

(m) **NOMINAL VALUE.** Valued at one hundred dollars (\$100.00) or less.
(Ord. 27-1992, eff. 6-23-92; Ord. 12-2004, § 1, eff. 7-20-04; Ord. No. 11-2008, § 1, eff. 7-11-08; Ord. No. 6-2009, § 2, eff. 5-15-2009)

§ 197.03 CONFLICT OF INTEREST.

(a) No public official or public employee shall exert influence with respect to property or a business with which he or a member of his or her direct family is associated.

(b) Voting conflicts which may arise for members of Council or members of boards or commissions shall be resolved in the manner provided for in the State Statute and the Charter. Any other public official or public employee for which there exists a conflict of interest with respect to proposed action of Council or any City board or commission and who in the discharge of his or her official duties would be required to participate in discussions or give an official opinion or recommendation to Council, the board or the commission, shall disclose on the record of Council, the board or the commission the nature and extent of interest.

- (c) No public official nor a member of his immediate family shall:
- (1) Apply for or otherwise seek approval from the Pennsylvania Gaming Commission to engage in any act or activity which is regulated under the provisions of Pennsylvania Act 71 of 2004 known as the Pennsylvania Race Horse Development and Gaming Act; or,
 - (2) Own any portion of any slot machine licensee, manufacturer licensee, supplier licensee, or other entity licensed by the Pennsylvania Gaming Control Board under Act 71 of 2004.
 - (3) There shall be no conflict of interest or violation of this Section 197.03 if an immediate family member of a public official owned a portion of any entity as of July 13, 2004 and such entity thereafter applies for or seeks approval to engage in activities specified in subparagraph (c) (1) above or thereafter owns any portion of a licensee specified in subparagraph (c) (2) above.
(Ord. 28-1990, eff. 11-28-90; Ord. 12-2004, § 1, eff. 7-20-04)

§ 197.04 USE OF AUTHORITY AND PUBLIC PROPERTY.

- (a) No public official or public employee shall appear for compensation on behalf of any private person other than himself or herself or his or her immediate family, grandparent or grandchild before any quasi-judicial tribunal.
- (b) No public official or public employee shall accept a fee from another for referring to the person for action a matter where the public official or public employee would be barred by this Chapter from taking action.
- (c) No public official or City employee shall use or permit the use of his or her official title, insignia or position in connection with any private business from which the public official or City employee receives compensation.
- (d) No public official or City employee shall use or allow to be used any City facilities, property, staff or information obtained in the course of his or her employment for personal use other than would be generally available to the public at large.
(Ord. 28-1990, eff. 11-28-90)
- (e) No City employee shall contribute in excess of one hundred dollars (\$100.00) during any consecutive four-year period to any political campaign of his or her employer or to any political campaign of his or her employing authority; provided, however, that with respect to Directors of Departments, the Mayor's Executive Secretary Officer and the Chief Administrative Officer such amount shall be two hundred dollars (\$200.00) for any four-year period.

For purposes of this section, "employer" means the following:

- (1) The Mayor is employer of the Executive Branch;
- (2) The City Controller is employer of the City Controller's Office; and

(3) Members of Council are employers of their personal staffs, the City Clerk and all City Clerk employees. For purposes of this section, "employing authority" means any City employee who supervises, oversees or directs the work of another City employee.
(Ord.10-1991, eff. 4-5-91; Ord. No. 11-2008, § 1, eff. 7-11-08)

§ 197.05 EMPLOYMENT OR APPOINTMENT OF RELATIVES.

(a) No public official or public employee shall appoint, hire, advance or advocate the appointing, hiring or advancing of a member of his direct family to a position that is under the jurisdiction or control of the city.

(b) A member of the direct family of a public official or public employee shall not be appointed, hired or advanced to a position which is under the direct jurisdiction or control of the public official or public employee.

(c) The provisions of this section may be waived by the Board upon the Board's finding that considering factors as the person's experience qualifications and the responsibility of the position, the public interest would not be harmed as a result of the waiver.
(Ord. 28-1990, eff. 11-28-90)

§ 197.06 POST-EMPLOYMENT RESTRICTIONS.

(a) For a period of 12 months from the time employment or service is terminated, no person who has served as a public official or public employee shall represent a person, with or without compensation, on any matter before the governmental body with which he has been associated.

(b) For a period of 12 months from the time employment or service is terminated, no person who has served as a public official or public employee, shall personally act in a representative capacity, with or without compensation, on behalf of any person with respect to any case, proceeding, approval, contract or other matter with respect to which the person had substantial participation, of a non-ministerial nature, during the period of his service or employment.
(Ord. 28-1990, eff. 11-28-90)

§ 197.07 OFFERING, SOLICITING OR ACCEPTING GIFTS.

(a) *General rule on soliciting gifts.* A Public Official, Public Employee, or City Employee shall not solicit anything of value from any person or entity that the Public Official, Public Employee, or City Employee knows, or has reason to know, is an Interested Party, subject to the exception in subsection (d)(1), and subsection (i).

(b) *General rule on accepting gifts.* A Public Official, Public Employee or City Employee shall not accept anything of value from any person or entity that the Public Official, Public Employee or City Employee knows, or has reason to know is an Interested Party, subject to the exceptions in subsection (d).

(c) *General rule on offering gifts.* No interested party shall offer or give anything of value to a Public Official, Public Employee, or City Employee subject to the exceptions in (d or g).

