



MEMORANDUM

May 2, 2013

TO: Mayor Lee and Councilmembers

FROM: Lori Riordan, City Attorney, 452-6829
Myrna Basich, City Clerk, 452-2733

RE: Proposed Code of Ethics Legislation

Mayor Lee and Councilmembers,

On Monday, April 22, 2013, Council decided to postpone this item until Monday, May 6, 2013. Council members agreed at that time to review the proposed legislation and provide feedback to staff in order to determine which of the alternative complaint investigation processes would be preferable for the final legislation.

We received very little feedback from Council members regarding the proposed Code of Ethics and, specifically, the alternatives for addressing complaints brought against Officials for alleged violations of the provisions of the new Ethics Code.

We have prepared three versions of the legislation for your consideration, each of them containing one of the three alternative procedures found in the draft ordinance language contained in the April 22, 2013 Study Session packet:

- Version A includes the option for the Ethics Officer to determine that a formal hearing is necessary to determine whether an ethics violation has occurred.
- Version B envisions a less formal interaction between the Ethics Officer, the complaining party and the respondent Official to gather the information necessary for the Ethics Officer to determine whether an ethics violation has occurred.
- Version C provides that the Ethics Officer will be charged with responsibility for creating procedures by which he or she will investigate complaints and determine whether an ethics violation has occurred.

CITY COUNCIL STUDY SESSION ITEM

SUBJECT:

Draft amendments to BCC Chapter 3.92 relating to the Code of Ethics for City Council and Council-appointed boards, commissions, and committees

STAFF CONTACT

Lori Riordan, City Attorney 452-6829
City Attorney's Office

Myrna Basich, Assistant City Manager/City Clerk 452-2733
City Clerk's Office

POLICY ISSUES

Bellevue City Code (BCC):

- Chapter 3.90 BCC establishes guidelines for ethical standards of conduct for employees.
- Chapter 3.92 BCC establishes separate guidelines for the City Council and Council-appointed Boards, Commissions, and committees. It was last amended in 1989 and states that city business shall be conducted in accordance with high ethical standards. It adopts Chapters 42.22 and 42.23 RCW by reference and does not recognize the later repeal of Chapter 42.22 or creation of Chapter 42.52 RCW, Ethics in Public Service, which occurred in 1994.

DIRECTION NEEDED FROM COUNCIL

- Action
 Discussion
 Information

Draft ordinance language, including arraying options for further consideration relating to administration of ethics complaints brought pursuant to a revised Chapter 3.92, has been provided for Council discussion and direction. Staff will modify the draft ordinance language based on Council direction, including adding appropriate background information in the form of Whereas clauses, and return with it for Council action at a later meeting.

BACKGROUND

Council has previously expressed interest in amending the City's ethics code provisions for City Council and requested that staff research a number of other Washington cities' ethics codes to identify current models for consideration. Councilmembers discussed the need for a policy that would not be so overly restrictive that it would impede citizens' ability to participate on the Council or Council-appointed bodies, that would more clearly define what is or isn't a conflict, and that would provide greater clarity on the process to be used to secure advisory opinions and address potential violations.

At the annual January retreat, Council reviewed results of preliminary staff research on other cities' ethics provisions (including Bainbridge Island, Federal Way, Kirkland, Seattle, and Tacoma), discussed

research in some areas and brief Councilmembers on results. Council further discussed modifications to the ethics code at its March 1 meeting and directed staff to develop draft ordinance language modeled on the Kirkland code.

The City of Kirkland in 2012 completed adoption of a new Code of Ethics based on the work of an ad hoc citizen task force working with a subcommittee of the City Council to draft new code language. The Kirkland code takes an aspirational approach intended to promote public confidence in the integrity of local government and its fair operation and utilizes a contract Ethics Officer rather than an elected or appointed ethics commission.

Based on direction provided by Council, the draft Code being presented for consideration tonight would apply to Council and Council-appointed groups such as Boards and Commissions and committees. It provides key definitions, including a definition of “family”, and is divided into two substantive sections, 3.92.030 addressing Prohibited Conduct and 3.92.040 addressing Ethical Standards. The remainder of the draft code addresses how the Code will be administered, including the creation of a contract position of Ethics Officer, handling of complaints and, in the case that a violation may have occurred, options for responding to the complaint, holding of a hearing, and enforcement. Modifications to the Kirkland code language have been displayed in redline for easy identification. At the request of Council, Kirkland’s requirement for financial disclosures was not incorporated since (1) adding a local filing requirement would be redundant with Councilmembers’ obligatory annual filings with the Public Disclosure Commission, and (2) because of the burden that would be placed on Board, Commission and Council-appointed committee members who are serving in a volunteer capacity.

Council feedback on the preferred alternative for section 3.92.070A.5, relating to complaint procedures in the case that the Official about whom a complaint has been made files a written response to the complaint, and other general feedback about the draft ethics code language is requested this evening.

ATTACHMENT

1. BCC Chapter 3.92 Code Of Ethics – City Council and City Boards, Commissions and Committees
2. Draft Code amendment language

Chapter 3.92
CODE OF ETHICS – CITY COUNCIL AND CITY BOARDS, COMMISSIONS AND
COMMITTEES

Sections:

- 3.92.010 Declaration of policy and purpose.
- 3.92.020 Adoption of state law by reference.
- 3.92.030 Violations – Penalties.

3.92.010 Declaration of policy and purpose.

It is the policy of the city council that the council and city boards, commissions and committees conduct city business in accordance with high ethical standards. It is the purpose of this chapter to establish standards of ethical behavior which will govern members of the city council and members of all city boards, commissions and committees. (Ord. 4049 § 1, 1989.)

3.92.020 Adoption of state law by reference.

To the extent that they are by their terms applicable to public officers, public officials and municipal officers, Chapters 42.22 and 42.23 RCW are adopted by this reference and made applicable to members of the city council and the city's boards, commissions and committees. (Ord. 4049 § 1, 1989.)

3.92.030 Violations – Penalties.

Any violation of this chapter by any member of the city council or of any city board, commission or committee shall be punishable as provided in Chapters 42.22 and 42.23 RCW, respectively. (Ord. 4049 § 1, 1989.)

Draft Ethics Code amendment language for Council consideration

3.92.010 - POLICY

A. Purpose. The Bellevue City Council has adopted a Code of Ethics for members of the City Council and Council-appointed public bodies to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

B. Intent. The citizens and businesses of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. In keeping with the City of Bellevue's commitment to excellence, the effective functioning of democratic government therefore requires that:

- (1) public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
- (2) public officials be independent, impartial and fair in their judgment and actions;
- (3) public office be used for the public good, not for personal gain; and
- (4) public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

3.92.020 – DEFINITIONS

A. "Official" means a member of the City Council or a member of Council-appointed City boards and commissions and other Council-appointed task groups or committees, including youth members.

