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INFORMATION MEMORANDUM NO. 92-32

To: Council

From: Mayor Stein

Date: November 16, 1992

Subject: Code of Ethics

Attached are examples of codes of ethics for public administrators and the ethics ordinance of the Mat-Su Borough.

It has been suggested that Wasilla consider adopting an ethics code.

If there is support from the Council, the administration could draft a version for the Council to consider early in 1993.

John C. Stein, Mayor

ASPA

Advancing excellence in public service . . .

Code of Ethics and Implementation Guidelines

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- **Demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all our public activities in order to inspire public confidence and trust in public institutions.**

Perceptions of others are critical to the reputation of an individual or a public agency. Nothing is more important to public administrators than the public's opinion about their honesty, truthfulness, and personal integrity. It overshadows competence as the premier value sought by citizens in their public officials and employees. Any individual or collective compromise with respect to these character traits can damage the ability of an agency to perform its tasks or accomplish its mission. The reputation of the administrator may be tarnished. Effectiveness may be impaired. A career or careers may be destroyed. The best insurance against loss of public confidence is adherence to the highest standards of honesty, truthfulness and fortitude.

Public administrators are obliged to develop civic virtues because of the public responsibilities they have sought and obtained. Respect for the truth, for fairly dealing with others, for sensitivity to rights and responsibilities of citizens, and for the public good must be generated and carefully nurtured and matured.

If you are responsible for the performance of others, share with them the reasons for the importance of integrity. Hold them to high ethical standards and teach them the moral as well as the financial responsibility for public funds under their care.

If you are responsible only for your own performance, do not compromise your honesty and integrity for advancement, honors, or personal gain. Be discreet, respectful of proper authority and your appointed or elected superiors, sensitive to the expectations and the values of the public you serve. Practice the golden rule: doing to and for others what you would have done to and for you in similar circumstances. Be modest about your talents, letting your work speak for you. Be generous in your praise of the good work of your fellow workers. Guard the public purse as if it were your own.

Whether you are an official or an employee, by your own example give testimony to your regard for the rights of others. Acknowledge their legitimate responsibilities, and don't trespass upon them. Concede gracefully, quickly, and publicly when you have erred. Be fair and sensitive to those who have not fared well in their dealings with your agency and its applications of the law, regulations, or administrative procedures.

- **Serve in such a way that we do not realize undue personal gain from the performance of our official duties.**

The only gains you should seek from public employment are salaries, fringe benefits, respect, and recognition for your work. Your personal gains may also include the pleasure of doing a good job, helping the public, and achieving your career goals. No elected or appointed public servant should borrow or accept gifts from staff of any corporation which buys services from, or sells to, or is regulated by, his or her governmental agency. If your work brings you in frequent contact with contractors supplying the government, be sure you pay for your own expenses. Public property, funds, and power should never be directed toward personal or political gain. Make it clear by your own actions that you will not tolerate any use of public funds to benefit yourself, your family, or your friends.

- **Avoid any interest or activity which is in conflict with the conduct of our official duties.**

Public employees should not undertake any task which is in conflict or could be viewed as in conflict with job responsibilities.

This general statement addresses a fundamental principle that public employees are trustees for all the people. This means that the people have a right to expect public employees to act as surrogates for the entire people with fairness toward all the people and not a few or a limited group.

Actions or inactions which conflict with, injure, or destroy this foundation of trust between the people and their surrogates must be avoided.

Ironically, experience indicates that conflict of interest and corruption often arise not from an external affront, but as a result of interaction between persons who know each other very well. To strengthen resistance to conflict of interest, public employees should avoid frequent social contact with persons who come under their regulation or persons who wish to sell products or services to their agency or institution.

Agencies with inspectional or investigative responsibilities have a special obligation to reduce vulnerability to conflict of interest. Periodic staff rotation may be helpful to these agencies.

Individuals holding a position recognized by law or regulation as an unclassified or political appointment (e.g. Cabinet level and Governor's appointment positions) have a special obligation to behave in ways which do not suggest that official acts are driven primarily or only by partisan political concerns.

Public employees should remember that despite whatever preventive steps they might take, situations which hold the possibility for conflict of interest will always emerge. Consequently, the awareness of the potentiality of conflict of interest is important. Public employees, particularly professors in public administration, have a serious obligation to periodically stimulate discussion on conflicts of interest within organizations, schools, and professional associations.

- **Support, implement, and promote merit employment and programs of affirmative action to assure equal employment opportunity by our recruitment, selection, and advancement of qualified persons from all elements of society.**

Oppose any discrimination because of race, color, religion, sex, national origin, political affiliation, physical handicaps, age, or marital status, in all aspects of personnel policy. Likewise, a person's life-style should not be the occasion for discrimination if it bears no reasonable relation to his or her ability to perform required tasks.

Review employment and personnel operations and statistics to identify the impact of organizational practices on "protected groups." Performance standards should apply equally to all workers. In the event of cutbacks of staff, managers should employ fair criteria for selection of employees for separation, and humane strategies for administering the program.

Any kind of sexual, racial, or religious harassment should not be allowed. Appropriate channels should be provided for harassed persons to state their problems to objective officials. In the event of a proven offense, appropriate action should be taken.

