

CODE

CITY OF MONROE
ORDINANCE NO. 019/2013

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING CHAPTER 2.52 MMC, CODE OF ETHICS; ADOPTING THE SUBSTANTIVE STATE LAW ETHICAL STANDARDS FOR MUNICIPAL OFFICERS; ELIMINATING CERTAIN PREVIOUSLY ADOPTED LOCAL STANDARDS; RETAINING THE FUNCTIONS OF THE CITY'S ETHICS BOARD AND PROCEDURAL REGULATIONS FOR PROCESSING LOCAL ETHICS COMPLAINTS; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

WHEREAS, the City of Monroe has adopted and periodically amended a local Code of Ethics as set forth at Chapter 2.52 MMC; most recently through Ordinance No. 003/2010; and

WHEREAS, Chapter 2.52 MMC includes various substantive conduct standards that are phrased differently than the state code of ethics for municipal officers codified at Chapter 42.23 RCW; and

WHEREAS, the City Council desires to amend Chapter 2.52 MMC in order to ensure consistency with applicable state law provisions, while still retaining the important functions of the City's Ethics Board and the City's existing procedures for adjudicating local ethics complaints; and

WHEREAS, such amendments will clarify governing standards of conduct, ensure the consistent, uniform application of ethical requirements, and help to prevent uncertainty in the interpretation and enforcement of the City's code; and

WHEREAS, notwithstanding the foregoing, the City desires to acknowledge and preserve the existing provision of Chapter 2.52 MMC that was initiated by citizen petition and which prohibits City officials and staff from being awarded contracts with the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Chapter 2.52 MMC. Chapter 2.52 of the Monroe Municipal Code, Code of Ethics, is hereby amended to provide in its entirety as indicated in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent

jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

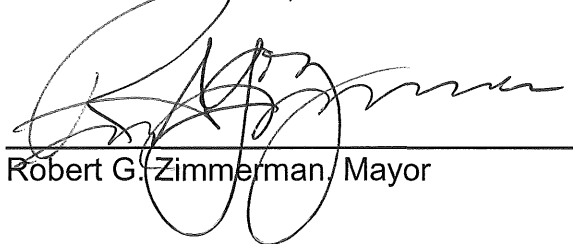
Section 3. Effective Date. This ordinance shall be in full force and effect thirty (30) days from and after its final passage as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 3RD day of December, 2013.

1st Reading: 11/19/2013
2nd Reading: 12/03/2013
Published: 12/10/2013
Effective: 01/02/2014

(SEAL)

CITY OF MONROE, WASHINGTON:



Robert G. Zimmerman, Mayor

ATTEST:



Elizabeth M. Smoot, CMC, City Clerk

APPROVED AS TO FORM:



J. Zachary Lell, City Attorney

EXHIBIT A
CODE OF ETHICS

- 2.52.010 Purpose; construction [~~AND SCOPE~~].
- 2.52.020 Definitions.
- 2.52.030 Award of contracts prohibited[~~ETHICAL STANDARDS~~].
- 2.52.040 Board of Ethics – Public Officials[~~CONFLICTS OF INTEREST~~].
- 2.52.050 Miscellaneous Provisions[~~GIFTS AND GRATUITIES~~].
- 2.52.060 Appeal – Penalties for violation[~~CONFIDENTIAL INFORMATION — DISCLOSURE PROHIBITED~~].
- [~~2.52.070 PROHIBITED CONDUCT AFTER LEAVING THE CITY.~~
- ~~2.52.080 BOARD OF ETHICS — PUBLIC OFFICIALS.~~
- ~~2.52.090 MISCELLANEOUS PROVISIONS.~~
- ~~2.52.100 APPEAL — PENALTIES FOR VIOLATION.~~
- ~~2.52.101 SEVERABILITY.]~~

2.52.010 Purpose; construction [~~AND SCOPE~~].

The city of Monroe hereby adopts the code of ethics for municipal officers codified at Chapter 42.23 RCW, inclusive of any future amendments thereof. It is the city's specific intent that the ethical standards set forth at Chapter 42.23 RCW shall govern the conduct of municipal officers within the city of Monroe. Except as expressly provided in this chapter, the city disclaims any intent to impose substantive standards of conduct that are more stringent than or otherwise different from those set forth in Chapter 42.23 RCW with respect to the subject matter of said chapter.[~~THE PURPOSE OF THE MONROE CODE OF ETHICS IS TO PROVIDE FOR A CLEAR STATEMENT OF THE MINIMUM STANDARDS OF ETHICAL CONDUCT EXPECTED OF BOTH CITY OFFICIALS AND EMPLOYEES AND TO PROVIDE A MEANS FOR LOCAL ENFORCEMENT AND LOCAL RESPONSIBILITY FOR COMPLIANCE WITH ADOPTED STANDARDS. THE MONROE ETHICS CODE CONTAINS STANDARDS SIMILAR TO THE PROVISIONS OF STATE STATUTE FOUND IN CHAPTER 42.23 RCW GOVERNING THE ETHICAL CONDUCT EXPECTED OF LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES STATEWIDE. HOWEVER, IN CERTAIN RESPECTS THE MONROE ETHICS CODE MODIFIES AND REQUIRES HIGHER MINIMUM STANDARDS OF CONDUCT AS DETERMINED APPROPRIATE BY THE LEGISLATIVE BODY OF THE CITY, AFTER CONSIDERATION OF PUBLIC COMMENT AND THE RECOMMENDATIONS OF THE APPOINTED BOARD OF ETHICS.~~]

2.52.020 Definitions.

The following words and phrases as used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

A. "Advisory opinion" means an opinion rendered by the board of ethics, based upon hypothetical circumstances, indicating how the board would rule on a matter having the same or sufficiently parallel facts, should an adversary proceeding develop.

