

ORDINANCE NO. 5866

**AN ORDINANCE TO AMEND FAIRBANKS GENERAL CODE BY
ENACTING FGC SECTION 1-20, CODE OF ETHICS**

WHEREAS, high moral and ethical standards among City officials and employees are essential to assure the trust, respect, and confidence of citizens of this City; and

WHEREAS, holding public office or employment is a public trust and as one safeguard of that trust, the people require officials and employees to adhere to a code of ethics; and

WHEREAS, while certain sections of the City Charter and City Code address ethical behavior, it is important to address the subject in one specific section;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. That Fairbanks General Code is amended by adding a new Section 1-20 Code of Ethics as follows:

Section 1-20. Code of Ethics

(a) Applicability. This Code applies to all elected officials, all appointed officials, and all employees of the City of Fairbanks.

(b) Provisions.

1. Everyone subject to this Code shall avoid impropriety and the appearance of impropriety and act in a manner that promotes public confidence in the integrity and the impartiality of City government.
2. All City business must be conducted in a manner that preserves the integrity of the governmental process and avoids conflicts of interest and ethical concerns.
3. Any potential conflict of interest must be disclosed at the earliest possible time to the appropriate authority.
5. The City will look to the following provisions of the Alaska Executive Branch Ethics Act as guidance in interpreting the provisions of this Code and in determining if specific conduct is a violation of the standard set by this Code:

- AS 39.52.120. Misuse of official position.
- AS 39.52.130. Improper Gifts.
- AS 39.52.140. Improper use or disclosure of information.
- AS 39.52.150. Improper influence in [state] grants, contracts, leases, or loans.
- AS 39.52.160. Improper representation.
- AS 39.52.170. Outside employment restricted.
- AS 39.52.180. Restriction on employment after leaving [state] service.
- AS 39.52.190. Aiding a violation.

Section 2. That the effective date of this ordinance shall be the 10th day of December 2011.




Jerry Cleworth, Mayor

AYES: Roberts, Matherly, Gatewood, Hilling, Stiver
NAYS: None
ABSENT: Eberhart
ADOPTED: December 5, 2011

ATTEST:

APPROVED AS TO FORM:



Janey Hovenden, CMC, City Clerk



Paul Ewers, City Attorney

Sec. 39.52.120. Misuse of official position.

(a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) A public officer may not

(1) seek other employment or contracts through the use or attempted use of official position;

(2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

(c) In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources.

(d) In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in

political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

(e) Except for supplying information requested by the hearing officer or the entity with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a public officer may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer or individual, board, or commission with authority to make the final decision in the case assigned to the hearing officer unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the public officer to all parties to the hearing and the contact is made a part of the record.

(f) Use of state aircraft for partisan political purposes is permitted under (b) of this section only when the use is collateral or incidental to the normal performance of official duties and does not exceed 10 percent of the total of the use of the aircraft for official purposes and partisan political purposes, combined, on a single trip. A public officer who authorizes or makes any partisan political use of a state aircraft under (b) of this section shall disclose the authorization and use under AS 39.52.210 or 39.52.220 for each trip, and the person who uses the aircraft shall reimburse the state for the proportionate share of the actual cost of the use.

Sec. 39.52.130. Improper gifts.

(a) A public officer may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to the officer's personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment. A gift from a person required to register as a lobbyist under AS 24.45.041 to a public officer or a public officer's immediate family member is presumed to be intended to influence the performance of official duties, actions, or judgment unless the giver is an immediate family member of the person receiving the gift.

(b) Notice of the receipt by a public officer of a gift with a value in excess of \$150, including the name of the giver and a description of the gift and its approximate value, must be provided to the designated supervisor within 30 days after the date of its receipt

(1) if the public officer may take or withhold official action that affects the giver; or

(2) if the gift is connected to the public officer's governmental status.

(c) In accordance with AS 39.52.240, a designated supervisor may request guidance from the attorney general concerning whether acceptance of a particular gift is prohibited.

(d) The restrictions relating to gifts imposed by this section do not apply to a campaign contribution to a candidate for elective office if the contribution complies with laws and regulations governing elections and campaign disclosure.

(e) A public officer who, on behalf of the state, accepts a gift from another government or from an official of another government shall, within 60 days after its receipt, notify the Office of the Governor in writing. The Office of the Governor shall determine the appropriate disposition of the gift. In this subsection, "another government" means a foreign government or the government of the United States, another state, a municipality, or another jurisdiction.

(f) A public officer who knows or reasonably ought to know that a family member has received a gift because of the family member's connection with the public office held by the public officer shall report the receipt of the gift by the family member to the public officer's designated supervisor if the gift would have to be reported under this section if it had been received by the public officer or if receipt of the gift by a public officer would be prohibited under this section.

