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 Second Reading and Amendment \_\_\_\_\_, 2011  
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**CITY OF MOUNT RAINIER  
 ORDINANCE 5-2011**

**An ordinance amending Chapter 1D Ethics of the Mount Rainier Code striking sections 1D-101 through 1D-108 and replacing it with new language as indicated in this ordinance.**

**WHEREAS**, the Maryland General Assembly enacted legislation requiring local governments to adopt Ethics Ordinances that are substantially similar to the Maryland ethics law applicable to State officials and employees; and

**WHEREAS**, the State Ethics Commission must review the City’s Ethics Ordinance for compliance with the requirements of State law;

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL** that the following shall be adopted as Chapter 1D – Ethics of the Mount Rainier *Code*.

**CHAPTER 1D--ETHICS**

**Section 1. Short title.**

This chapter may be cited as the City of Mount Rainier Public Ethics Ordinance.

**Section 2. Statement of purpose and policy.**

(a) The City of Mount Rainier, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the City’s business is subject to improper influence and even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the City of Mount Rainier Mayor and City Council enacts this Public Ethics Ordinance to require City elected officials, officials,

employees, and individuals appointed to boards and commissions to disclose their financial affairs and to set minimum standards for the conduct of local government business.

(d) It is the intention of the Mayor and City Council that this chapter, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

### **Section 3. Definitions.**

In this chapter, the following terms have the meanings indicated.

(a)(1) “Business entity” means a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

(2) Business entity does not include a governmental entity.

(b) “Commission” means the City of Mount Rainer Ethics Commission established under § 4(a) of this chapter.

(c)(1) “Compensation” means any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered.

(2) For the purposes of §8 of this chapter, if lobbying is only a portion of a person’s employment, “compensation” means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

(d) “Doing business with” means:

(1) Having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of \$5,000 or more of City controlled funds; or

(2) Being regulated by or otherwise subject to the authority of City; or

(3) Being registered as a lobbyist under § 8 of this chapter.

(e) “Elected official” means any individual who holds a City elective office.

(f)(1) “Employee” means an individual who is employed by the City.

(2) “Employee” does not include an elected official.

(g) “Domestic partner” means an unmarried individual over 18 years of age who resides with an unmarried official or employee, with whom the official or employee maintains an exclusive committed relationship.

(h) “Financial interest” means:

(1) Ownership of any interest as the result of which the owner has received, within the past 3 years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

(2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a City official or employee, or the spouse of an official or employee.

(i) (1) “Gift” means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.

(2) “Gift” does not include a political campaign contribution regulated under the Elections Article of the Annotated Code of Maryland, or any other provision of State or local law regulating the conduct of elections or the receipt of political campaign contributions.

(j) “Immediate family” means a spouse, domestic partner, and dependent children.

(k)(1) “Interest” means a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly. One who serves as an officer or director of a business entity, whether operated for profit or not, has an “interest” in that business entity.

(2) For purposes of § 6 of this chapter, “interest” includes any interest held at any time during the reporting period.

(3) “Interest” does not include:

(i) An interest held in the capacity of a personal agent, custodian, fiduciary, or personal representative, trustee, unless the holder has an equitable interest in the subject matter;

(ii) An interest in a time or demand deposit in a financial institution;

(iii) An interest in an insurance policy, endowment policy or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;

(iv) A common trust fund or a trust that forms part of a pension or profit sharing plan which has more than 25 participants and that has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code; or

(v) A college savings plan under the Internal Revenue Code.

(l) “Lobbyist” means a person required to register and report expenses related to lobbying under §8 of this chapter.

(m) “Lobbying” means:

(1) Communicating in the presence of a City official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a City official or employee with the intent to influence that official or employee.

(n) "Official" means an elected official, an employee of the City, or a person appointed to or employed by the City or any City agency, board, commission, or similar entity:

(1) Whether or not paid in whole or in part with City funds; and

(2) Whether or not compensated.

(o) "Person" includes an individual or business entity.

(p) "Qualified relative" means a spouse, domestic partner, parent, child, brother or sister.

#### **Section 4. Administration.**

(a)(1) There is a City Ethics Commission that consists of five members, appointed by the Mayor with the concurrence of the Mayor and City Council.

(2) The Commission members shall serve three year overlapping terms.

(3) A Commission member may serve until a successor is appointed and qualifies.

(b)(1) The Commission shall elect a chairman from among its members.

