

Code of Ethics

Explanations and Examples

For Elected Officials, City Employees,
Appointees to Boards and Commissions,
and City Volunteers



City of Portland

Introduction

December 2009

To: Elected Officials
City Employees
Appointees to Boards and Commissions
City Volunteers

In 1994, City Auditor Barbara Clark proposed that Council adopt a new chapter to the City Code, consisting of a code of ethics. Auditor Clark involved other elected officials, bureau managers, union representatives, City employees, attorneys, and members of the public to develop that code.

The Code of Ethics continues to provide an important set of standards, conveying the principles of the City organization to officials, employees, volunteers, and the public. For the Office of City Auditor, the Code of Ethics has served as a significant tool for emphasizing positive and reasonable expectations for well over a decade.

The attached report is a guide for the reader, with explanations and examples that may help in navigating through some situations. A good source for additional information and guidance about ethics is the City Auditor's Office of the Ombudsman - (503) 823-0144.



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City Code Chapter 1.03

CODE OF ETHICS

Sections:

- 1.03.010 Definitions
- 1.03.020 Trust
- 1.03.030 Objectivity
- 1.03.040 Accountability
- 1.03.050 Leadership

1.03.010 Definitions.

1. “City official” means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.
2. “Ethics” means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law. Others rely on training, or on individuals’ desire to do the right thing. The provisions of this Chapter which are not elsewhere enforced by law shall be considered advisory only.

1.03.020 Trust. The purpose of City government is to serve the public. City officials treat their office as a public trust.

1. The City’s powers and resources are used for the benefit of the public rather than any official’s personal benefit.
2. City officials ensure public respect by avoiding even the appearance of impropriety.
3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.
4. Administrators implement policies in good faith, as equitably and economically as possible, regardless of their personal views.
5. Whistle-blowing is appropriate on unlawful or improper actions.

6. Citizens have a fair and equal opportunity to express their views to City officials.
7. City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.
8. City officials devote City resources, including paid time, working supplies, and capital assets, to benefit the public.
9. Political campaigns are not conducted on City time or property.

1.03.030 Objectivity. City officials' decisions are based on the merits of the issues. Judgment is independent and objective.

1. City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.
2. If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.
3. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.
4. Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.

1.03.040 Accountability. Open government allows citizens to make informed judgments and to hold officials accountable.

1. City officials exercise their authority with open meetings and public records.
2. Officials who delegate responsibilities also follow up to make sure the work is carried out efficiently and ethically.
3. Campaigns for election should allow the voters to make an informed choice on appropriate criteria.
4. Each City employee is encouraged to improve City systems by identifying problems and proposing improvements.

5. City government systems are self-monitoring, with procedures in place to promote appropriate actions.

1.03.050 Leadership.

1. City officials obey all laws and regulations.
2. City officials do not exploit loopholes.
3. Leadership facilitates, rather than blocks, open discussion.
4. Officials avoid discreditable personal conduct and are personally honest.
5. All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.
6. The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

Explanations and Examples

1.03.010 Definitions.

1. “City official” means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.

The Code of Ethics is intended to apply to everyone. However, specific groups such as employees or elected officials may be mentioned in some examples.

2. “Ethics” means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law. Others rely on training, or on individuals’ desire to do the right thing. The provisions of this chapter which are not elsewhere enforced by law shall be considered advisory only.

The Code of Ethics is not intended to legislate morality, but rather to convey general expectations of appropriate conduct. It is included in City Code to make it easy to find, and to emphasize the seriousness of Council’s intent.

Just because an action is legal does not necessarily mean it is right or good. Similarly, not every action that is wrong needs to be punished under the law. The role of ethics is particularly to question those actions which are neither prohibited nor required by law.

In this pamphlet, the applicable laws are summarized in the boxes adjacent to the explanatory text. If no law is

indicated for a numbered subsection, its provisions are only advisory.

1.03.020 Trust. *The purpose of City government is to serve the public. City officials treat their office as a public trust.*

City officials have special powers, along with a special obligation to act only on behalf of the public.

ORS Chapter 244 declares public office a public trust, prohibits certain actions, and provides penalties. An explanatory guide is available from the Oregon Government Ethics Commission.

