

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, AMENDING CHAPTER 2.80 OF THE MUNICIPAL CODE,
CLARIFYING THE ROLE OF THE ETHICS BOARD AND UPDATING DEFINITIONS.**

WHEREAS, the City of Marysville is committed to conducting its business in a fair, open, efficient and accountable manner; and

WHEREAS, public officials and employees shall conduct their public and private actions and financial dealings in a manner that shall present no apparent or actual conflict of interest between the public trust and that private interest; and

WHEREAS, each official and employee is assumed and expected to act in accordance with all laws and codes of ethics that may apply to his or her position, as well as striving to avoid even an appearance of impropriety in the conduct of his or her office or business; and

WHEREAS, updating definitions and procedures in the City's ethics code will promote the public welfare by improving the efficacy of the code.

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

SECTION 1. Amendment of the Municipal Code. The Municipal Code is amended as set forth in Exhibit A.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 3. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2016.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to from:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

EXHIBIT A

Chapter 2.80 CODE OF ETHICS

Sections:

- [2.80.010](#) Declaration of policy.
- [2.80.020](#) Use of public property.
- [2.80.030](#) Obligations to citizens.
- [2.80.040](#) Code of ethics.
- [2.80.045](#) Confidentiality.
- [2.80.050](#) Penalties.
- [2.80.060](#) Board of ethics – Organization.
- [2.80.070](#) Board of ethics – Powers and duties.
- [2.80.080](#) Board of ethics – Meetings.
- [2.80.090](#) Board of ethics – Hearings and investigations.
- [2.80.100](#) Board of ethics – Review by city council.

2.80.010 Declaration of policy.

High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. They are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires of public officials and employees that they be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest. (Ord. 770 § 1, 1972).

2.80.020 Use of public property.

No official or employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business. (Ord. 770 § 2(a), 1972).

2.80.030 Obligations to citizens.

No official or employee shall grant, nor shall any citizen attempt to obtain, any special consideration, treatment or advantage beyond that which is available to every other citizen. (Ord. 770 § 2(b), 1972).

2.80.040 Code of ethics.

The purpose of the code of ethics is to assist city officials and employees to establish guidelines to govern their own conduct. The code is also intended to help develop traditions of responsible public service. No official or employee shall engage in any act which is in conflict with the performance of his official duties. An official or employee shall be deemed to have conflict of interest if he:

- (1) Receives or has any financial interest in any sale to or by the city of any service or property when such financial interest was received with the prior knowledge that the city intended to purchase such property or obtain such service;
- (2) Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the city, except such service, information or thing of value may be accepted in an amount not in excess of \$50.00 from a single source per calendar year so long as it could not be reasonably expected that such service, information or thing of value would influence the vote, action, or judgment of the officer or employee, or be considered a reward for action or inaction. The value of gifts given to an official's or employee's family member or guest shall be attributed to the official or employee 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;
- (3) Accepts any gift or favor from any person, firm or corporation having any dealings with the city if he knows or has reason to know that it was intended to obtain special consideration;
- (4) Influences the selection of or the conduct of business with a corporation, person or firm having business with the city if he personally or through household relatives has financial interest in or with the corporation, person or firm;
- (5) Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the city, unless he has disclosed such relationship as provided by this chapter;
- (6) Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his official duties or would impair his independence of judgment or action in the performance of his official duties;
- (7) Appears in behalf of a private interest before any regulatory governmental agency, or represents a private interest in any action or proceeding against the interest of the city in any litigation to which the city is a party, unless he has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A city

councilman may appear before regulatory governmental agencies on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations; however, no official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency;

(8) Directly or indirectly possess a substantial or controlling interest in any business entity which conducts business or contracts with the city, or in the sale of real estate, materials, supplies or services to the city, without disclosing such interest as provided by this chapter. An interest is not a substantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern; or the financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his household relatives;

(9) As a city councilman has a financial or other private interest in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the city council. This provision shall not apply if the city councilman disqualifies himself from voting by stating the nature and extent of such interest. Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the city council and fails to disclose on the records of the city council the nature and extent of such interest is in violation of this chapter;

(10) Violates any ordinance or resolution of the city, or the laws or ordinance of another city, or the laws of the state, or the laws of the United States, in a manner that affects, interrupts, or interferes with the performance of his or her official duties or where the violation was committed in the official's or employee's official capacity;

(11) Violates the confidentiality of his position;

(12) Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation. (Ord. 2623 § 1, 2006; Ord. 808 § 1, 1973; Ord. 770 § 3, 1972).

