

City of Providence
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER

No. 440 AN ORDINANCE AMENDING SECTION 17-33 OF THE CODE OF ORDINANCES, ENTITLED: "CODE OF ETHICS"

Be it ordained by the City of Providence:

Sec. 17-33. - Code of ethics.

- (a) *Legislative intent and declaration of policy.* It is declared to be the policy of the city that all officers and employees of the city are public servants of the people and hold their positions for the benefit of the public. These public servants shall fulfill conscientiously, according to the Providence Home Rule Charter, the Code of Ordinances of the city and all applicable laws, their duties and shall prove themselves in their behavior worthy of the esteem which their position requires. In all official activity, such officers and employees shall strive to meet the highest standards of ethics consistent with this code and state law, regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern.

In enacting this code of ethics the city recognizes that the state code of ethics applies to all city employees and officials. Accordingly, the purpose of the city's ethics code is not to replicate the prohibitions and regulations which already govern municipal employees. Rather, the goal of this ethics code is to address issues and conduct not covered by the state ethics code and in so doing to hold the city's employees and officials to the highest possible standards of ethics.

- (b) *Definitions.* For purposes of this section:

- (1) *Business associate* means a person joined together with another person to achieve a common financial objective.
- (2) *City* means the City of Providence.
- (3) *City facility* means a structure or building owned, operated or managed by the city or a municipal agency.
- (4) *Elected official* means any individual elected to an office created by the charter of the city.
- (5) *Employee* means any individual other than an elected official or an independent contractor, receiving compensation for services performed for the city.
- (6) *Family member* means an individual who is related to a person as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step-grandparent, step-great grandparent, step-grandchild, step-great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household.
- (7) *Municipal agency* means any department, bureau, commission, board, or authority, of the city or quasi-public authority of the city. It shall also include any group of persons, corporations, organizations, or other entities, however created, which exercise governmental functions of the city, other than in an advisory nature, and expend public funds in excess of ten thousand dollars (\$10,000.00) annually.
- (8) *Official* shall mean the same as that term is defined in section 1207 of the Home Rule Charter of the City of Providence.

- (9) A person "represents" another person before a municipal agency if he or she is authorized by that other person to act, and does in fact act, as the other person's attorney-at-law or his or her attorney-in-fact in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in favor of that other person.
 - (10) A person "represents" himself or herself before a municipal agency if he or she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his or her favor.
- (c) *Prohibited conduct relating to employment.*
- (1) *Coercion for trading with a particular business.* It is unlawful for any official or employee of the city or a municipal agency to discharge, threaten to discharge, discipline, threaten to discipline or otherwise discriminate against any other officer or employee for trading or not trading as a customer or patron with any particular business.
 - (2) *Use of public property.* It is unlawful for an official or employee of the city or a municipal agency to knowingly use property owned by the city or an independent agency, including but not limited to vehicles, for his or her personal benefit, convenience or profit, except in accordance with policies promulgated by the council or by the governing body of the municipal agency owning the property.
 - (3) *City seal.* It is unlawful for any person to fraudulently affix or impress the seal to or upon any certificate, instrument, commission, document or paper or with knowledge of its fraudulent character to use, buy, procure, sell or transfer to another any certificate, instrument, commission, document or paper, to or upon which the seal has been fraudulently affixed.
 - (4) *Activities relating to promotion or appointment.* It shall be unlawful for any person seeking employment or promotion in the city or a municipal agency to either directly or indirectly give, promise, or pay any money, service of other thing of value for, or on account of, in connection with or for the purpose of influencing or affecting their test, appointment, proposed appointment, promotion or proposed promotion.
 - (5) *Misuse of position.* It is unlawful for an official or employee of the city or municipal agency to intentionally use his or her official position to secure a special privilege or exemption for himself, herself or any other person.
 - (6) *Misuse of information.* It is unlawful for an official or employee of the city or a municipal agency to willfully or knowingly disclose any confidential or privileged information acquired by reason of the officer or employee's position, unless authorized or required by law to do so. Provided that nothing herein shall prohibit an officer or employee from engaging in conduct protected by R.I.G.L. Ch. 28-50, and the Rhode Island Whistle Blower's Protection Act.
 - (7) *No show jobs.* It is unlawful for an official or employee of the city or a municipal agency to knowingly employ a person with public funds who does not perform tasks which contribute substantially to the work of the government of the city or a municipal agency or whose tasks are grossly disproportionate to the compensation received.
 - (8) *Outside work during business hours.* No city employee shall engage in any outside business or commercial activity during regular business hours of his or her city position. All city employees are assumed to be full time, unless their personnel record or applicable personnel policies indicate otherwise.
 - (9) *Representing persons.* It shall be unlawful for any official or employee of the city or a municipal agency to act as agent or attorney for, or otherwise represent any person (except the city or the municipal agency) before any court, or before any state, federal, or local agency, or any officer or employee thereof in connection with a particular matter:
 - a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
 - b. In which the employee or official participated personally and substantially as a city official or employee; and

- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(10) *Advising or consulting.* It shall be unlawful for any official or employee of the city or a municipal agency to aid, advise, counsel, consult or assist another person (except the city or municipal agency) in connection with a particular matter:

- a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
- b. In which the employee or official participated personally and substantially as a city official or employee; and
- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(d) *Former employees/officials.*

(1) *Representing persons.* It shall be unlawful for any person who was an official or employee of the city or an municipal agency, for a period of one (1) year after he or she has separated from the city, to act as agent or attorney for, or otherwise represent any person (except the city or the municipal agency) before any court, or before any state, federal, or local agency, or any officer or employee thereof in connection with a particular matter:

- a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
- b. In which the former employee or official participated personally and substantially as a city official or employee; and
- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(2) *Advising or consulting.* It shall be unlawful for any person who was an official or employee of the city or a municipal agency, for a period of one (1) year after he or she has separated from the city, to aid, advise, counsel, consult or assist another person (except the city or municipal agency) in connection with a particular matter:

- a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
- b. In which the former employee or official participated personally and substantially as a city official or employee; and
- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(3) *Contracts, grants and subsidies.* It shall be unlawful for any former employee or official of the city or a municipal agency who participated personally and substantially in the negotiation of a municipal contract, grant or, subsidy, including but not limited to a tax stabilization agreement or a tax increment financing arrangement valued at one hundred thousand dollars (\$100,000.00) or more, or who supervised the negotiation or award of such a contract to accept employment with a party to the contract (except the city or municipal agency) or with the recipient of the grant or subsidy for a period of one (1) year after such contract is signed or the grant or subsidy is awarded.

(4) *Confidential information.* It shall be unlawful for any former employee or official of the city or a municipal agency to disclose confidential or privileged information acquired during service as employee or official, unless authorized or required by law to do so.

(5) *Revolving door.*

- a. It shall be unlawful for an elected official, while holding office and for a period of one (1) year after leaving office, to seek or accept employment with any municipal agency, other than employment which was held at the time of the official's election or at the time of the enactment of this section, except as provided herein.
- b. Nothing contained herein shall prohibit the mayor or the city council from appointing any elected official to a senior policy making, discretionary, or confidential position on the mayor or the council's staff, and in the case of the mayor, to a position as a department director or deputy director.
- c. Nothing contained herein shall be construed to prohibit an elected official from seeking or being elected to any other elective office.
- d. This subsection shall expire and be deemed repealed in the event the state makes the conduct described in subparagraph a. hereof punishable as a crime, misdemeanor or offense.