[~~B. BENEFITS, GAIN, PROFIT, OR INTEREST. THESE ARE TERMS THAT APPLY ONLY TO SITUATIONS OR CONTRACTS INVOLVING BUSINESS TRANSACTIONS, EMPLOYMENT MATTERS, AND OTHER FINANCIAL INTERESTS~~

~~AND DO NOT APPLY TO SITUATIONS OR CONTRACTS THAT CONFER NO FINANCIAL BENEFIT.~~

~~C. "CONFIDENTIAL INFORMATION" MEANS:~~

~~1. SPECIFIC INFORMATION, RATHER THAN GENERALIZED KNOWLEDGE, THAT IS NOT AVAILABLE TO THE GENERAL PUBLIC ON REQUEST; OR~~

~~2. INFORMATION MADE CONFIDENTIAL BY LAW INCLUDING BUT NOT LIMITED TO TAXPAYER INFORMATION, RCW 82.32.330; INFORMATION REGARDING ORGANIZED CRIME, RCW 43.43.856; CRIMINAL HISTORY INFORMATION, CHAPTER 10.97 RCW; MEDICAL RECORDS, CHAPTER 70.02 RCW; AND JUVENILE RECORDS, RCW 13.50.010; OR~~

~~3. INFORMATION THAT IS INITIALLY DISCLOSED OR DISCUSSED IN EXECUTIVE SESSION, AND WHICH IS NOT AVAILABLE TO THE GENERAL PUBLIC ON REQUEST; HOWEVER~~

~~4. CONFIDENTIAL INFORMATION DOES NOT INCLUDE INFORMATION AUTHORIZED BY THE MAYOR OR A MAJORITY VOTE OF THE COUNCIL TO BE DISCLOSED.~~

~~D. "CONTRACT" MEANS ANY WRITTEN OR OTHERWISE BINDING AGREEMENT FOR SERVICES, SALE, LEASE, PURCHASE, CONSTRUCTION OR REPAIR.~~

~~E. DAY. UNLESS OTHERWISE SPECIFIED, ALL REFERENCES TO "DAY" OR "DAYS" AS TO DEADLINES IN THIS CHAPTER SHALL BE CALENDAR DAYS AS OPPOSED TO BUSINESS DAYS.~~

~~F. "DE MINIMIS" MEANS SMALL, SLIGHT, OR TRIFLING.~~

~~G. "EMPLOYEE" MEANS ANY PERSON HOLDING A REGULARLY COMPENSATED POSITION OF EMPLOYMENT WITH THE CITY. THIS DOES NOT INCLUDE MEMBERS OF THE CITY COUNCIL AND PERSONS WHO SERVE ON CITY BOARDS AND COMMISSIONS.~~

~~H. FINANCIAL INTEREST. A PUBLIC OFFICIAL OR CITY EMPLOYEE SHALL BE DEEMED TO HAVE A FINANCIAL INTEREST IN ANY BUSINESS ENTITY CONTRACTING OR ATTEMPTING TO CONTRACT WITH THE CITY WHEN THE PUBLIC OFFICIAL OR CITY EMPLOYEE:~~

~~1. IS A CREDITOR OR DEBTOR OF THE BUSINESS ENTITY, OR HAS ANY FORM OF OWNERSHIP INTEREST IN ANY BUSINESS ENTITY IN AN AMOUNT OR VALUE GREATER THAN A ONE PERCENT INTEREST IN THE BUSINESS ENTITY; OR~~

~~2. IS A PAID EMPLOYEE, AGENT, CONSULTANT OR OFFICER OF ANY CORPORATION, PARTNERSHIP, JOINT VENTURE, BUSINESS OR OTHER ENTITY.~~

~~I. "GIFT" MEANS ANYTHING OF ECONOMIC VALUE WITHOUT ADEQUATE AND LAWFUL CONSIDERATION. "GIFT" DOES NOT INCLUDE THE FOLLOWING:~~

~~1. ITEMS FROM FAMILY MEMBERS OR FRIENDS WHERE IT IS CLEAR BEYOND A REASONABLE DOUBT THAT THE GIFT WAS NOT MADE AS PART OF ANY DESIGN TO GAIN OR MAINTAIN INFLUENCE IN THE CITY OR WITH THE RECIPIENT IN CONNECTION WITH CITY MATTERS;~~

~~2. ITEMS RELATED TO THE OUTSIDE BUSINESS OF THE RECIPIENT THAT ARE CUSTOMARY AND NOT RELATED TO THE RECIPIENT'S PERFORMANCE OF OFFICIAL DUTIES;~~

