1336-ORD
06/05/13

CITY OF BELLEVUE, WASHINGTON
ORDINANCE NO. 6110

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 Bellevue City Code Chapter 3.92 and Ordinance No. 4049 are hereby repealed.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. It is further the intent that City Officials be permitted to fulfill their duties to represent the public to the greatest extent possible unless circumstances exist where such engagement is impermissible. Nothing in this chapter is intended to reduce, limit, or restrict the pool of available candidates for service on the Council or service on Council-appointed public bodies, all of which are either part-time or volunteer positions. It is in the public interest to ensure that barriers to citizen public service are not created by the provisions of this chapter. 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 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.

B. "Relative" means spouse, domestic partner, child, step-child, parent, step-parent, parent-in-law and sibling.

3.92.030 – PROHIBITED CONDUCT

A. *Conflicts of Interest*: Officials shall not participate in quasi-judicial or site-specific land use City decisions, the purchase or condemnation of property, or City decisions involving the awarding of a grant or contract in which any of the following has an 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. RCW 42.23.040 shall apply conflicts or potential conflicts with respect to remote interests in City decisions involving the awarding of a contract.

B. *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.

C. *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 the body's 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.

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

E. *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 Official, 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.

j. Any gift which would have been offered or given to the Official if he or she were not an Official

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 knowingly disclose or use any Confidential Information gained by reason of their official position for other than a City purpose nor may the Officer use such information for his or her personal benefit, nor may the Officer engage in business or professional activity that the Officer might reasonably expect would induce him or her by reason of his or her official position to disclose such Confidential Information.. "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

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

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.

B. Officials are also encouraged to comply with the following standards:

1. *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.

2. *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.

3. *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.

4. *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. In accordance with the requirements of state law 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 such records 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.

5. *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.

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

7. *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.

8. *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.

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

10. *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 a City Official is appointed to fill an Official role on a governing body in a capacity that is not dependent upon their status as a City of Bellevue Official, but, for example, as a representative of a geographic area, the Official shall endeavor to represent the policies or positions consistent with those of the constituency he or she has been appointed to represent. 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.

11. *Role of Legislative Officials.* The Council shall have all the powers and authority granted to legislative bodies, except insofar as such power and authority is vested in the City Manager in accordance with Chapter 35A.13 RCW.

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

3.92.50 – NO RIGHT OF ACTION CREATED; EFFECTIVE DATE.

A. Nothing in this chapter shall be construed as creating or providing a basis for a private cause of action against the City or against any Official by third parties.

B. No retroactive application is intended by the adoption of this chapter which shall only apply to acts that occur after the effective date thereof.

3.92.060 – ETHICS OFFICER

A. The City Council creates the position of Ethics Officer. The City Council will interview and choose the ethics officer(s) who shall operate under contract with the City of Bellevue. Such selection shall be by unanimous vote, and the Ethics Officer shall be admitted to the practice of law and shall have sufficient experience and training. The services of the Ethics Officer may be terminated only by a supermajority vote of the Council.

B. 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, and shall at all times maintain the impartiality of the office by revealing information provided to the Officer only in the context of rendering opinions to the City and its Officials and staff as necessary or in response to legal process.

C. The Ethics Officer, in addition to other duties, shall conduct a review of this ethics code in 2015 and again in 2017 and may recommend changes or additions to this Code of Ethics to the City Council designed to improve the effectiveness and efficiency of processing ethics questions.

D. In rendering opinions under 3.92.070 or 3.92.080 below, the Ethics Officer shall consider the Intent section contained in 3.92.010 herein and in RCW 42.23.010.

3.92.070. - 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 fourteen (14) 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.

F. Advisory opinions are subject to the attorney-client privilege.

3.92.080 – COMPLAINT PROCEDURE

A. *Complaint procedures.*

1. Any natural person who believes an Official has committed a violation of the code may file a complaint with the City Clerk. 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 and the respondent Official 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. 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.

4. 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.

5. A Complaint for Ethical Violations filed under this Chapter shall be considered a claim filed against an Official pursuant to Chapter 3.81 BCC.

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.

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 28th day of May, 2013 and signed in authentication of its passage this 5th day of June, 2013.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published June 6, 2013