(e) *Campaign ethics.*

- (1) *Political activities while on duty.* It is unlawful for an employee of the city or an independent agency to take any active part in political management or in political campaigns during duty hours; provided that this section shall not be construed to prohibit an officer or employee from voting as he or she may choose and from expressing his or her opinion on a political subject or candidate.
- (2) *Restrictions on campaigning by city employees.* It is unlawful for any employee of the city or a municipal agency while wearing a uniform required for his or her employment to:
 - a. Request, in person, that any individual contribute any time, money or other thing of value to any candidate, political party or political committee; or
 - b. Solicit, in person, support or votes for any candidate, political party or political measure.
- (3) *Soliciting contributions from city employees.* It is unlawful for any person to solicit political contributions from employees of the city or a municipal agency during the employee's hours of employment.
- (4) *Soliciting contributions in city facilities.* It is unlawful for a person to make, solicit, or knowingly accept any campaign contribution in a city facility.
- (f) *Aiding and abetting.* No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any provision of this article.
- (g) *Suspension or dismissal for felonies related to employment.*
 - (1) Upon indictment, information or complaint and/or arraignment for a felony directly related to his or her employment, any city employee may be suspended with or without pay, or transferred to another position. Upon conviction of or plea of nolo contendere to a felony related to his or her employment, a city employee shall be dismissed immediately.
 - (2) [Effective January 1, 2019] No member of the Providence City Council who is subject to indictment, information or complaint and/or arraignment for a felony shall be eligible for appointment or election to serve in any of the following positions: City Council President, City Council President Pro Tempore, Majority Leader, Minority Leader and/or Chair or Vice-Chair of a standing City Council committee.
 - (3) [Effective January 1, 2019] Upon indictment, information or complaint and/or arraignment for a felony, a member of the City Council who at the time of said indictment, information, complaint and/or arraignment holds one or more of the position(s) of President of the City Council, President Pro Tempore of the City Council, Majority Leader, Minority Leader and/or as a Chair or Vice-Chair of a standing City Council committee shall be immediately suspended from any and all such positions. During the period of suspension, (1) if the President is suspended, the President Pro Tempore shall become Acting President and shall appoint an acting President Pro Tempore, (2) if the Majority Leader is suspended, the President shall appoint an acting Majority Leader; (3) if the Minority Leader is suspended, the President shall appoint an

acting Minority Leader; (4) if a Committee Chair is suspended, the Vice Chair shall become Acting Chair and the Committee will elect an Acting Vice Chair (other than the suspended Chair); (5) if a Committee Vice Chair is suspended, the Committee will elect an Acting Vice Chair (who is not suspended). To the extent that any vacancies remain, the President (or Acting President) will have the authority to make temporary appointments to fill any vacancies resulting from the suspension pending the resolution of the suspended member's criminal case. If the felony charges are dismissed, the suspension(s) shall be lifted. Upon conviction of or plea of nolo contendere to a felony, the City Council member will be permanently removed from the position(s) from which she or he has been suspended under this section and the position(s) shall be declared vacant. In this circumstance, the vacancies will be filled as provided in the Home Rule Charter, the Code of Ordinances and/or the City Council Rules.

(h) *Penalties and enforcement.*

- (1) *Criminal penalties.* Any person who knowingly and willfully violates the provisions of this article shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) for each violation and/or imprisonment of not more than thirty (30) days.
- (2) *Civil penalties.* Any person who intentionally or negligently violates the provisions of this article shall be liable in a civil action brought by the city solicitor in the municipal court for an amount up to two hundred fifty dollars (\$250.00) for each violation as well as the pecuniary value of any unjust enrichment realized by the violator, a family member of the violator or a business association of the violator as the result of his or her violation of this article.
- (3) *Statute of limitations.* No complaint may be made under this article except within five (5) years after the violation alleged in the complaint has been committed.
- (4) *Enforcement.* The provisions of this ordinance shall be enforced in compliance with collective bargaining agreements, the Law Enforcement Officers' Bill of Rights (R.I.G.L. § 42-28.6-1 et seq.), and all pertinent employment and labor laws.

(i) *Providence ethics commission.* There is hereby created the city ethics commission, the purpose of which is to provide a local forum for consideration and investigation of ethical problems and issues.

(1) *Membership, terms and appointment.*

- a. The ethics commission shall be composed of seven (7) members. The city council shall appoint three (3) members. The mayor shall appoint three (3) members. The remaining member, who shall serve as the chairperson of the commission, shall be appointed by majority vote of the commission. In the absence of a majority vote, the mayor shall, with council approval, appoint the chairperson.
- b. Members of the commission shall serve four-year terms, except that of the members first appointed:
 - The first member appointed by the mayor shall serve a two-year term.
 - The first member appointed by the council shall serve a two-year term.
 - The second member appointed by the mayor shall serve a three-year term.
 - The second member appointed by the council shall serve a three-year term.
- c. For the appointment of the ethics commission, authorities shall nominate individuals who have demonstrated the highest level of ethics standards in connection with their business, professional, occupational, financial or community commitments, and who possess the following qualifications: integrity, familiarity with government ethics issues, objectivity, common sense and compassion.
- d. No person shall serve more than two (2) consecutive full four-year terms.
- e. No member shall be an elected or appointed official of the city or a municipal agency, or hold or campaign for any elected office within the state, or have held an elected office within the state within two (2) years of his or her appointment.
- f. No member shall hold office in any political party or political committee.

