
Chapter 2.80
ETHICS OF PUBLIC OFFICIALS – PUBLIC DISCLOSURE

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2.80.010 Applicability.

The provisions of this chapter shall be applicable to all elected officials of the City of Mountlake Terrace and to the respective members of the boards and commissions established by City Council. (Ord. 2473 § 1, 2007; Ord. 1937 § 1, 1991).

2.80.020 Policies.

The City of Mountlake Terrace is committed to conducting its business in a fair, open, efficient and accountable manner. Public officials and board and commission members shall conduct their public and private actions and financial dealings in a manner that shall present no apparent or actual conflict of interest between the public trust and their private interest. Each official and appointed board or commission member is assumed and expected to act in accordance with the laws that may apply as well as striving to avoid even an appearance of impropriety in the conduct of his or her office or business. (Ord. 2473 § 1, 2007).

2.80.030 Definitions.

A. "Board Counsel" as used in this chapter shall mean the attorney retained to represent the Fact Finding Disciplinary/Ethics Board.

B. "Family" as used in this chapter shall mean those persons living in the same household as the public official or otherwise dependent upon said public official.

C. "Immediate family" as used in this chapter shall mean that person's parents, spouse, children and siblings.

D. "Member" as used in this chapter shall mean those individuals elected and currently serving as a City Council member or currently serving on a City Council appointed board or commission.

E. "Public official" as used in this chapter shall mean the position of City Council member and/or members of the boards and commissions established by City Council. (Ord. 2473 § 1, 2007; Ord. 1937 § 2, 1991. Formerly 2.80.020).

2.80.040 Disclosure required.

Prior to the start of any quasi-judicial public hearing the chair will ask if any member has a conflict of interest or appearance of fairness doctrine concern which could prohibit

the member from participating in the public hearing process. A member who refuses to step down after challenge and the advice of the City Attorney, a ruling by the chair and/or a request by the majority of the remaining members of the body to step down is subject to being referred to the Fact Finding Disciplinary/Ethics Board for a violation of this rule. The member who has stepped down shall not participate in the decision nor vote on the matter. The member shall leave the chamber while the matter is under consideration. (Ord. 2473 § 1, 2007; Ord. 1937 § 4, 1991. Formerly 2.80.030).

2.80.050 Participation by public officials prohibited.

Each public official shall be prohibited from and may not intentionally engage in taking any action including voting, discussion, or persuasion in regard to any of the following matters:

A. Acquiring or receiving a financial interest in any sale to the City of any service or property with the knowledge that the City intends to purchase the same.

B. Any matter coming before the City Council which would affect real property in which the public official or his family have a financial or other pecuniary interest. This provision shall not be applicable to City-wide legislation or other matters of general public concern regarding a geographical area greater than the immediate neighborhood in which the property is located, unless the property would enjoy a special benefit not generally enjoyed by other property similarly situated.

C. No public official shall require or permit the use of City-owned vehicles, equipment, materials, or property for personal use or profit unless such use is available to the general public or is a service approved as part of the budgetary process for and in conjunction with the office which the public official holds with the City.

D. The member shall keep confidential all written material and verbal information provided to them during executive session to ensure that the City's position is not compromised, and to comply with RCW 42.23.070(4). No public official shall use such information to advance a private or financial interest of himself/herself, his/her family, clients or customers, or others in the hope of a personal benefit or financial gain. (Ord. 2473 § 1, 2007; Ord. 1937 § 5, 1991. Formerly 2.80.050).

2.80.060 Personal gain or profit – Use of persons, money or property.

A. A Council member or board/commission member shall not knowingly use his or her office or position for personal or family benefit gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain or profits of any other persons.

B. No Council member or board/commission member may employ or use any person, money, or property under the Council member or board/commission member's official control or direction, or in his or her official custody, for the personal or family benefit, gain, or profit of the Council member or board/commission member, or another. (Ord. 2473 § 1, 2007).