- **Eliminate all forms of illegal discrimination, fraud, and mismanagement of public funds, and support colleagues if they are in difficulty because of responsible efforts to correct such discrimination, fraud, mismanagement or abuse.**

If you are a supervisor, you should not only be alert that no illegal action issues from or is sponsored by your immediate office, you should inform your subordinates at regular intervals that you will tolerate no illegalities in their offices and discuss the reasons for the position with them. Public employees who have good reason to suspect illegal action in any public agency should seek assistance in how to channel information regarding the matter to appropriate authorities.

All public servants should support authorized investigative agencies, the General Accounting Office in the federal government, auditors in the state or large local governments, C.P.A. firms or federal or state auditors in many other cases. We should support the concept of independent auditors reporting to committees independent of management. Good fiscal and management controls and inspections are important protections for supervisors, staff, and the public interest.

In both government and business, inadequate equipment, software, procedures, supervision, and poor security controls make possible both intentional and unintentional misconduct. Managers have an ethical obligation to seek adequate equipment, software, procedures, and controls to reduce the agency's vulnerability to misconduct. When an agency

dispenses exemptions from regulations, or abatement of taxes or fees, managers should assure periodic investigatory checks.

The "whistle blower" who appears to his/her immediate superiors to be disloyal, may actually be loyal to the higher interests of the public. If so, the whistle blower deserves support. Local, state, and federal governments should establish effective dissent channels to which whistle blowers may report their concerns without fear of identification.

Supervisors should inform their staff that constructive criticism may be brought to them without reprisal, or may be carried to an ombudsman or other designated official. As a last resort, public employees have a right to make public their criticism but it is the personal and professional responsibility of the critic to advance only well-founded criticism.

- **Serve the public with respect, concern, courtesy, and responsiveness, recognizing that service to the public is beyond service to oneself.**

Be sure your answers to questions on public policy are complete, understandable, and true. Try to develop in your staff a goal of courteous conduct with citizens. Devise a simple system to ensure that your staff gives helpful and pleasant service to the public. Wherever possible, show citizens how to avoid mistakes in their relations with government.

Each citizen's questions should be answered as thoughtfully and as fully as possible. If you or your staff do not know the answer to a question, an effort should be made to get an answer or to help the citizen make direct contact with the appropriate office.

Part of servicing the public responsively is to encourage citizen cooperation and to involve civic groups. Administrators have an ethical responsibility to bring citizens into work with the government as far as practical, both to secure citizen support of government, and for the economies or increased effectiveness which will result. Respect the right of the public (through the media) to know what is going on in your agency even though you know queries may be raised for partisan or other non-public purposes.

- **Strive for personal professional excellence and encourage the professional development of our associates and those seeking to enter the field of public administration.**

Staff members, throughout their careers, should be encouraged to participate in professional activities and associations such as ASPA. They should also be reminded of the importance of doing a good job and their responsibility to improve the public service.

Administrators should make time to meet with students periodically and to provide a bridge between classroom studies and the realities of public jobs. Administrators should also lend their support to well planned internship programs.

- **Approach our organization and operational duties with a positive attitude and constructively support open communication, creativity, dedication, and compassion.**

Americans expect government to be compassionate, well organized, and operating within the law. Public employees should understand the purpose of their agency and the role they play in achieving that purpose. Dedication and creativity of staff members will flow from a sense of purpose.

ASPA members should strive to create a work environment which supports positive and constructive attitudes among workers at all levels. This open environment should permit employees to comment on work activities without fear of reprisal. In addition, managers can strengthen this open environment by establishing procedures ensuring thoughtful and objective review of employee concerns.

❑ Respect and protect the privileged information to which we have access in the course of official duties.

Much information in public offices is privileged for reasons of national security, or because of laws or ordinances. If you talk with colleagues about privileged matters, be sure they need the information and you enjoin them to secrecy. If the work is important enough to be classified, learn and follow the rules set by the security agency. Special care must be taken to secure access to confidential information stored on computers. Sometimes information needs to be withheld from the individual citizen or general public to prevent disturbances of the peace. It should be withheld only if there is a possibility of dangerous or illegal or unprofessional consequences of releasing information.

Where other governmental agencies have a legitimate public service need for information possessed by an agency, do all you can to cooperate, within the limits of statute law, administrative regulations, and promises made to those who furnish the information.

❑ Exercise whatever discretionary authority we have under law to promote the public interest.

If your work involved discretionary decisions, you should first secure policy guidelines from your supervisor. You should then make sure that all staff who "need to know" are informed of these policies and have an opportunity to discuss the means of putting them into effect.

There are occasions when a law is unenforceable or has become obsolete; in such cases you should recommend to your superior or to the legislative body that the law be modernized. If an obsolete law remains in effect, the manager or highest official should determine if the law is or is not to be enforced, after consultation with the agency's legal advisor.

There are occasions where a lower level employee must be given considerable discretion. Try to see that such employees are adequately trained for their difficult tasks.

Tell yourself and your staff quite frequently that every decision creates a precedent, so the first decision on a point should be ethically sound; this is the best protection for staff as well as for the public.