Sec. 39.52.140. Improper use or disclosure of information.

(a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties that could in any way result in the receipt of any benefit for the officer or an immediate family member, if the information has not also been disseminated to the public.

(b) A current or former public officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties that is confidential by law.

Sec. 39.52.150. Improper influence in state grants, contracts, leases, or loans.

(a) A public officer, or an immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a state grant, contract, lease, or loan if the public officer may take or withhold official action that affects the award, execution, or administration of the state grant, contract, lease, or loan.

(b) The prohibition in (a) of this section does not apply to a state grant, contract, or lease competitively solicited unless the officer

(1) is employed by the administrative unit awarding the grant, contract, or lease or is employed by the administrative unit for which the grant, contract, or lease is let; or

(2) takes official action with respect to the award, execution, or administration of the grant, contract, or lease.

(c) The prohibition in (a) of this section does not apply to a state loan if

(1) the public officer does not take or withhold official action that affects the award, execution, or administration of the loan held by the officer, or an immediate family member;

(2) the loan is generally available to members of the public; and

(3) the loan is subject to fixed eligibility standards.

(d) A public officer shall report in writing to the designated supervisor a personal or financial interest held by the officer, or an immediate family member, in a state grant, contract, lease, or loan that is awarded, executed, or administered by the agency the officer serves.

Sec. 39.52.160. Improper representation.

(a) A public officer may not represent, advise, or assist a person in any matter pending before the administrative unit that the officer serves, if the representation, advice, or assistance is

(1) for compensation, unless the representation, advice, assistance, and compensation are required by statute, regulation, or court rule, or is otherwise customary; or

(2) without compensation, but rendered to benefit a personal or financial interest of the public officer.

(b) This section does not prohibit activities related to collective bargaining.

(c) This section does not preclude a nonsalaried member of a board or commission from representing, advising, or assisting in any matter in which the member has a personal or financial interest regulated by the board or commission on which the member serves, except that the member must act in accordance with AS 39.52.220.

Sec. 39.52.170. Outside employment restricted.

(a) A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency which the employee serves, if the outside employment or service is incompatible or in conflict with the proper discharge of official duties.

(b) A public employee rendering services for compensation, or engaging in employment outside the employee's agency, shall report by July 1 of each year the outside services or employment to the employee's designated supervisor. During the year, any change in an employee's outside service or employment activity must be reported to the designated supervisor as it occurs.

(c) The head of a principal executive department of the state may not accept employment for compensation outside the agency that the executive head serves.

Sec. 39.52.180. Restrictions on employment after leaving state service.

(a) A public officer who leaves state service may not, for two years after leaving state service, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by that public officer, and in which the officer participated personally and substantially through the exercise of official action. For the purposes of this subsection, "matter" includes a case, proceeding, application, contract, determination, proposal or consideration of a legislative bill, a resolution, a constitutional amendment, or other legislative measure, or proposal, consideration, or adoption of an administrative regulation.

(b) This section does not prohibit an agency from contracting with a former public officer to act on a matter on behalf of the state.

(c) The head of an agency may waive application of (a) of this section after determining that representation by a former public officer is not adverse to the public interest. The waiver must be in writing and a copy of the waiver must be provided to the attorney general for approval or disapproval.

(d) An individual who formerly held a position listed in this subsection may not engage in activity as a lobbyist under AS 24.45 for a period of one year after leaving that position. This subsection does not prohibit service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission. This subsection applies to the position of

- (1) governor;
- (2) lieutenant governor;
- (3) head or deputy head of a principal department in the executive branch;
- (4) director of a division or legislative liaison within a principal department in the executive branch;
- (5) legislative liaison, administrative assistant, or other employee of the Office of the Governor or Office of the Lieutenant Governor in a policy-making position;
- (6) member of a state board or commission that has the authority to adopt regulations, other than a board or commission named in AS 08.01.010;
- (7) member of the governing board and executive officer of a state public corporation.

(e) A former head of a principal department in the executive branch may not, for a period of one year after leaving service as the head of that department, serve on the governing board of a company, organization, or other entity that was regulated by that department or with which the former department head worked as part of an official duty as the department head. A former employee of the Office of the Governor in a policy-making position may not, for a period of one

year after leaving employment in that office, serve on the governing board of a company, organization, or other entity with which the former employee worked as part of an official duty for the Office of the Governor.

(f) In this section, "employee of the Office of the Governor in a policy-making position" means a person who is an employee required, because of the person's position in the Office of the Governor, to file a statement under AS 39.50.020.

Sec. 39.52.190. Aiding a violation prohibited.

It is a violation of this chapter for a public officer to knowingly aid another public officer in a violation of this chapter.