



Ethics Board Regular Meeting
Monday, October 21, 2024, 6:30 PM
Chamber Conference Room, City Hall
280 Madison Ave N
Bainbridge Island, WA 98110

The Ethics Board will hold this meeting in person, in the City Hall Council Conference Room. Attendance may be in person or the meeting is also accessible via the Zoom meeting platform.

REMOTE MEETING ON ZOOM
PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR:
<https://bainbridgewa.zoom.us/j/86365762700>
OR TELEPHONE: US: 1-253-205-0468
WEBINAR ID: 863 6576 2700

AGENDA

1. CALL TO ORDER / ROLL CALL – 6:30 PM

2. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

3. PUBLIC COMMENT

In person public comment is accepted at this time on any topic of public interest. Each commenter will have three minutes, or such amount as the meeting chair determines, to speak. Public comment is not taken on individual agenda items during the meeting. Public comment is simply received by the Board, with no response, and the Board cannot deliberate on items that are not on the agenda. Please refer to guidelines and instructions for public comment, including orderly behavior and civility in remarks, attached below.

The lack of comment is not an endorsement or a denial of the comment. Remote public comment is allowed with advance notice to the City Clerk, provided that all remote commenters shall be required to display their true name and to keep their camera turned on to show their true uncovered face while delivering their comments.

3.A Instructions for Providing Public Comment

4. REGULAR BUSINESS

4.A Approval of Minutes: September 16, Regular Meeting Minutes

4.B Update: COBI Farmer's Market Booth

4.C Review Status of Pending Complaints

4.D Update: Meeting with City Council re Recommended Changes to Ethics Code

5. NEW BUSINESS

5.A 2024 Annual Report & 2025 Workplan

- Nominate and Appoint Planning and Reporting Subcommittee
- Board-Recommended Changes to Code of Conduct and Ethics Program / Ethics Board Operating Rules

5.B Annual Training

- Nominate and Appoint Training Subcommittee
- Board-Recommended Changes to Training Materials and/or Process

6. AGENDA FOR NEXT MEETING

7. NEXT MEETING DATE: November 18, 2024

8. ADJOURNMENT



Meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the City Clerk's Office at 206-780-8604 or cityclerk@bainbridgewa.gov by noon on the day preceding the meeting.



Public Comment

Members of the public are encouraged to submit public comment to the City Advisory Committees.

Interested parties may provide comment by:

- Emailing the [City Clerk \(cityclerk@bainbridgewa.gov\)](mailto:cityclerk@bainbridgewa.gov). This comment may be submitted at any time.
- Providing in-person comment at a meeting.
- Providing comment at a meeting via Zoom, in accordance with the advance notice and camera requirements.

Members of the public who wish to provide public comment in-person at a meeting should sign up to speak on the sign-in sheet. The Chair will call the people signed up on the sign-in sheet, and speakers will have three minutes (or such other time set by the Chair) to speak. The Chair or a designee will indicate when the time has elapsed.

Remote public comment is allowed with advance notice to the City by 4:00 p.m. on the business day before the meeting at cityclerk@bainbridgewa.gov, provided that all remote commenters shall be required to display their true name and to keep their camera turned on to show their true uncovered face while delivering their comments.

Guidelines for public comment are below. These guidelines were established for and approved by the City Council and also apply to all advisory boards, committees and commissions of the City Council.

Excerpts from the Governance Manual regarding public comment:

5.6 Respect and Decorum

It is the duty of the Presiding Officer and Councilmembers to maintain dignity and respect for their offices, City staff, and the public. While the Council is in session, the Councilmembers shall preserve civility, order and decorum. No member of the public shall, by conversation or otherwise, delay, disrupt, or interrupt the proceedings of the Council, nor engage in any of the prohibited behavior described below. Councilmembers and the public shall obey the proper orders of the Presiding Officer of the meeting.

5.6.1 Orderly Behavior and Civility in Remarks

Any person disrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a point of order by the Presiding Officer or a Councilmember pursuant to the Council's parliamentary rules, or a recess, forced removal, or adjournment as described elsewhere in this manual. Disruptive behavior includes, but is not limited to, the following:

- a) Speaking without being recognized by the Presiding Officer.
- b) Continuing to speak after the allotted time has expired.

- c) Speaking on an item at a time not designated for discussion by the public of that item, such as speaking on a quasi-judicial item at a time other than during a public hearing or closed record proceeding on the matter.
- d) Throwing objects.
- e) Speaking on an issue that is not a public topic, in violation of Section 9.12.2.
- f) Speaking in favor of or in opposition to a ballot proposition or a candidate for public office, provided, that public comment is allowed when the City Council is considering taking a collective position in favor of or in opposition to a ballot proposition as authorized in RCW 42.17A.555.
- g) Impersonating a City Councilmember or a member of the City staff.
- h) Shouting or otherwise engaging in loud or boisterous behavior.
- i) Continuing to make repetitive remarks after being requested not to do so by the Presiding Officer or a majority of the City Council.
- j) Attempting to engage the audience rather than the Council, e.g., asking audience members to stand, clap, boo or otherwise express collective support or opposition to any matter.
- k) Booing, hissing, or otherwise disrupting the comments of another speaker.
- l) Using racial slurs or other slurs directed at the color, creed, religion, ancestry, gender, sexual orientation, gender expression or identity, national origin, citizenship or immigration status, or mental, physical, or sensory disability of any individual or group, under circumstances where such words constitute “fighting words” under constitutional law.
- m) Refusing to modify conduct after being advised by the Presiding Officer that the conduct is disrupting the meeting or disobeying any other lawful order of the Presiding Officer or a majority of the City Council.