(d) *Exceptions.*

- (1) Any gift occasioned by an immediate family relationship.
- (2) Complimentary food and refreshment of nominal value, not to exceed four times per year from the same organization or individual.
- (3) When offered by the sponsoring organization, and attended by the Employee in an official capacity, admission, attendance, food and refreshment at a public event or ceremony sponsored by a non-profit organization, or by a civic, political, community, sports or cultural organization. This exception is limited to two (2) tickets per employee per event, not to exceed four (4) events per year from the same organization or individual. These gifts are subject to the gift disclosure rules set forth in Section (e).
- (4) Accompaniment as an immediate family member or spouse to a public event or ceremony where the immediate family member or spouse is acting in an official capacity.
- (5) Memberships, events or admissions associated with any boards on which an Employee serves either in his/her official capacity or as a private citizen.
- (6) A non-pecuniary award publicly presented, in recognition of public service.
- (7) Gifts from one (1) City Employee to another in recognition of a special occasion, illness or holiday.
- (8) Gifts of nominal value in recognition of a special occasion such as the birth of child, marriage or retirement.
- (9) Non-pecuniary gifts of nominal value.
- (10) Reasonable expenses for travel and accommodation where the travel is business related.

(e) *Electronic gift disclosure.* In addition to the financial disclosure requirements set forth in the Pennsylvania Public Official and Employee Ethics Act, Public Officials and Public Employees employed by the City of Pittsburgh shall disclose any gifts received:

- (1) Which exceed one hundred dollars (\$100.00) in value per gift or aggregated together from any one (1) source (an individual or an organization) unless from immediate family members.
- (2) Such gifts shall be reported on a form developed by The Department of City Information Systems, to the webmaster of the City of Pittsburgh internet site. The report shall include a description of the gift and its approximate value, and the name and employer of the donor.

(3) The Department of City Information Systems will maintain an on-line database reflecting all gifts reported under subsection (c). The list will be updated no less frequently than monthly.

(f) *Ethics Board review of gifts valued at five hundred dollars (\$500.00 or higher.* The Ethics Board will designate two (2) members (hereinafter the Subcommittee) who will evaluate the propriety of gifts valued at five hundred dollars (\$500.00) or more. The subcommittee members will rotate their duties on a quarterly basis, according to the initials of the Board members' last names. Contact information for the Subcommittee will be posted on the City's website. Requests for approval of gifts valued at five hundred dollars (\$500.00) or more shall be made in written hard copy or e-mail to the Subcommittee, and shall specify the nature of the gift, its approximate value, the name and employer of the donor, the public purpose of the gift, and any other material facts. The Subcommittee will evaluate the propriety of the gift according to the following criteria:

(1) The value of the gift and its relation, if any, to the Employee's official functions;

(2) The public purpose of the gift.

The Subcommittee will issue a written opinion within twenty-one (21) days unless the Employee requests a shorter timeline. The opinion will include all material facts relied on by the Subcommittee, and articulate a basis for the decision. All opinions will be posted on the City's website. The Employee will have the right to appeal the decision to the entire Ethics Hearing Board. Gifts from immediate family members are exempt from this subsection.

(g) *Gifts to family members.* Members of a Public Official, Public Employee, or City Employee's immediate family may accept a gift from an Interested Party which arises from an independent relationship of the family member, if it cannot reasonably be inferred that the gift was intended to influence the Public Official, Public Employee or City Employee in the performance of his or her duties. In order to protect the public official, public employee or city employee, voluntary disclosure of such gifts from interested parties to immediate family members above one hundred dollars (\$100.00) is highly recommended. However, failure to disclose such gifts shall not be the basis for an Ethics Complaint under this Chapter

(h) *Effects of State Law.* The prohibitions expressed in this section are in addition to the regulation of gifts expressed in the Pennsylvania Public Official and Employee Ethics Act, including the prohibition on undue influence and all applicable financial disclosure requirements.

(i) *Solicitation of donations.* A Public Official, Public Employee or City Employee may solicit donations to the City in compliance with State law for charitable purposes, such as the Pittsburgh Promise, or to solicit donations for charitable purposed to a 501(c) or other charitable organization or to provide assistance to individuals affected by illness, crime or disaster or who have educational or other charitable needs.

(Ord. 2-1992, eff. 2-13-92; Ord. No. 11-2008, § 1, eff. 7-11-08; Ord. No. 6-2009, § 3, eff. 5-15-2009)

§ 197.08 FINANCIAL DISCLOSURE.

(a) Each public official and City employee employed by the City shall file a statement of financial interests for the preceding calendar year no later than May 1 of each year that he or she holds a position with the City and of the year after he or she leaves a position as required by and in the manner provided by the State Statute.

(b) For the purposes of this section, "City employee" means any individual employed by the City who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- (1) Contracting or procurement;
- (2) Administering or monitoring grants or subsidies;
- (3) Planning or zoning;
- (4) Inspecting, licensing, regulating or auditing any person; or
- (5) Any other activity where the official action has an economic impact of greater than a de minimus nature on the interests of any person.
(Ord. 28-1991, eff. 7-19-91)

(c) Each contractor who enters into a contract valued at one thousand dollars (\$1,000.00) or more with the city, shall provide the City with a Statement of Affiliations. The Statement of Affiliations shall include:

- (1) A description of any contractual or other business relationship with the City or any of its departments, agencies, boards, commissions or authorities, including the value of any contract or business relationship entered into during the three (3) calendar years previous to the execution of the contract;
- (2) The contractor's qualifications and experience for the performance of the contract; and
- (3) An identification of the contractor's principals, including the names and addresses of all owners or partners or shareholders and officers, or if the contractor is a public corporation, the officers, the members of the board of directors, and shareholders holding more than three (3) percent of the corporate stock.
(Ord. 27-1992, eff. 6-23-92)

§ 197.09 ETHICS HEARING BOARD.

(a) There is hereby established an Ethics Hearing Board composed of five (5) members. Two (2) members shall be appointed by the Mayor and confirmed by Council. The remaining three (3) members shall be appointed by the Mayor from a list of nine (9) candidates submitted by Council, and shall be confirmed by Council. Each member shall be a resident of the city.