- g. No member shall participate in or contribute to any political campaign for an elected office created by the charter for the city.
- h. Any vacancy on the ethics commission occurring for any reason prior the expiration of the member's term shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.
- i. All vacancies on the ethics commission shall be filled within thirty (30) days of the vacancy occurring.
- j. A majority vote shall be required for action of the ethics commission.
- k. Four (4) members of the ethics commission shall constitute a quorum.
- l. Ethics commission members shall not be compensated.
- m. The city shall provide suitable quarters for the ethics commission.
- n. The city solicitor shall be the chief legal advisor to the ethics commission and shall attend or designate a solicitor to attend all meetings of the commission.

(2) *Duties and powers.*

- a. *Advisory opinions.* Every official or employee when in doubt as to the application or interpretation of the city ethics code to himself or herself in a particular context, may submit in writing the facts of the situation to the ethics commission for an advisory opinion to establish the standard for public duty. An advisory opinion shall be rendered by the ethics commission, and each such opinion (with identifying information redacted), shall be numbered, dated and published. Any advisory opinion rendered by the commission, until amended or revoked by a majority vote of the commission, shall be binding on the city in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion.
- b. *Investigation.* The ethics commission shall investigate any circumstance or situation of which the ethics commission may become aware that appears to violate or may potentially violate the city ethics code. In furtherance of any such investigation the commission shall have the power to compel attendance of witnesses and require the production of evidence. The ethics commission shall create a written report setting for the results of any investigation. If following an investigation, the ethics commission concludes that it is probable that a violation of the city ethics code has occurred the ethics commission shall refer the matter to the city solicitor for review and potential prosecution in the city municipal court. In the case of matters involving employees within the personnel system established by article IX of the Charter, the ethics commission shall also refer the matter to the department of human resources for appropriate disciplinary action. In the case of matters involving sworn personnel of the public safety department, the ethics commission shall refer the matter to the commissioner of public safety, for appropriate disciplinary action. In the case of matters involving employees or officials (other than sworn personnel of the public safety department) not subject to the personnel system established by article IX of the Charter, the ethics commission shall also refer the matter to the appointing authority, for appropriate disciplinary action.
- c. *Conduct prohibited by the state ethics code.* If the ethics commission becomes aware of any circumstance or situation which appears to violate or may potentially violate the state code of ethics, R.I.G.L. 36-14-1 et seq., the ethics commission shall report the matter to the state ethics commission. In the case of matters involving employees within the personnel system established by article IX of the Charter, the ethics commission shall also refer the matter to the department of human resources for appropriate disciplinary action. In the case of matters involving sworn personnel of the public safety department, the ethics commission shall refer the matter to the commissioner of public safety, for appropriate disciplinary action. In the case of matters involving employees or officials (other than sworn personnel of the public safety department) not subject to the personnel system established by article IX of the Charter, the ethics commission shall also refer the matter to the appointing authority, for appropriate disciplinary action.