B. "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

C. "Financial interest" except as expressly limited herein means rights of a monetary nature with a readily ascertainable cash value in a state-regulated entity such as a corporation, LLC, firm or enterprise.

3.92.030 – PROHIBITED CONDUCT

A. *Conflicts of Interest*. In order to ensure their independence and impartiality on behalf of the common good, Officials shall not participate in government decisions in which any of the following has a financial interest:

1. The Official,
2. A relative,
3. An individual with whom the Official resides, or
4. An entity that the Official serves as an officer, director, trustee, partner or employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to (a) decisions regarding taxes or fees, (b) if the financial interest is shared with more than ten percent (10%) of the City's population similarly situated under the applicable circumstances, or (c) if the financial interest exists solely because of the Official's ownership of less than one percent (1%) of the outstanding shares of a publicly traded corporation.

B. *Appearance of Conflict.* If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Official's judgment is impaired by the appearance of a conflict, the Official shall not participate in the matter until after making a public, written disclosure of the facts giving rise to the appearance of a conflict. For purposes of this disclosure "appearance of a conflict" would exist because of either:

1. A personal or business relationship not covered under the foregoing paragraph, or
2. A transaction or activity engaged in by the Official.

C. *Misuse of Public Position or Resources.* Except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for other than a City purpose.

D. *Representation of Third Parties.* Except in the course of official duties, Officials shall not appear on behalf of the financial interests of third parties before the bodies on which the Officials serve or in interaction with assigned staff. Further, the members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.

E. *Solicitation of Charitable Contributions.* No official may make direct personal solicitations for charitable contributions from City employees.

F. *Gifts and Favors.* Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited or received or given, or to a reasonable person, would appear to have been solicited, or received or given with intent to give or obtain special consideration or influence as to any action by the Official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as follows:

1. No Official may accept gifts, other than those specified in subsection 2 of this section, with an aggregate value in excess of fifty dollars (\$50) from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars (\$50) in accordance with RCW 42.52.150(1); provided, that if the fifty dollar (\$50) limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount. For purposes of this section, "single source" means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs. The value of gifts given to an Official's family member or guest shall be attributed to the Official for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

2. The following items are presumed not to influence the vote, action, or judgment of the Official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by subsection 1 of this section:
- a. Unsolicited flowers, plants and floral arrangements;
 - b. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
 - c. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
 - d. Unsolicited items received by an Official for the purpose of evaluation or review, if the Official has no personal beneficial interest in the eventual use or acquisition of the item;
 - e. Informational materials, publications or subscriptions related to the recipient's performance of official duties;
 - f. Food and beverages consumed at hosted receptions where attendance is related to the Official's duties for the City;
 - g. Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental or community organization;
 - h. Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and
 - i. Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the Official is related to the performance of official duties.
3. The presumption in subsection 2 is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

G. *Confidential Information.* Officials shall not disclose or use any confidential information gained by reason of their official position for other than a City purpose. "Confidential Information" means

1. Specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and
2. Information made confidential by law.

3.92.040 – ETHICAL STANDARDS

In addition to Section 3.92.030 of the Code of Ethics, which shall be administered by the Ethics Officer, Officials are encouraged to comply with the following standards:

- A. *Compliance with other laws.* Officials shall comply with Federal, State and City laws in the performance of their public duties. These laws include, but are not limited to: The United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. See Appendix A. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee. Except under limited circumstances described in RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to office, or form the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

- B. *Personal Integrity.* The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate this Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics.
- C. *Working for the Common Good.* Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Bellevue and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.
- D. *Respect for Process.* Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.
- E. *Commitment to Transparency.* Transparency, openness and accountability are fundamental values of the City – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including Email and other electronic records, are subject to requirements for retention, protection and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage or destroy the original copy of any public record unless the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer together with the City Attorney, to decide which records meet the definition of “public record” and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.
- F. *Conduct of Public Meetings.* Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; or otherwise interfering with the orderly conduct of meetings.
- G. *Decisions Based on Merit.* Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

- H. *Ex parte Communications.* In quasi-judicial matters, Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
- I. *Attendance.* As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings.
- J. *Nepotism.* The City Council will not appoint Relatives of City Council Members to boards or commissions or other appointed positions.
- K. *Advocacy.* When acting in an official capacity as a City Official representing the City, Officials shall represent the official policies or positions of the City Council, board or commission to the best of their ability when the City Council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Bellevue, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during Council meetings, board/commission meetings, or other official City meetings. However, this does not preclude Officials from participating in ceremonial occasions, community events or other events sponsored by civic groups.
- L. *Policy Role of Officials.* Officials shall respect and adhere to the council-manager structure of Bellevue City government as outlined by Chapter 35A.13 RWC. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by State law, Officials shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

Appendix A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance
Ch. 35A.13 RCW	Council-manager plan of government
RCW 35A.13.020	Incompatible offices
Ch. 40.13 RCW	Preservation and destruction of public records
RCW 42.17.130	Use of public office or agency facilities in campaigns – prohibition – exceptions
RCW 42.17.750	Solicitation of contributions by public officials or employees
Ch. 42.23 RCW	Code of ethics for municipal officers – contract interests
Ch. 42.36 RCW	Appearance of fairness doctrine – limitations
Ch. 42.56 RCW	Public Records Act

3.92.050 – ETHICS OFFICER

A. The City Council creates the position of Ethics Officer. The City Manager will contract with one or more agencies or persons to fill this position. The Ethics Officer will provide for annual review of this Code of Ethics, review of training materials provided for education regarding the Code of Ethics, and advisory opinions concerning the Code of Ethics. **The Ethics Officer shall also be responsible for the prompt and fair enforcement of its provisions when necessary.**

B. The Ethics Officer, in addition to other duties, may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.

3.92.060. - ADVISORY OPINIONS

A. Upon request of any Official, the Ethics Officer shall render written advisory opinions concerning the applicability of Sections 3.92.030 and 3.92.040 of this Code to hypothetical circumstances and/or situations solely related to the persons making the request. The Ethics Officer will not render opinions on matters that are the purview of other government agencies such as the Public Disclosure Commission or the King County Prosecutor.