(2) The term of the chairman is one year.

(3) The chairman may be reelected.

(c)(1) The City Attorney shall assist the Commission in carrying out the Commission's duties;

(2) If a conflict of interest under § 5 of this chapter or other conflict prohibits the City Attorney from assisting the Commission in a matter, the City shall provide sufficient funds for the Commission to hire independent counsel for the duration of the conflict.

(d) The Commission is the advisory body responsible for interpreting this chapter and advising persons subject to this chapter regarding its application.

(e) The Commission shall hear and decide, with the advice of the City Attorney or other legal counsel if appropriate, all complaints filed regarding alleged violations of this chapter by any person.

(f) The Municipal shall retain as a public record all forms submitted by any person under this chapter for at least four years after receipt by the Commission.

(g) The Commission shall conduct a public information and education program regarding the purpose and implementation of this chapter.

(h) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland for elected local officials.

(i) The Commission shall:

(1) Determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland; and

(2) Forward any recommended changes and amendments to the City Council for enactment.

(j)(1) Any person subject to this chapter may request an advisory opinion from the Commission concerning the application of this chapter.

(2) The Commission shall respond promptly to a request for an advisory opinion and shall provide interpretations of this chapter based on the facts provided or reasonably available to the Commission. The Commission will endeavor to respond within 60 days of the request.

(3) In accordance with all applicable State laws regarding public records, the Commission shall publish or otherwise make available to the public copies of the advisory opinions, with the identities of the subjects deleted.

(4) The Commission may adopt additional policies and procedures related to the advisory opinion request process.

(k)(1) Any person may file a complaint with the Commission alleging a violation of any of the provisions of this chapter.

(2) A complaint shall be in writing and under oath; and

(3) The Commission may refer a complaint to the City Attorney, or other legal counsel if appropriate, for investigation and review.

(4) The Commission may dismiss a complaint if, after receiving an investigative report, the Commission determines that there are insufficient facts upon which to base a determination of a violation.

(5) If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing conducted in accordance with the applicable rules of procedure.

(6) A final determination of a violation resulting from the hearing shall include findings of fact and conclusions of law.

(7) Upon finding of a violation, the Commission may take any enforcement action provided for in § 9 of this chapter.

(8)(i) After a complaint is filed and until a final finding of a violation by the Commission, all actions regarding a complaint are confidential. This section does not prohibit disclosures made in the furtherance of the investigation of the complaint.

(ii) A finding of a violation is public information.

(9) The Commission may adopt additional policies and procedures related to complaints, complaint hearings, the use of independent investigators and staff, the use of witness and document subpoenas, and cure and settlement agreements.

(l) The Commission may grant exemptions to or modifications of the conflict of interest and financial disclosure provisions of this chapter to employees and officials serving as members of City Boards and Commissions, when the Commission finds that the exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

(1) Constitute an unreasonable invasion of privacy; and

(2) Significantly reduce the availability of qualified persons for public service.

(m) The Commission may:

(1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely file a financial disclosure statement required under §§ 6 or 7 of this chapter; and

(2) Assess a late fee of \$10 per day up to a maximum of \$250 for a failure to file a timely lobbyist registration or lobbyist report required under § 8 of this chapter.

## **Section 5. Prohibited conduct and interests.**

(a) Participation prohibitions.

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest. The prohibitions of this paragraph do not apply

(a) to Council members' participation in decisions relating to the property tax rate, general City fees or service charges or similar matters where a Council member's interest would be affected in the same manner as the general public or

(b) to Council members participating in Council action relating to, and voting on, the annual budget in its entirety. When one or more items in the annual budget would have

a direct financial impact, as distinguished from the public generally, on a Council member, his or her employer, family member or any business entity in which he or she has an interest, the Council member must first file with the Ethics Commission a sworn statement that describes the conflict. Council members may not propose, seek to remove, or participate in the Council's discussion of any budget item that creates such a conflict.

(ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(A) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(B) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(C) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment.

(D) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(E) An entity, doing business with the City, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(F) A business entity that:

1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(2) A person who is disqualified from participating under paragraph 1 of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

(b) Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

(A) Subject to the authority of the official or employee or the City agency, board, commission with which the official or employee is affiliated; or

(B) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) The prohibitions of paragraph 1 of this subsection do not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(v) A Council member who has only infrequent conflicts of interest or apparent conflicts of interest and who recuses him or herself from participation in any matters involving such conflicts or apparent conflicts. However, in no event shall the City contract with entities that employ a Council member in a position where the Council member is likely to receive a direct financial or professional benefit as a result of the contract with the City or entities in which a Council member has a financial interest.