5.6.2 Permission Required to Address the Council

Persons other than Councilmembers and Administration shall be permitted to address the Council only upon recognition and introduction by the Presiding Officer of the meeting.

9.12.2 Subjects – Whether or Not on the Current Agenda

Public comments received during the public comment period may be on any public topic, whether or not on the agenda, but a comment on the subject that is covered by a public hearing at that meeting must be made during the period of the public hearing. All public comments shall be made consistent with Section 5.6.

9.12.3 Use of Microphones

Comments shall be made directly into the microphone, as it is necessary for the public record and for the audience to hear all proceedings. No comments shall be made from any other location.

COBI ETHICS BOARD
Regular Business Meeting
Monday, September 16, 2024
In-person and Via Zoom

Minutes

1. CALL TO ORDER / ROLL CALL – 6:30 PM

Present: Doña Keating (Chair), Karen Anderson (Deputy Chair), Rafael Escandon, Rosemary Hollinger, Donna Davison, Mark Markuly, Drew Pollom (Counsel), and Peggy Nimb (City Staff). Absent: Hildja Saas

2. APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE (1:09)

MOTION: Donna Davison **SECOND:** Rafael Escandon Passed unanimously
No conflicts of interest disclosed.

3. PUBLIC COMMENT – None received. (2:10)

3.A Instructions for Providing Public Comment

4. REGULAR BUSINESS (3:37)

4.A Approval of Minutes: July 15, Regular Meeting Minutes
MOTION: Donna Davison **SECOND:** Rafael Escandon Passed unanimously (3:40)

4.B Update: COBI Farmer's Market Booth & Other Outreach Opportunities (4:10) –
October 19 and November 2 from 10am-2pm are offered dates. October 19 was chosen, and several members will participate. Youth outreach is postponed given COBI investigative efforts.

4.C Review Status of Pending Complaints (12:00) – Three Complaints remain on hold due to recent U.S. Court of Appeals filing. No additional complaints.

4.D Meeting or Subcommittee with City Council: Recommendations for Ethics Code (13:15) – The Mayor and Deputy Mayor will speak with City Manager and advise regarding movement on the Board's recommendations per prior Annual Report/Work Plans.

5. NEW BUSINESS – None.

6. AGENDA FOR NEXT MEETING (29:27) – All existing items in addition to nominating and appointing the Annual Report/Work Plan subcommittee and discussing recommended changes to the Code and Operating Rules.

Mr. Markuly requested clarification regarding the nature of the Board’s educational mission. Discussion ensued regarding this and the importance of continual training. Ms. Keating reminded the Board of existing training requirements per the Code and Operating Guidelines and provided historical perspective on prior delays. Peggy Nimb indicated that Ethics Board training is now included in general packet for all incoming Advisory Board members.

7. ADJOURNMENT – 7:14 PM

MOTION: Rosemary Hollinger
(43:32)

SECOND: Rafael Escandon

Passed unanimously

Doña Keating, Chair

Date

**CITY OF BAINBRIDGE ISLAND
CODE OF CONDUCT AND ETHICS PROGRAM**

Resolution No. 2020-13

Amended by
Resolution No. 2021-10
and
Resolution No. 2022-20

Effective Date: May 10, 2022

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CITY OF BAINBRIDGE ISLAND CODE OF CONDUCT AND ETHICS PROGRAM

Introduction

All those associated with City government, including Councilmembers and members of City Committees and Commissions, seek to earn and maintain the public's confidence in the City's services and the public's trust in its government. To this end, the decisions and work of those associated with City government must meet the highest ethical standards. It is therefore the purpose of this program to:

1. Articulate the Code of Conduct that will guide the conduct of Councilmembers and members of City Committees and Commissions;
2. Establish a Code of Ethics for Councilmembers and members of City Committees and Commissions;
3. Provide training for Councilmembers and members of City Committees and Commissions on the Code of Conduct and the Code of Ethics;
4. Establish a system that enables individuals, Councilmembers, and members of City Committees and Commissions to seek guidance and assistance regarding possible violations of the Code of Conduct or of the Code of Ethics;
5. Provide processes to review possible violations of the Code of Conduct and of the Code of Ethics by Councilmembers and members of City Committees and Commissions; and
6. Maintain an Ethics Board to assist with the administration of the program.

This Code of Conduct and Ethics Program is intended to supplement state and federal law. As such, Councilmembers and members of City Committees and Commissions shall comply with all state and federal laws in the performance of their public duties. These laws include, but are not limited to, the following: the United States and Washington Constitutions; Chapter 42.23 RCW; and Chapter 42.17A RCW.

ARTICLE I - CODE OF CONDUCT

A. Preamble

The City of Bainbridge Island has adopted this Code of Conduct, which consists of the Core Values and Ethical Principles detailed below, to promote and maintain the highest standards of personal and professional conduct among City Councilmembers and members of City Committees and Commissions. The optimal operation of democratic government requires that the City's government be fair and accountable to the people it serves. This Code of Conduct articulated in Article I applies to Councilmembers and members of City Committees and Commissions.