(Ord. 28-1990, eff. 11-28-90)

(b) Each member shall serve for a term of three (3) years or until a successor is appointed and confirmed. The terms of the initial members shall be staggered in the following manner:

(1) The three (3) members appointed by the Mayor and confirmed by Council from the list of candidates submitted by Council shall serve terms of one (1), two and three (3) years to be determined by lottery; and

(2) The two (2) members appointed by the Mayor and confirmed by Council shall serve terms of two (2) and three (3) years to be determined at the Mayor's discretion.

The Board shall adopt rules and regulations for its operations and procedures as it deems necessary to administer, implement and enforce this Chapter. The Board shall also adopt rules and regulations to further interpret this Chapter.
(Ord. 38-1992, eff. 11-6-92)

(c) No individual while a member or employee of the Board shall:

(1) Hold or campaign for any other public office;

(2) Hold office in any political party or political committee; or

(3) Hold a position of employment or appointment with any municipal government, the Commonwealth of Pennsylvania or any board or commission formed by the city.

(d) Three (3) members of the Board shall constitute a quorum for the transaction of business and a majority vote of those present at any meeting is sufficient for any official action, except as otherwise provided herein.

(e) Members of the Board shall serve without compensation. The Board shall employ persons and employees as may be necessary whose salary, together with the necessary expenses of the Board, shall be provided for at the discretion of Council and the Mayor by proper annual appropriation. The Board shall elect a chairperson and vice-chairperson and other officers as needed.

(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

(f) Expired terms or vacancies occurring on the Board shall be filled in the following manner:

(1) If the departing member had been appointed by the Mayor from a list of candidates submitted by Council, the Mayor shall appoint a successor from a list of three (3) candidates submitted by Council. The City Solicitor shall notify Council of the vacancy or expired term within thirty (30) days of the occurrence. Council shall then submit the list of candidates to the Mayor within sixty (60) days of the receipt of the notification from the City Solicitor.

(2) If the departing member had been appointed directly by the Mayor, the successor shall be appointed by the Mayor within sixty (60) days of the vacancy or expired term.

(3) In the case of a vacancy, the successor shall fill the remainder of the departing member's term.

(4) All appointees shall be confirmed by Council.
(Ord. 38-1992, eff. 11-6-92)

§ 197.10 JURISDICTION.

(a) All complaints with respect to violations of any terms of the State Statute shall be within the sole jurisdiction of the Pennsylvania State Ethics Commission. The Ethics Hearing Board shall have jurisdiction to hear and the independent investigator shall have the authority to investigate only those complaints relating to matters addressed in this Chapter, the Pittsburgh Charter and the Pittsburgh Code, and not contained in the State Statute (the "City provisions").

(b) With respect to § 197.07, the City provisions are reviewed as an explanation of the provisions of the State Statute and complaints with respect thereto shall be treated as being with respect to violations of the City provisions.
(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

§ 197.11 POWERS AND DUTIES OF THE BOARD.

In addition to other powers and duties prescribed herein, the Ethics Hearing Board shall:

(a) Receive and seek the satisfactory disposition of complaints charging unlawful practices as set forth in the City provisions;

(b) Give advice as to application of the City provisions;

(c) Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any matter under investigation or any questions before the Board, make findings of fact, issue orders and publish the findings of fact and orders and do all other things necessary and proper for the enforcement of this Article; and

(d) Institute and conduct educational and other programs to promote the ethical conduct of public officials and City employees.
(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

§ 197.12 INVESTIGATIONS.

(a) (1) Upon a complaint signed under penalty of perjury by any individual or upon the Ethics Hearing Board's own motion, the City Solicitor shall conduct a

preliminary inquiry into any alleged violation of the City provisions. The City Solicitor and the Board shall keep information, records and proceedings relating to a preliminary inquiry confidential. The City Solicitor or the Board shall, however, have the authority to refer the case to law enforcement officials during a preliminary inquiry or anytime thereafter without providing notice to the subject of the inquiry. The City Solicitor shall complete its preliminary inquiry within sixty (60) days of its initiation.

(2) If a preliminary inquiry fails to establish reason to believe that the City provisions have been violated, the City Solicitor shall terminate the inquiry and so notify the complainant, the person who had been the subject of the inquiry and the Board.

(3) If the City Solicitor determines after preliminary inquiry that there exists reasons to believe that the City provisions have been violated, the matter shall be referred to an independent investigator for further investigation. The independent investigator shall be an individual so designated by the Board and shall be an attorney qualified to practice before the Supreme Court of the Commonwealth of Pennsylvania and shall meet the requirements set forth in § 197.08(c). The independent investigator shall complete its inquiry within thirty (30) days of its initiation. The City Solicitor shall provide to the independent investigator all information obtained through the preliminary investigation. The independent investigator shall keep information, records and proceedings relating to the investigation confidential.

(4) If, in the independent investigator's opinion, there has not been established reason to believe that the City provisions have been violated, the independent investigator shall terminate the inquiry and so notify the complainant, the person who had been the subject of the inquiry and the Board.

(b) If the preliminary inquiry by the City Solicitor and the further investigation by the independent investigator both establish that there is reason to believe that the City provisions have been violated, the Board may, through the City Solicitor, initiate a full investigation to determine if there has been a violation. The Board shall keep information, records and proceedings relating to an investigation confidential until a final determination is made, except as otherwise provided in subsection (f) hereof. No investigation may be commenced until the person who is the subject of the investigation has been notified and provided a general statement of the alleged violation or violations of the City provisions and of the identity of the claimant. Service of notice is complete upon mailing which shall be by certified or registered mail. The Board shall notify the complainant within seventy-two (72) hours of the commencement of an investigation and, thereafter, the Board shall advise the complainant and the person who is the subject of the investigation of the status of the investigation at least every ninety (90) days until the investigation is terminated. The Board shall, within one hundred eighty (180) days of the initiation of an investigation, either terminate the investigation pursuant to this subsection or issue a findings report pursuant to subsection (d) hereof. Upon a showing by the City Solicitor of the need for extension of this period, the Board may extend an investigation for up to two (2) ninety-day periods, provided that each ninety-day extension shall be approved by a majority vote of members present. In no event shall a findings report be issued later than three hundred sixty (360) days after initiation of an investigation.