B. Upon request of any Official, the Ethics Officer may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

C. The Ethics Officer will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

D. An Official's conduct based in reasonable reliance on an advisory opinion rendered by the Ethics Officer shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, the Ethics Officer issues an advisory opinion that the described conduct would not violate the Code of Ethics, and the Official's conduct is consistent with the advisory opinion. The Ethics Officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that, should portions of the opinion be found to be unenforceable or not within the Ethics Officer's authority, the remainder of the opinion shall remain intact.

E. All Officials subject to this chapter are strongly encouraged to seek advisory opinions from the Ethics Officer at the earliest possible opportunity whenever an official has reason to believe that his or her circumstances could present a conflict of interest or the appearance of a conflict of interest or any other violation of this chapter.

3.92.070 – COMPLAINTS, INVESTIGATIONS, AND ENFORCEMENT

A. Complaint procedures.

1. Any natural person who believes an Official has committed a violation of the code may file a complaint with the Ethics Officer. Complaints shall be subject to the following requirements:

- a. The complaint must be based upon facts within the personal knowledge of the complainant;
- b. The complaint must be submitted in writing and signed under oath by the complainant;
- c. The complaint must include a detailed factual description of the alleged violation including the date, time and place of each occurrence and the name of the person or persons who are alleged to have committed a violation. The complaint must also refer to the specific provisions of the Code of Ethics which are alleged to have been violated;
- d. The complaint must be accompanied by all available documentation or other evidence known to the complainant to support the allegations of the complaint;
- e. The complaint must be filed within two years of the date of the occurrence or occurrences alleged to constitute a violation of the Code of Ethics.

2. Complaints shall be filed with the City Clerk who shall forward the complaint and any accompanying documentation and evidence to the Ethics Officer within two business days. The Ethics Officer shall review the complaint for compliance with the requirements of subsection 1 of this section. Should the Ethics Officer find that:

- a. The complaint is untimely; or
- b. The complaint has not been signed under oath; or
- c. The complaint does not, on its face, state facts which, if proven to be true, constitute a violation of the provision of this Code of Ethics referred to in the complaint; or
- d. The complaint fails to refer to a specific provision of the Code of Ethics which is alleged to have been violated,

the Ethics Officer shall, within 10 working days of the filing of the complaint, enter a written order stating the Ethics Officer's findings and, except as hereinafter provided, dismissing the complaint. The written order shall be transmitted to the complainant, the Official that is the subject of the complaint, and the City Council. If the Ethics Officer finds that the complaint is deficient pursuant to the findings in subsection 1(b) or (d) of this section, the Ethics Officer shall issue an order notifying the complainant

that unless a corrected complaint is filed within five days of the issuance of such order, the complaint shall be dismissed. The complainant may appeal the dismissal of a complaint under this subsection by filing an action in the King County superior court for a writ of certiorari pursuant to Chapter 7.16 RCW within 10 days of the date of issuance of the order dismissing the complaint.

3. For complaints which are not dismissed under subsection (2) of this section, the Ethics Officer shall direct the City Clerk to serve a complete copy of the complaint and any accompanying documentation and evidence to the respondent Official alleged to have committed a violation of the Code of Ethics. The Clerk shall serve a copy of the complaint and accompanying information upon the respondent Official by certified mail or by personal service not later than seven working days following the filing of the complaint.

4. The respondent Official shall, within 20 days of the date of mailing or personal service of the complaint by the Clerk, file with the Clerk any response to the complaint the respondent Official wishes to make. A response to a complaint shall be made in writing signed under oath by the respondent. A response may include a detailed statement of facts pertaining to the complaint made on personal knowledge of the respondent and may include any matter constituting a defense to the complaint. A response should be accompanied by all available documentation or other evidence known to the respondent Official which the respondent wishes the Ethics Officer to consider. The respondent Official may stipulate to some or all of the facts alleged in the complaint and shall either admit or deny the alleged violation. If the violation is admitted, the respondent may also submit an explanatory statement and may request a particular disposition.

ALTERNATIVE #1: Ethics Officer preliminary decision may call for hearing and Council decision on Ethics Officer's recommendations for sanctions

5. Upon receipt of a response to a complaint, the Ethics Officer shall review the complaint and response, together with all supporting documentation and evidence submitted by the complainant and the respondent Official. Within 10 days of receipt of the response (or, if no timely response is submitted, within 30 days of the date of mailing the complaint to the respondent by the City Clerk), the Ethics Officer shall issue a preliminary decision in writing and shall transmit a copy to the complainant and respondent Official. A preliminary decision shall include one of the following determinations:

- a. Determine that a hearing is necessary in order to obtain a clear determination of the facts relevant to the complaint; or
- b. Determine that, based upon the complaint and response, the facts relevant to the complaint are clearly established and no hearing is necessary.

6. When a preliminary decision is issued pursuant to subsection (5)(b) of this section, it shall contain findings and conclusions and a disposition of the complaint. If the Ethics Officer concludes a violation of the Code of Ethics was committed, the respondent Official who is the subject of the complaint may request a hearing before the Ethics Officer by filing a written request with the City Clerk within five (5) days of the issuance of the preliminary decision.. If such a request is not received by the City Clerk within the time specified, the preliminary decision shall become a final decision and shall be provided forthwith to all members of the City Council.

7. If the Ethics Officer concludes in his or her preliminary decision that it is necessary to hold a hearing pursuant to subsection (5)(a) of this section, the Clerk shall schedule a hearing not more than 30 days from the date of the preliminary decision and shall mail written notice of the hearing to the complainant, the respondent Official, and to any other person who has submitted a written request therefor. In addition, notice shall be provided by publication in the official city newspaper not less than five days prior to the date of the hearing.

8. All hearings on complaints before the Ethics Officer shall be de novo and a preliminary decision issued pursuant to subsection (E)(2) of this section, if any, shall have no force or effect and shall remain confidential. The parties may appear in person or through attorneys. Hearings shall be conducted in accordance with the following provisions:

- a. The complainant shall have the burden to prove by a preponderance of evidence that the violation or violations alleged in the complaint occurred.
- b. Not less than two days prior to the hearing date, the complainant and respondent shall each file with the Clerk, and serve upon the other party, a list of witnesses they wish to call at the hearing. Only those witnesses whose names appear on the witness lists may testify at the hearing. In exceptional circumstances and for good cause shown, the Ethics Officer may, in his or her discretion, permit additional witnesses to testify.
- c. At the commencement of the hearing, the Ethics Officer shall ask the parties to provide an estimate of the time required to present their evidence and arguments. The Ethics Officer shall then issue an order establishing a reasonable limit on the time for each party to present his or her case which shall be equal for

each party. The complainant may divide his or her allotted time between an opening presentation and rebuttal of the respondent's case. Each party may present opening and closing arguments.

d. All testimony shall be given under oath administered by the Ethics Officer. Subject to control by the Ethics Officer, each party shall be permitted to cross-examine the witnesses of the other party.

e. The Clerk shall electronically record all proceedings and shall assign exhibit numbers to, and become the custodian of, all documentary evidence.

f. The Ethics Officer shall have full authority to regulate the conduct of the hearing and may take any actions reasonably necessary to maintain an orderly proceeding. The Ethics Officer may continue a hearing to a date and time certain should the Ethics Officer determine that such continuance is necessary.