2.80.070 Conflict of interest.

A. No Council member or board/commission member may directly or indirectly give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except from the employing municipality, for a matter connected with or related to the member service as such a member unless otherwise provided by law.

B. No Council member or board/commission member may accept employment or engage in business or professional activity that the member might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her position.

C. No Council member or board/commission member shall be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such member, in whole or in part, or which may be made for the benefit of his/her office, or accept, directly or indirectly, any compensation, gratuity, or reward in

connection with such contract from any other person beneficially interested therein.

D. No Council member or board/commission member shall have an interest, financial or otherwise, direct or indirect, or engage in a business transaction or professional activity, or incur an obligation of any nature that is conflict with the proper discharge of the member's official duty as a Council member or board/commission member.

E. No Council member or board/commission member shall falsely represent himself/herself as performing acts or giving information on behalf of the City of Mountlake Terrace, or engage in outside personal or private activities that could reasonably be construed to be official acts of the City of Mountlake Terrace.

F. No Council member or board/commission member shall intentionally engage in any act which conflicts with his or her performance of City duties. (Ord. 2473 § 1, 2007).

2.80.080 Gifts.

A. Council members or board/commission members are discouraged from accepting gifts from any entity that conducts business with the City of Mountlake Terrace or seeks to do business with the City of Mountlake Terrace.

B. Council members or board/commission members shall not receive a salary or anything of monetary value from a private source as compensation for services to the City of Mountlake Terrace.

C. Council members or board/commission members shall not accept gifts, gratuities, or anything of value if it could be perceived to influence his/her vote, judgment or actions. The provisions of this subsection shall apply to any gifts, gratuities, or other items of property that have more than a de minimis value.

D. Council members or board/commission members may accept payment of travel, lodging and meal expenses by another governmental entity in connection with a presentation or City mission made in the Council member's or board/commission member's official capacity of the City of Mountlake Terrace.

E. Council members or board/commission members may accept other gifts as follows:

1. Unsolicited advertising or promotional items such as pens or promotional items given to all attendees at an event.

2. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item or similar item.

3. Items from friends or family members not given to gain or maintain influence at the City of Mountlake Terrace.

4. Items of de minimis value. (Ord. 2473 § 1, 2007).

2.80.090 Rules of conduct for City Council and boards and commissions.

A. Respect. Council members and board/commission members shall display respect and courtesy to their fellow members. Each member will accord each other member of the board and staff the respect with which their position accords. Each member shall extend the same respect to members of the public and to others who testify before the body, recognizing that those individuals have a duty to conduct themselves in a reasonable manner.

B. Listen. Council members and board/commission members shall listen to each other, to the staff, and to the public with an open mind. Each speaker shall have equal opportunity to be heard within the time limits established by the chair, so long as that individual adheres to the standards of conduct as established by the body.

C. Fair Debate. Council members and board/commission members shall be permitted an opportunity to speak and each Council member and board/commission member shall allow the speaker to finish their thoughts without interruption. Each member will await recognition by the chair before speaking.

D. Disclosure, Avoiding the Appearance of Impropriety. While state statutory provisions regarding the appearance of fairness doctrine govern the Board's conduct in quasi-judicial matters, Council members and board/commission members shall also attempt to avoid the appearance of impropriety in all of their actions including, but not limited to,

legislative actions and participation in legislative public hearings. When a member is aware of an issue that might reasonably be perceived as a conflict, and even if the member is in doubt as to its relevance, the member shall reveal that issue for the record.

E. Open Process. Council members and board/commission members will carry out their debates in public based upon information in the record. In addition to honoring the requirements of the Open Public Meetings Act, each member will endeavor to carry on all of the board's business in open public session based on information in the public record and equally accessible to all citizens.

F. Honor Confidences. Council members and board/commission members shall honor the confidences to which the members are privy due to their role as Council member or board/commission members to the extent allowed by state law. In addition to any statutory requirement of confidentiality, a member will avoid the release of any information that would give any person a competitive or unfair advantage.