~~3. ITEMS EXCHANGED AMONG OFFICIALS AND EMPLOYEES OR A SOCIAL EVENT HOSTED OR SPONSORED BY A CITY OFFICER OR CITY EMPLOYEE FOR COWORKERS;~~

~~4. PAYMENTS BY A GOVERNMENTAL OR NONGOVERNMENTAL ENTITY OF REASONABLE EXPENSES INCURRED IN CONNECTION WITH A SPEECH, PRESENTATION, APPEARANCE, OR TRADE MISSION MADE IN AN OFFICIAL CAPACITY. AS USED IN THIS SECTION, "REASONABLE EXPENSES" ARE LIMITED TO TRAVEL, LODGING, AND SUBSISTENCE EXPENSES INCURRED THE DAY BEFORE THROUGH THE DAY AFTER THE EVENT;~~

~~5. ITEMS AN OFFICIAL OR EMPLOYEE IS AUTHORIZED BY LAW TO ACCEPT;~~

~~6. PAYMENT OF ENROLLMENT AND COURSE FEES AND REASONABLE TRAVEL EXPENSES ATTRIBUTABLE TO ATTENDING SEMINARS AND EDUCATIONAL PROGRAMS SPONSORED BY A BONA FIDE NONPROFIT PROFESSIONAL, EDUCATIONAL, TRADE ASSOCIATION OR CHARITABLE INSTITUTION. AS USED IN THIS SUBSECTION, "REASONABLE EXPENSES" ARE LIMITED TO TRAVEL, LODGING, AND SUBSISTENCE EXPENSES INCURRED THE DAY BEFORE THROUGH THE DAY AFTER THE EVENT;~~

~~7. ITEMS RETURNED BY THE RECIPIENT TO THE DONOR WITHIN THIRTY DAYS OF RECEIPT OR DONATION TO A CHARITABLE ORGANIZATION, WITHOUT THE TAKING OF A TAX DEDUCTION;~~

~~8. CAMPAIGN CONTRIBUTIONS OR OTHER ITEMS REPORTED OR REGULATED UNDER CHAPTER 42.17 RCW;~~

~~9. DISCOUNTS AVAILABLE TO AN INDIVIDUAL AS A MEMBER OF AN EMPLOYEE GROUP, OCCUPATION, OR SIMILAR BROAD-BASED GROUP;~~

~~10. AWARDS, PRIZES, SCHOLARSHIPS, OR OTHER ITEMS PROVIDED IN RECOGNITION OF PROFESSIONAL, ACADEMIC OR SCIENTIFIC ACHIEVEMENT; AND~~

~~11. THE SOLICITATION, ACCEPTANCE, RECEIPT, OR REGULATION OF POLITICAL CAMPAIGN CONTRIBUTIONS REGULATED IN ACCORDANCE WITH PROVISIONS OF FEDERAL, STATE, OR LOCAL LAWS GOVERNING CAMPAIGN FINANCES.]~~

B[J]. "Hypothetical circumstances" means circumstances of fact framed in such a manner as to call for an opinion from the board based on a series of assumptions and not based on the known or alleged past or current conduct of a specific public official or employee that could be the basis of a complaint under MMC 2.52.080.

[K. "IMMEDIATE FAMILY" MEANS HUSBAND, WIFE, FATHER, MOTHER, BROTHER, SISTER, SON, DAUGHTER, STEPCHILDREN, STEPPARENTS, FATHER IN LAW, MOTHER IN LAW, BROTHER IN LAW, SISTER IN LAW, SON IN-

~~LAW OR DAUGHTER IN LAW OR LIFE PARTNER AS IS, OR MAY BE, DEFINED BY STATE AND/OR FEDERAL LAW.~~

~~L. "OFFICIAL ACT OR ACTION" MEANS ANY LEGISLATIVE, ADMINISTRATIVE, APPOINTIVE OR DISCRETIONARY ACT OF ANY OFFICER OR EMPLOYEE OF THE CITY OR ANY AGENCY, BOARD, COMMITTEE OR COMMISSION THEREOF.]~~

~~C[M]. "Prima facie showing" means evidence which, standing alone and unexplained, would maintain the proposition and claimed violation of this chapter set forth in the complaint.~~

~~[N. "PUBLIC OFFICIAL" MEANS ALL ELECTED CITY OFFICIALS INCLUDING THE MAYOR AND MEMBERS OF THE CITY COUNCIL, TOGETHER WITH APPOINTIVE MEMBERS OF CITY BOARDS AND COMMISSIONS.]~~

~~O. "REMOTE INTEREST" MAY BE DEEMED TO EXIST WHERE AN INDIVIDUAL IS:~~

~~1. AN UNPAID OFFICER, BOARD MEMBER, OR OTHER PERSON WHO FUNCTIONS IN A DECISION-MAKING CAPACITY WHICH CAN INFLUENCE POLICY OR FUNDING OF A CORPORATION, PARTNERSHIP, JOINT VENTURE OR OTHER ENTITY;~~