9. At the conclusion of a hearing on a complaint, the Ethics Officer shall prepare a written decision including findings of fact, conclusions of law and a determination of whether any violation of the Code of Ethics has been established. The final written decision shall be issued within 10 days and signed and dated by the Ethics Officer. The Clerk shall deliver a copy of the final written decision to the complainant, the respondent Official, the City Council and to any other person who has submitted a written request therefor.

10. If the final decision contains a determination that one or more violations of this Code of Ethics has occurred, the decision shall also contain any recommendations of the Ethics Officer to the City Council for any remedial action or sanction that the Council may find appropriate and lawful under the Council's Rules. If no appeal is filed in superior court, the Council in consultation with the City Attorney shall, within 45 days of the date of the decision, determine what, if any, of the recommendations of the Ethics Officers to adopt. Such determination shall be adopted at an open public meeting by a majority vote of those Officials who are not respondents to the complaint or complaints.

11. A final written decision may, within 30 days of the date of the written decision, be appealed by either the complainant or the respondent to the King County superior court by writ of certiorari pursuant to Chapter 7.16 RCW.

ALTERNATIVE #2: Ethics Officer decision appealable to Superior Court and Council decision on Ethics Officer's recommendations

5. Upon receipt of a response to a complaint, the Ethics Officer shall review the complaint and response, together with all supporting documentation and evidence submitted by the complainant and the respondent Official. Within 10 days of receipt of the response (or, if no timely response is submitted, within 30 days of the date of mailing the complaint to the respondent Official by the City Clerk), the Ethics Officer shall issue a decision in writing, including findings of fact, conclusions of law and a determination of whether any violation of the Code of Ethics has been established. The final written decision shall be signed and dated by the Ethics Officer. The City Clerk shall deliver a copy of the final written decision to the complainant, the respondent Official, the City Council and to any other person who has submitted a written request therefor.

6. Either the complainant or respondent Official may, within 30 days of the date of the written decision, appeal to the King County superior court by writ of certiorari pursuant to Chapter 7.16 RCW.

7. If the final decision of the Ethics Officer contains a determination that one or more violations of this Code of Ethics has occurred, the decision shall also contain any recommendations of the Ethics Officer to the City Council for any remedial action or sanction that the Council may find appropriate and lawful under the Council's Rules. If no appeal is filed in superior court, the Council in consultation with the City Attorney shall, within 45 days of the date of the decision, determine what, if any, of the recommendations of the Ethics Officers to adopt. Such determination shall be adopted at an open public meeting by a majority vote of those Officials who are not respondents to the complaint or complaints.

ALTERNATIVE #3: Ethics Officer to develop rules.

The Ethics Officer shall be responsible for developing rules governing the filing, investigation and decision on complaints made to the City alleging a violation or violations of the Ethics Code by an Official. The rules shall include safeguards for consideration of fairness of the process and public trust and transparency.

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6110-A

AN ORDINANCE repealing Bellevue City Code Chapter 3.92 and Ordinance No. 4049, and adopting new Bellevue City Code Chapter 3.92 providing for a Code of Ethics - City Council and City Boards, Commissions and Committees.

WHEREAS, the citizens and business of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity; and

WHEREAS, adopting a Code of Ethics for members of the City Council and the City's boards and commissions will promote public confidence in the integrity of local government and fair operation; and

WHEREAS, the Code of Ethics will provide the basis for education and training for City officials both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Chapter 3.92 and Ordinance No. 4049 are hereby repealed.

Section 2. A new Chapter 3.92 is hereby adopted to read as follows:

3.92.010 - POLICY

A. *Purpose.* The Bellevue City Council has adopted a Code of Ethics for members of the City Council and Council-appointed public bodies to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

B. *Intent.* The citizens and businesses of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. In keeping with the City of Bellevue's commitment to excellence, the effective functioning of democratic government therefore requires that:

(1) public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;

(2) public officials be independent, impartial and fair in their judgment and actions;

(3) public office be used for the public good, not for personal gain; and
(4) public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

3.92.020 – DEFINITIONS

A. "Official" means a member of the City Council or a member of Council-appointed City boards and commissions and other Council-appointed task groups or committees, including youth members.

B. "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

C. "Financial interest" except as expressly limited herein means rights of a monetary nature with a readily ascertainable cash value in a state-regulated entity such as a corporation, LLC, firm or enterprise.

3.92.030 – PROHIBITED CONDUCT

A. *Conflicts of Interest.* In order to ensure their independence and impartiality on behalf of the common good, Officials shall not participate in government decisions in which any of the following has a financial interest:

1. The Official,
2. A relative,
3. An individual with whom the Official resides, or
4. An entity that the Official serves as an officer, director, trustee, partner or employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to (a) decisions regarding taxes or fees, (b) if the financial interest is shared with more than ten percent (10%) of the City's population similarly situated under the applicable circumstances of the proposed legislation or other action, or (c) if the financial interest exists solely because of the Official's ownership of less than one percent (1%) of the outstanding shares of a publicly traded corporation.

B. *Appearance of Conflict.* If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Official's judgment is impaired by the appearance of a conflict, the Official shall not participate in the matter until after making a public, written disclosure of the facts giving rise to the appearance of a

conflict. For purposes of this disclosure “appearance of a conflict” would exist because of either:

1. A personal or business relationship not covered under the foregoing paragraph, or

2. A transaction or activity engaged in by the Official.

C. *Misuse of Public Position or Resources.* Except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for other than a City purpose.

D. *Representation of Third Parties.* Except in the course of official duties, Officials shall not appear on behalf of the financial interests of third parties before the bodies on which the Officials serve or in interaction with assigned staff. Further, the members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.

E. *Solicitation of Charitable Contributions.* No official may make direct personal solicitations for charitable contributions from City employees.