G. "Out of Order" Comments. Council members and board/commission members whose comments have been ruled "out of order" by the chair shall immediately cease and refrain from further improper comments or, alternatively, the member shall immediately seek appeal of the chair's ruling. (Ord. 2473 § 1, 2007).

2.80.100 Operating protocols for City Council and boards and commissions.

A. Commit to the "No Surprise" Rule. If Council members or board/commission members plan to bring up new information about issues on the table or new issues at Council meetings, they should provide their fellow Council members and the City Manager as soon as reasonably possible prior to the meeting. Information should be as inclusive as possible and address such issues as: Why are you bringing this issue forward? What outcome do you hope to accomplish?

B. Talk to One Another. Communication, both formal and informal, is essential to an effective working relationship.

C. Work Issues, Not People. Council members and board/commission members are expected to work on issues without personalizing them.

D. Vote and Move On. Once an issue has been voted upon, Council members and board/commission members should accept the vote and continue on with the important work that must be done, though this should not restrict debate on similar or related issues that come up for a future vote. If the members are working together, they will achieve the best outcomes.

E. Work to Build Council Credibility. Council and board/commission is most effective when it works as whole. Individual Council members should work to promote the credibility and positive image of the full Council.

F. Agree to not use the media for personal gain or to make other Council members or board/commission members look bad. (Ord. 2473 § 1, 2007).

2.80.110 Fact Finding Disciplinary/Ethics Board – Complaints against a Council member, member of a board or commission.

A. Fact Finding Disciplinary/Ethics Board Established – Authority, Purpose and Duties – Membership – Officers – Policies and Procedures – Board Counsel – Staff.

1. Board Established. There is hereby established a Fact Finding Disciplinary/Ethics Board for the City of Mountlake Terrace.

2. Authority, Purpose and Duties. The purpose of this Fact Finding Disciplinary/Ethics Board is:

a. To hear complaints and determine if there has been a knowing or willing violation of the ethics, rules of conduct and operating protocols code, or state ethics law applicable to cities, has occurred by a Council member, or a member of a board or commission, and to enter appropriate findings and orders to be provided to the City Council;

b. To adopt policies, procedures and rules as it may deem necessary and appropriate to accomplish its purpose and duties;

c. To appoint a qualified individual or firm as "Board Counsel" who shall both provide the Board with independent legal counsel apart from the city attorney, and be responsible to conduct investigations on complaints and conduct the functions and perform the duties set forth in subsection (A)(3) of this section;

d. To manage the expenditures of appropriations for operation of the Board, Board Counsel, and other staff; and

e. To annually review: its budget; all service contracts to ensure ready availability of Board Counsel, third party investigators and other staff, and to meet with contractors; activities for the proper training of such staff about this ethics, rules of conduct and operating protocols code and the Board's policies, rules and procedures for the administration thereof.

3. Board Counsel – Authority and Duties. Board Counsel shall have the following authority and duties:

a. To provide the Fact Finding Disciplinary/Ethics Board with independent legal research, advice, assistance, and counsel on its organization and general operations, except in regard to any complaint once it has been filed and specifically in regard to such complaint during the time it is being considered by Board Counsel or the Board under this section and MTMC 2.80.120.

b. To perform the functions of Board Counsel as set forth in this section and MTMC 2.80.120.

4. Membership – Nomination, Confirmation and Alternates – Terms – Qualification – Removal. The Fact Finding Disciplinary/Ethics Board shall be composed of three members, none of whom shall be a City Council member, City employee, or an immediate family member of either.

a. The Board members shall serve for a term of three years or for fulfillment of an unexpired term. Any person may be removed from the Board by the Mayor, with the approval of the majority plus one of the whole City Council.

b. Recruitment and appointment to fill a vacancy or unexpired term for the Fact Finding Disciplinary/Ethics Board members and any alternate member of the Board shall be consistent with the process and procedures utilized in the recruitment and appointment of other City boards and commissions.