~~2. A LANDLORD OR TENANT OF AN ENTITY CONTRACTING WITH THE CITY OF MONROE;~~

~~3. A HOLDER OF LESS THAN ONE PERCENT OF THE SHARES OF, OR OWNERSHIP INTEREST IN, A BUSINESS ENTITY CONTRACTING WITH THE CITY; OR~~

~~4. INVOLVED IN A TRANSACTION WITH THE CITY FOR DE MINIMIS SALES OF GOODS OR SERVICES TOTALING LESS THAN ONE THOUSAND TWO HUNDRED DOLLARS IN ANY CALENDAR YEAR. MUNICIPAL OFFICERS, AS DEFINED IN CHAPTER 42.23 RCW, AS NOW OR HEREAFTER AMENDED, SHALL NOT QUALIFY FOR THIS REMOTE INTEREST.~~

~~NO INTEREST IS DEEMED TO BE REMOTE WHERE A PUBLIC OFFICIAL OR EMPLOYEE INFLUENCES OR ATTEMPTS TO INFLUENCE ANY OTHER PUBLIC OFFICIAL OR EMPLOYEE TO TAKE ANY ACTION THAT FINANCIALLY BENEFITS THE OFFENDING PUBLIC OFFICIAL OR EMPLOYEE BY OR THROUGH THE INTEREST.]~~

2.52.030 Award of contracts prohibited[ETHICAL STANDARDS].

~~[IN ORDER TO AVOID BECOMING INVOLVED OR IMPLICATED IN A CONFLICT OF INTEREST OR IMPROPRIETY OR, JUST AS IMPORTANT, AN APPEARANCE OF CONFLICT OF INTEREST OR IMPROPRIETY, PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT:~~

~~A. KNOWINGLY USE THEIR OFFICE OR POSITION FOR PERSONAL OR FAMILY GAIN OR PROFIT; OR~~

~~B. USE CITY OWNED PROPERTY OR CITY SERVICES FOR PERSONAL OR FAMILY GAIN OR PROFIT; OR~~

~~C. USE INFORMATION ACQUIRED IN CONFIDENCE BY REASON OF THEIR OFFICIAL POSITION FROM A CITY CUSTOMER, SUPPLIER, LESSEE OR CONTRACTOR FOR OTHER THAN CITY PURPOSES.~~

2.52.040 CONFLICTS OF INTEREST.

~~A. PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT KNOWINGLY ENGAGE IN ACTIVITIES WHICH ARE IN CONFLICT, OR WHICH HAVE THE POTENTIAL TO CREATE A CONFLICT, WITH PERFORMANCE OF OFFICIAL DUTIES. EXAMPLES OF CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST INCLUDE, BUT ARE NOT NECESSARILY LIMITED TO, CIRCUMSTANCES WHERE A PUBLIC OFFICIAL OR CITY EMPLOYEE:~~

~~1. INFLUENCES THE SELECTION OR NONSELECTION OF, OR THE CONDUCT OF, BUSINESS BETWEEN THE CITY AND ANY ENTITY IN WHICH THE PUBLIC OFFICIAL OR CITY EMPLOYEE HAS A FINANCIAL INTEREST.~~

~~2. ACCEPTS ANY RETAINER, COMPENSATION, GIFT OR ANYTHING OF VALUE THAT IS CONTINGENT UPON A SPECIFIC ACTION OR NONACTION BY THE PUBLIC OFFICIAL OR CITY EMPLOYEE.~~

~~3. INTENTIONALLY USES OR DISCLOSES INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC AND ACQUIRED BY REASON OF HIS OR HER OFFICIAL POSITION WHICH BENEFITS HIMSELF OR HERSELF, FAMILY, FRIENDS OR OTHERS.~~

~~B. PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT TAKE PART IN ANY COUNCIL ACTION, AS THAT TERM IS DEFINED IN CHAPTER 42.30 RCW, CONCERNING ANY CONTRACT, PROPERTY, OR OTHER MATTER OF ANY KIND, IN WHICH THE PUBLIC OFFICIAL, CITY EMPLOYEE OR HIS OR HER IMMEDIATE FAMILY HAS A FINANCIAL INTEREST, OR WHICH OTHERWISE CREATES A CONFLICT OF INTEREST.~~

~~C. PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT BE DEEMED TO VIOLATE SUBSECTION (B) OF THIS SECTION WHEN THEY ONLY HAVE A REMOTE INTEREST IN A CONTRACT OR SALE. PUBLIC OFFICIALS AND DEPARTMENT HEADS SHALL DISCLOSE THE FACT AND EXTENT OF A REMOTE INTEREST FOR THE OFFICIAL MINUTES OF THE CITY COUNCIL PRIOR TO THE CITY COUNCIL TAKING ANY ACTION RELATED TO THE INTEREST AND, THEREAFTER, ALL ACTION TAKEN BY THE CITY COUNCIL RELATED TO SUCH INTEREST SHALL BE BY A VOTE SUFFICIENT FOR THE PURPOSE WITHOUT COUNTING THE VOTE OF THE PUBLIC OFFICIAL OR CITY EMPLOYEE HAVING THE REMOTE INTEREST.~~