2.80.045 Confidentiality.

The city imposes the duty of every city employee, city advisor, and city council member to maintain his confidence on any city business or information pertaining to the city of which he has knowledge regardless whether that knowledge is gained in his or her normal work; provided, however, this confidence shall not apply to matters of public record as defined by Initiative 276 and subsequent amendments thereto, nor to matters which are necessary to relate or converse about in the performance of the official duties of that city employee, advisor and/or council member. One does not maintain his confidence as used herein by speaking, writing or uttering in any manner to persons who are not at the time of such speaking, writing or uttering in the employ of, advisor to, or council member of the city. (Ord. 808 § 2, 1973).

2.80.050 Penalties.

Any person willfully violating this chapter is guilty of a misdemeanor and is subject to the civil penalties provided herein for the negligent violation of this chapter.

An employee of the city found guilty of a negligent violation of this chapter is subject to civil penalties up to and including termination from employment and/or loss of pay not to exceed one month's salary.

Any elected official found guilty of a negligent violation of this chapter is subject to a civil penalty of loss of pay not to exceed one month's salary. In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this chapter, any person or organization which willfully attempts to secure preferential treatment in its dealings with the city by offering any valuable gifts, whether in the form of services, loan, thing or promise, or any other form to any city official or employee, shall have its current contracts with the city canceled and shall not be able to bid on any other city contracts for a period of two years. (Ord. 770 § 4, 1972).

2.80.060 Board of ethics – Organization.

~~(1) The city council may create~~ ~~There is created~~ a board of ethics by resolution. Such resolution may provide for a board to perform its duties in regard to a specific matter or may appoint a board for a set term during which it will discharge its duties. ~~Any board so created will be~~ composed of three members, one to be appointed by the mayor, one to be appointed by two-thirds vote of the city council, and the third, who shall be chairman, to be appointed by the other two members. The terms of the board members shall be three years as determined by the city council. ~~The first three members shall be appointed for one-, two- and three-year terms, respectively. The chairman shall have a three-year term. The terms of the other two are to be determined by lot. No member of the board of ethics shall simultaneously hold any city office, elected or appointed, nor shall he be an employee of the city.~~ Any member of the board of ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council. (Ord. 929 § 2, 1977).

2.80.070 Board of ethics – Powers and duties.

(1) The board of ethics shall be purely an advisory board to the city council.

(2) The board shall perform the following duties:

- (a) ~~Upon receiving a request from the city council, the board shall investigate said complaint and, if it deems it necessary, shall conduct a hearing and issue findings as provided below. Upon request of a city official or employee, the board shall render advisory opinions, in writing, concerning questions of ethics, conflicts of interest and the applicability of this chapter. Written copies of such opinions shall be released only when the board deems it to be in the public interest. Upon release, copies shall be~~

~~delivered to the requesting party and to the mayor. Such opinions may be made public only upon deleting such material as may be necessary to protect the confidence and privacy of city officials and employees.~~

(b) Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is accused, the board shall investigate said complaint and, if it deems it necessary, shall conduct a hearing and issue findings as provided below.

(c) Upon its own motion, the board may investigate any suspected or alleged violation of this chapter and, if it deems it necessary, shall conduct a hearing and issue findings as provided below; provided, however, no such hearing shall be conducted unless the accused is first served with written copy of the allegations against him.

(d) The board shall keep such records as may be necessary for the proper administration of this chapter. (Ord. 929 § 3, 1977).

2.80.080 Board of ethics – Meetings.

The board shall meet as frequently as it deems necessary. A majority of the board shall constitute a quorum. Meetings shall be open or closed to the public at the discretion of the board and as allowed under the Washington State Open Meetings Act. (Ord. 929 § 4, 1977).

2.80.090 Board of ethics – Hearings and investigations.

In the course of an investigation, the board may determine that it is necessary to conduct a hearing. If the investigation involves accusations against an officer or employee, such hearings shall be closed to the public unless such officer or employee requests that it be a public hearing. The board may administer oaths in connection with any matter under inquiry ~~and any witness appearing before the board shall testify under oath~~. Any witness in a proceeding before the board shall have the right to be represented by counsel. ~~A person accused shall have the right to call witnesses and cross-examine witnesses at any hearing concerning the accusations against him or her. The board shall generally follow the procedures in chapter 34.05 RCW for adjudicative hearings, but ~~no~~ no~~ informality in any proceedings or hearings, or in the manner of taking testimony before the board, shall invalidate any decision or findings made, approved or confirmed by the board. At the conclusion of each investigation, the board shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the investigation, the mayor and the city council. (Ord. 929 § 5, 1977).

2.80.100 Board of ethics – Review by city council.

The city council shall review the findings and recommendations of the board of ethics. No such findings or recommendations shall be final or effective unless and until approved and implemented by resolution of the city council. The city council, in its discretion, may render its decision based upon the findings and recommendations of the board of ethics without further investigation or public hearing. (Ord. 929 § 6, 1977).