B. Core Values

1. Service, Helpfulness, Innovation

We are committed to providing service to the people of Bainbridge Island and to each other that is courteous, cost effective, and continuously improving.

2. Integrity

We treat one another with honesty and integrity, recognizing that trust is hard won and easily lost. We pledge to promote balanced, consistent, and lawful policies and directives, in keeping with that integrity and the highest standards of this community.

3. Equality, Fairness, Mutual Respect

We pledge to act with the standard of fairness and impartiality in the application of policies and directives and that of equality and mutual respect with regard to interpersonal conduct.

4. Responsibility, Stewardship, Recognition

We accept our responsibility for the stewardship of public resources, and our accountability for the results of our efforts, and we pledge to give recognition for exemplary work.

C. Ethical Principles

1. Obligations to the Public

Following the highest standards of public service, Councilmembers and members of City Committees and Commissions act to promote the public good and preserve the public's trust. In practice, this principle looks like transparency and honesty in all public statements and written communications.

2. Obligations to Others

In order to sustain a culture of ethical integrity, Councilmembers and members of City Committees and Commissions treat each other and the public with respect and are guided by applicable codes of ethics. In practice, this principle looks like:

- a. Councilmembers and members of City Committees and Commissions shall familiarize themselves with the ethical rules governing them (including Chapter 42.23 RCW and this Ethics Program) and obtain periodic education regarding such rules.
- b. Councilmembers and members of City Committees and Commissions shall, in all their interactions, conduct themselves in a manner that demonstrates civility and respect for others.

3. Obligations Regarding the Use of Public Resources

In recognition of the importance of stewardship, Councilmembers and members of City Committees and Commissions use and allocate public monies, property, and other resources in a responsible manner that takes into consideration both present and future needs of the community. In practice, this principle looks like:

- a. Councilmembers and members of City Committees and Commissions shall, to the extent possible, seek guidance regarding the use of public resources from staff and other experts, including legal advice from the City Attorney as appropriate, in order to ensure that public resources are used and conserved for the public good.
- b. Councilmembers and members of City Committees and Commissions shall ensure that paid experts and consultants who provide guidance regarding the use of public resources shall be impartial and free of conflicts of interest.

ARTICLE II - CODE OF ETHICS

Except where specifically stated, the rules articulated in Article II apply to Councilmembers and individuals serving on City Committees and Commissions.

A. Gifts and Compensation

1. Limitations on City-Related Gifts and Outside Compensation

Except as permitted under Subsections A.2 and A.3 below, no Councilmember or member of a City Committee or Commission, or any member of their immediate families, shall, directly or indirectly, accept any gift (as defined below) for a matter connected with or related to their services or duties with the City of Bainbridge Island or accept any non-City compensation for the performance or non-performance of those services or duties.

2. Exceptions to Gift Limitations

The following are exceptions to the limitation on gifts that may be accepted by those individuals subject to Subsection A.1 above:

- a. Unsolicited items of trivial value. “Items of trivial value” means items or services with a value of fifty dollars (\$50.00) or less, such as promotional t-shirts, pens, calendars, books, or other similar items.
- b. Gifts from other City officers, officials, or employees, or their family members on appropriate occasions.
- c. Gifts appropriate to the occasion and reasonable and customary in light of a familial, social, or official relationship of the giver and recipient, such as weddings, funerals, illnesses, holidays, and ground-breaking ceremonies.
- d. Campaign contributions as permitted and reported in accordance with law.
- e. Awards that are publicly presented by a nonprofit organization in recognition for public service if the award is not extraordinary when viewed in light of the position held by the recipient.
- f. Gifts offered while visiting other cities, counties, states, or countries or hosting visitors from other cities, counties, states, or countries, when it would be a breach of protocol to refuse the gift, provided that any such gifts received shall become property of the City.

g. Reasonable and necessary costs to attend a conference or meeting that is directly related to the official or ceremonial duties of the Councilmember or member of a City Committee or Commission, provided that any payment of substantial travel or lodging expenses by any person or entity regulated by the City or doing or seeking to do business with the City must be approved in advance by the Mayor or, if the Mayor is the recipient, by the Deputy Mayor or the Mayor Pro Tem.

3. Immediate Family Gift Exception

It shall not be a violation of Subsection A.1 above for a member of a Councilmember's or a member of a City Committee or Commission's immediate family to accept a gift which arises from an independent relationship, if the Councilmember or member of a City Committee or Commission does not significantly benefit from the gift, and it cannot reasonably be inferred that the gift was intended to influence the Councilmember or member of a City Committee or Commission in the performance of their duties.

B. Use of City Property by Councilmembers

1. Except for limited incidental personal use or emergency circumstances, no Councilmember shall request, permit, or use City vehicles, equipment, materials, or property for personal use, personal convenience, or profit.
2. From the time that a Councilmember declares or publicly states that they intend to run for reelection until the conclusion of the respective general election, that Councilmember shall not request or direct that City funds be used to purchase any media (including newspaper, radio, television, social media, or bulk mailing) that contains the name or image of that Councilmember unless the names or images of all City Councilmembers appear in the media being purchased.

C. Confidentiality

Except as required by law, a Councilmember, former Councilmember, or current or former member of a City Committee or Commission shall not disclose or use privileged, confidential, or propriety information obtained in executive session or otherwise in the course of their duties as a result of their position.