(c) Post-employment limitations and restrictions.

(1) A former official or employee may not assist or represent any party other than the City for compensation in a case, contract, or other specific matter involving the City if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the City Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(d) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the City.

(e) Use of prestige of office.

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) Solicitation and acceptance of gifts.

(1) Solicitation. A City official or employee shall not solicit any gift, including a charitable donation, from any person that he or she knows, or has reason to know, is doing business with the City or has a financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the covered person's official duty.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift including a charitable donation, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the City office, agency, board or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4)(i) This paragraph does not apply to a gift:

(A) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(B) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(C) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

(A) Meals and beverages consumed in the presence of the donor or sponsoring entity;

(B) Ceremonial gifts or awards that have insignificant monetary value;

(C) Unsolicited gifts of nominal value that do not exceed \$ 20 in cost or trivial items of informational value;

(D) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting that is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

(E) Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

(F) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

(G) Gifts from a person related to the official or employee by blood or marriage or domestic partnership, or any other individual who is a member of the household of the official or employee; or

(H) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is in no way related to the official's or employee's official position.

(5) This section does not prohibit the City from imposing greater restrictions on the acceptance of gifts in appropriate circumstances.

(g) Disclosure of Confidential Information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(h) Participation in procurement.

(1) An individual or a person that employs an individual who assists a City agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

**Section 6. Financial disclosure - elected officials and candidates.**

(a) This section applies to all elected officials and all candidates to be elected officials.

(b) Except as provided in subsection (d) of this section, an elected official, or candidate to be an elected official shall file the financial disclosure statement required under this subsection:

- (1) On a form provided by the Commission;
- (2) Under oath or affirmation; and
- (3) With the Commission.

(c) Deadlines for filing statements.

(1) An incumbent elected official shall file a financial disclosure statement annually no later than April 30<sup>th</sup> of each year for the preceding calendar year.

(2)(i) An elected official who leaves office other than by reason of death, shall file a statement within 60 days after leaving the office.

(ii) The statement shall cover:

(A) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(B) The portion of the current calendar year during which the individual held the office.

(d) Candidates to be elected officials.

(1) Except an official or employee who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of nomination is filed through the year of the election.

(2) A candidate to be an elected official shall file a statement required under this section:

(i) In the year the certificate of nomination is filed, no later than the filing of the certificate of nomination;

(ii) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(iii) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(i) May file the statement required under §6(d)(2)(i) of this chapter with the Supervisor of Elections with the certificate of nomination or with the Commission prior to filing the certificate of nomination; and

(ii) Shall file the statements required under §6(d)(2)(ii) and (iii) of this chapter with the Commission.

(4) If a candidate fails to file a statement required by this section after written notice is provided by the Supervisor of Elections at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

(5) The Municipal Clerk or Election Supervisor may not place a candidate on the ballot unless a statement required under this section has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, Supervisor of Elections shall forward the statement to the Commission, or an office designated by the Commission.

(e) Public record.

(1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

(2) The Commission or office designated by the Commission shall make financial disclosure statements available during normal office hours, for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

(ii) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the individual whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official or employee with a copy of the name and home address of the person who reviewed the official's or employee's financial disclosure statement.

(f) Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(g) Contents of statement.

(1) Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(ii) For each interest in real property, the schedule shall include:

(A) The nature of the property and the location by street address, mailing address, or legal description of the property;

(B) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (ii)(B) of this paragraph by reporting, instead of a dollar amount:

(A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

(B) For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with City.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the City, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The nature and amount of the interest held, including any conditions to and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the City.

(ii) For each gift reported, the schedule shall include:

(A) A description of the nature and value of the gift; and

(B) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with the City.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City.

(ii) For each position reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(C) The name of each City agency with which the entity is involved as indicated by identifying one or more of the three categories of “doing business”, as defined in § 3(d) of this chapter.

(6) Indebtedness to entities doing business with City.

(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the City owed at any time during the reporting period:

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

(7) Employment with the City. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the City in any capacity at any time during the reporting period.

(8) Sources of earned income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(h) For the purposes of § 6(g)(1), (2) and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

(2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.