(c) If an investigation conducted hereunder indicates that no violation has been committed, the Board shall immediately terminate the investigation and send written notice of the determination to the complainant and the person who was the subject of the investigation.

(d) The Board, upon the completion of an investigation, shall issue a findings report to the subject of the investigation setting forth the pertinent findings of fact. The subject shall have the right to respond to the findings and to request an evidentiary hearing on the matter. The Board shall grant any request for a hearing. Any response to the findings report shall either admit or deny by corresponding number and letter the pertinent facts set forth. The subject of the investigation shall have access to any evidence intended to be used by the City Solicitor at the hearing and any exculpatory evidence developed by the City Solicitor in the course of its investigation. Matters not specifically denied in the response shall be deemed admitted. The response shall be filed within thirty (30) days of the issuance of the findings report unless the time period is extended by the Board for good cause shown. Hearings conducted upon request shall be instituted within forty-five (45) days after the filing of the response.

(e) Within thirty (30) days of the receipt by the Board of the hearing record, or, if no hearing is to be held, within thirty (30) days of the receipt by the Board of the response to the findings report, the Board shall issue an order which shall be final. Upon receipt of a final order, the subject shall have the right to file a petition for reconsideration in the manner prescribed by the Board.

(f) Hearings conducted pursuant to this section shall be closed to the public unless the subject requests an open hearing. Any person who appears before the Board shall have all of the due process rights, privileges and responsibilities of a party or witness appearing before an administrative agency of this Commonwealth. All witnesses summoned for the hearings shall receive reimbursement for reasonable expenses in accordance with 42 Pa. C.S.A. Section 5903 (relating to compensation and expenses of witnesses). At the conclusion of a hearing concerning an alleged violation and in a timely manner, the Board shall deliberate on the evidence and determine whether there has been a violation of the City provisions. At least three (3) members of the Board present at a meeting shall find a violation by clear and convincing proof. The names of the members finding a violation and the names of those dissenting and abstaining shall be listed in the order. The determination of the Board, in the form of a final order and findings of fact, shall be a matter of public record.

(g) Orders which become final in accordance with the provisions of this section shall be available as public documents, but the files and records of the Board, the City Solicitor, and the independent investigator relating to the case shall remain confidential.

(h) Any person aggrieved by an opinion or order which becomes final in accordance with the provisions hereof who has direct interest in the opinion or order shall have the right to appeal therefrom in accordance with law and general rules. Decisions of the City Solicitor and/or the independent investigator that an investigation fails to establish reasons to believe that there exists a violation of the City provisions shall be a decision within the prosecutorial discretion of individuals and therefor not appealable.

(i) No public official or public employee shall discharge any official or employee or change his or her official rank, grade or compensation, or deny him or her a promotion, or threaten to do so or take any other retaliatory measures, for filing a complaint with or

providing information in connection herewith, testifying in any Board proceeding or being the subject of a complaint or investigation hereunder except as provided in § 197.16.

(j) As a general rule, no person shall disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the Board. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this subsection when the matters pertain to any of the following:

- (1) Final orders of the Board as provided in subsection (g) hereof;
- (2) Hearings conducted in public pursuant to subsection (f) hereof;
- (3) For the purpose of seeking advice of legal counsel;
- (4) Filing an appeal from a Board order;
- (5) Communicating with the Board or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the Board;
- (6) Consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;
- (7) Testifying under oath before a governmental body or a similar body of the United States of America;
- (8) Any information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of; or
- (9) Such other exceptions as the Board, by regulation, may direct.

(k) If a public official or City employee has reason to believe the complaint is frivolous as defined hereby, or without probable cause and made primarily for a purpose other than that of reporting a violation of the City provisions, or a person publicly disclosed or caused to be disclosed that a complaint against the public official or City employee has been filed with the Board, the public official or City employee shall notify the Board and the Board, through the City Solicitor, shall conduct an investigation.

(l) The Board may conduct an investigation within three (3) years after the alleged occurrence of any violation of this Chapter.

(m) If the Board deems that the City Solicitor cannot impartially handle a complaint as provided for herein, the Board shall be authorized to hire special legal counsel to handle the complaint at the expense of the city.

(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

§ 197.13 ADVISORY OPINIONS.

(a) The City Solicitor shall be authorized to issue written advisory opinions upon the written request of a public official or City employee.

(b) The advisory opinions may be used as a defense against any subsequent investigation or prosecution hereunder to the extent that the official or employee who sought the opinion acted on it in good faith and only to the extent material facts were not omitted or misstated in the request for the advisory opinion.
(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

§ 197.14 EDUCATION.

The Ethics Hearing Board shall conduct or shall cause to be conducted ethics training for the City workforce as follows:

(a) The Ethics Hearing Board shall prepare and compile or shall cause to be prepared and compiled an ethics manual for distribution to Public Officials, Public Employees, and City Employees providing an overview of ethics laws, rules and regulations which may apply to such employees.

(b) The Board shall conduct or cause to be conducted ethics training for Public Officials, Public Employees and City employees as frequently as the Board deems necessary, to instruct them as to the rules of ethical conduct. This training may be conducted live, in writing, or electronically.