D. Conflict of Interest – General

1. Applications of Conflict of Interest

Except as permitted in Subsections D.2 or D.3 below, a Councilmember or member of a City Committee or Commission shall not take any direct official action on a matter if they, or a member of their immediate family:

- a. Have any substantial direct or indirect contractual employment related to the matter;

- b. Have other significant financial or private interest in that matter (which includes serving on a Board of Directors for any organization but does not, for Councilmembers, include appointing members to the Salary Commission); or
- c. Are a party to a contract or the owner of an interest in real or personal property that would be significantly affected by that matter. Taking direct official action on, or regarding, legislation of general application does not “significantly affect” real or personal property within the meaning of this Subsection.

2. Conflict of Interest Exceptions for Councilmembers

Subsection D.1 above shall not apply when a Councilmember:

- a. Is required to take or participate in an action based upon the rule of necessity;
- b. Acts as their own representative before the City Council, Hearing Examiner, or any other City board, commission, or agency, provided that the individual does not also participate in any way in the deliberations or decision of the City Council, Hearing Examiner, or that board, commission, or agency related to that matter;
- c. Acquires an interest in bonds or other instruments of indebtedness issued by the City if acquired and held on the same terms available to the general public;
- d. Officially participates in the development and adoption of the City's budget; or establishes the pay or benefit plan of City officers, officials, or employees;
- e. Makes decisions on any legislation of general application unless these actions directly affect, or appear to affect, the official's or immediate family member's employment; or
- f. Serves on the governing body of an organization or entity as part of their official duties as a Councilmember of the City.

3. Conflict of Interest Exceptions for Members of City Committees and Commissions

Subsection D.1 above shall not apply to a member of a City Committee or Commission:

- a. Who takes direct official action, as a member of a City Committee or Commission to which that member was appointed based on that member's ownership or lease of certain real property or of that member's ownership of a business located in a certain area of the City, that results in a conflict of interest under Subsection D.1 above due solely to the fact of that member's ownership or lease of the certain real property or of that member's ownership of the business located in a certain area of the City providing the basis for that member's appointment to the City Committee or Commission; provided that the member fully discloses the basis for the conflict of interest under Subsection D.1 during each meeting of the City Committee or Commission in which the conflict of interest under Subsection D.1 occurs or may occur;

- b. Who fully disclose the basis for the conflict of interest under Subsection D.1 above on the public record of the City Committee or Commission and the Committee or Commission votes to allow the member to participate in the discussion or the vote; or
- c. Is required to take action or participate in an action based upon the rule of necessity.

4. Disclosure for Councilmembers

All Councilmembers are required to comply with the Washington State Public Disclosure Commission requirements for financial disclosure. In addition, all Councilmembers shall publicly disclose their financial interest in any matter that comes before them. All Councilmembers shall annually complete a conflict of interest statement to be submitted to the City Clerk by April 15th.

E. Conflict of Interest – After Leaving Elected City Office

- 1. For two (2) years after leaving elected City office, no former Councilmember shall obtain employment in which they will take direct or indirect advantage of matters on which they took direct official action during their service with the City. This includes contractual negotiations or solicitation of business unavailable to others.
- 2. For two (2) years after leaving elected City office, no former Councilmember shall engage in any action or litigation in which the City is involved, on behalf of any other person or entity, when the action or litigation involves an issue on which the person took direct official action while in elected City office.

F. Conflict of Interest – Members of City Committees or Commissions and Employment

While serving on a City Committee or Commission, and for two (2) years after leaving such position, no member of a City Committee or Commission shall obtain employment in which they will take direct or indirect advantage of matters which they, as a member of a City Committee or Commission, recommended to the City Council. This includes applying for positions or contracts with the City when the City Committee or Commission on which the member served recommended funding such position or contract.

G. Conflict of Interest – Family Members of Councilmembers

1. Appointment of Family Members

Unless they obtain a waiver from the Ethics Board, no Councilmember shall appoint or hire a member of their immediate family for any type of employment with the City. This includes, but is not limited to, full time employment, part time employment, permanent employment, temporary employment, and contract employment.

2. Supervision of Family Members

No Councilmember shall supervise or be in a direct line of supervision over a member of their immediate family. If a Councilmember is placed in a direct line of supervision of a member of their immediate family, they shall have three (3) months to come into compliance or to obtain a waiver pursuant to Subsection G.3 below.

3. Waivers

Waivers from the requirements of Subsections G.1 and G.2 above may be sought from the Ethics Board to allow a member of the immediate family to be hired or to be in the direct line of supervision of a member of the immediate family. Procedures to consider such a waiver are set forth in Article III.

H. Conflict of Interest – Contractors

Every major contractor submitting bids to the City shall affirm that neither the contractor nor any agent of the contractor has made any prohibited gift to a Councilmember who is involved in direct official action on the bid or has a relationship to such Councilmember that would create a conflict of interest for that Councilmember under this Code of Conduct and Ethics Program.

I. Conflict of Interest - Individuals Serving on City Committees and Commissions

Individuals serving on City Committees and Commissions shall sign a conflict of interest statement upon appointment and reappointment.