1. *The City's powers and resources are used for the benefit of the public rather than any official's personal benefit.*

To function effectively, the City needs the public's respect and confidence that its power will be used on behalf of the community as a whole. In this context, improper acts are doubly wrong: a selfish decision is not only wrong in itself, but also wrong because it violates the public's trust in government.

2. *City officials ensure public respect by avoiding even the appearance of impropriety.*

Public service requires a continual effort to overcome cynical attitudes and suspicions about the people in government. For example, conduct which could appear dishonest to a reasonable observer will undermine the public trust even if the conduct is not illegal.

3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.

Public service involves a complex network of competing loyalties -- to country, state, community, employer, mentors, colleagues, subordinates, family and self. Often constituent interests can be satisfied without violating the public interest, but policy formulation requires evaluating information objectively and deciding what is best for the public as a whole.

There is no formula for the most difficult decisions. The long-term public interest demands that the will of the majority be tempered by a commitment to consider the rights and interests of minority groups, especially those who are not sufficiently represented in the normal decision-making process.

Elected officials have a duty to engage in dialogue with the public, to hear their concerns and to increase their awareness of long-term efforts for the community as a whole.

4. Administrators implement policies in good faith, as equitably and economically as possible, regardless of their personal views.

City managers and service providers are supposed to implement the policies and laws enacted by City Council. Not every aspect of every situation will be specifically covered in the law, so virtually every employee will have

opportunities to make decisions. These decisions should be guided by an honest effort to understand and carry out the policymakers' instructions.

Elected officials sometimes become frustrated dealing with a large, unresponsive bureaucracy. Civil servants can become equally frustrated by the passage of laws which have not sufficiently drawn on the expertise of administrators and are impractical, contradictory, ambiguous, underfunded, or ineffective. To keep these frustrations from paralyzing the organization, two-way dialogue is essential.

City workers at all levels generally have personal convictions which affect the way they interpret and implement policies. This is proper so long as their values and attitudes do not impede or nullify instructions from policy-makers.

City workers who find their personal convictions are irreconcilably incompatible with lawful policies should openly state their conflict. In some cases such workers may request reassignment, or even resign. It is not ethical to express personal convictions covertly by blocking or ignoring lawful policies.

City Code Section 1.01.140 provides a general penalty for violating or failing to comply with City Code of a fine up to \$500 or imprisonment up to 6 months, or both.

5. Whistle-blowing is appropriate on unlawful or improper actions.

Anyone who observes significant unlawful or improper actions by a city official is expected to report them. Customarily, the actions are reported to the official's supervisor. If the supervisor appears to be involved in the improper actions, the report can be made to a higher level, to the City Auditor, or to the Oregon Government Ethics Commission. This decision is not to be made lightly, as whistleblowing may result in estrangement and workplace discord.

“Whistleblowing” differs from “leaking” because leakers act covertly and are essentially unaccountable for the consequences of their actions.

Conscientious City workers protect the public from improper governmental activities, illegal secret policies and arrogant decision-making. Therefore, it is unlawful to harass or punish City workers who seek to hold government accountable through whistle-blowing.

Employer retaliation is prohibited by ORS 659A.230 and civil and criminal penalties are provided. BHR 11.03 also prohibits retaliation.

6. Citizens have a fair and equal opportunity to express their views to City officials.

Often it is impossible for an official to talk personally with every concerned member of the public, but obtaining an appointment should not appear to depend on the ability of the person making the request to provide personal benefits or campaign contributions.

7. City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.

In general, personal gifts should be refused or returned with a friendly but firm message that City officials are not allowed to receive gifts. A personal gift, lunch, or entertainment gift under \$50 in value may be legal, but no amount is too small to be ethically questionable.

The official should think about the decisions and activities before him/her and exercise conservative judgment. The key question for an individual City official is, "Would I receive this gift/meal/entertainment if I did not hold a City position?" City officials should not obtain personal gain from the performance of their duties, except for official compensation and the satisfaction of a job well done.