F. *Gifts and Favors.* Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited or received or given, or to a reasonable person, would appear to have been solicited, or received or given with intent to give or obtain special consideration or influence as to any action by the Official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as follows:

1. No Official may accept gifts, other than those specified in subsection 2 of this section, with an aggregate value in excess of fifty dollars (\$50) from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars (\$50) in accordance with RCW 42.52.150(1); provided, that if the fifty dollar (\$50) limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount. For purposes of this section, “single source” means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and “single gift” includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs. The value of gifts given to an Official’s family member or guest shall be attributed to the Official for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

2. The following items are presumed not to influence the vote, action, or judgment of the Official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by subsection 1 of this section:

- a. Unsolicited flowers, plants and floral arrangements;
- b. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- c. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- d. Unsolicited items received by an Official for the purpose of evaluation or review, if the Official has no personal beneficial interest in the eventual use or acquisition of the item;
- e. Informational materials, publications or subscriptions related to the recipient's performance of official duties;
- f. Food and beverages consumed at hosted receptions where attendance is related to the Official's duties for the City;
- g. Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental or community organization;
- h. Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and
- i. Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the Official is related to the performance of official duties.

3. The presumption in subsection 2 is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

G. *Confidential Information.* Officials shall not disclose or use any confidential information gained by reason of their official position for other than a City purpose. "Confidential Information" means

1. Specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and
2. Information made confidential by law.

3.92.040 – ETHICAL STANDARDS

In addition to Section 3.92.030 of the Code of Ethics, which shall be administered by the Ethics Officer, Officials are encouraged to comply with the following standards:

A. *Compliance with other laws.* Officials shall comply with Federal, State and City laws in the performance of their public duties. These laws include, but are not limited to: The United States and Washington constitutions; laws pertaining to conflicts of interest; election campaigns, financial disclosures and open processes of government; and City ordinances and policies. See Appendix A. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee. Except under limited circumstances described in RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to office, or form the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

B. *Personal Integrity.* The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate this Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics.

C. *Working for the Common Good.* Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Bellevue and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.

D. *Respect for Process.* Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

E. *Commitment to Transparency.* Transparency, openness and accountability are fundamental values of the City – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including

Email and other electronic records, are subject to requirements for retention, protection and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage or destroy the original copy of any public record unless the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer together with the City Attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

F. *Conduct of Public Meetings.* Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; or otherwise interfering with the orderly conduct of meetings.

G. *Decisions Based on Merit.* Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

H. *Ex parte Communications.* In quasi-judicial matters, Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

I. *Attendance.* As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings.

J. *Nepotism.* The City Council will not appoint Relatives of City Council Members to boards or commissions or other appointed positions.

K. *Advocacy.* When acting in an official capacity as a City Official representing the City, Officials shall represent the official policies or positions of the City Council, board or commission to the best of their ability when the City Council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Bellevue, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during Council meetings, board/commission meetings, or other official City meetings. However, this does not preclude Officials from participating in ceremonial occasions, community events or other events sponsored by civic groups.

L. *Policy Role of Officials.* Officials shall respect and adhere to the council-manager structure of Bellevue City government as outlined by Chapter 35A.13 RWC. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by State law, Officials shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

Appendix A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance
Ch. 35A.13 RCW	Council-manager plan of government
RCW 35A.13.020	Incompatible offices
Ch. 40.13 RCW	Preservation and destruction of public records
RCW 42.17.130	Use of public office or agency facilities in campaigns – prohibition – exceptions
RCW 42.17.750	Solicitation of contributions by public officials or employees
Ch. 42.23 RCW	Code of ethics for municipal officers – contract interests
Ch. 42.36 RCW	Appearance of fairness doctrine – limitations
Ch. 42.56 RCW	Public Records Act

3.92.050 – ETHICS OFFICER

A. The City Council creates the position of Ethics Officer. The City Manager will contract with one or more agencies or persons to fill this position. The Ethics Officer will provide for annual review of this Code of Ethics, review of training materials provided for education regarding the Code of Ethics, and advisory opinions concerning the Code of Ethics. The Ethics Officer shall also be responsible for the prompt and fair enforcement of its provisions when necessary.

B. The Ethics Officer, in addition to other duties, may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.

3.92.060. - ADVISORY OPINIONS

A. Upon request of any Official, the Ethics Officer shall render written advisory opinions concerning the applicability of Sections 3.92.030 and 3.92.040 of this Code to hypothetical circumstances and/or situations solely related to the persons making the request. The Ethics Officer will not render opinions on matters that are the purview of other government agencies such as the Public Disclosure Commission or the King County Prosecutor.

B. Upon request of any Official, the Ethics Officer may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

C. The Ethics Officer will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

D. An Official's conduct based in reasonable reliance on an advisory opinion rendered by the Ethics Officer shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, the Ethics Officer issues an advisory opinion that the described conduct would not violate the Code of Ethics, and the Official's conduct is consistent with the advisory opinion. The Ethics Officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that, should portions of the opinion be found to be unenforceable or not within the Ethics Officer's authority, the remainder of the opinion shall remain intact.

E. All Officials subject to this chapter are strongly encouraged to seek advisory opinions from the Ethics Officer at the earliest possible opportunity whenever an official has reason to believe that his or her circumstances could present a conflict of interest or the appearance of a conflict of interest or any other violation of this chapter.

3.92.070 – COMPLAINTS, INVESTIGATIONS, AND ENFORCEMENT

A. Complaint procedures.

1. Any natural person who believes an Official has committed a violation of the code may file a complaint with the Ethics Officer. Complaints shall be subject to the following requirements:

a. The complaint must be based upon facts within the personal knowledge of the complainant;

b. The complaint must be submitted in writing and signed under oath by the complainant;

c. The complaint must include a detailed factual description of the alleged violation including the date, time and place of each occurrence and the name of the person or persons who are alleged to have committed a violation. The complaint must also refer to the specific provisions of the Code of Ethics which are alleged to have been violated;

d. The complaint must be accompanied by all available documentation or other evidence known to the complainant to support the allegations of the complaint;

e. The complaint must be filed within two years of the date of the occurrence or occurrences alleged to constitute a violation of the Code of Ethics.