c. The City Clerk will widely distribute and publish a notice of the availability of the position of Fact Finding Disciplinary/Ethics Board member and any alternate member and provide the procedure and deadline for applying for the position. The City Clerk will prepare an application form to gather information about the qualifications and interest of each applicant. The completed application form and other relevant information or documentation shall be submitted to the City Council's Boards and Commissions Subcommittee. The Subcommittee shall review all applications submitted by the City Clerk and may conduct phone or in-person interviews with any applicant.

d. The City Council's Boards and Commissions Subcommittee shall notify and report to the City Council their recommended selection(s) to fill the vacancy or unexpired term for the Fact Finding Disciplinary/Ethics Board members and any alternate member of the Board. The City Council may by majority vote approve the recommendation(s) as submitted by the Boards and Commissions Subcommittee, or in the alternative, the City Council shall by majority vote select another qualified applicant.

e. In the event a Fact Finding Disciplinary/Ethics Board member must recuse himself or herself, or is not present, or is otherwise unavailable to conduct any Board business, the alternate member shall serve in his or her place.

f. Fact Finding Disciplinary/Ethics Board members including an alternate Board member must be citizens of the United States. The Fact Finding Disciplinary/Ethics Board members including an alternate Board member may be nonresidents of the City of Mountlake Terrace but shall not be a City Council member, City employee, or an immediate family member of either. In filling any vacancy or making an appointment for membership on the Fact Finding Disciplinary/Ethics Board, the City shall strive to select persons with diverse perspectives and areas of expertise appropriate

to the review of ethical matters, and who are of good general reputation and character.

5. Officers – Succession – Quorum – Procedures. The Fact Finding Disciplinary/Ethics Board shall elect from its membership a presiding officer who shall be the chief administrative officer of the Board who shall be referred to as the chair and a vice chairman who shall each serve for one year. If the chair is unavailable, not present, or is recused from participation, the vice chairman shall preside and have all authority and powers of the chair during and, if necessary, between meetings of the Board. The Board may elect any member to serve in additional offices or roles as the Board deems necessary. The Board shall provide a manner for minutes and records of all meetings to be kept. The Board shall adopt policies, rules, and procedures; provided, a majority of the Board shall constitute a quorum for the transaction of business, and a majority of the Board shall be necessary to carry any proposition.

6. Meetings – Notice. A meeting of the Board shall be held as the Board deems necessary and advisable on 72 hours' notice to all members, or as provided in Board rules, or otherwise as agreed by a majority of the Board.

7. Board Counsel, Investigative, and Clerical Staff. The Fact Finding Disciplinary/Ethics Board shall receive the following staff report:

a. Normal Board Operations and Budgeting. The City Manager or his or her designee shall provide staff as he or she deems appropriate to assist the Fact Finding Disciplinary/Ethics Board. The Board shall make a timely request for necessary biennial budget appropriation(s) for "on-call" contract services for independent legal counsel, and for other staff and other operational costs, to the City Manager, who shall include that request in the preliminary budget when, if otherwise necessary, the Board may request appropriations directly from the City Council.

b. Board Operations Involving a Complaint. If, at any time, a complaint creates a need for additional or special funding, the Board shall make a supplemental request to the City Manager who shall forward it to the City Council for review and appropriate action.

B. Specific Complaint Against a Council Member, or a Member of a Board or Commission – Complaint Requirements – Preliminary and Final Determinations of Sufficiency.

1. Complaint Requirements – Service. Any person may submit a written complaint to the City Clerk alleging one or more violations of this chapter and the ethics, rules of conduct and operating protocols code by the Mayor, a Council member, or a member of a Board or Commission. The complaint must:

a. Set forth specific facts with enough precision and detail for Board Counsel to make a determination of sufficiency; and

b. Set forth the specific section(s) and subsection(s) of this ethics, rules of conduct and operating protocols code, or adopted operating protocols that the complaining party believes have been violated; and

c. Provide an explanation by the complaining party of the reasons why the alleged facts violate this code; and

d. Be signed under penalty of perjury by the person(s) submitting it in a manner consistent with Chapter 9A.72 RCW; and

e. State each complaining person's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which each complaining person may be contacted.