*ORS 244.020 (6) defines "gift."
ORS 244.025 (1) prohibits soliciting or accepting gifts with a cumulative value over \$50 in a calendar year from a single source that could reasonably be known to have a legislative or administrative interest.
ORS 244.350 (1) provides civil penalties up to \$5000.*

Members of the public can best show their appreciation to a City official with a letter of commendation. Even small promotional gifts such as imprinted pens or t-shirts from business or nonprofit entities should not be used on the job, because the use of such items can create the impression that the vendor is regarded with particular favor by the City official.

City officials as representatives of the City, or while conducting official business on behalf of the City may

accept gifts for the City, and may be guests at official meals or entertainment activities. For example, gifts presented as part of the Sister Cities program should be graciously accepted, and become the property of the City of Portland.

Certain gifts for employee or retirement awards, prizes or promotional items are allowed under BHR-4.07. Gifts exchanged between co-workers for occasions such as birthdays and holidays are not prohibited. Donations to City programs are also allowed.

8. City officials devote City resources, including paid time, working supplies, and capital assets, to benefit the public.

Time paid for by the City is intended for City business. Personal errands and calls should be confined to break periods or official time off.

*City Charter
Section 2-610
requires time
on the job to be
devoted to City
Business.*

Supervisors should not ask subordinates to perform personal services.

Office supplies are for City use only. Some work groups allow personal photocopies and toll calls to be made during break periods and reimbursed to the City.

Some work groups permit after-hours personal tasks on City computers, in the belief that the public will benefit from the employee's additional practice. Other groups prohibit any personal use even if the cost to the public would be too small to measure. If public benefit is the guiding criterion, either decision is ethically defensible.

City workers should not use their position to acquire personal benefits such as surplus City equipment, tickets to events, or special treatment. City workers should not use official letterhead or refer to their public position when requesting personal benefits or resolving personal disputes.

9. Political campaigns are not conducted on City time or property.

State law requires posting a notice stating, “No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of public employees to express personal political views. It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours.”

ORS 260.432 prohibits solicitation of, or campaigning by public employees during working hours, with an exception for elected officials.

For example, a City employee while on City property during a lunch break can express personal political views to co-workers but not distribute flyers for a campaign.

As a further example, for an election such as a tax limitation or bond measure, Council may declare an official position

for the City. City officials are permitted to provide information on the measure's impact, but not to use public resources to promote a specific vote.

State law does not prohibit campaigning on public property, but does require such property to be equally available to both sides of a campaign.

It may be difficult to distinguish official duties from campaign activities in cases such as speeches or articles communicating an elected official's opinion. In such cases, the participation of public employees is justified so long as a substantial public purpose is served.

1.03.030 Objectivity. *City officials' decisions are based on the merits of the issues. Judgment is independent and objective.*

Financial disclosure regulations are designed to prevent bribery and extortion yet protect individuals' freedom of expression and association. The theory is that an informed public will decide on the propriety of financial links and hold the officials accountable.

ORS 244.050 requires statements of economic interest, and ORS Chapter 260 requires disclosure of campaign contributions.

It is ethical for officials not only to scrupulously comply with the law, but also to personally examine each transaction in order to avoid any conflict of interest.

1. *City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.*

Many people seek to influence government actions. Some do so by offering benefits such as personal favors, entertainment, gifts, loans, and special investment opportunities. City officials are to refuse and to educate the public that such offers are not allowed. If the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

Bribery is a crime under ORS 162.015 and 162.025. City Charter Section 2-609 prohibits any favoring of bidders, enforced by removal from office.

2. If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.

Recusal and disqualification involves a statement such as, "My brother-in-law is part owner of the property under discussion. Therefore, I will not be speaking or voting on this matter."

State law distinguishes between **actual** conflict of interest, which definitely would affect the official, and **potential** conflict, where the effect is not certain. In the case of a potential conflict, the official must disclose the conflict but may participate in the decision.

ORS Chapter 244 defines conflict of interest, limits participation, and provides for civil penalties. An explanatory guide is available from the Oregon Government Ethics Commission.

The law also makes an exception where the official's financial interests are included with a whole class of people, such as property taxpayers. For a non-specific

link, an informational disclosure is appropriate, such as, “We will be voting on the Albina Neighborhood Plan. I live in Albina, but the plan does not specifically refer to my property.”