~~D.] Members of the city of Monroe, Washington, boards, commissions, and city staff are prohibited from being awarded contracts with the city. Exceptions to this rule are those covered by the CBA, RCW and WAC. This subsection was submitted to the Monroe city council as an initiative with enough required signatures to be submitted to the voters. The city council adopted the initiative as an ordinance as an alternative to placing on the ballot. Consequently, to the extent required by law, this subsection shall be construed as superseding any conflicting city requirements or requirements that otherwise operate to illegally amend the requirements of an initiative.~~

~~[E. NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, PUBLIC OFFICIALS AND CITY EMPLOYEES MAY HAVE A BENEFICIAL INTEREST IN A CONTRACT WITH THE CITY UNDER THE FOLLOWING CIRCUMSTANCES:~~

~~1. IF AN ITEM OF BUSINESS RELATING TO THE CONTRACT COMES BEFORE THE PUBLIC OFFICIAL OR CITY EMPLOYEE, THE OFFICIAL OR EMPLOYEE MUST IDENTIFY THE CONTRACT ON THE RECORD AND RECUSE HIMSELF OR HERSELF FROM ACTING IN ANY WAY ON THAT ITEM, INCLUDING REMAINING IN THE MEETING ROOM DURING ANY DISCUSSION OF THE ITEM; AND~~

~~2. THE OFFICIAL OR EMPLOYEE HAS NOT LOBBIED THE CITY TO ENTER INTO THE CONTRACT; AND~~

~~3. THE OFFICIAL OR EMPLOYEE HAS NOT INFLUENCED CITY POLICY WITH THE PRIMARY PURPOSE OF CREATING THE NEED FOR THE CONTRACT; AND~~

~~4. THE CONTRACT CANNOT BE MADE BY, THROUGH OR UNDER THE SUPERVISION OF THE OFFICIAL OR EMPLOYEE, IN WHOLE OR IN PART, OR FOR THE BENEFIT OF HIS OR HER OFFICE.~~

2.52.050 GIFTS AND GRATUITIES.

~~PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT, DIRECTLY OR INDIRECTLY, SOLICIT ANY GIFT OR ACCEPT OR RECEIVE ANY GIFT, WHETHER IT BE MONEY, SERVICES, LOAN, TRAVEL, ENTERTAINMENT, HOSPITALITY, PROMISE, OR ANY OTHER FORM, UNDER THE FOLLOWING CIRCUMSTANCES:~~

~~A. IT COULD BE REASONABLY INFERRED OR EXPECTED THAT THE GIFT WAS INTENDED TO INFLUENCE THEM IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES; OR~~

~~B. THE GIFT WAS INTENDED TO SERVE AS A REWARD FOR ANY OFFICIAL ACTION ON THEIR PART.~~

~~PUBLIC OFFICIALS AND CITY EMPLOYEES MAY ACCEPT DE MINIMIS GIFTS SUCH AS, BUT NOT LIMITED TO, CALENDARS, COFFEE MUGS, FLOWERS, CANDY, AND OTHER SIMILAR ITEMS THAT ARE GIVEN AS A CUSTOMARY BUSINESS PRACTICE AND HAVE NO MATERIAL SIGNIFICANCE TO THE RECIPIENT, WITH SUCH GIFTS FROM ANY ONE SOURCE NOT TO EXCEED ONE HUNDRED DOLLARS IN VALUE IN ANY TWELVE MONTH PERIOD. CITY EMPLOYEES SHOULD REPORT ANY GIFT TO THEIR IMMEDIATE SUPERVISOR.~~

~~THIS SECTION SHALL NOT APPLY TO GIFTS MADE TO THE CITY. ALL SUCH GIFTS SHALL BE GIVEN TO THE MAYOR FOR OFFICIAL DISPOSITION.~~

2.52.060 CONFIDENTIAL INFORMATION – DISCLOSURE PROHIBITED.

~~PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT, EXCEPT AS REQUIRED OR REASONABLY BELIEVED TO BE REQUIRED FOR THE PERFORMANCE OF HIS/HER DUTIES, DISCLOSE CONFIDENTIAL INFORMATION GAINED BY REASON OF HIS/HER OFFICIAL POSITION OR USE SUCH INFORMATION FOR HIS/HER OWN PERSONAL INTEREST. "CONFIDENTIAL INFORMATION" IS ALL INFORMATION, WHETHER TRANSMITTED ORALLY OR IN WRITING, THAT THE EMPLOYEE HAS BEEN INFORMED, IS AWARE, OR HAS REASON TO BELIEVE IS INTENDED TO BE USED ONLY FOR CITY PURPOSES, IS NOT INTENDED FOR PUBLIC DISCLOSURE, OR IS OTHERWISE OF SUCH A NATURE THAT IT IS NOT, AT THE TIME, A MATTER OF PUBLIC RECORD OR PUBLIC KNOWLEDGE. CONFIDENTIAL INFORMATION INCLUDES, BUT IS NOT~~