(c) The Board shall conduct or cause to be conducted a minimum of one (1) hour of Ethics training per year for all Public Officials and Public Employees, who shall certify their attendance.

(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91; Ord. No. 6-2009, § 4, eff. 5-15-2009)

§ 197.15 WRONGFUL ACTS.

(a) A person who signs or causes or precipitates the signing of a complaint alleging a violation of the City provisions against another is subject to liability for wrongful use of this Chapter if:

(1) The complaint was frivolous, as defined thereby, or without probable cause and made primarily for a purpose other than that of reporting a violation of the City provisions; or

(2) The person publicly disclosed or caused to be disclosed that a complaint against a person had been filed with the Board.

(b) A person who signs a complaint alleging a violation of the City provisions has probable cause for doing so if he or she reasonably believes in the existence of the facts upon which the claim is based and either:

(1) Reasonably believes that under those facts the complaint may be valid under this Chapter; or

- (2) Believes to this effect in reliance upon the advice of counsel, sought in good faith and given after full disclosure of all relevant facts within his or her knowledge and information.
- (c) Allegations of wrongful use shall be investigated in the manner set forth in § 197.12.
- (d) When the essential elements of an action brought pursuant to this section have been established, damages may be assessed by a court of appropriate jurisdiction considering the following:
- (1) The harm to reputation by a defamatory matter alleged as the basis of the proceeding;
 - (2) The expenses, including any reasonable attorney fees, that the person has reasonably incurred in proceedings before the Board;
 - (3) Any specific pecuniary loss that has resulted from the proceedings;
 - (4) Any emotional distress that has been caused by the proceedings; and
 - (5) Any punitive damages according to law in appropriate cases.
(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

§ 197.16 PENALTIES.

- (a) Upon any violation of the City provisions, including the undertaking of wrongful acts as described above, any of the following penalties shall be available to the Ethics Hearing Board for imposition:
- (1) *Admonition.* In compliance with existing personnel practices, collective bargaining agreements and/or statutes, a letter to the respondent, the Mayor, the Director of the Department in which the respondent is employed, if any, and the complainant, if any, indicating that the respondent has been found to have violated the City provisions;
 - (2) *Public censure.* In compliance with existing personnel practices, collective bargaining agreements and/or statutes, notification to the respondent, the Mayor, the Director of the Department in which the respondent is employed, if any, and the complainant, if any, and the news media, indicating that a violation of the City provisions took place and that the Board strongly disapproves of the public official's or public employee's actions;
 - (3) Recommendation to the Mayor of suspension, without compensation, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, with notification to the respondent, the Director of the Department in which the respondent is employed, if any, and the complainant, if any;
 - (4) Recommendation to the Mayor of termination, in compliance with existing personnel practices, collective bargaining agreements and/or statutes, with

notification to the respondent, the Director of the Department in which the respondent is employed, if any, and the complainant, if any;

(5) Recommendations of impeachment of an elected official, with notification to the Mayor, Council, the respondent and the complainant, if any;

(6) Any person who realizes financial gain by way of a violation of any provision of the City provisions, in addition to any other penalty provided by the law or this Chapter, shall pay into the Treasury of the city, a sum of money up to the financial gain resulting from the violation. The Board shall determine the amount of financial gain realized;

(7) Any public official, public employee, person, corporation, company or other entity found to have participated in or benefitted from a violation of this Chapter, may be barred from participating in business dealings with the City for a period of time to be determined by the Board, in addition to being subject to any other penalty deemed appropriate by the Board; and

(8) A fine of up to one thousand dollars (\$1,000.00), per violation.

(b) In cases where the violation of this Chapter is also a violation of federal or state law, the matter shall be turned over to the proper authority for criminal prosecution.
(Ord. 28-1990, eff. 11-28-90; Am. Ord. 28-1991, eff. 7-19-91)

161.17 CONTRACT INTEREST OF CITY OFFICIALS, OFFICERS AND EMPLOYEES

No contract shall be made with any City elected or appointed official, officer or employee, or with any corporation, partnership or other nongovernmental entity of which he or she is a member. If any such official, officer or employee should, during his or her term of office or employment, knowingly acquire a proprietary or pecuniary interest in any contract, he or she shall forfeit his or her office or employment.

APPENDIX B

Home Rule Charter of the City of Pittsburgh Selected Sections

§ 308. PROHIBITIONS.

Members of Council shall not:

- (a) Hold any office, position or employment in any corporation holding or applying for franchises from the City;
- (b) Have a personal or private interest in any legislation proposed or pending before council, unless they;
 - (1) Disclose the fact to council; and,
 - (2) Refrain from voting or participating in the discussion of the matter;
- (c) Hold any other office, position or employment in the government of the United States, the Commonwealth of Pennsylvania, the City of Pittsburgh or Allegheny County; except:
 - (1) Officer or member in the federal reserve;
 - (2) Officer or member in the National Guard of Pennsylvania; or
 - (3) Member of any authority as limited by section 220.

Members of council who violate any of the above provisions shall immediately forfeit their office.

§ 705. POLITICAL ACTIVITY OF EMPLOYEES – GIFTS.

Employees of the City are prohibited from engaging in political activity during working hours and at all times in city offices. City employees may not hold an elected public office wherein they would receive an annual salary, unless a leave of absence is taken without pay. Certain described classes of City employees and officers may be required, by ordinance, to take a leave of absence without pay while a candidate for elected public office. City employees shall not be permitted to accept any gift or thing of value in connection with their employment other than their salary, nor be compelled to contribute to any fund other than that required by law. No salutation shall be made of a City employee for any purpose during working hours. Nothing contained in this section shall affect the right of City employees to support a political party, to vote as they choose, to hold party office or to express publicly and privately their options on political subjects and to attend political meetings.