(3) An interest held by a trust or an estate in which, at any time during the reporting period:

(i) The individual held a reversionary interest or was a beneficiary, or

(ii) If a revocable trust, the individual was a settlor.

(i)(1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The City Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

## **Section 7. Financial disclosure – employees and appointed officials.**

(a) This section only applies to the following appointed officials and employees:

**Jeannelle Branson Wallace, City Manager**  
**Michael D. Jackson, Assistant City Manager**  
**Vijay K. Manjani, City Treasurer**  
**Michael E. Scott, Chief of Police**  
**Luther Smith, Director of Public Works**  
**Michael Barnes, Assistant Director of Public Works**  
**Graciela Carbonell, MRTV Director**

- (b) A statement filed under this section shall be filed with the Commission under oath or affirmation.
- (c) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the City, including the name of the donor of the gift and the approximate retail value at the time of receipt. If an official or employee has received no such gifts, the official or employee shall file a disclosure statement that affirmatively states that fact.
- (d) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.
- (e) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in § 6(e) and (f) of this chapter.

### **Section 8. Lobbying.**

(a) Except as provided in subsection (b) and (c) of this section, a person or entity who engages in lobbying as defined in §3(m) shall file a lobbying registration with the Commission if the person or entity, during the calendar year:

(1) Expends, exclusive of personal travel and subsistence expenses, in excess of \$100.00 in furtherance of this activity; or

(2) Is compensated in excess of \$100.00 in connection with this activity.

(b) The following activities are exempt from regulation under this section:

(1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending Mayor and City Council actions when these services do not otherwise constitute lobbying activities;

(2) Appearances before the Mayor and City Council upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of Mayor and City Council actions;

(3) Appearances before a City agency upon the specific invitation or request of the agency if the person or entity engages in no further or other activities in connection with the passage or defeat of any agency executive action;

(4) Appearance as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity;

(5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;

(6) Appearances by an individual before the Mayor and City Council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the Mayor and City Council that the person or entity is testifying at the request of the lobbyist;

(7) Appearances by an individual before a government agency at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies agency that the person or entity is testifying at the request of the lobbyist;

(8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and

(9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

(c) Limited exemption – employer of a lobbyist.

(1) A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist is not required to file a registration and submit lobbying reports if the person or entity reasonably believes that all expenses incurred in connection with the lobbying activities will be reported by a properly registered person or entity acting on behalf of the person or entity.

(2) A person or entity exempted under this subsection becomes subject to this section immediately upon failure of the lobbyist to report any information required under this section.

(d)(1) The registration filed under this section shall be filed on or before the latter of the beginning of the calendar year in which the person or entity expects to lobby and within five days of first engaging in lobbying activities in the calendar year.

(2) The registration filed under this section:

(i) Shall be dated and on a form developed by the Commission;

(ii) Shall include:

(A) The lobbyist's full and legal name and permanent address;

(B) The name, address, and nature of business of any person or entity on whose behalf the lobbyist acts;

(C) The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, who is not the lobbyist, of the person or entity on whose behalf the lobbyist acts;

(iii) A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration under subsection (c) of this section;

(iv) The identification, by formal designation, if known, of matters on which the lobbyist expects to act;

(v) Identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless terminated sooner; and

(vi) The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf the lobbyist acts or an agent or authorized officer of the person or entity on whose behalf the lobbyist acts.

(e) A lobbyist shall file a separate registration for each person or entity that has engaged or employed the lobbyist for lobbying purposes.

(f) A lobbyist may terminate the lobbyist's registration by providing written notice to the Commission and submitting all outstanding reports and registrations.

(g) A person or entity may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent upon the passage or defeat of any action by the Mayor and City Council or the outcome of any executive action.

(h) Activity report.

(1) A lobbyist shall file with the Commission or the office designated by the Commission:

(i) By July 31, one report concerning the lobbyist's lobbying activities covering the period beginning January 1 through June 30; and

(ii) By January 31, one report covering the period beginning July 1 through December 31.

(2) A lobbyist shall file a separate activity report for each person or entity on whose behalf the lobbyist acts.

(3) If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form.

(4) The report shall include:

(i) A complete and current statement of the information required to be supplied with the lobbyist's registration form.