~~LIMITED TO, PERSONAL INFORMATION REGARDING CITY OFFICIALS AND EMPLOYEES; PRIVATE FINANCIAL AND OTHER PERSONAL INFORMATION PROVIDED BY CITY TAXPAYERS, LICENSE HOLDERS, CONTRACTORS, AND CUSTOMERS; INTELLIGENCE AND INVESTIGATIVE INFORMATION, INCLUDING THE IDENTITY OF PERSONS FILING COMPLAINTS; FORMULAS, DESIGNS, DRAWINGS, AND RESEARCH DATA OBTAINED OR PRODUCED BY THE CITY AND PRELIMINARY, NONFINAL ASSESSMENTS, OPINIONS, AND RECOMMENDATIONS CONCERNING CITY POLICIES AND ACTIONS. ANY PUBLIC OFFICIAL WHO IS UNCERTAIN AS TO WHETHER CERTAIN INFORMATION IS CONFIDENTIAL SHOULD CONSULT THE MAYOR OR CITY ADMINISTRATOR. AN EMPLOYEE WHO IS UNCERTAIN AS TO WHETHER CERTAIN INFORMATION IS CONFIDENTIAL SHOULD CONSULT THEIR IMMEDIATE SUPERVISOR OR DEPARTMENT HEAD.~~

~~2.52.070 PROHIBITED CONDUCT AFTER LEAVING THE CITY.~~

~~FORMER PUBLIC OFFICIALS AND CITY EMPLOYEES SHALL NOT DISCLOSE OR USE PROPRIETARY OR OTHER INFORMATION GAINED BY REASON OF THEIR CITY EMPLOYMENT UNLESS THE INFORMATION IS A MATTER OF PUBLIC KNOWLEDGE OR IS AVAILABLE TO THE PUBLIC ON REQUEST. NO FORMER PUBLIC OFFICIAL OR CITY EMPLOYEE SHALL, DURING THE PERIOD OF ONE YEAR AFTER LEAVING CITY OFFICE OR EMPLOYMENT:~~

~~A. ASSIST ANY PERSON IN PROCEEDINGS ON A MATTER IN WHICH HE OR SHE WAS OFFICIALLY INVOLVED, PARTICIPATED OR ACTED IN THE COURSE OF DUTY;~~

~~B. REPRESENT ANY PERSON AS AN ADVOCATE IN ANY MATTER IN WHICH THE FORMER PUBLIC OFFICIAL OR CITY EMPLOYEE WAS OFFICIALLY INVOLVED WHILE A CITY OFFICER OR EMPLOYEE;~~

~~C. PARTICIPATE AS A COMPETITOR IN ANY COMPETITIVE SELECTION PROCESS FOR A CITY CONTRACT IN WHICH HE OR SHE ASSISTED THE CITY IN DETERMINING THE PROJECT OR WORK TO BE DONE OR THE PROCESS TO BE USED.~~

~~PUBLIC OFFICIALS AND CITY EMPLOYEES, WHO CONTRACT WITH A FORMER PUBLIC OFFICIAL OR CITY EMPLOYEE FOR EXPERT OR CONSULTANT SERVICES WITHIN ONE YEAR OF THE LATTER'S LEAVING CITY OFFICE OR EMPLOYMENT, SHALL PROMPTLY INFORM THE CITY ADMINISTRATOR ABOUT THE AGREEMENT.~~

~~THE PROHIBITIONS LISTED ABOVE SHALL NOT APPLY TO FORMER EMPLOYEES ACTING ON BEHALF OF A GOVERNMENTAL AGENCY UNLESS SUCH ASSISTANCE OR REPRESENTATION IS ADVERSE TO THE INTEREST OF THE CITY.]~~

~~2.52.040[080] Board of ethics – Public officials.~~

~~There is hereby created a board of ethics for city of Monroe public officials. The purpose of this board is to issue advisory opinions on the provisions of this code of ethics and to review and report to the city council on any alleged violations of the code of ethics, all as set forth below. The board shall also provide recommendations on amendments to the ethics ordinance, as directed by the city council:~~

A. Composition. The board of ethics shall be composed of five members. None of these may be a public official, city employee or immediate family of either. The mayor shall appoint the board members, with the confirmation of the city council. The board of ethics must be citizens of the United States and residents of the city they serve for at least one year before their appointment to the ethics board.

The regular term of office for members of the board of ethics shall be three years. Each member shall hold office until a successor is appointed and confirmed. Regular terms shall commence January 1st and end December 31st. Initial terms shall be staggered with two members appointed for terms beginning upon their appointment in 2004 and ending December 31, 2004; two members appointed for terms beginning upon their appointment and ending December 31, 2005; and one member appointed for a term beginning upon his or her appointment and ending December 31, 2006. After expiration of the initial terms, subsequent appointees shall serve a regular three-year term.

The board shall elect from its membership a presiding officer who shall be referred to as a chairman, chairwoman, or chairperson, as may be appropriate, who shall serve for a period of one year, unless reelected.

A majority of the board of ethics shall constitute a quorum. The board shall meet as frequently as it deems necessary, or at the request of the mayor or a quorum of the city council. The board shall adopt procedures governing the conduct of its meetings, hearings and the issuance of opinions.