The City Clerk shall promptly serve or mail, by return receipt requested, a copy of the complaint to the individual(s) complained against and to Board Counsel. The City Clerk shall not send a copy of the complaint to Board members, but shall send a notice to all Board members and alternate member setting forth only the name, address and any other necessary information identifying all complaining parties and the individual(s) complained against. The City Clerk shall notify all complaining parties, Board members and alternate member, and Board Counsel of the date of completion of service or mailing

of a copy of the complaint.

2. Board Counsel Consideration of Complaint – Preliminary Determination of Sufficiency – Investigation. Upon receipt of the complaint, Board Counsel shall:

a. Initially review the complaint to determine if it reasonably complies with the requirements of a complaint in subsection (B)(1) of this section, and shall:

i. Meet at least once together with all parties to hear from them on all aspects of the complaint and issues involved;

ii. Allow all parties to submit at meetings, or otherwise, any information they have concerning the complaint and issues involved;

iii. Request, as needed, clarification, explanation, or submission of information necessary to properly consider the complaint;

iv. Promptly distribute to all parties any correspondence between Board Counsel and any party; and

v. Meet or discuss with any party, at such time or times as Board Counsel determines appropriate, a settlement of one or more of the complaint allegations and issues involved.

b. When in the discretion of Board Counsel it is necessary or appropriate, refer the complaint and any information gathered to the investigative third party(ies) approved by the board; provided, Board Counsel shall direct and control that investigation.

c. At the conclusion of the third party investigation, distribute to all parties all information gathered by any third party investigator, and any report, findings, or conclusions therefrom.

d. After conducting its review then Board Counsel shall enter an administrative order that:

i. Dismisses any complaint allegations which remain insufficiently stated;

ii. Dismisses any complaint allegation which is not supported by substantial facts;

iii. Identifies any complaint allegations withdrawn;

iv. Determines the sufficiency of all other complaint allegations which are supported by substantial facts; and

v. Sets forth any additional allegations, if any, from evidence which Board Counsel has discovered during the investigation and such allegations shall comply with subsection (B)(1) of this section.

This administrative order shall be served or mailed to all parties within seven days of the date it was signed by Board Counsel.

e. Board Counsel may, with the concurrence of the Fact Finding Disciplinary/Ethics Board, refer any complaint allegation, or any matter discovered by Board Counsel during the course of an investigation, to a City or county prosecutor. The Board shall adopt policies and procedures to receive a recommendation for such a referral, and when appropriate to concur in such a recommendation. All proceedings involving a recommendation for a referral to a City or county prosecutor shall not be open to the public, nor shall any party, any party's representative, or any party's attorney be allowed to participate.

3. Complaint – Final Determination of Sufficiency – Standard. Board Counsel shall make the final determination of the sufficiency of a complaint. A complaint shall be sufficient if it precisely alleges and reasonably describes acts which, if true, would constitute a prima facie showing of a violation of a specific provision(s) of this code. The purpose of requiring that the Board Counsel make a determination of sufficiency of the complaint is to ensure that the complaint is supported by identifiable facts, and to ensure that the complaint is not based on frivolous, speculative, or vague allegations.

4. Final Determination of Sufficiency – Administrative Order – Appeal. Ten days after the last settlement meeting, Board Counsel shall make and enter a determination of sufficiency in the form of a written administrative order which shall be served or mailed to each party. The administrative order shall include findings of fact and conclusions upon

which Board Counsel made the determination of sufficiency or insufficiency. The determination of sufficiency issued by Board Counsel shall become final and binding 10 days after service or mailing is completed, unless it is appealed to the Board. If it is not appealed, the Board shall conduct a hearing as set forth in MTMC 2.80.120. If, upon appeal, the Board determines that the complaint, or a portion thereof, is sufficient or insufficient, it shall enter an appropriate administrative order, and no administrative or other legal review or appeal is available. If the Board on appeal finds that the complaint, or a portion thereof, is sufficient, a hearing will be conducted as set forth in MTMC 2.80.120.