❑ Accept as a personal duty the responsibility to keep up to date on emerging issues and to administer the public's business with professional competence, fairness, impartiality, efficiency, and effectiveness.

Administrators should attend professional meetings, read books and periodicals related to their field, and talk with specialists. The goal is to keep informed about the present and future issues and problems in their professional field and organization in order to take advantage of opportunities and avoid problems.

Serious mistakes in public administration have been made by people who did their jobs conscientiously but failed to look ahead for emerging problems and issues. A long list of washed out dams, fatal mine accidents, fires in poorly inspected buildings, inadequate computer systems, or economic disasters are results of not looking ahead. ASPA members should be catalysts to stimulate discussion and reflection about improving efficiency and effectiveness of public services.

❑ Respect, support, study, and when necessary, work to improve federal and state constitutions and other laws which define the relationships among public agencies, employees, clients, and all citizens.

Familiarize yourself with principles of American constitutional government. As a citizen, work for legislation which is in the public interest.

Teach constitutional principles of equality and fairness.

Strive for clear division of functions between different levels of government, between different bureaus or departments, and between government and its citizens. Cooperate as fully as possible with all agencies of government, especially those with overlapping responsibilities. Do not let parochial agency or institutional loyalty drown out considerations of wider public policy.

ASPA's *Code of Ethics and Implementation Guidelines* was adopted by ASPA National Council March 27, 1985. The original *Code of Ethics* was approved by ASPA's National Council April 8, 1984.

ICMA
CODE OF ETHICS

THE PURPOSE of the International City Management Association is to increase the proficiency of city managers, county managers, and other municipal administrators and to strengthen the quality of urban government through professional management. To further these objectives, certain ethical principles shall govern the conduct of every member of the International City Management Association, who shall:

1 Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

2 Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward urban affairs and a deep sense of social responsibility as a trusted public servant.

3 Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

4 Recognize that the chief function of local government at all times is to serve the best interests of all of the people.

5 Submit policy proposals to elected officials, provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals, and uphold and implement municipal policies adopted by elected officials.

6 Recognize that elected representatives of the people are entitled to the credit for the establishment of municipal policies; responsibility for policy execution rests with the members.

7 Refrain from participation in the election of the members of the employing legislative body, and from all partisan political activities which would impair performance as a professional administrator.

8 Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

9 Keep the community informed on municipal affairs; encourage communication between the citizens and all municipal officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

10 Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

11 Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

12 Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.

This Code was originally adopted in 1924 by the members of the International City Management Association and has since been amended in 1938, 1952, 1969, 1972, and 1976.

International Institute of Municipal Clerks

Professional, Personal

Code of Ethics

Believing in Freedom throughout the World allowing increased cooperation between municipal clerks and other officials, locally, nationally and internationally, I

ERLING P. NELSON

do hereby subscribe to the following principles and ethics which I affirm will govern my personal conduct as municipal clerk:

To uphold constitutional government and the laws of my community;

To so conduct my public and private life as to be an example to my fellow-citizens;

To impart to my profession those standards of quality and integrity that the conduct of the affairs of my office shall be above reproach and to merit public confidence in our community;

To be ever mindful of my neutrality and impartiality, rendering equal service to all and to extend the same treatment I wish to receive myself;

To record that which is true and preserve that which is entrusted to me as if it were my own; and

To strive constantly to improve the administration of the affairs of my office consistent with applicable laws and through sound management practices to produce continued progress and so fulfill my responsibilities to my community and others.

These things, I, as municipal clerk, do pledge to do in the interest and purposes for which our government has been established.

Erling P. Nelson

This certificate granted by the authority of the International Institute of Municipal Clerks.

President

ATTEST:

Executive Director

2.64.030 Membership.

All officers and employees of the Borough, together with those volunteer forces enrolled to aid them prior or during a disaster, shall constitute the Civil Defense organization, as provided by law. (Ord. 66-6 § 5, 1966)

Chapter 2.70

CODE OF ETHICS*

Sections:

2.70.010 Short title.
2.70.020 Declaration of policy and scope of code.
2.70.030 Applicability.
2.70.040 Board of Ethics--Created--Membership.
2.70.050 Board of Ethics--Powers and duties.
2.70.060 Filing and initial processing of complaint.
2.70.070 Screening.
2.70.080 Procedure for determining probable cause.
2.70.090 Probable cause for hearing.
2.70.100 Confidentiality.
2.70.110 Hearings.
2.70.120 Conflict of interests--Prohibited acts.
2.70.130 Recusal.
2.70.140 Employment of elected officials.
2.70.150 Conflict-of-interests report.
2.70.160 Nepotism prohibited.
2.70.170 Prohibited actions.
2.70.180 Penalties and other remedies.
2.70.190 Possible conflict of interests--Request for Board opinion.
2.70.200 Time limitation.
2.70.210 Construction.
2.70.220 Definitions.