J. Conduct of Public Meetings

1. Meetings involving Councilmembers or City Committees and Commissions should be conducted in a manner that maximizes transparency of relationships among individuals or groups that could affect decision-making.
2. Meetings of the City Council and City Committees and Commissions shall have a standing agenda item for disclosure of possible conflicts of interest. Members are encouraged to disclose relationships with persons and issues on the agenda, including potential conflicts of interests. If necessary, discussion among the members may be undertaken to judge the significance of these relationships and whether a possible conflict of interest exists.

K. Conflict of Interest – Individuals Serving on the Ethics Board

No member of the Ethics Board shall participate in the review of complaints or requests for advisory opinions relating to the conduct of a Councilmember where that member of the Ethics Board is or was a member of a political action committee that supports, supported, opposes, or opposed the election or reelection of the Councilmember in question.

**ARTICLE III -
SUBMISSION AND REVIEW OF CODE OF CONDUCT COMPLAINTS, CODE OF ETHICS
COMPLAINTS, REQUESTS FOR WAIVERS, AND REQUESTS FOR ADVISORY
OPINIONS**

A. Submission and Review of Code of Conduct Complaints

1. Any individual may submit to the City Clerk a complaint alleging violations of the Code of Conduct (Article I) by a Councilmember or a member of a City Committee or Commission.
2. Each complaint must include the name and address of the complainant, along with a detailed statement of facts, supported by a declaration in compliance with RCW 9A.72.085, on a form supplied by the City Clerk.
3. Anonymity of Parties.
 - a. During the Ethics Board's review process:
 1. The names of the parties (the complainant and the subject of the complaint) shall be redacted in the complaint and in any related documents before publication on the City website and/or inclusion in the Ethics Board's agenda packets.
 2. Ethics Board members shall avoid using names during their deliberations.
 - b. At the conclusion of the Ethics Board's process, any advisory opinion or notice of dismissal issued by the Board and/or information to be published on the City website regarding the Board's determination shall have the names of the parties redacted before publication.
 - c. The copies of the complaint, response, and any other documents to be provided to the parties to the complaint shall not be redacted.
4. The City Clerk shall refer complaints alleging one or more violations of the Code of Conduct (Article I) by a Councilmember or a member of a City Committee or Commission, except for complaints concerning members of the Ethics Board, to the Ethics Board for review in accordance with Subsection A.4 below. The City Clerk shall refer complaints alleging one or more violations of the Code of Conduct (Article I) by a member of the Ethics Board to the Hearing Examiner, who shall review the complaint in accordance with Subsection A.4 below in place of the Ethics Board.
5. Upon receipt of a complaint, the Ethics Board shall make a threshold determination as to whether or not the complaint is reasonably credible and whether or not the facts asserted in the complaint, even if true, would constitute a violation of the Code of Conduct (Article I).
 - a. If the Ethics Board determines that the complaint lacks reasonable credibility, the

Ethics Board shall dismiss the complaint, take no further action on it, and provide, following legal review, a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall forward the notice of dismissal to the complainant and respondent.

b. If the Ethics Board determines that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Conduct (Article I), then the Ethics Board shall dismiss the complaint, take no further action on it, and provide, following legal review, a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the complainant and respondent.

c. If the Ethics Board determines that the complaint is reasonably credible and that the facts asserted in the complaint, if true, would constitute a violation of the Code of Conduct (Article I), then the Ethics Board shall provide, following legal review, a written threshold determination to the City Clerk, along with a recommendation as to the appropriateness of mediation for reconciliation or, alternatively, the issuance of an advisory opinion based on the facts and circumstances stated in the complaint. Complaints alleging conduct directed at the complainant individually shall be presumptively referred to mediation. (As an illustrative example, this could include a complaint brought by a resident alleging that a Councilmember violated the Code of Conduct by not treating that resident with civility and respect related to a particular interpersonal transaction). Complaints alleging conduct not directed at the complainant shall be presumptively referred to the process set forth in A.6 below. (As an illustrative example, this could include a complaint brought by a resident alleging that a Councilmember violated the Code of Conduct by using public resources in a manner that fails to meet the standard of accepting responsibility for the stewardship of public resources). The City Clerk shall forward the threshold determination and recommendation to the complainant and respondent and refer the complaint to the mediation process as described in Subsection A.5 below, back to the Ethics Board for an advisory opinion as described in Subsection A.6 below, or, for complaints concerning members of the Ethics Board, to the Hearing Examiner, who shall prepare an advisory opinion as described in Subsection A.6 below in place of the Ethics Board.

6. As soon as practicable following receipt of a threshold determination under Article III, Subsection A.4.c, that includes a recommendation for mediation, the City Clerk, or designee, shall schedule the time and place for reconciliation of the complaint.

a. To facilitate timely reconciliation, the City Manager is authorized to, as needed, negotiate, execute, or amend a contract with the Dispute Resolution Center of Kitsap County, or other similar firm or organization, for the provision of trained mediators suitable for facilitating reconciliation to resolve complaints.

b. Reconciliation shall occur at the time and place scheduled. However, if the complainant refuses to participate in reconciliation, then no reconciliation shall be scheduled, and no further action shall be taken on the complaint. If the respondent refuses

to participate in reconciliation, then no reconciliation shall be scheduled. In circumstances where the respondent refuses to participate in reconciliation, the City Clerk shall, except for complaints concerning members of the Ethics Board, instead refer the complaint to the Ethics Board for review and issuance of an advisory opinion in accordance with Subsection A.6 below. For complaints concerning members of the Ethics Board, the City Clerk shall instead refer such complaints to the Hearing Examiner, who shall review the complaint and issue an advisory opinion in accordance with Subsection A.6 below in place of the Ethics Board. If the parties engage in mediation, no further action shall occur under the ethics program.