5. Rights of Parties. Except as provided in subsection (B)(2)(e) of this section, each party to the complaint and the person(s) against whom the complaint was filed, and any other parties as the Board may determine should be involved, shall all have the right:

a. To attend and participate in person or through a designated representative of a party, and an attorney, during any Board Counsel meetings, or Board hearings;

b. In any Board hearing on a motion or appeal, to present written and oral argument, supported by affidavits or declarations as may be appropriate, on any legal or factual issues involved in the motion or appeal before the Board; and

c. In any Board hearing on a sufficient complaint to call witnesses, cross-examine witnesses, and to present written and oral argument on any legal or factual issues involved in the complaint before the Board.

6. Violation of the Ethics and Rules of Conduct Code, or Adopted Operating Protocols – Remedies. In the event the Board's administrative order determines that the individual against whom the complaint was made has violated the ethics, rules of conduct and operating protocols code, then the City Council may take any of the following actions by a majority vote of the Council after the Council has considered the intent, risk, and severity of the violation in order to determine the appropriate level of sanction or punishment:

a. Admonition. An admonition shall be a verbal nonpublic statement approved by the City Council and made by the Mayor, or his/her designee, to the individual.

b. Reprimand. A reprimand shall be administered to the individual by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor. If the individual objects to the content of such resolution, he or she may file a request stating the reasons for objections with the Mayor and asking for a review of the content of the resolution of reprimand by the City Council. The City Council shall review the resolution of reprimand in light of the Fact Finding Disciplinary/Ethics Board's administrative order and the request for review, and may take whatever action appears appropriate under the circumstances.

c. Censure. A resolution of censure shall be a resolution read personally to the individual in public. The resolution shall be prepared at the direction of the City Council and the Mayor. The individual appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least 20 calendar days before the scheduled appearance, at which time a copy of the proposed resolution of censure shall be provided to the individual. Within seven days of receipt of the notice, if the individual objects to the contents of such resolution, he or she may file a request stating the reasons for objections with the Mayor and asking for a review of the content of the proposed resolution of censure by the City Council. Such a request will stay the administration of the censure. The City Council shall review the proposed censure in light of the Fact Finding Disciplinary/Ethic Board's administrative order and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal. If no such request is received, the resolution of censure shall be administered at the time and place set. It shall be read publicly, and the individual shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. A censure shall be administered at the time it is scheduled whether or not the individual

appears as required.

d. Removal – Member of Board or Commission. In the event the individual against whom the complaint was made is currently a member of a City board or commission confirmed or appointed by the City Council, the City Council may, in addition to the remedies set forth in subsection (B)(6)(a), (b), or (c) of this section, and notwithstanding any other provision of the Mountlake Terrace Municipal Code, by a majority vote remove the individual from such board or commission effective immediately.

In the event the individual against whom the complaint was made is currently a City Council member, the City Council may, in addition to the remedies set forth in subsection (B)(6)(a), (b), or (c) of this section and notwithstanding any other provision of the Mountlake Terrace Municipal Code, by a majority vote immediately remove the individual from appointments to Council boards and/or committees.

The action of the City Council in the selection and carrying out of remedies shall be final and not subject to further review or appeal.

7. Proceedings Open/Closed. Proceedings by the Fact Finding Disciplinary/Ethics Board, when they relate to action involving a person, shall be made in executive session; however, consistent with RCW 42.30.110(1)(f), upon request of the individual against whom the complaint was made, one or more hearings before the Fact Finding Disciplinary/Ethics Board on a motion or the hearing on a sufficient complaint shall be open to the public. The deliberations of the Fact Finding Disciplinary/Ethics Board shall not be open to the public; however, any final action by the Fact Finding Disciplinary/Ethics Board on any administrative order shall be taken at a meeting open to the public and only after proper public notice is given.