§ 706. PROHIBITIONS IN GENERAL

No elected official, officer or employee shall in any manner receive benefit from the profits or emoluments of any contract, job, work or service for the City, or accept any service or thing of value directly or indirectly upon more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City. No elected official, officer, or employee shall solicit or receive any compensation, gratuity or other thing from any act done in the course of public work. This section shall be broadly construed and strictly enforced. Any violation of this section shall cause the offending official, officer, or employee to forfeit office or employment.

§ 707. MULTIPLE EMPLOYMENT PROHIBITED.

No person shall hold more than one compensated position in City government and no compensated city employee shall hold a compensated position in any other government except as follows:

- a. officer or member of the Pennsylvania National Guard or federal reserve:
- b. the controller may also serve as controller for the city school district; and the deputy controller may also serve as deputy controller for the city school district.
- c. a treasurer, or person serving in that capacity, may also serve as treasurer for the city school district.
- d. member or employee of any sinking fund commission or pension board.
- e. Pittsburgh public school employees between the months of May and September of each year.

§ 710. ETHICS TRAINING REQUIREMENTS.

Every elected official and every public official and public employee required to file a Statement of Financial Interests shall be provided a copy of the Pennsylvania Ethics Act and supporting material upon his or her assumption of office or upon his or her initial appointment and every elected official and every public official and public employee required to file a Statement of Financial Interests shall attend a seminar provided by the Pennsylvania Ethics Commission within ninety (90) days of his or her assumption of office or his or her initial appointments as soon thereafter as practicable.

§ 801. DISCLOSURE OF INTERESTS.

All elected officials of the City shall, on or before January 15 of every year during their term of office, file a disclosure, as of January 1 of that year, with the Controller, which shall be available for public inspection and shall contain the following information:

- (a) The names of all business or non-profit corporations, associations, partnerships, joint ventures, estates,

proprietorships, trusts, business activities and organizations, other than religious organizations and religious corporations;

(1) With which the official has any connection as an owner, officer, employee, consultant, contractor, creditor, shareholder, member, partner, joint venture, trustee, beneficiary or participant; or

(2) In which the official has any financial or property interest in any form, whether a legal interest or equitable interest or otherwise; stating, as to each name, the nature of the connection or interest

(b) A brief description of all legal and equitable interests of any degree in real property held by the official;

(c) A statement of the remaining amounts of any funds and contributions related to the official's most recent nomination and election, and by whom and how held; and

(d) The names of all creditors of the official and debts as to which the official is co-signer, surety or guarantor in excess of one thousand dollars (\$1,000).

APPENDIX C

The Pennsylvania Public Official and Employee Ethics Act (65 Pa. C. S. § 1101.1 et seq.) Selected Sections

§ 1102. Definitions

The following words and phrases when used in this chapter shall have, unless the context clearly indicated otherwise, the meanings given to them in this section.

“Advice.” Any directive of the chief counsel of the State Ethics Commission issued under section 1107(11) (relating to powers and duties of commission) and based exclusively on prior commission opinions, this chapter, regulations promulgated pursuant to this chapter and court opinions which interpret this chapter.

“Aggregate.” The total of all gifts received from a single source as provided in section 1105(b)(6) (relating to statement of financial interests).

“Authority of office or employment.” The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment.

“Business.” Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

“Business with which he is associated.” Any business in which the person or a member of the person’s immediate family is a director, officer, owner, employee or has a financial interest.

“Candidate.” Any individual who seeks nomination or election to public office by vote of the electorate, other than a judge of elections, inspector of elections or official of a political party, whether or not such individual is nominated or elected. An individual shall be deemed to be seeking nomination or election to such office if he has:

(1) received a contribution or made an expenditure or given his consent for any other person or committee to receive a contribution or make an expenditure for the purpose of influencing his nomination or election to such office, whether or not the individual has announced the specific office for which he will seek nomination or election at the time the contribution is received or the expenditure is made; or

(2) taken the action necessary under the laws of this Commonwealth to qualify himself for nomination or election to such office.

The term shall include individuals nominated or elected as write-in candidates unless they resign such nomination or elected office within 30 days of having been nominated or elected.

“Commission.” The State Ethics Commission.

“Confidential information.” Information not obtainable from reviewing a public document or from making inquiry to a publicly available source of information.

“Conflict” or “conflict of interest.” Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a *de minimis* economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

“Contract.” An agreement or arrangement for the acquisition, use or disposal by the Commonwealth or a political subdivision of consulting or other services or of supplies, materials, equipment, land or other personal or real property. The term shall not mean an agreement or arrangement between the State or political subdivision as one party and a public official or public employee as the other party, concerning his expense, reimbursement, salary, wage, retirement or other benefit, tenure or other matters in consideration of his current public employment with the Commonwealth or political subdivision.

“De minimis economic impact.” An economic consequence which has an insignificant effect. **“Executive-level State employee.”** The Governor, Lieutenant Governor, cabinet members, deputy secretaries, the Governor’s office staff, any State employee with discretionary powers which may affect the outcome of a State agency’s decision in relation to a private corporation or business or any employee who by virtue of his job function could influence the outcome of such a decision.

“Financial interest.” Any financial interest in a legal entity engaged in business for profit which comprises more the 5% of the equity of the business or more the 5% of the assets of the economic interest in indebtedness.

“Findings report.” An initial report containing findings of fact as determined by the State Ethics commission’s investigation but not containing any conclusions of law or any determination of whether there has been a violation of law.

“Frivolous complaint.” A complaint filed in a grossly negligent manner without basis in law or fact.

“Gift.” Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business.