2.70.010 Short title.

This code shall be known as the Code of Ethics, which covers conflict of interests and financial disclosure. (Ord. 90-022AM (part), 1990)

2.70.020 Declaration of policy and scope of code.

A. Declaration of policy. It is declared (1) that high moral and ethical standards among municipal officers are essential to the conduct of free government; and (2) that a code of ethics for the guidance of municipal officers will discourage those officers from acting upon personal or financial interests in the performance of their municipal responsibilities, will improve standards of public service, and will promote and strengthen the faith and confidence of the people of this Borough in their municipal officers. It is further declared that holding public office or employment is a public trust and that as one safeguard of that trust, the people require municipal officers to adhere to a code of ethics.

B. Scope of code: Any effort to benefit a personal or financial interest through official action is a violation of the public trust. In addition, the Assembly finds that, so long as it does not interfere with the full and faithful discharge of an officer's public duties and responsibilities, this Code does not prevent an officer from following other independent pursuits. The Assembly further recognizes that:

1. In a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without personal and financial interests in the decisions and policies of Borough government;

2. People who serve as municipal officers retain their rights to interests of a personal or financial nature; and

3. Standards of ethical conduct for municipal officers need to distinguish between those minor and insubstantial conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.

C. Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a municipal officer's:

1. Personal or financial interest in the matter is insubstantial, or of a type that is possessed generally by the public or a large class of persons to which the municipal officer belongs; or

*Prior ordinance history: Ord. 84-34, 1984.

2. Action or influence would have insubstantial or conjectural effect on the matter. (Ord. 90-022AM (part), 1990)

2.70.030 Applicability.

A. The Code of Ethics shall apply to the following municipal officers of the Matanuska-Susitna Borough general government:

1. Elected or appointed officials;
2. Appointed officers;
3. Employees;
4. All paid or unpaid members of boards, commissions and committees;
5. School Board members;
6. Persons formerly holding the above positions.

B. The clerk shall provide a copy of the Code of Ethics to candidates filing for elective office. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

2.70.040 Board of Ethics--Created--Membership.

A. There is created a Board of Ethics consisting of five persons. The Borough Mayor, Assembly members, School Board members, a declared candidate for elected Borough or District office, a Borough employee or a paid or unpaid member of a board, commission or committee established by code may not be a member of the Board; nor (except for unpaid members of boards, commissions or committees) may the spouse of the foregoing be a member.

B. A quorum shall be three members of the Board.

C. Any member of the Board who has conflicting interests (to include without limitation an individual filing a complaint) in any matter under active investigation may not participate in the matter as a Board member.

In the event a quorum cannot be met due to disqualification or recusal of members, the case documentation and information shall be referred to the Assembly for its action. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

2.70.050 Board of Ethics--Powers and duties.

The powers and duties of the Board shall be as follows:

A. To make expenditures in accordance with the annual budget adopted by the Borough Assembly and to utilize the services of such staff as may be made available to the Board;

B. To investigate complaints alleging violation of the standards set forth in this Code of Ethics; and

C. Upon the written request of any municipal officer or without such request if in the public interest to issue its advisory opinion, in writing, as to any such questions;

D. To make recommendations to the Borough Assembly for amendments to this Code of Ethics and for such other legislation affecting the subject matter of this Code of Ethics as the Board may deem necessary or desirable;

E. To provide a continuing program of education, assistance and information about this Code to persons to whom it applies;

F. To process with reasonable dispatch complaints concerning acts subject to the Code;

G. To make investigations of alleged Code violations on its own initiative; and

H. To issue subpoenas. (Ord. 90-022 AM (part), 1990)

2.70.060 Filing and initial processing of complaint.

A. A complaint must be in writing, be signed under oath, and contain a clear statement of the details of the alleged violation.

B. A person may file a complaint regarding the conduct of a current or former municipal officer.

C. A complaint alleging a violation of this Code must be filed within five years of the violation, as provided in Section 2.70.200 of this Code.

D. The Board may initiate a complaint.

E. Procedures.

1. When the complaint is filed in the Clerk's office, the secretary shall:
(a) Date, initial and number the complaint;
(b) Enter into the docket the number and the date received; and,
(c) Log case status and disposition as each occur.
(d) Send a copy of the complaint and attached documents to the respondent.

2. The Clerk shall notify the Board chairman, who will review the complaint and may request public background material associated with the complaint. The request for all information and the response thereto shall be kept confidential. The Board chairman shall set the date for a complaint screening meeting.

3. The Clerk shall schedule a meeting room, calendar the meeting and advertise the date, time and place of the meeting to provide reasonable notice to the public.

4. The secretary shall prepare a confidential file available only to members of the Board. (Ord. 90-022AM (part), 1990)

2.70.070 Screening.

A. The Board shall screen the complaint in executive session. The secretary will provide all members of the Board with a copy of the complaint and associated documentation whether submitted by the complainant or requested by the chairman.

B. The Board shall review each complaint filed to determine whether it is properly completed and contains allegations which, if true, would constitute conduct in violation of this Code. The Board may require the complainant to provide additional information during the screening process before accepting the complaint.

C. After the screening, the Board shall, by formal motion:

1. Accept the complaint; or
2. Reject the complaint.

D. In addition, after the screening the Board shall by formal motion:

1. Refer allegations of violations of municipal, state or federal law outside the Board's authority to the Borough Attorney for appropriate disposition; and,

2. Refer a complaint outside the jurisdiction of this Code to the Borough Manager if the complaint alleges a violation of the personnel rules or other matters.