2. Complaints shall be filed with the City Clerk who shall forward the complaint and any accompanying documentation and evidence to the Ethics Officer within two business days. The Ethics Officer shall review the complaint for compliance with the requirements of subsection 1 of this section. Should the Ethics Officer find that:

a. The complaint is untimely; or

b. The complaint has not been signed under oath; or

c. The complaint does not, on its face, state facts which, if proven to be true, constitute a violation of the provision of this Code of Ethics referred to in the complaint; or

d. The complaint fails to refer to a specific provision of the Code of Ethics which is alleged to have been violated,

the Ethics Officer shall, within 10 working days of the filing of the complaint, enter a written order stating the Ethics Officer's findings and, except as hereinafter provided, dismissing the complaint. The written order shall be transmitted to the complainant, the Official that is the subject of the complaint, and the City Council. If the Ethics Officer finds that the complaint is deficient pursuant to the findings in subsection 1(b) or (d) of this section, the Ethics Officer shall issue an order notifying the complainant that unless a corrected complaint is filed within five days of the issuance of such order, the complaint shall be dismissed. The complainant may appeal the dismissal of a complaint under this subsection by filing an action in the King County superior court for a writ of certiorari pursuant to Chapter 7.16 RCW within 10 days of the date of issuance of the order dismissing the complaint.

3. For complaints which are not dismissed under subsection (2) of this section, the Ethics Officer shall direct the City Clerk to serve a complete copy of the complaint and any accompanying documentation and evidence to the respondent Official alleged to have committed a violation of the Code of Ethics. The Clerk shall serve a copy of the complaint and accompanying information upon the respondent Official by certified mail or by personal service not later than seven working days following the filing of the complaint.

4. The respondent Official shall, within 20 days of the date of mailing or personal service of the complaint by the Clerk, file with the Clerk any response to the complaint the respondent Official wishes to make. A response to a complaint shall

be made in writing signed under oath by the respondent. A response may include a detailed statement of facts pertaining to the complaint made on personal knowledge of the respondent and may include any matter constituting a defense to the complaint. A response should be accompanied by all available documentation or other evidence known to the respondent Official which the respondent wishes the Ethics Officer to consider. The respondent Official may stipulate to some or all of the facts alleged in the complaint and shall either admit or deny the alleged violation. If the violation is admitted, the respondent may also submit an explanatory statement and may request a particular disposition.

5. Upon receipt of a response to a complaint, the Ethics Officer shall review the complaint and response, together with all supporting documentation and evidence submitted by the complainant and the respondent Official. Within 10 days of receipt of the response (or, if no timely response is submitted, within 30 days of the date of mailing the complaint to the respondent by the City Clerk), the Ethics Officer shall issue a preliminary decision in writing and shall transmit a copy to the complainant and respondent Official. A preliminary decision shall include one of the following determinations:

a. Determine that a hearing is necessary in order to obtain a clear determination of the facts relevant to the complaint; or

b. Determine that, based upon the complaint and response, the facts relevant to the complaint are clearly established and no hearing is necessary.

6. When a preliminary decision is issued pursuant to subsection (5)(b) of this section, it shall contain findings and conclusions and a disposition of the complaint. If the Ethics Officer concludes a violation of the Code of Ethics was committed, the respondent Official who is the subject of the complaint may request a hearing before the Ethics Officer by filing a written request with the City Clerk within five (5) days of the issuance of the preliminary decision. If such a request is not received by the City Clerk within the time specified, the preliminary decision shall become a final decision and shall be provided forthwith to all members of the City Council.

7. If the Ethics Officer concludes in his or her preliminary decision that it is necessary to hold a hearing pursuant to subsection (5)(a) of this section, the Clerk shall schedule a hearing not more than 30 days from the date of the preliminary decision and shall mail written notice of the hearing to the complainant, the respondent Official, and to any other person who has submitted a written request therefor. In addition, notice shall be provided by publication in the official city newspaper not less than five days prior to the date of the hearing.

8. All hearings on complaints before the Ethics Officer shall be de novo and a preliminary decision issued pursuant to subsection (E)(2) of this section, if any, shall have no force or effect and shall remain confidential. The parties may appear in person or through attorneys. Hearings shall be conducted in accordance with the following provisions:

a. The complainant shall have the burden to prove by a preponderance of evidence that the violation or violations alleged in the complaint occurred.

b. Not less than two days prior to the hearing date, the complainant and respondent shall each file with the Clerk, and serve upon the other party, a list of witnesses they wish to call at the hearing. Only those witnesses whose names appear on the witness lists may testify at the hearing. In exceptional circumstances and for good cause shown, the Ethics Officer may, in his or her discretion, permit additional witnesses to testify.

c. At the commencement of the hearing, the Ethics Officer shall ask the parties to provide an estimate of the time required to present their evidence and arguments. The Ethics Officer shall then issue an order establishing a reasonable limit on the time for each party to present his or her case which shall be equal for each party. The complainant may divide his or her allotted time between an opening presentation and rebuttal of the respondent's case. Each party may present opening and closing arguments.

d. All testimony shall be given under oath administered by the Ethics Officer. Subject to control by the Ethics Officer, each party shall be permitted to cross-examine the witnesses of the other party.

e. The Clerk shall electronically record all proceedings and shall assign exhibit numbers to, and become the custodian of, all documentary evidence.

f. The Ethics Officer shall have full authority to regulate the conduct of the hearing and may take any actions reasonably necessary to maintain an orderly proceeding. The Ethics Officer may continue a hearing to a date and time certain should the Ethics Officer determine that such continuance is necessary.

9. At the conclusion of a hearing on a complaint, the Ethics Officer shall prepare a written decision including findings of fact, conclusions of law and a determination of whether any violation of the Code of Ethics has been established. The final written decision shall be issued within 10 days and signed and dated by the Ethics Officer. The Clerk shall deliver a copy of the final written decision to the complainant, the respondent Official, the City Council and to any other person who has submitted a written request therefor.

10. If the final decision contains a determination that one or more violations of this Code of Ethics has occurred, the decision shall also contain any recommendations of the Ethics Officer to the City Council for any remedial action or sanction that the Council may find appropriate and lawful under the Council's Rules. If no appeal is filed in superior court, the Council in consultation with the City Attorney shall, within 45 days of the date of the decision, determine what, if any, of the recommendations of the Ethics Officers to adopt. Such determination shall be

adopted at an open public meeting by a majority vote of those Officials who are not respondents to the complaint or complaints.

11. A final written decision may, within 30 days of the date of the written decision, be appealed by either the complainant or the respondent to the King County superior court by writ of certiorari pursuant to Chapter 7.16 RCW.

Section 3. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 4. Effective Date. This ordinance shall take effect and be in force thirty days after passage and publication.