8. Public Records. The complaint, Board Counsel's administrative order determining sufficiency or nonsufficiency of a complaint, and any other administrative order of the Fact Finding Disciplinary/Ethics Board shall be considered public records. An administrative order by Board Counsel determining that a complaint is sufficient shall contain at the beginning the following specific language:

NOTICE: ANY PORTION OF THIS ADMINISTRATIVE ORDER DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE BOARD. BOARD COUNSEL HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER BOARD HEARING THEN A VIOLATION(S) OF THE ETHICS, RULES OF CONDUCT AND OPERATING PROTOCOLS CODE MAY BE FOUND TO HAVE OCCURRED.

The city shall release copies of any written reports resulting from an investigation of a complaint and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

9. Council Action – Executive Session – Council Member Disqualification From Voting. Final action to decide upon remedies by the City Council shall be by majority vote in a public meeting. If the proceeding involves a member of the City Council, that member shall not vote on any matter involving the member. Deliberations by the Council may be in executive session; however, upon request of the individual against whom the complaint was made, a public hearing or public meeting before the Council will be held on the issue of remedies. (Ord. 2473 § 1, 2007).

2.80.120 Conducting a Fact Finding Disciplinary/Ethics Board hearing on motions and a sufficient complaint.

A. Evidentiary Standard for Violation – Burden of Proof – Motions – Procedural Administrative Orders – No Appeal. The Fact Finding Disciplinary/Ethics Board shall find a violation of this ethics, rules of conduct and operating protocols code, or of state ethical

laws which apply to cities, only upon a preponderance of the evidence presented and admitted during a hearing on a sufficient complaint. The burden of proof shall be upon Board Counsel to prove a violation by a preponderance of the evidence. The Fact Finding Disciplinary/Ethics Board is authorized to conduct hearings on any motion from the parties or Board Counsel, including motions for summary judgment. The standard of proof for summary judgment shall be that used by the trial courts of this state under Civil Rule 45. The Fact Finding Disciplinary/Ethics Board is authorized to determine and establish by administrative order all necessary and appropriate procedural matters including, but not limited to, scheduling, hearing procedures, and other administrative matters regarding a hearing. Any Fact Finding Disciplinary/Ethics Board administrative order shall not be subject to review or appeal.

B. Hearing – Time Periods – Tolling of Periods. The Fact Finding Disciplinary/Ethics Board shall conduct a hearing on a sufficient complaint or portion thereof which has not been otherwise disposed of as provided for in this chapter. The Fact Finding Disciplinary/Ethics Board shall begin a hearing no later than 15 working days after the final determination of sufficiency of the complaint unless a longer time period is requested by a party or Board Counsel, and approved by the Fact Finding Disciplinary/Ethics Board. The Fact Finding Disciplinary/Ethics Board shall render a final administrative order concluding the hearing no later than 90 calendar days after it begins the hearing unless a longer time period has been requested by the Fact Finding Disciplinary/Ethics Board and approved by the City Council. However, the running of these two time periods shall be tolled and all proceedings of the Fact Finding Disciplinary/Ethics Board, or as may be applicable to the Board Counsel's activities in MTMC 2.80.110(B), on the complaint, shall be stayed:

1. During any period from when the Fact Finding Disciplinary/Ethics Board files with the Mayor an application to the City Council for subpoena power to the time a Council decision on the application is made;
2. During any period from when the Fact Finding Disciplinary/Ethics Board becomes aware that any person refuses to obey such subpoena and until such time as a superior court issues an order on the subpoena and such person complies with that court order;
3. During any period from the date an appeal is made to the Fact Finding Disciplinary/Ethics Board regarding Board Counsel's administrative order of sufficiency until the Fact Finding Disciplinary/Ethics Board enters a final administrative order deciding the appeal;
4. During any period from the date a summary judgment motion is filed with the Fact Finding Disciplinary/Ethics Board until the Fact Finding Disciplinary/Ethics Board enters a final administrative order deciding the motion; or
5. During any period from the date a referral is made to a City or county prosecuting authority until a determination is made by each prosecuting authority that it will not proceed with a criminal prosecution concerning the matter(s) referred by the Fact Finding Disciplinary/Ethics Board or Board Counsel, or until a criminal proceeding is terminated or completed.