E. Upon acceptance of the complaint, the procedure contained in Section 2.70.080 shall be followed. Otherwise the Board shall notify the complainant and respondent of the Board's disposition of the complaint, including a copy of the complaint, within ten days of its decision. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

2.70.080 Procedure for determining probable cause.

If the Board accepts a complaint, the Board shall serve a copy of the complaint upon the respondent, for a response. The Board may require the respondent to provide, within twenty days after service, full and fair disclosure in writing of all facts and circumstances pertaining to the alleged violation. Misrepresentation of a material fact in a response to the Board is a violation of this Code. Failure to answer within the prescribed time, or within any additional time period that may be granted in writing by the Board, may be considered an admission of the allegations of the complaint. (Ord. 90-022AM (part), 1990)

2.70.090 Probable cause for hearing.

A. If the Board determines that there is probable cause to believe that a violation of this Code has occurred, the Board shall initiate formal proceedings and schedule a hearing, at which time the documents and all subsequent proceedings are open to the public.

B. An independent special counsel may be appointed by the Board to prosecute the complaint. (Ord. 90-022AM (part), 1990)

2.70.100 Confidentiality.

A. Before the initiation of formal proceedings, information regarding an investigation conducted under this Code, or obtained by the Board during the investigation, is confidential. The Board and all persons contacted before initiation of a formal proceeding shall maintain confidentiality regarding the existence of the investigation. All portions of

Board meetings held solely to make a decision are confidential and are held in executive session.

B. It is not a violation of this section for a person to contact an attorney or to participate in a criminal investigation.

C. The respondent may, in writing, waive the confidentiality protection of this section as to the complaint, the response and associated documentation. (Ord. 90-022AM (part), 1990)

2.70.110 Hearings.

A. The Board may convene a pre-hearing conference for the following:

1. To set a time and place for the hearing;
2. For stipulation as to matters of fact;
3. To simplify issues;
4. To identify and schedule pre-hearing matters; and
5. To resolve other similar matters before the hearing.

B. The Board may administer oaths, hold hearings, and take testimony. Upon application by a party to the hearing, the Board may issue subpoenas as follows:

1. Subpoenas.

(a) The Borough Attorney, special counsel retained by the Board, a hearing officer and the respondent may summon a person to appear at a hearing, may summon witnesses and require the production of records, books, and papers by the issuance of subpoenas.

(b) Subpoenas must be served in the manner prescribed by Rule 45 of the Alaska Rules of Civil Procedure. Failure or refusal to obey a subpoena issued under this Code is punishable as contempt in the manner provided by law and court rule. The superior court may compel obedience to the subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

C. Service. Service of a complaint must be accomplished in accordance with Rule 4(c) of the Alaska Rules of Civil Procedure. Service of any other pleading, motion or other document must be accomplished in accordance with Rule 5 of the Alaska Rules of Civil Procedure.

D. A special counsel may present the charges at the hearing.

E. A finding of violation of this Code must be supported by a preponderance of the evidence presented at the hearing.

F. The Board and the respondent may be represented by counsel. Each party may have an opportunity to be heard, present evidence, confront and cross-examine witnesses, who shall testify under oath.

G. Technical rules of evidence do not apply, but the Board's findings must be based upon reliable and relevant evidence. All testimony and other evidence taken at the hearing must be recorded and the evidence maintained. Upon request, a copy of the recording of the hearing must be furnished to the respondent.

H. Within thirty days after the conclusion of a formal hearing, the Board shall provide a written report to the parties and the appropriate officials. The report must contain the Board's findings, conclusions, and recommendation(s) supported by evidence contained in the record of the proceeding. The Board shall submit the record to the Borough Clerk. If the manager or superintendent disagrees with the recommendation(s) of the Board, he must provide a written explanation for his action to the Board within ten days of service of the Board's order on him. (Ord. 90-022AM (part), 1990)

2.70.120 Conflict of interests; Prohibited acts.

A. Misuse of official position.

1. A municipal 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.

2. A municipal officer may not, among other things:

(a) Seek other employment or contracts through the use or attempted use of official position;

(b) Accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the Borough;

(c) Use Borough time, property, equipment, or other facilities to benefit personal or financial interests;

(d) Take or withhold official action in order to affect a matter in which the municipal officer has a personal or financial interest; or

(e) Attempt to benefit a personal or financial interest through coercion of a subordinate.

B. Improper gifts.

1. A person or a member of his immediate family 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, or constitute a benefit for past performance of official duties, actions or judgment.

2. A municipal officer subject to this Code shall notify his designated supervisor of a gift with a value in excess of fifty dollars, including the name of the giver and a description of the gift and its approximate value within thirty days after the date of its receipt, if the municipal officer may take or withhold (or took or withheld) official action that affects the giver. Elected officials and department heads shall report such gifts whether or not they may take or withhold official action that affects the giver.

3. In accordance with Section 2.70.190, a designated supervisor may request guidance from the Board concerning whether acceptance of a particular gift is prohibited.