“Governmental body.” Any department, authority, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body or other establishment in the executive, legislative or judicial branch of a state, a nation or a political subdivision thereof or any agency performing a governmental function. “Governmental body with which a public official or public employee is or has been associated.” The governmental body within State government or a political subdivision by which the public official or employee is or has been employed or to which the public official or employee is or has been appointed or elected and subdivisions and offices within that governmental body.

“Honorarium.” Payment made in recognition of published works, appearances, speeches and presentations and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature. The term does not include tokens presented or provided which are of *de minimis* economic impact.

“Immediate family.” A parent, spouse, child, brother or sister.

“Income.” Any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination or withdrawal therefrom upon assumption of public office or employment or any other form of recompense or any combination thereof. The term refers to gross income and includes prize winnings and tax-exempt income. The term does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children.

“Indirect interest in real estate.” Any business entity the assets of which are 80% or more in real property.

“Ministerial action.” An action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to or the exercise of the person’s own judgment as to the desirability of the action being taken.

“Nominee.” Any person whose name has been submitted to a public official or governmental body vested with the power to finally confirm or reject proposed appointments to public office or employment.

“Nonministerial actions.” An action in which the person exercises his own judgment as to the desirability of the action taken.

“Opinion.” A directive of the State Ethics Commission issued pursuant to section 1107(10) (relating to powers and duties of commission) setting forth a public official’s or public employee’s duties under this chapter.

“Order.” A directive of the State Ethics Commission issued pursuant to section 1107(13) (relating to powers and duties of commission) at the conclusion of an investigation which contains findings of fact, conclusions of law and penalties.

“Person.” A business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

“Political contribution.” Any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fund-raising affair, or subscription of money or anything of value, except volunteer services, in connection with a political campaign, and any contract, agreement, promise or other obligations, whether or not legally enforceable, to make a political contribution.

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.

“Public employee.” Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact than a *de minimis* nature on the interests of any person.

The term shall not include individuals who are employed by this Commonwealth or any political subdivision thereof in teaching as distinguished from administrative duties.

“Public official.” Any person elected by the public or elected or appointed by a governmental body or an appointed official in the executive, legislative or judicial branch of this Commonwealth or any political subdivision thereof, provided that it

shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or any political subdivision thereof.

“Represent.” To act on behalf of any other person in any activity which includes, but is not limited to, the following: personal appearances, negotiations, lobbying and submitting bid or contract proposals which are signed by or contain the name of a former public official or public employee.

“Solicitor.” A person elected or appointed to the office of solicitor for the political subdivision.

“Source.” Any person who is provider of an item reportable under section 1105 (relating to statement of financial interests).

“State consultant.” A person who, as an independent contractor, performs professional, scientific, technical or advisory service for an agency of this Commonwealth, and who receives a fee, honorarium or similar compensation for such services. A State consultant is not an executive-level employee.

§1103. Restricted activities

- (a) **Conflict of interest.** – No public official or public employee shall engage in conduct that constitutes a conflict of interest.
- (b) **Seeking improper influence.** – No person shall offer or give to a public official, public employee or nominee or candidate for public office or a member of his immediate family or a business with which he is associated, anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror’s or donor’s understanding that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.
- (c) **Accepting improper influence.** – No public official, public employee or nominee or candidate for public office shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that public official, public employee or nominee that the vote, official action or judgment of the public official or public employee or

nominee or candidate for public office would be influenced thereby.

(d) Honorarium. – No public official or public employee shall accept an honorarium.

(e) Contingent and severance payments. –

(1) No person shall solicit or accept a severance payment or anything of monetary value contingent upon the assumption or acceptance of public office or employment.

(2) This subsection shall not prohibit:

- i. Payments received pursuant to an employment agreement in existence prior to the time a person becomes a candidate or is notified by a member of a transition team, a search committee or a person with appointive power that he is under consideration for public office or makes application for public employment.
- ii. Receipt of a salary, fees, severance payment or proceeds resulting from the sale of a person's interest in a corporation, professional corporation, partnership or other entity resulting from termination or withdrawal therefrom upon the assumption or acceptance of public office or employment.

(3) Payments made or received pursuant to paragraph (2)(i) and (ii) shall not be based on the agreement, written or otherwise, that the vote or official action of the prospective public official or employee would be influenced thereby.

(f) Contract. – No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract. Any contract or subcontract made in violation of this subsection shall be voidable by a court of competent

jurisdiction if the suit is commenced within 90 days of the making of the contract or subcontract.

(g) Former official or employee. – No former public official or public employee shall represent a person, with promised or actual compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body.

(h) Misuse of statement of financial interest. – No person shall use for any commercial purpose information copied from statements of financial interests required by this chapter or from lists compiled from such statements.

(i) Former executive-level employee. – No former executive-level State employee may for a period of two years from the time that he terminates employment with this Commonwealth be employed by, receive compensation from, assist or act in a representative capacity for a business or corporation that he actively participates in recruiting to this Commonwealth or that he actively participated in inducing to open a new plant, facility or branch in this Commonwealth or that he actively participated in inducing to expand an existent plant or facility within this Commonwealth, provided that the above prohibition shall be invoked only when the recruitment or inducement is accomplished by a grant or loan of money or a promise of a grant or loan of money from the Commonwealth to the business or corporation recruited or induced to expand.

(j) Voting conflict. – Where voting conflicts are not otherwise addressed by the Constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided here. In the case of a three-member governing body of a political subdivision, where one member has abstained from voting as a result of a conflict of interest and the remaining two members of the governing body have cast opposing votes, the member who has abstained shall be permitted to vote to break the tie vote if disclosure is made as otherwise provided herein.