C. Fact Finding Disciplinary/Ethics Board Administrative Order – Finality – Reconsideration – Recommendations. The Fact Finding Disciplinary/Ethics Board shall render an administrative order and decision setting forth its findings of fact and conclusions of law as to whether or not the individual against whom the complaint was made has violated the code. Its administrative order and decision shall become final 10 working days after its entry, unless a motion for reconsideration is filed. The administrative order may include recommendations for the improvement of the City's ethics, rules of conduct and operating protocols code as the Fact Finding Disciplinary/Ethics Board may in its discretion determine.

D. Subpoenas – Requests – Authority to Issue – Service. The City Council may issue subpoenas on behalf of any party in response to Board Counsel's or the Fact Finding Disciplinary/Ethics Board application (which each shall include any party's requests and

justification for subpoenas) for the attendance and testimony of witnesses, and production of documentary evidence, at Board Counsel meetings of all parties, witness interviews, depositions, or hearings relating to any matter under investigation by Board Counsel or the Fact Finding Disciplinary/Ethics Board, or in connection with any hearing conducted by the Fact Finding Disciplinary/Ethics Board. Board Counsel or the Fact Finding Disciplinary/Ethics Board shall request subpoena power by making a written application to the City Council describing in detail the subject matter of the proposed subpoena and an explanation of why such information is reasonably necessary in order to conduct Board Counsel's or the Fact Finding Disciplinary/Ethics Board's investigation or hearing. The subpoena may be issued in the event the City Council determines the subpoena request is reasonable. Board Counsel shall be responsible to serve or mail all subpoenas authorized by the City Council. In the event any person disobeys a subpoena, Board Counsel or the Fact Finding Disciplinary/Ethics Board may make a written application (which each shall include any party's requests and justification for enforcement) to the City Council to direct the city attorney to invoke the aid of any superior court of the state. Such court may issue an order requiring such person to appear before Board Counsel or the Fact Finding Disciplinary/Ethics Board, to produce documentary evidence, and/or to provide testimony, and any failure to obey such order may be punished by that court as contempt.

E. Right to Fully Participate. No administrative order may be issued by the Fact Finding Disciplinary/Ethics Board unless a person against whom a complaint was made has had a full opportunity to prepare for, and fully participate in, and present information, including affidavits in support or opposition to a motion before the Fact Finding Disciplinary/Ethics Board, and to cross-examine witnesses at the final hearing before the Fact Finding Disciplinary/Ethics Board on the merits of Board Counsel's final administrative order on sufficiency.

F. Service of Administrative Order. A copy of the Fact Finding Disciplinary/Ethics Board's administrative order shall be served or mailed to the City Council, the individual against whom the complaint was made, and the complaining party within seven calendar days of the Board's presiding officer signing the order, unless a longer time period has been requested by the individual against whom the complaint was made, and has been approved by the Fact Finding Disciplinary/Ethics Board, or unless a longer time period has been requested by the Fact Finding Disciplinary/Ethics Board and has been approved by the City Council. (Ord. 2473 § 1, 2007).

2.80.130 Liberal construction – Limitation period.

A. This code shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.

B. Any action taken under this code must be commenced within three years from the date of violation. (Ord. 2473 § 1, 2007).

This page of the Mountlake Terrace Municipal Code is current through Ordinance 2529, passed January 4, 2010.

Disclaimer: The City Clerk's Office has the official version of the Mountlake Terrace Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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