4. 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.

C. Improper influence in Borough grants, contracts, leases or loans.

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

2. The prohibition in 1. of this subsection does not apply to a Borough grant, contract, or lease that is competitively solicited unless the person:

(a) 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

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

3. A municipal officer shall report in writing to his designated supervisor a personal or financial interest held by him or his immediate family member, in a Borough or School District contract, lease, or loan that is awarded, executed, or administered by the department that the officer serves. The supervisor shall immediately send a copy of this written report to the Clerk to be appended to the municipal officer's financial disclosure conflict of interests report.

D. A municipal officer may not appear in behalf of a private or public interest before any Borough agency, board, commission or committee or represent a private or public interest in any action or proceeding against the interest of the Borough to which the Borough is a party; provided that this section shall not apply to:

1. Persons receiving no compensation from the Borough;

2. Any member of the Borough Assembly or a municipal official appearing before governmental agencies in behalf of or as a representative of constituents in the course of his official duties or performing public or civic obligations without additional compensation therefor; or

3. Any municipal officer appearing on his own behalf.

E. Outside employment restricted. A municipal officer may not render services to benefit a personal or financial interest or engage in or accept employment outside the public employer he serves, if the outside employment or service is incompatible with, or in conflict with, or impairs his independence of judgment or action, the proper discharge of his official duties, except as set forth in Sections 2.70.020 C. 1.-2. and 2.70.120 D.1.-3.

F. A municipal officer may not take an active part in political campaigns during his duty hours or on Borough official premises.

G. A person may not become a municipal officer without first notifying the Borough Manager, in writing, if an immediate family member is a municipal officer.

H. Improper use or disclosure of information.

1. A current or former municipal 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 a member of his immediate family, if the information has not also been disseminated to the public.

2. A current or former municipal officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties that is confidential by law. (Ord. 90-022AM (part), 1990)

2.70.130 Recusal.

A municipal officer shall recuse himself from acting on any matter or proceeding coming before a Borough elected body, Board, Commission or Committee of which he is a member when such matter or proceeding involves any person who is, or has been, a client of his or his firm or partnership within the twelve-month period immediately, preceding the date of such action. (Ord. 90-022AM (part), 1990)

2.70.140 Employment of elected officials.

(A) An elected official of the borough who receives compensation for service(s) rendered in conjunction with that elected office shall not be eligible for employment with the borough while serving as an elected official or within one year after leaving office.

(B) An elected official of the school district who receives compensation for service(s) rendered in conjunction with that elected office shall not be eligible for employment with the school district while serving as an elected official or within one year after leaving office.

(C) An elected official who is not compensated in any form for service(s) rendered in conjunction with his or her elected office shall be eligible for employment with the borough, but may not serve in both the elected office and as a paid employee of the borough simultaneously.

(D) A municipal official who leaves borough service may not, for two years after leaving such service, represent, advise or assist a person for compensation regarding the following:

(1) A matter that was under consideration by the department served by that municipal officer; or,

(2) A matter 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 or determination, but does not include the proposal or consideration of legislative bills, resolutions and constitutional amendments, or other legislative measures; or the proposal, consideration or adoption of administrative regulations. (Ord. 91-105AM § 2, 1991; Ord. 90-022AM (part), 1990)

2.70.150 Conflict-of-interests report.

A. A conflict-of-interests report shall be filed under oath once each year by all elected officers, Borough Manager, Borough Clerk, Borough Attorney and department heads unless a financial disclosure and conflict of interests report required by state law is filed with the Borough Clerk.

B. The reports shall be filed with the Clerk's Office within thirty days after an official comes under jurisdiction of this Code. If the information in the report becomes incomplete or inaccurate during the year, the statement shall be corrected within thirty days after the changed circumstances occur.

C. A conflict-of-interests report shall contain the following information:

1. The name of each person doing business with or receiving benefit from the Borough from which a municipal officer or member of his immediate family, has received a benefit in an amount in excess of five hundred dollars during the preceding year;

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2. The names of any corporations, partnerships, firms, associations or enterprises (including sole proprietorships) doing business with, or receiving benefit from the Borough in which the municipal officer or spouse has a direct financial interest in excess of one thousand five hundred dollars, provided that policies of insurance and amounts on deposit in accounts in banks, savings and loan associations or credit unions shall not be considered to be a financial interest within the meaning of this paragraph;

3. The names of any corporations, partnerships, firms, associations or enterprises doing business with the Borough, both profit and nonprofit, in which such municipal officer or immediate family member holds a position of officer or member of Board of Directors, and the title of each such position held;

4. Sources of income in excess of five thousand dollars for all elected officials and municipal officers authorized to execute contracts, make purchases or award grants. This section includes all municipal officers authorized to obligate the Borough to make expenditures or perform other duties. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

2.70.160 Nepotism prohibited.

A. No municipal officer shall act as a direct supervisor of any person who is a member of the supervisor's immediate family, nor shall any municipal officer be permitted to be under the direct supervision of a supervisor who is a member of the officer's immediate family.