(ii) Total expenditures on lobbying activities in each of the following categories:

(A) Total compensation paid to the lobbyist not including expenses reported under items (B) -(I) of this subparagraph;

(B) Office expenses of the lobbyist;

(C) Professional and technical research and assistance not reported in item (i) of this subparagraph;

(D) Publications which expressly encourage persons to communicate with City officials or employees;

(E) Names of witnesses, and the fees and expenses paid to each witness;

(F) Meals and beverages for City officials and employees;

(G) Reasonable expenses for food, lodging, and scheduled entertainment of City officials or employees for a meeting that is given in return for participation in a panel or speaking engagement at the meeting;

(H) Other gifts to or for officials or employees or their spouses or domestic partners or dependent children; and

(I) Other expenses.

(i) Special gift report.

(1)(i) With the six-month activity report required under subsection (h) of this section, a lobbyist shall report, except for gifts reported in items (h)(4)(ii)(G) of this section, gifts from the lobbyist with a cumulative value of \$75 or more during the reporting period to an official, employee, or member of the immediate family of an official or employee.

(ii) The lobbyist shall reports gifts under this paragraph regardless of whether the gift was given in connection with lobbying activities.

(2) The report shall include the date, beneficiary, amount or value, and nature of the gift.

(j) Notification to official and confidentiality.

(1) If any report filed under this section contains the name of an official or employee or a member of the immediate family of an official or employee, the Commission shall notify the official or employee within 30 days.

(2) The Commission shall keep the report confidential for 60 days following receipt by the Commission.

(3) Within 30 days of the notice required under paragraph (1) of this subsection, the official or employee may file a written exception to the inclusion in the report of the name of the official, employee, or member of the immediate family of the official or employee.

(k) The Commission may require a lobbyist to submit other reports the Commission determines to be necessary.

(l) The Commission or office designated by the Commission shall maintain all registrations and reports filed under this section;

(m)(1) The Commission shall review the registrations and reports filed under this section for compliance with this section and shall notify persons engaging in lobbying activities of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

(n) Annual report.

(1) The Commission shall compute and make available a subtotal under each of the ten required categories in subparagraph (h)(4)(ii) of this section.

(2) The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

(o) The Commission shall make lobbying registrations and reports available during normal business hours for examination and copying subject to reasonable fees and procedures established by the Commission.

## **Section 9. Enforcement.**

(a)(1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(i) Issue an order of compliance directing the respondent to cease and desist from the violation;

(ii) Issue a reprimand; or

(iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated § 8 of this chapter, the Commission may:

(i) Require a respondent who is a registered lobbyist to file any additional reports or information that is reasonably related to the information that is required under § 8 of this chapter;

(ii) Impose a fine not exceeding \$5,000 for each violation; and

(iii) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated § 8 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(b)(1) Upon request of the Commission, the City Attorney may file a petition for injunctive or other relief in the Circuit Court for Prince George's County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2)(i) The court may:

(A) Issue an order to cease and desist from the violation;

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense;

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(c)(1) Any person who knowingly and willfully violates the provisions of § 8 of this chapter is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.

(d) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(e)(1) A person who is subject to the provisions of this chapter shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate a report, statement, or record required under this chapter for three years from the date of filing the report, statement, or record.

(2) These papers and documents shall be available for inspection upon request by the Commission or the Mayor and City Council after reasonable notice.

**Section 10. Severability.**

If any section, sentence, clause or phrase of this chapter is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions or this chapter.

**BE IT FURTHER ORDAINED**, that following the enactment of this Ordinance, follow-up tasks will be completed as follows:

1. Appointment of the Ethics Commission.
2. Revision of the Elections Handbook regarding financial disclosure statements.
3. The creation of Financial Disclosure forms for:
  - (a) Elected Officials/Candidates and
  - (b) Appointed officials and employees
4. Preparation of Rules of Procedure for Complaint Hearings.
5. Creation of a Lobbyist Registration Form.
6. Creation of a Lobbyist Report Form.

BE IT FURTHER ORDANED that the City of Mount Rainer Ethics Commission, certify to the State Ethics Commission that the City’s Ethics Ordinance comports with the requirements of state law by October 1, 2011.

**Attest:**

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**Jeannelle B. Wallace, City Manager**

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**Malinda Miles, Mayor**

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**Jimmy Tarlau, Councilmember**

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**William Updike, Councilmember**

\_\_\_\_\_  
**Bryan Knedler, Councilmember**

\_\_\_\_\_  
**Ivy R. Thompson, Councilmember**