§1104. Statement of financial interests required to be filed

(a) Public official or public employee. – Each public official of the Commonwealth shall file a statement of financial interest for the preceding calendar year with the commission no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Each public employee and public official of the Commonwealth shall file a statement of financial interests for the preceding calendar year with the department, agency, body or bureau in which he is employed or to which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Any other public employee or public official shall file a statement of financial interests with the governing authority of the political subdivision by which he is employed or within which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Persons who are full-time or part-time solicitors for political subdivisions are required to file under this section.

(b) Candidate. –

(1) Any candidate for a State-level public office shall file a statement of financial interests for the preceding calendar year with the commission on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(2) Any candidate for county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he is a candidate on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(3) No petition to appear on the ballot for election shall be accepted by the respective State or local election officials unless the petition has appended thereto a statement of financial interests as set forth in paragraphs (1) and (2). Failure to file the statement in accordance with the provisions of this chapter shall, in addition to any other penalties provided, be a fatal defect to a petition to appear on the ballot.

(c) Nominee. – Each State-level nominee for public office shall file a statement of financial interests for the preceding calendar year with the commission and with the official or body that is vested with the power of confirmation at least ten days before the official or body shall approve or reject the nomination. Each nominee for a county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the

political subdivision in which he or she is a nominee and, if different, with the official or body that is vested with the power of confirmation at least ten days before the official or body shall approve or reject the nomination.

- (e) **Failure to file required statement.** – No public official shall be allowed to take the oath of office or enter or continue upon his duties, not shall he receive compensation from public funds, unless he has filed a statement of financial interests as required by this chapter.

APPENDIX D

Frequently Asked Questions

NOTE: For the purposes of this section the term “City employee” shall include: employees, elected officials and agents of the City of Pittsburgh.

Q. Can a City employee run for a public office?

A. It depends. Some City employees, such as Police Bureau employees (see City Code § 195.01 – 195.02) may be required, by ordinance, to take a leave of absence while running for public office. A Police Bureau employee is also prohibited from holding a public or political office, thus, a Police Bureau employee would have to resign from employment with the Police Bureau, if elected to either a public or political office. City Council persons are prohibited from holding any other government office or position, with certain exceptions. (See page 7 of this Ethics Handbook for further explanation.) City employees are prohibited from holding an elected public office *that provides a salary* while employed by the City of Pittsburgh, unless a leave of absence is taken without pay. City employees may only take a six month leave of absence if approved by the appropriate supervisor, unless that supervisor renews the leave of absence for another period of six months. (Home Rule Charter Section 705 & City Code § 189.02). Please contact the Law Department for further information about specific elected public positions.

Q. Can a City employee hold an elected position in political party, such as ward chairperson or committee person, at the same time that the City employs him?

A. Yes, the rights of City employees to hold an office within a political party or to support a political party are protected by the Home Rule Charter. An elected *party* office is not considered an elected *public* office (Section 705 Home Rule Charter). **Note: separate restrictions apply to Police Bureau employees and City Council members**, please see page 7 of this Handbook for further information.

Q. Can a City employee contribute to political campaigns?

A. Yes, subject to some restrictions. City employees are not permitted to contribute more than \$100 during any consecutive four-year period to any political campaign of his/her employer or supervisor. Department Directors, the

Mayor's Executive Secretary and Chief Administrative Officer may contribute up to \$200 during any consecutive four-year period.

Q. Can a City employee teach courses at Community College or a State related University?

A. Yes, as long as the City employee is an independent contractor and not directly employed by the college or university. (Independent contractors are usually issued a 1099 form for tax purposes.) It should be noted that there is no prohibition against City employees being directly employed by private colleges and universities that are not affiliated with the State or County (Home Rule Charter section 707).

Q. Can a City employee accept an honorarium?

A. The answer to this question depends on the person's position with the City of Pittsburgh. Please contact the Law Department for job specific information (65 Pa. C.S.A. § 1103(d)(1)).

Q. Can a City employee bid on homes sold through the Finance Department or on cars sold at the Tow Pound auction, equipment sold at the Equipment Leasing Authority auctions or other auctions?

A. It depends. Under the City ethics code an employee is allowed to bid at certain auctions as long as the employee is not receiving anything of value on terms better than what is available to the public at large. However, the City Code does empower General Services to make their own regulations pertaining to bidding at auctions. Thus, although there may not be an ethical prohibition against City employees bidding at City auctions, General Services may choose to prohibit employees of their Department or all City employees from participating in their auctions. City employees should check with the Department sponsoring the auction to make sure that they are allowed to participate (Home Rule Charter 706 & City Code § 165.02).

Q. Can a City employee advocate the hiring of a close family member, such as a child, sibling, parent or spouse, to a City job?

A. No, a City employee may not advocate the hiring of a close family member (City Code § 197.05).

Q. Can a City employee be required to contribute to a political campaign or to the United Way?

A. No, a City employee cannot be compelled to contribute to **any** fund other than that required by law (Home Rule Charter section 705).

Q. Are there any ethical restrictions after I stop working for the City?

A. Yes. Any person that served as a public official or public employee is prohibited, for a period of twelve months from the time that employment or service is terminated, from (1) representing any person before a governmental body with which the employee was associated; and (2) representing any person with respect to any case, proceeding, approval, contract or other matter with respect to which the employee had substantial participation during the course of his/her employment with the City. (City Code § 197.06)

Q. What can I do to protect myself from ethical violations?

A. Any public official or public employee may request an advisory opinion from the Ethics Hearing Board or the City Solicitor. An advisory opinion may be used as a defense in any subsequent or prosecution, as long as the opinion was requested in good faith.

Q. How do I file an ethics complaint?

A. Refer to Section VIII, page 8, of this Handbook. Complaint forms can be obtained from the Law Department.

Q. Who do I contact if I have a question about ethics?

A. The Law Department is available to all City employees to answer questions about ethics. If you have a question, please do not hesitate to contact the Law Department at **(412) 255-2015**.