7. Upon referral back to the Ethics Board of a complaint pursuant to Subsection A.4.c or A.5.b above, the Chair of the Ethics Board shall provide the respondent with a reasonable period of time to submit a written response to the complaint supported by a declaration in compliance with RCW 9A.72.085.

a. The Ethics Board shall then review the complaint and response, if submitted. The Ethics Board's review shall be limited to the complaint and the response, if submitted. In the course of reviewing a complaint, the Ethics Board may request clarification of the complaint by the complainant or of the response by the respondent; provided that if the Ethics Board obtains clarification of the complaint, the Ethics Board shall give the respondent the opportunity to review the clarification and to provide an additional written response. However, the Ethics Board shall not engage in other fact-finding.

b. If, in reviewing the complaint and response, a question of fact exists, the Ethics Board shall identify the existence of the question of fact in its advisory opinion.

c. After reviewing the matter, the Ethics Board shall, following legal review, forward to the City Clerk an advisory opinion, with identifying information as to the complainant and individual(s) names in the complaint deleted, for publication. The City Clerk shall provide notice to both the complainant and respondent of the publication of the advisory opinion. Upon publication of the advisory opinion, the City Clerk shall provide to the complainant a copy of any response submitted by the respondent.

d. If, during the process of reviewing a complaint alleging a violation of the Code of Conduct (Article I), the Ethics Board determines that an additional violation of the Code of Conduct (Article I) may have occurred or a violation of the Code of Ethics (Article II) may have occurred, then the Ethics Board may choose to note that possibility in its advisory opinion. However, the Ethics Board shall not on its own initiative pursue an investigation of an additional violation of the Code of Conduct (Article I) or a violation of the Code of Ethics (Article II). Nothing in this Subsection, however, shall preclude the complainant from subsequently filing other Code of Conduct (Article I) or Code of Ethics (Article II) complaints.

e. The Ethics Board shall strive to complete its review and issue an advisory opinion within 45 business days from the date that the City Clerk forwarded the request to the Ethics Board. If review takes longer than 45 business days, the Ethics Board in its

advisory opinion shall specify the reasons for why additional time was needed.

f. Advisory opinions shall be viewed as educational only. The purpose of such an opinion is to provide an educational opinion to Councilmembers, members of City Committees and Commissions, and the public on what type of conduct is generally expected from Councilmembers and members of City Committees and Commissions.

B. Submission and Review of Ethics Complaints

1. Any individual may submit to the City Clerk an ethics complaint alleging violations of one of the following:

a. The Code of Ethics (Article II) by a Councilmember or a member of a City Committee or Commission; or

b. The ethics standards contained in the City of Bainbridge Island Employee Manual by a City employee other than the City Manager.

2. Each complaint must include the name and address of the complainant, along with a detailed statement of facts, supported by a declaration in compliance with RCW 9A.72.085, on a form supplied by the City Clerk.

3. Anonymity of Parties.

a. During the Ethics Board's review process:

1. The names of the parties (the complainant and the subject of the complaint) shall be redacted in the complaint and in any related documents before publication on the City website and/or inclusion in the Board's agenda packets.

2. Ethics Board members shall avoid using names during their deliberations.

b. At the conclusion of the Ethics Board's process:

1. Any notice of dismissal issued by the Board and/or information to be published on the City website regarding the Board's determination shall have the names of the parties redacted before publication.

2. Findings issued by the Board that are accepted for review by the hearing examiner shall not be redacted.

c. The copies of the complaint, response, and any other documents to be provided to the parties to the complaint shall not be redacted.

4. To facilitate timely review, each complaint may only allege violations of one of the two standards described in Subsection B.1 above. To the extent that an individual believes

both standards were violated, the individual may submit multiple complaints (i.e., a complaint related to Subsection B.1.a and a separate complaint related to Subsection B.1.b).

5. The City Clerk shall refer complaints alleging one or more violations of the Code of Ethics (Article II) by a Councilmember or a member of a City Committee or Commission, except for complaints concerning members of the Ethics Board, to the Ethics Board for review in accordance with Subsections B.5–.9 below. The City Clerk shall refer complaints alleging one or more violations of the Code of Ethics (Article II) by a member of the Ethics Board to the Hearing Examiner for review in accordance with Subsections B.10-.14 below.

6. Upon receipt of a complaint, the Chair of the Ethics Board shall provide the respondent with a reasonable period of time to submit a written response to the complaint supported by a declaration in compliance with RCW 9A.72.085.

7. The Ethics Board shall review any complaint forwarded to it by the City Clerk and any response submitted by the respondent. The Ethics Board shall not engage in other fact-finding. However, in the course of reviewing a complaint, the Ethics Board may request clarification of the complaint by the complainant or of the response by the respondent.