Passed by the City Council this _____ day of _____, 2013
and signed in authentication of its passage this _____ day of _____,
2013.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6110-B

AN ORDINANCE repealing Bellevue City Code Chapter 3.92 and Ordinance No. 4049, and adopting new Bellevue City Code Chapter 3.92 providing for a Code of Ethics - City Council and City Boards, Commissions and Committees.

WHEREAS, the citizens and business of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity; and

WHEREAS, adopting a Code of Ethics for members of the City Council and the City's boards and commissions will promote public confidence in the integrity of local government and fair operation; and

WHEREAS, the Code of Ethics will provide the basis for education and training for City officials both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Chapter 3.92 and Ordinance No. 4049 are hereby repealed.

Section 2. A new Chapter 3.92 is hereby adopted to read as follows:

3.92.010 – POLICY

A. *Purpose.* The Bellevue City Council has adopted a Code of Ethics for members of the City Council and Council-appointed public bodies to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

B. *Intent.* The citizens and businesses of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. In keeping with the City of Bellevue's commitment to excellence, the effective functioning of democratic government therefore requires that:

(1) public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;

(2) public officials be independent, impartial and fair in their judgment and actions;

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C. "Financial interest" except as expressly limited herein means rights of a monetary nature with a readily ascertainable cash value in a state-regulated entity such as a corporation, LLC, firm or enterprise.

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4. An entity that the Official serves as an officer, director, trustee, partner or employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to (a) decisions regarding taxes or fees, (b) if the financial interest is shared with more than ten percent (10%) of the City's population similarly situated under the applicable circumstances of the proposed legislation or other action, or (c) if the financial interest exists solely because of the Official's ownership of less than one percent (1%) of the outstanding shares of a publicly traded corporation.

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conflict. For purposes of this disclosure “appearance of a conflict” would exist because of either:

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B. *Personal Integrity.* The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate this Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics.

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Appendix A

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B. The Ethics Officer, in addition to other duties, may recommend changes or additions to this Code of Ethics to the City Council. The Ethics Officer shall provide input into and review the training materials and program developed for this Code of Ethics.

3.92.060. - ADVISORY OPINIONS

A. Upon request of any Official, the Ethics Officer shall render written advisory opinions concerning the applicability of Sections 3.92.030 and 3.92.040 of this Code to hypothetical circumstances and/or situations solely related to the persons making the request. The Ethics Officer will not render opinions on matters that are the purview of other government agencies such as the Public Disclosure Commission or the King County Prosecutor.

B. Upon request of any Official, the Ethics Officer may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

C. The Ethics Officer will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

D. An Official's conduct based in reasonable reliance on an advisory opinion rendered by the Ethics Officer shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, the Ethics Officer issues an advisory opinion that the described conduct would not violate the Code of Ethics, and the Official's conduct is consistent with the advisory opinion. The Ethics Officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that, should portions of the opinion be found to be unenforceable or not within the Ethics Officer's authority, the remainder of the opinion shall remain intact.

E. All Officials subject to this chapter are strongly encouraged to seek advisory opinions from the Ethics Officer at the earliest possible opportunity whenever an official has reason to believe that his or her circumstances could present a conflict of interest or the appearance of a conflict of interest or any other violation of this chapter.

3.92.070 - COMPLAINTS, INVESTIGATIONS, AND ENFORCEMENT

A. Complaint procedures.

1. Any natural person who believes an Official has committed a violation of the code may file a complaint with the Ethics Officer. Complaints shall be subject to the following requirements:

a. The complaint must be based upon facts within the personal knowledge of the complainant;

b. The complaint must be submitted in writing and signed under oath by the complainant;

c. The complaint must include a detailed factual description of the alleged violation including the date, time and place of each occurrence and the name of the person or persons who are alleged to have committed a

violation. The complaint must also refer to the specific provisions of the Code of Ethics which are alleged to have been violated;

d. The complaint must be accompanied by all available documentation or other evidence known to the complainant to support the allegations of the complaint;

e. The complaint must be filed within two years of the date of the occurrence or occurrences alleged to constitute a violation of the Code of Ethics.

2. Complaints shall be filed with the City Clerk who shall forward the complaint and any accompanying documentation and evidence to the Ethics Officer within two business days. The Ethics Officer shall review the complaint for compliance with the requirements of subsection 1 of this section. Should the Ethics Officer find that:

a. The complaint is untimely; or

b. The complaint has not been signed under oath; or

c. The complaint does not, on its face, state facts which, if proven to be true, constitute a violation of the provision of this Code of Ethics referred to in the complaint; or

d. The complaint fails to refer to a specific provision of the Code of Ethics which is alleged to have been violated,

the Ethics Officer shall, within 10 working days of the filing of the complaint, enter a written order stating the Ethics Officer's findings and, except as hereinafter provided, dismissing the complaint. The written order shall be transmitted to the complainant, the Official that is the subject of the complaint, and the City Council. If the Ethics Officer finds that the complaint is deficient pursuant to the findings in subsection 1(b) or (d) of this section, the Ethics Officer shall issue an order notifying the complainant that unless a corrected complaint is filed within five days of the issuance of such order, the complaint shall be dismissed. The complainant may appeal the dismissal of a complaint under this subsection by filing an action in the King County superior court for a writ of certiorari pursuant to Chapter 7.16 RCW within 10 days of the date of issuance of the order dismissing the complaint.

3. For complaints which are not dismissed under subsection (2) of this section, the Ethics Officer shall direct the City Clerk to serve a complete copy of the complaint and any accompanying documentation and evidence to the

respondent Official alleged to have committed a violation of the Code of Ethics. The Clerk shall serve a copy of the complaint and accompanying information upon the respondent Official by certified mail or by personal service not later than seven working days following the filing of the complaint.

4. The respondent Official shall, within 20 days of the date of mailing or personal service of the complaint by the Clerk, file with the Clerk any response to the complaint the respondent Official wishes to make. A response to a complaint shall be made in writing signed under oath by the respondent. A response may include a detailed statement of facts pertaining to the complaint made on personal knowledge of the respondent and may include any matter constituting a defense to the complaint. A response should be accompanied by all available documentation or other evidence known to the respondent Official which the respondent wishes the Ethics Officer to consider. The respondent Official may stipulate to some or all of the facts alleged in the complaint and shall either admit or deny the alleged violation. If the violation is admitted, the respondent may also submit an explanatory statement and may request a particular disposition.