- d. *Unlawful conduct.* If the ethics commission becomes aware of any circumstance or situation which appears to constitute a crime under the laws of the state, the ethics commission shall report the matter to the city solicitor who shall determine necessary referral to appropriate entities, including but not limited to the attorney general's office, the commissioner of public safety, and/or other appointing authority, for appropriate disciplinary action.
 - e. *Rules and regulations.* The commission shall promulgate rules and regulations as may be necessary to carry out the provisions of this article with advice from the city solicitor's office and consent from the city council.
 - f. *Education.* The commission shall assist the municipal integrity officer in the preparation of written materials, including a "plain English" Providence Code of Ethics Handbook, and programs designed to educate persons as to their obligations under and assist persons in complying with the city ethics code and the state's ethics code.
 - g. *Hotline.* The ethics commission shall in conjunction with the municipal integrity officer establish and monitor a toll free telephone hotline, whereby members of the public may report any circumstance or situation involving an employee or official of the city or a municipal agency which appears to violate or may potentially violate the city ethics code or the code of ethics of the state.
 - h. *Recommendations to council.* If as the result of its work, the ethics commission determines the need for remedial or preventive legislation, the ethics commission may make such recommendations to the council as it deems appropriate.
 - i. *Report to council.* It shall be the duty of the ethics commission to submit to the council and the mayor an annual report of its work.
- (3) *Assistance from branches of city government.* The commission is authorized to call upon appropriate agencies and branches of city government for such assistance as may be needed in the discharge of its duties. In the event that the solicitor's office has a conflict precluding its representation, it shall take appropriate steps to assure such representation for the commission.
- (j) *Municipal integrity officer.* The position of municipal integrity officer is hereby established.
- (1) *Appointment.* The municipal integrity officer is to be appointed by the mayor with the advice and consent of the council, for a term concurrent with the appointing mayor.
 - (2) *Credentials.* The municipal integrity officer shall be a person holding at least a bachelor's degree from an accredited college or university with a minimum five (5) years' experience serving as an ethics advisor for a municipality, state agency, or corporation or as an investigator or as a lawyer, or the equivalent experience.
 - (3) *Mission.* The mission of the municipal integrity officer is to encourage each of the officials and employees of the city and municipal agencies to act in an ethical manner. This mission requires that the municipal integrity officer encourage employees and officials not only to comply with various laws, but more importantly, to adhere to the highest standards of ethical behavior.
 - (4) *Duties.* In pursuing the above referenced mission, the duties of the municipal integrity officer include, but are not limited to the following:
 - a. *Education and training.* Develop training and education programs in coordination with the city ethics commission and the state ethics commission and in so doing encourage compliance with both the letter and the spirit of ethics laws. An introductory program will be required for all employees and officials. This program will be offered on a regular basis for new employees.
 - b. *Written materials.* The municipal integrity officer will in conjunction with the city ethics commission publish a "plain English" Providence Ethics Handbook which addresses the requirements of the city ethics code and the code of ethics of the state. The municipal integrity officer will also develop fliers, pamphlets and other printed materials to educate employees, appointed and elected officials and the public regarding ethical conduct.

- c. *Hotline.* Establish and monitor in conjunction with the city ethics commission a telephone hotline whereby members of the public may report any circumstance or situation involving an employee or official of the city or a municipal agency which appears to violate or may potentially violate the city ethics code or the code of ethics of the state.
 - d. *Website.* The municipal integrity officer will develop and publish a website related to city ethics. The website will contain readable and downloadable copies of the city ethics code and the code of ethics of the state.
 - e. *Information advice.* The municipal integrity officer will be available on a confidential basis to all employees and officials to answer questions regarding ethics and may provide informal advice regarding issues relating to the city code of ethics. The municipal integrity officer will also assist employees and officials in seeking guidance from the state ethics commission relative to the code of ethics of the state.
 - f. *Review and recommend.* Review periodically this code and other applicable laws and recommend to the ethics commission appropriate changes to the code.
 - g. *Liaison with ethics commission.* Serve as a liaison between the ethics commission and the officials and employees of the city.
 - h. *Liaison with state ethics commission.* The municipal integrity officer will maintain liaison with executive director and the education coordinator of the state ethics commission on a regular basis to remain attuned to the requirements of the state code to engender cooperation with the state ethics commission.
 - i. *Personnel and legal liaison.* The municipal integrity officer will maintain liaison with the director of human resources and the city solicitor.
 - j. *[Municipal integrity officer.]* The municipal integrity officer may seek formal opinions from the ethics commission on interpretation of his or her formal duties or this code.
- (k) *Severability.* If any word, phrase, clause, or subsection of this section is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the section.

IN CITY COUNCIL
SEP 06 2018

READ AND ~~Not~~ Passed


CLERK