8. After reviewing the complaint and the response, if one was submitted, the Ethics Board shall, following legal review, take one or more of the following actions and inform the complainant, the respondent, and the City Clerk accordingly:

- a. If the Ethics Board, after review of the complaint and any response, determines that the complaint alleges violations of the Code of Conduct (Article I) rather than alleged violations of the Code of Ethics (Article II), then the Ethics Board shall dismiss the complaint and, after legal review, provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the complainant and respondent. Nothing in this Subsection shall preclude the complainant from subsequently filing a Code of Conduct complaint based upon the same facts.
- b. If the Ethics Board, after review of the complaint and any response, determines that the complaint lacks reasonable credibility, then the Ethics Board shall dismiss the complaint and, after legal review, provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the complainant and respondent.
- c. If the Ethics Board, after review of the complaint and any response, determines that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Ethics (Article II), then the Ethics Board shall dismiss the complaint and, after legal review, provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the complainant and respondent.

- d. If the Ethics Board, after review of the complaint and any response, determines that the facts stated in the complaint, even if true, would not constitute a material violation of the Code of Ethics because any possible violation was inadvertent or minor or has been adequately cured, such that further proceedings on the complaint would not serve the purposes of the Code of Ethics (Article II), then the Ethics Board shall dismiss the complaint and, after legal review, provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the complainant and respondent.
 - e. If the Ethics Board learns at any time during its review of the complaint that the matter is the subject of litigation it shall hold the complaint for action at a future time.
 - f. If the Ethics Board, after review of the complaint and any response, determines that the facts asserted in the complaint appear credible and appear to constitute a violation of the Code of Ethics (Article II), then the Ethics Board shall, following legal review, issue such a determination, and forward its determination, along with the complaint and response, to the complainant, respondent, and the City Clerk. The City Clerk shall then forward the Board's determination and associated materials to the Hearing Examiner for review and possible further proceedings in accordance with Article IV.
- 9. The Ethics Board shall strive to complete its review within 45 business days from the date that the City Clerk forwarded the complaint to the Ethics Board. If review takes longer than 45 business days, the Ethics Board in its determination shall specify the reasons why additional time was needed.
 - 10. The Ethics Board shall report apparent violations of law to the City Attorney.
 - 11. Upon receipt of a complaint, the Hearing Examiner shall provide the respondent with a reasonable period of time to submit a written response to the complaint supported by a declaration in compliance with RCW 9A.72.085.
 - 12. The Hearing Examiner shall conduct a threshold review of any complaint forwarded to them by the City Clerk and any response submitted by the respondent. The Hearing Examiner shall not engage in other fact-finding during this preliminary review. However, in the course of reviewing a complaint, the Hearing Examiner may request clarification of the complaint by the complainant or of the response by the respondent.
 - 13. After reviewing the complaint and the response, if one was submitted, the Hearing Examiner shall take one or more of the following actions and inform the complainant, the respondent, and the City Clerk accordingly:
 - a. Determine that the complaint alleges violations of the Code of Conduct (Article I) rather than alleged violations of the Code of Ethics (Article II), dismiss the complaint, and provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the

Ethics Board, complainant, and respondent. Nothing in this Subsection shall preclude the complainant from subsequently filing a Code of Conduct complaint based upon the same facts.

b. Determine that the complaint lacks reasonable credibility, dismiss the complaint, and provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the Ethics Board, complainant, and respondent.

c. Determine that the facts stated in the complaint, even if true, would not constitute a violation of the Code of Ethics (Article II), dismiss the complaint, and provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the Ethics Board, complainant, and respondent.

d. Determine that the facts stated in the complaint, even if true, would not constitute a material violation of the Code of Ethics because any possible violation was inadvertent or minor or has been adequately cured, such that further proceedings on the complaint would not serve the purposes of the Code of Ethics (Article II), dismiss the complaint and provide a notice of dismissal, to include a brief statement regarding the basis for the dismissal, to the City Clerk. The City Clerk shall provide the notice of dismissal to the Ethics Board, complainant and respondent.

e. Hold the complaint for action at a future time if the matter is the subject of litigation; or

f. Determine that, based on the submissions of the complainant and the respondent, further proceedings under Article IV are warranted.

14. The Hearing Examiner shall strive to complete their review within 45 business days from the date that the City Clerk forwarded the complaint to the Hearing Examiner. If review takes longer than 45 business days, the Hearing Examiner in their determination shall specify the reasons why additional time was needed.

15. If the Hearing Examiner determines that, based on the submissions of the complainant and the respondent, further proceedings under Article IV are warranted, the Hearing Examiner shall forward their determination, along with the complaint and response, to the complainant, respondent, and the City Clerk. The City Clerk will then schedule further proceedings in accordance with Article IV.

C. Review of Complaints Concerning City Employees

1. The City Clerk shall refer complaints concerning City employees to the City Manager.
2. The City Manager shall review any ethics complaint forwarded by the City Clerk and determine the appropriate course of action to address the complaint including, as applicable, authorizing such investigations as may be necessary to determine whether a violation has occurred, consistent with state law as well as relevant policies, procedures, and collective bargaining agreements.
3. Upon making a determination that no violation of ethics rules has occurred, the City Manager shall provide a written response regarding the determination to the complainant.
4. Upon making a determination that a violation of ethics rules has occurred, the City Manager or other appropriate City officer shall take action as guided by state law and relevant policies, procedures, and collective bargaining agreements.
5. In the event of a violation, the City Manager shall provide a response to the complainant outlining the substance of the violation and the action taken, subject to governing rules regarding confidentiality articulated in state law, City policy, and collective bargaining agreements.
6. Apparent violations of law shall be reported to the appropriate authorities, as applicable.