B. Specific Complaint Against a Public Official.

1. Any person may submit a written complaint to the mayor or city administrator alleging one or more violations of this ethics code by a public official. The allegation shall set forth specific facts with precision and detail, sufficient for a determination of sufficiency by the board. The complaint shall also set forth the specific sections and subsections of this code that the facts violate, and the reasons why. Complaints should be signed by the person or persons submitting them, include the submitter's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which the submitter may be contacted.

2. The mayor or his/her designee shall inform the public official and the council of the complaint and shall submit the complaint to the board for determination of sufficiency of the complaint within twenty-four hours of its receipt. Voicemail, email or similar notification of the defendant is acceptable if actual notice is not immediately practicable. A copy of the complaint shall also be sent to the defendant by registered mail within three days of receipt. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts which constitute a prima facie showing of a violation of a specified provision or provisions of this code. The purpose of requiring that the complaint be sufficient is to ensure that the complaint is supported by identifiable facts, and to ensure that the complaint is not based on frivolous charges.

3. The complainant shall have the responsibility for proving the allegations in the complaint by a preponderance of the evidence.

4. Complaints shall be subject to a two-year statute of limitation. The limitations period shall commence from the date that information on completion of the alleged misconduct was reasonably available to the public.

5. Complaints may be amended as authorized by the decision-maker as justice requires; provided, that the timeframes of the review process provide the defendant with a fair opportunity to respond.

6. All public officials and employees, excluding the alleged violator, shall observe strict confidentiality as to the complaint and alleged violator until the review is complete, to the extent that the information is acquired as a result of a person's status as a public official or employee. Confidentiality after completion shall be maintained unless the complaint or finding is released through a public disclosure request filed with the city attorney. City officials and employees may divulge information to the extent necessary to defend against inaccurate or misleading public information about their involvement in the complaint review process. The ethics board and/or city council may divulge information to the extent necessary to correct any inaccurate or misleading public information about the complaint review process. Any person who violates this subsection shall not be subject to criminal penalties; however, a violation of this subsection may result in disciplinary action against such person. The city council may remove a member of the board of ethics from the board if it determines that the member has violated this subsection.

7. The board shall hold a hearing for the purpose of determining sufficiency of written complaints. The board shall begin the hearing no later than twenty days after the complaint is received and shall conclude the hearing(s) no later than twenty-four days after it receives the complaint; provided, however, that the running of these time periods shall be tolled and the complaint proceedings shall be stayed in the event the board makes application to the city council for continuance of the proceedings. Such continuances may only be granted by the city council when there is demonstrable and compelling reason(s) to do so, and may not exceed ten days. The board shall render a written report, setting forth its findings of sufficiency as to whether or not the individual against whom the complaint was filed may have violated the code of ethics.

8. The determination of sufficiency or insufficiency by the board is final and binding, and no administrative or other legal appeal is available. If the finding is one of sufficiency of the complaint, then the complaint shall be heard and reported as set forth below.

9. No report may be issued by the board, unless a person or entity complained against has had an opportunity to present information on his, her or its behalf at a hearing before the board.

10. A copy of the written report on sufficiency shall be delivered to the city council, person complained against, and the complaining party within ten days of conclusion of the hearing, unless a longer time period has been requested by the person complained against, and has been

approved by the board or unless a longer time period has been requested by the board and has been approved by the city council.

11. In the event the written report provides that the board has found sufficiency in the allegations against whom the complaint has been filed, the matter shall be referred for hearing to the city's hearings examiner unless the defendant requests the matter be heard by the ethics board. (Hearings examiners will be rotated from a rotational roster maintained by the city and shall be licensed and practicing attorneys who are not residents of the city.)

a. Hearings by a hearings examiner or the ethics board must be held within twenty days of a finding of sufficiency unless an extension is requested, or granted, by the defendant. The hearing must be concluded within ten days of commencement of the hearing unless extended by the request or agreement of the defendant.

b. Findings of fact and conclusions and opinion of the hearings examiner or the ethics board must be received by the council no later than seven days after the conclusion of the hearing.

c. The complainant or defendant may request a subpoena for documentary evidence or the attendance of witnesses by making a written application to the mayor describing in detail the subject matter of the proposed subpoena and an explanation of why such information is reasonably necessary in order to conduct the hearing. The subpoena may be issued in the event the mayor determines the subpoena request is reasonable, relevant to the complaint and within the subpoena power of the city. The request for a subpoena shall be submitted to the mayor within two business days after the determination of sufficiency and the mayor shall have two business days to issue a decision. In the event the mayor denies the request or the complaint alleges a violation of the ethics code by the mayor, the defendant or complainant may request a decision from the city council. City council review shall be scheduled for the next regular city council business meeting or study session, unless an earlier special meeting is available. The commencement of the hearing on the merits shall be delayed until five days after the council makes a decision on whether to issue a subpoena.