State law focuses on elected officials and appointees to boards and commissions, but the ethical principle extends to all officials. For example, a building inspector would not inspect his or her own residence. City workers also undermine objectivity when they award a contract, then leave to become an employee of the contractor.

3. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.

When selecting a committee or task force, it is desirable to provide as much diversity as the size of the group will allow.

Official City policy (Res. 35162) requires that all cultures be recognized, honored, and mutually respected.

4. Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.

City officials should avoid giving the public any reason to believe they would receive better or different services if they had a personal connection with the official.

Elected officials, in particular, should be clear about discussing information rather than pressuring administrators toward a particular decision.

1.03.040 Accountability. *Open government allows citizens to make informed judgments and to hold officials accountable.*

1. *City officials exercise their authority with open meetings and public records.*

The laws of open government balance the public's right to know against the need for confidentiality in matters such as medical records and employee discipline.

Public records and open meetings are covered by ORS Chapter 192.

2. *Officials who delegate responsibilities also follow up to make sure the work is carried out efficiently and ethically.*

Managers are to make sure routines are developed that support appropriate follow-up, and should sponsor staff training to handle delegated responsibilities.

3. *Campaigns for election should allow the voters to make an informed choice on appropriate criteria.*

Elections offer the ultimate accountability for City officials. Therefore, candidates should strive for respectful and accurate discourse on important issues.

To protect freedom of speech and of the press, Oregon law does not prohibit ethically questionable actions such as untrue statements, unkept promises, or deliberate deception. Nevertheless, such actions are unethical. It is also not ethical to focus a campaign on trivial matters or on the kind of negative exchanges that could discourage civic participation.

4. Each City employee is encouraged to improve City systems by identifying problems and proposing improvements.

City workers who believe a law or policy is not achieving its stated purpose, is creating unintended harm, or is inefficient, should express such concerns to their supervisors and suggest possible improvements.

City managers should share “big picture” information with their subordinates and reward suggestions for improvement.

5. City government systems are self-monitoring, with procedures in place to promote appropriate actions.

City workers are often in the best position to observe fraud, waste, or abuse of public power, and their refusal to participate is a necessary part of protecting the public. City managers should support a workplace atmosphere that encourages employees’ pride in their work, and should constructively address problems that are called to their attention.

City managers should make sure their practices for purchasing, contracting, and hiring include routines that elicit fair choices and assure protection of City assets. Such routines include checklists, separation of duties, bank account reconciliations, and reports to management.

BHR - 3.10 prohibits nepotism, and City Code 5.33.070 states that City employees may not also be City vendors without specific Authorization from City Council.

Safeguards should be as simple as possible, so the cost of protection will be reasonable for

the situation. Often mere record-keeping is sufficient: for example, an administrator could record and periodically report all contacts from elected officials on behalf of specific constituents.

1.03.050 Leadership.

Ethical leadership sets a good example and treats all citizens with respect.

1. City officials obey all laws and regulations.

Law-abiding behavior by City officials sets a good example for the public to respect the law. Laws governing their public duties are especially important, but even actions in private life carry a public message.

Knowingly violating a statute applicable to one's office is official misconduct, a crime under ORS 162.405.

In rare cases, an official may invoke this country's long tradition of civil disobedience, which is the open refusal to abide by an unjust law, as a matter of conscience and an impetus to change. Such actions must be subject to legal consequences.

Because of their knowledge of the law, public officials may be aware of ambiguities or incomplete enforcement, but they should nevertheless comply with the laws' spirit and purpose.

2. City officials do not exploit loopholes.

3. Leadership facilitates, rather than blocks, open discussion.

Any official who controls a parliamentary process has an ethical obligation to avoid behavior such as strained interpretation of the rules, refusal to recognize a person, or arbitrarily delaying a decision.

4. Officials avoid discreditable personal conduct and are personally honest.

5. All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.

This Code of Ethics covers the relationship of the City as a whole to the public. Organizations within the City should develop additional standards as needed.

Also, ethical standards require training and enforcement, which may lead to refinement of the standards. Even the City-wide Code should be reviewed periodically.

6. The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

For comments about this pamphlet, or for additional copies, contact:

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