

City of Minneapolis
Request for Committee Action

To: Ways & Means
Date: 01/11/2016
Referral: N/A
From: Ethical Practices Board
Prepared by: Susan L. Trammell, Ethics Officer
Presented by: Susan L. Trammell, Ethics Officer
File type: Ordinance
Subcategory: Code Amendment

Subject:
Ethics in Government Code.

Description:
Passage of Ordinances amending Title 15 of the Minneapolis Code of Ordinances relating to Administration: Ethics in Government Code, amending regulations relating to trust and accountability.

Previous Actions:
3-21-2003: Adoption of the Ethics in Government Code.
2-11-2005: Amendments to “related person” and “significant familial relationship” definitions.
6-16-2006: Amended “affectional preference” to “sexual orientation.”
8-31-2007: Amended sections relating to conflicts of interest, gifts, outside employment, statements of economic interest, required reporting, the Ethical Practices Board, violations, and corresponding definitions.
4-24-2009: Amended sections relating to conflicts of interest, soliciting or accepting gifts, the Ethical Practices Board, and ethics education.
4-15-2011: Amended the “local official” definition.

Ward/Address:
All Wards

Background/Analysis:
The Ethical Practices Board, in its 2014 Annual Report presented to the Aug. 17, 2015 Ways & Means Committee, made recommendations to amend the Ethics in Government Code, M.C.O. Chapter 15. The Board recommended the following amendments to the Ethics Code:

1. Changes to the Conflict of Interest Provision, § 15.40

An amendment to the definition of financial interest as contained within the conflict of interest provision of the ethics code is recommended and is based upon the language contained in the model ethics code produced by CityEthics.org. The premise for the amendment is that city officials and employees should not prefer, over the public interest, their own interests or the interests of their family or business associates. While there are other relationships that should be included in the definition – including romantic relationships short of domestic partnership, and close friends and associates – these relationships are not included due to inherent

difficulties in defining them. The proposed amendment also clarifies that it is the potential conflict of interest, not the marital status, at issue.

2. Changes to outside employment reporting requirements of § 15.60(e)(1)

The current ordinance requires notification of an employee's department head prior to accepting outside employment. Questions have arisen regarding to whom a department head should report outside employment. The proposed amendment would require a department head to disclose outside employment to the appropriate appointing authority.

Proposed amendments would also exempt employees in two job titles, election judge and temporary intermittent stagehand/production technicians, from the reporting requirement.

For many of the election judges, their service is either pro bono or in addition to their regular employment. Election judge applicants disclose their recent employment/volunteer experiences that relate to interacting with the public or other election judge duties through the hiring process.

The Convention Center's stagehand/ production technicians are hired to set up and tear down exhibitions. These employees also perform similar duties all across the United States. The average number of hours worked by these employees in 2014 was 49 hours though some worked as few as four hours in a year. The manner in which the Convention Center fills these positions means that every single one of these employees is likely to have other employment and potentially hundreds of other jobs to disclose.

Requiring the election judges and stagehands/production technicians to disclose their other employment on the Outside Employment form is onerous and does not further the goals of the Outside Employment ordinance.

3. Annual Statement of Economic Interest Filings, § 15.80

This past legislative session, the Minnesota legislature amended Minnesota Statute § 10A.09, the state requirement related to statements of economic interest, to require annual filings. Previously, state law, like the City's Ethics Code, only required a supplemental filing if information on the previous filing changed. The Board recommends amendment to keep the Ethics Code consistent with state law requirements.

4. Changes to the Use of Property Provision, § 15.100

The prohibition against the unauthorized use of destruction of city property has not been altered since the Ethics Code was adopted in 2003. Various issues have arisen over the years regarding the scope of the section. The board believes that the use of the word "property" is too narrow and the use of the word "resources" more accurately describes the activities that should be covered by the section. In addition, the Ethics Officer and the Board have received many questions related to misuse of employee time and supervisors requiring employees to perform tasks unrelated to the employees' official duties. As all of these activities fall within the realm of ethics, the Board proposes adding clarifying language to the section.

5. Changes to the Political Activity Provision, § 15.110

The current political activity Ethics Code section has not been amended since the Ethics Code was adopted in 2003. The current ordinance only speaks to use of "official authority or influence to compel any person to apply for membership in or become a member of any political organization, to pay or promise to pay a political contribution, or to take part in political activity." The current ordinance does not cover other impermissible uses of city resources for political activity. During past election seasons, the Communications Department has published

“Election Do’s and Don’ts for Employees” in Minneapolis Matters. The proposed amendment encompasses the “do nots” previously communicated.

6. Changes to the Ethical Practices Board Provision, §15.210

Ethics Code §15.210 sets forth the process for appointing members to the Board. During the last appointment process a question arose regarding whether an applicant would be excluded from applying for the Board due to City employment as an election judge. This question leads the Board to believe that some modifications should be made to the ordinance. The Board proposes excluding election judge service as a disqualifier and limiting the City restrictions to current employees and local officials as well as placing a five year limitation for former employees and local officials.

6. Ethical Practices Board Reporting of Complaint Findings, § 15.240(b)

In the handling of ethics complaints, the Board has become aware of potential conflicts with the Minnesota Government Data Practices Act and the Open Meeting Law regarding the Board’s reporting of its findings. In particular, the current sanctions ordinance section requires the Board to report findings regarding an elected official to the Mayor, Ways and Means/Budget Committee and the City Council regardless of whether the Board has made a factual finding sustaining those allegations. The Board is recommending adding language to the ordinance to clarify that any such reporting should be consistent with the Minnesota Government Data Practices Act and Open Meeting Law and only to report on sustained allegations involving elected officials. In addition, the Board is recommending a change of language to allow for future flexibility in reporting to city council committees.

7. Ethics Education Changes and Exemptions, § 15.260

The Board is recommending three changes to the Ethics Education ordinance. The first two changes are to substitute “participate in” for the word “attend” and “training” for “seminar”. These changes better reflect the potential offerings of ethics education in both an in-person classroom setting and in an interactive electronic education option. The Board is further recommending the exemption of Election Judges and Stagehands/Production Technicians from the training requirement. The rationale for this exemption is explained above in the discussion about exempting employees in these job titles from the outside employment reporting requirement.

8. Clarifying and Supplementing Definitions, § 15.280

Due to changes in the City’s organization and due to the other proposed changes to the Ethics Code, the Board recommends amending “department head” and “employee” definitions. New definitions for “compensation”, “household” and “outside employment” are also proposed.

9. Miscellaneous conforming amendments, § 15.90 § 15.200

The amendments to §15.280 result in required changes referencing definitions. The proposed changes to § 15.90 and § 15.200 correct these references.

Financial Review:

No financial impact.

Attachments:

1. 2015 Ethics in Government Code Amendments