5. Upon receipt of a response to a complaint, the Ethics Officer shall review the complaint and response, together with all supporting documentation and evidence submitted by the complainant and the respondent Official. Within 10 days of receipt of the response (or, if no timely response is submitted, within 30 days of the date of mailing the complaint to the respondent Official by the City Clerk), the Ethics Officer shall issue a decision in writing, including findings of fact, conclusions of law and a determination of whether any violation of the Code of Ethics has been established. The final written decision shall be signed and dated by the Ethics Officer. The City Clerk shall deliver a copy of the final written decision to the complainant, the respondent Official, the City Council and to any other person who has submitted a written request therefor.

6. Either the complainant or respondent Official may, within 30 days of the date of the written decision, appeal to the King County superior court by writ of certiorari pursuant to Chapter 7.16 RCW.

7. If the final decision of the Ethics Officer contains a determination that one or more violations of this Code of Ethics has occurred, the decision shall also contain any recommendations of the Ethics Officer to the City Council for any remedial action or sanction that the Council may find appropriate and lawful under the Council's Rules. If no appeal is filed in superior court, the Council in consultation with the City Attorney shall, within 45 days of the date of the decision, determine what, if any, of the recommendations of the Ethics Officers to adopt. Such determination shall be adopted at an open public meeting by a

majority vote of those Officials who are not respondents to the complaint or complaints.

ALTERNATIVE #3: Ethics Officer to develop rules.

The Ethics Officer shall be responsible for developing rules governing the filing, investigation and decision on complaints made to the City alleging a violation or violations of the Ethics Code by an Official. The rules shall include safeguards for consideration of fairness of the process and public trust and transparency.

Section 3. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 4. Effective Date. This ordinance shall take effect and be in force thirty days after passage and publication.

Passed by the City Council this _____ day of _____, 2013 and signed in authentication of its passage this _____ day of _____, 2013.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 0110-C

AN ORDINANCE repealing Bellevue City Code Chapter 3.92 and Ordinance No. 4049, and adopting new Bellevue City Code Chapter 3.92 providing for a Code of Ethics – City Council and City Boards, Commissions and Committees.

WHEREAS, the citizens and business of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity; and

WHEREAS, adopting a Code of Ethics for members of the City Council and the City's boards and commissions will promote public confidence in the integrity of local government and fair operation; and

WHEREAS, the Code of Ethics will provide the basis for education and training for City officials both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Chapter 3.92 and Ordinance No. 4049 are hereby repealed.

Section 2. A new Chapter 3.92 is hereby adopted to read as follows:

3.92.010 - POLICY

A. *Purpose.* The Bellevue City Council has adopted a Code of Ethics for members of the City Council and Council-appointed public bodies to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

B. *Intent.* The citizens and businesses of Bellevue are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. In keeping with the City of Bellevue's commitment to excellence, the effective functioning of democratic government therefore requires that:

(1) public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;

(2) public officials be independent, impartial and fair in their judgment and actions;

(3) public office be used for the public good, not for personal gain; and

(4) public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

3.92.020 - DEFINITIONS

A. "Official" means a member of the City Council or a member of Council-appointed City boards and commissions and other Council-appointed task groups or committees, including youth members.

B. "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

C. "Financial interest" except as expressly limited herein means rights of a monetary nature with a readily ascertainable cash value in a state-regulated entity such as a corporation, LLC, firm or enterprise.

3.92.030 - PROHIBITED CONDUCT

A. *Conflicts of Interest.* In order to ensure their independence and impartiality on behalf of the common good, Officials shall not participate in government decisions in which any of the following has a financial interest:

1. The Official,
2. A relative,
3. An individual with whom the Official resides, or

4. An entity that the Official serves as an officer, director, trustee, partner or employee. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. This section shall not apply to (a) decisions regarding taxes or fees, (b) if the financial interest is shared with more than ten percent (10%) of the City's population similarly situated under the applicable circumstances of the proposed legislation or other action, or (c) if the financial interest exists solely because of the Official's ownership of less than one percent (1%) of the outstanding shares of a publicly traded corporation.

B. *Appearance of Conflict.* If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Official's judgment is impaired by the appearance of a conflict, the Official shall not participate in the matter until after making a public, written disclosure of the facts giving rise to the appearance of a

conflict. For purposes of this disclosure “appearance of a conflict” would exist because of either:

1. A personal or business relationship not covered under the foregoing paragraph, or
2. A transaction or activity engaged in by the Official.

C. Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for other than a City purpose.

D. Representation of Third Parties. Except in the course of official duties, Officials shall not appear on behalf of the financial interests of third parties before the bodies on which the Officials serve or in interaction with assigned staff. Further, the members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.

E. Solicitation of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from City employees.

F. Gifts and Favors. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited or received or given, or to a reasonable person, would appear to have been solicited, or received or given with intent to give or obtain special consideration or influence as to any action by the Official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as follows:

1. No Official may accept gifts, other than those specified in subsection 2 of this section, with an aggregate value in excess of fifty dollars (\$50) from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars (\$50) in accordance with RCW 42.52.150(1); provided, that if the fifty dollar (\$50) limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount. For purposes of this section, “single source” means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and “single gift” includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs. The value of gifts given to an Official’s family member or guest shall be attributed to the Official for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

2. The following items are presumed not to influence the vote, action, or judgment of the Official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by subsection 1 of this section:

- a. Unsolicited flowers, plants and floral arrangements;
- b. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- c. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- d. Unsolicited items received by an Official for the purpose of evaluation or review, if the Official has no personal beneficial interest in the eventual use or acquisition of the item;
- e. Informational materials, publications or subscriptions related to the recipient's performance of official duties;
- f. Food and beverages consumed at hosted receptions where attendance is related to the Official's duties for the City;
- g. Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental or community organization;
- h. Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and
- i. Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the Official is related to the performance of official duties.

3. The presumption in subsection 2 is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

G. *Confidential Information.* Officials shall not disclose or use any confidential information gained by reason of their official position for other than a City purpose. "Confidential Information" means

1. Specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and
2. Information made confidential by law.

3.92.040 - ETHICAL STANDARDS

In addition to Section 3.92.030 of the Code of Ethics, which shall be administered by the Ethics Officer, Officials are encouraged to comply with the following standards:

A. *Compliance with Other Laws.* Officials shall comply with Federal, State and City laws in the performance of their public duties. These laws include, but are not limited to: The United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. See Appendix A. Officials shall comply with the requirements of RCW 42.17.020 through .060 regarding contract interests. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee. Except under limited circumstances described in RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to office, or form the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

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Section 4. Effective Date. This ordinance shall take effect and be in force thirty days after passage and publication.

1333-ORD
05/02/13

Passed by the City Council this _____ day of _____, 2013
and signed in authentication of its passage this _____ day of _____,
2013.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