B. In exceptional circumstances such as staffing availability in remote areas, the Assembly may approve an exception from the provisions of this section; provided, however, such exception must be reviewed by the Assembly for each fiscal year.

C. No municipal officer shall suffer any suspension, discharge or removal from office, denial of compensation or other disciplinary action when circumstances beyond the municipal officer's control (except that the municipal officer may retain such additional compensation, if any, duly received as a result of such circumstances) cause a relationship which violates this section; provided that the Borough may rescind the action taken in violation of part of this section. No municipal officer shall be discriminated against for promotion, advancement or transfer where such promotion, advancement or transfer can be reasonably accommodated by the Borough consistent with this section and the Borough personnel rules. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

2.70.170 Prohibited actions.

A. It is unlawful:

1. For any municipal officer to willfully fail or refuse to file a written statement required by this Code or to knowingly make any false statement of a material fact in any written statement so filed;

2. For anyone to maliciously file with the Board a false charge of violation by any municipal officer of the standards of ethics set forth in this Code; or

3. For anyone to fail to do any of the following:

(a) For any person to fail or refuse, without lawful excuse, to appear before the Board of Ethics pursuant to an order of the Board;

(b) For any person to refuse to be sworn or to affirm or to answer any material or proper question;

(c) For any person to fail to produce, upon reasonable notice, any material or proper documents, papers, books, accounts, letters or records in his possession or under his control; or,

(d) For any person having been duly sworn to fail to tell the truth by knowingly giving false testimony as to any material matter;

4. To violate any provision of this Code. (Ord. 90-022AM (part), 1990)

2.70.180 Penalties and other remedies.

The Board, upon a finding of a violation of this Code, may singly or in combination:

A. In the case of a current or former municipal officer:

1. Impose a civil fine of not more than five thousand dollars;

2. Order divestiture, establishment of a blind trust, restitution or forfeiture; and

B. In the case of a current municipal officer:

1. Order the municipal officer to stop engaging in any official action related to the violation;

2. Recommend that the employee's appointing authority take disciplinary action, including dismissal.

C. If the Board determines that a non-salaried member of a board or commission has violated this Code, it:

1. Shall order the member to refrain from voting, deliberating or participating in the matter;

2. May order restitution; and

3. May recommend to the appropriate appointing authority that the member be removed from the board or commission.

D. Notwithstanding other provisions of the Borough Code, a violation of this Code is grounds for removal of a board or commission member for cause. If the Board recommends that a board or commission member be removed from office, the appointing authority shall immediately act to remove the member from office.

E. If the Board determines that a former municipal officer has violated this Code, in addition to issuing a public statement of its findings, conclusions and recommendation(s), it shall request the Borough Attorney to exercise all legal and equitable remedies available to the Borough to seek whatever relief is appropriate.

F. Disciplinary Action for Violation.

1. In addition to any other cause the Borough may have to discipline a municipal employee, the appointing authority may reprimand, demote, suspend, discharge, or otherwise subject a municipal officer to disciplinary action commensurate with the violations of this Code. This section does not prohibit the review of a disciplinary action in the manner prescribed by an applicable collective bargaining agreement or personnel ordinance or rule.

2. The Borough may initiate appropriate disciplinary action in the absence of a complaint under this Code or during the pendency of a hearing or Ethics Board action.

G. Actions Voidable.

1. In addition to any other action provided by law, a Borough grant, contract, or lease entered into in violation of this Code is voidable by the Borough. In a determination under this section of whether to void a grant, contract, or lease the interest of third parties who could be damaged may be taken into account. The Borough Attorney shall give notice of intent to void a Borough grant, contract or lease under this section no later than thirty days after the Board's determination of a violation under this Code.

2. In addition to any other action provided for by law, the Borough may require a Borough loan received in violation of this Code to become immediately payable.

3. Any Borough action taken in violation of this Code is voidable, except that the interest of third parties in the nature of the violation may be taken into account. The Borough Attorney may pursue any other available legal or equitable remedies.

4. The Borough Attorney may recover any fee, compensation, gift, or benefit received by a person as a result of a violation of this Code by a current or former municipal officer.

H. Payment of Twice the Financial Benefit. The Board may, in addition to the civil penalties described in this Code, require a current or former municipal officer who has financially benefited a person in violation of this Code to pay to the Borough up to twice the amount that the person realized from the violation.

I. Additional Sanctions. A penalty imposed under this section is in addition to and not instead of any other penalty that may be imposed according to law. To the extent that violations under this Code are punishable in a criminal action, that sanction is in addition to the civil remedies set out in this Code.

J. Judicial Review. A decision of the Board is final. An appeal from a decision of the Board may be taken within the time prescribed in the State of Alaska Rules of Appellate Procedure, by the aggrieved party. Upon request the Clerk shall estimate the cost of preparing the transcript of the public hearing and compiling the record on appeal. The appellant must deposit the estimated costs with the Clerk in advance. Upon completion of the record on appeal, the Clerk shall refund any excess deposited or charge the appellant for costs exceeding the deposit. (Ord. 90-022AM (part), 1990)

2.70.190 Possible conflict of interests -- Request for Board opinion.

A. Any municipal officer may request an opinion from the Board relating to any situation which may give rise to the possibility of conflict of interest under this Code. Such requests shall be in writing, shall set forth the pertinent facts, be signed by the municipal officer making the request and, if requested by the municipal officer, be held in confidence by the Board.