12. In the event the final determination by either the hearings examiner or the ethics board provides that the individual against whom the complaint has been filed has violated the code of ethics, the council shall convene and render its decision within seven days of the receipt of said determination unless an extension is requested by the defendant and granted by council. In the event that the city council members agree by majority vote that one or more of the violations occurred, then as to the violations the city council may take any of the following actions by a majority vote of the council; provided, that penalties may only be based

upon violations alleged in the complaint or amended complaint and not upon other violations discovered during the complaint process:

a. Admonition. An admonition shall be a verbal nonpublic statement made by the mayor to the individual.

b. Reprimand. A reprimand shall be administered to the individual by letter. The letter shall be approved by the city council and shall be signed by the mayor. If the individual objects to the content of such letter, he or she may file a request for review of the letter of reprimand with the city council. The city council shall review the letter of reprimand in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review.

c. Censure. A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the city council to receive the censure. Notice shall be given at least twenty days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the proposed censure with the city council. Such a request will stay the administration of the censure. The city council shall review the proposed censure in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition thereto or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.

d. Removal. In the event the individual against whom the complaint has been filed is a member of a city board, commission, committee, or other multi-member bodies appointed by the mayor with the approval of the city council, the city council may, by a majority vote, remove the individual from such board, commission or committee; provided, however, that nothing in this section authorizes the city council to remove a council member or the mayor from his or her office.

13. Proceedings by the board or the hearings examiner when they relate to action involving a person shall be made in executive session; however, upon request of the person involved, the proceeding shall be open to the public. The complaint, the determination of sufficiency or no sufficiency, and written report of the board or the hearings examiner shall be considered public records.

14. Action by the city council shall be by majority vote. If the proceeding involves a member of the city council, the member does not

vote on any matter involving the member. As provided in RCW 35A.12.100, the mayor shall vote in the case of a tie, except if the action is against the mayor. Deliberation by the council may be in executive session; however, upon request of the person complained against, the meeting shall be open to the public.

15. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts, which constitute a prima facie showing of a violation of a specified provision or provisions of this code.

C. Specific Complaint Against a City Employee Official. In the event the individual against whom the complaint has been filed is a city employee, the city shall follow the appropriate discipline, through the employee's supervisor and/or department head, procedures as outlined in the appropriate bargaining agreement, employee handbook, civil service rules, and/or standard operating procedures. Employees also have the right to appeal through the court system as regulated by state and federal law.

D. Board Unavailability—Hearing Examiner Authority. In the event the ethics board is unable to perform any function designated under this section due to lack of a quorum or other reason, such function shall instead be performed by the hearing examiner who shall be governed by the board's procedures.

2.52.050[090] Miscellaneous provisions.

The board of ethics shall also render written opinions concerning the applicability of the code of ethics to hypothetical circumstances or situations upon the request of the mayor or any councilmember. Requests for opinions from the public must be approved by either the mayor or a majority vote of council.

The city shall release copies of any written report resulting from a review of a complaint and any written censures or reprimands issued by the city council in response to public records requests as consistent with Chapter 42.56[47] RCW and any other applicable public disclosure laws.

The mayor shall provide staff, as he or she deems appropriate, to assist the board of ethics.

Board members shall be reimbursed by the city for reasonable expenses incurred in their exercise of the official business of the board, consistent with the expense reimbursement policies of the city.

~~[THIS CHAPTER SHALL NOT APPLY AS TO THOSE OFFICIAL ACTS, ACTIONS, OR ACTIVITIES WHICH OCCURRED PRIOR TO THE ADOPTION OF THIS CODE OF ETHICS.]~~

The city clerk shall cause a copy of this code of ethics to be distributed to every public officer of the city within thirty days after enactment of the ordinance codified in this chapter. The ordinance codified in this chapter will also be made available on the city's Web page and hard copies will be made available upon request.

2.52.060[100] Appeal – Penalties for violation.

Appeal of a decision of the board of ethics that the code of ethics has been violated, or a decision of the city council as to an admonition, reprimand, censure, or removal, may be filed with the Snohomish County superior court, Washington State. Any person who files with the ethics board a false charge of misconduct on the part of any public official or public employee when the person knows it is false shall be guilty of

a misdemeanor. In addition to criminal penalties, violators shall pay a civil penalty of five hundred dollars, or three times the economic value of anything received in violation of this chapter, whichever is greater. Any monetary penalty assessed civilly shall be placed in the city's general fund.

~~[2.52.110 SEVERABILITY;~~

~~IF ANY SECTION, SUBSECTION, PARAGRAPH, SENTENCE, CLAUSE OR PHRASE OF THIS CHAPTER IS FOR ANY REASON HELD TO BE INVALID OR UNCONSTITUTIONAL, SUCH INVALIDITY OR UNCONSTITUTIONALITY SHALL NOT AFFECT THE VALIDITY OR CONSTITUTIONALITY OF THE REMAINING PORTIONS OF THIS CHAPTER, IT BEING HEREBY EXPRESSLY DECLARED THAT THIS CHAPTER AND EACH SECTION, SUBSECTION, PARAGRAPH, SENTENCE, CLAUSE, AND PHRASE THEREOF WOULD HAVE BEEN ADOPTED IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS, PARAGRAPHS, SENTENCES, CLAUSES, OR PHRASES BE DECLARED INVALID OR UNCONSTITUTIONAL.]~~