B. A municipal officer is not liable under this Code for any action carried out in accordance with a determination made under MSB 2.70.050(C) if the officer fully disclosed all relevant facts reasonably necessary to the determination.

C. The Ethics Board may reconsider, revoke, or modify an advisory opinion at any time, including upon a showing that material facts were omitted or mis-stated in the request for the opinion. (Ord. 90-022AM (part), 1990)

2.70.200 Time limitation.

A complaint alleging a violation of this Code must be filed within five years of the violation. (Ord. 90-022AM (part), 1990)

2.70.210 Construction.

This Code shall be liberally construed in favor of protecting the public interest in full disclosure of conflict of interests and promoting high standards of ethical conduct for Borough government. The provisions of this Chapter are not subject to collective bargaining. (Ord. 90-022AM (part), 1990)

2.70.220 Definitions.

A. "Appointed officials" means manager, clerk, attorney, superintendents, principals, purchasing agents, business managers and their assistants, deputies, and persons acting in their behalf.

B. "Benefit" means anything that is to a person's advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant, contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value;

C. "Board" means the Borough Ethics Board.

D. "Borough" means all units of general government and School District unless the context clearly indicates otherwise.

E. "Financial interest" means:

1. An interest held by a person or entity subject to this Code or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit;

2. Holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management;

F. "Complainant" means a person filing a complaint with the Ethics Board.

G. "Designated supervisor" - a municipal officer's designated supervisor is the person responsible for supervision of that municipal officer. The Clerk is the designated supervisor for the Mayor and the Assembly.

H. "Ex parte" means a person's unilateral contact with a Board member related to a matter pending before the Board.

I. "Immediate family member" means a municipal officer's grandparents, parents, children, grandchildren, siblings, spouse, spouse's children, spouses of children, or a regular member of the officer's household.

J. "Municipal officer" or "employee" means an officer or employee of the Borough, whether paid or unpaid, and includes the following:

1. Elected or appointed officials;
2. Appointed officers;
3. Employees;
4. All paid or unpaid members of boards, commissions and committees;
5. School Board members;
6. Persons formerly holding the above positions.

K. "Official action" means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a municipal officer.

L. "Organization" includes a group, association, society, political party, or other entity made up of two or more persons, whether operated for profit or nonprofit.

M. "Person" includes a corporation, company, partnership, firm, association, organization, business trust or society, as well as a natural person.

N. "Personal interest" means an interest held or involvement by a municipal officer, or the officer's immediate family member, including membership in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit.

O. "Paid" means a person who receives value for his services unless otherwise exempted from this Code.

P. "Respondent" means the person against whom a complaint is filed with the Ethics Board.

Q. "Source of income" means an entity for which service is performed for compensation or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or child, or a combination of them, holds a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation; if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.

R. "Unwarranted benefits or treatment:"

1. As used in this Code, "unwarranted treatment" includes any attempt to secure a benefit or any action giving an unfair advantage to another person where a primary motivation for the treatment is improper.

2. Improper motivation for purposes of this section is one not related solely to the best interests of the Borough, including a person's

(a) Friendship or kinship with the municipal officer;

(b) Financial association with the municipal officer;

(c) Other personal association with the municipal officer;

(d) Potential for conferring a future benefit by the municipal officer;

(e) Political affiliation;

(f) Political support for the governor or lieutenant governor.

3. Evidence of unwarranted treatment includes, but is not limited to:

(a) The municipal officer interfered with, took actions not in conformance with, or took actions other than those set out in procedures for the award of a benefit, whether the procedures were established formally or informally, in a manner that favored or had an unequal impact on the person receiving the treatment; or

(b) The person receiving the treatment did not meet the standards set out for the award of a benefit, whether or not those standards were established formally or informally; or

(c) The person receiving the treatment was substantially less qualified than other persons considered for the award of a benefit when compared in light of the formal or informal standards set out for the award of the benefit.

4. Unwarranted treatment includes meetings with or other forms of access to a municipal officer if:

(a) The person gaining access to the municipal officer has the relationship described in 2.(a)-(f) of this section; and

(b) The access allows that person to gain information, make a presentation, or receive other treatment that results in an unfair advantage in applying for a state contract or job that would normally be procured or filled by a competitive process.

5. If at hearing it is shown by a preponderance of the evidence both:

(a) That the person receiving the treatment had the relationship described in 2.(a)-(f) of this section; and

(b) That one of the circumstances described in 3.(a)-(c) of this section occurred; then the burden of proof shifts to the municipal officer to show by a preponderance of the evidence that the primary motivation for the treatment was not an improper reason.

6. It is not a justification for the granting or securing of a treatment or benefit that the result of an otherwise unwarranted treatment was in the Borough's best interest.

S. "Board secretary" means the person selected by the Clerk's office to be secretary to the Board. (Ord. 90-135AM §2 (part), 1990; Ord. 90-022AM (part), 1990)

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