D. Requests for Advisory Opinions by City Councilmembers or Members of City Committees or Commissions

1. To the extent described below, the following individuals or bodies may submit to the City Clerk a request for an advisory opinion from the Ethics Board:
 - a. A Councilmember or member of a City Committee or Commission may request an advisory opinion from the Ethics Board as to whether their own behavior has violated or might in the future violate the Code of Conduct (Article I) or the Code of Ethics (Article II).
 - b. The City Council may request an advisory opinion from the Ethics Board regarding City policies or practices in relation to the Code of Conduct (Article I) or the Code of Ethics (Article II).
 - c. City Committees and Commissions may request an advisory opinion from the Ethics Board regarding operating rules or practices in relation to the Code of Conduct (Article I) or the Code of Ethics (Article II).

- d. A Councilmember may request an advisory opinion from the Ethics Board concerning the applicability of the Code of Ethics (Article II) to hypothetical circumstances and/or situations related to the actions, or potential actions, of a Councilmember or a member of a City Committee or Commission.
2. Requests for advisory opinions must be submitted to the City Clerk on a form supplied by the Ethics Board. The Ethics Board shall, following legal review, submit finalized advisory opinions to the City Clerk for publication.
3. Advisory opinions issued in response to requests made under Subsection 1.a or 1.d above shall not include identifying information as to the requestor or the individual(s) whose conduct is the subject of the opinion unless otherwise agreed in writing by both the requestor and subject individual(s).
4. The grant of authority in this Section D is supplemental to, and does not change, the authority granted to the Ethics Board in Section A above.

E. Waivers

Councilmembers may request a waiver from the Ethics Board of the conflict of interest restrictions related to the hiring of and supervision over family members, as provided by Article II, Section G. Such requests shall be submitted in writing to the City Clerk, who shall refer them to the Ethics Board. Once finalized, the Board shall, following legal review, provide its response to the City Clerk, who shall publish both the request and the Board's response.

F. Effect of Advisory Opinion or Waiver

An individual who receives a waiver, or who acts in reliance on an advisory opinion, shall not later be found to have violated the Code of Conduct (Article I) or the Code of Ethics (Article II) if the individual acts in a manner consistent with that advisory opinion or waiver.

**ARTICLE IV -
HEARING EXAMINER REVIEW
AND POSSIBLE SANCTIONS**

A. Hearing Examiner Review of Article II Complaints

1. The City Clerk shall provide written notification to the complainant and the respondent of the time, date, and place of the hearing before the Hearing Examiner at which the complaint concerning alleged violations of the Code of Ethics (Article II) will be reviewed.
2. Hearings conducted by the Hearing Examiner shall be informal and held in accordance with rules of procedure adopted by the Hearing Examiner, except to the extent that such rules conflict with the terms of this Ethics Program. The respondent may be represented by legal counsel. The City Attorney shall designate special counsel to present the Code of Ethics violations charges and case. The respondent and special counsel may present and cross examine witnesses and give evidence before the Hearing Examiner. The Hearing Examiner may also call witnesses and compel the production of books, records, papers, or other evidence needed. To that end, the Hearing Examiner may issue subpoenas and subpoenas duces tecum at the request of the respondent, special counsel, or their own initiative. All testimony shall be under oath administered by the Hearing Examiner. The Hearing Examiner may adjourn the hearing from time to time in order to allow for the orderly presentation of evidence.
3. The Hearing Examiner or designee shall prepare an official record of the hearing, including all testimony, which shall be recorded by electronic device, and exhibits; provided that the Hearing Examiner or designee shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.
4. Within 20 business days after the conclusion of the hearing, the Hearing Examiner shall, based upon a standard of proof of clear and convincing evidence, make findings of fact and conclusions of law. If the Hearing Examiner determines that the alleged Code of Ethics violation(s) have not been proven, the Hearing Examiner shall dismiss the complaint. If the Hearing Examiner determines that one or more Code of Ethics violation(s) are proven, the Hearing Examiner shall forward the matter to the City Council for a determination regarding the appropriate level of sanctions to be imposed for the Code of Ethics (Article II) violations. In either event, a copy of the findings and conclusions shall be forwarded to the City Clerk, for distribution to the City Council, and, by registered mail, to the person who made the complaint and to the respondent at addresses as given by such persons to the Hearing Examiner.

B. Action by City Council upon Hearing Examiner's Findings and Conclusion

1. Within 45 business days of receipt of the Hearing Examiner's findings and conclusions that sustain a Code of Ethics violation, the City Council shall schedule an executive session to consider the findings and conclusions, hear from the respondent, and deliberate upon the appropriate level of civil sanction(s) to be imposed, if any, except to the extent that the respondent requests that they be heard in open public session.
2. The Council may take no formal action or, by majority vote of the Council (not including the respondent, if a Councilmember, who shall not participate in said vote) at an open public meeting, may impose any of the following sanctions in response to a sustained violation of the Code of Ethics:
 - a. **Admonition:** An admonition shall be a verbal non-public statement made by the Mayor, Deputy Mayor, or Mayor Pro Tem to the Councilmember or member of a City Committee or Commission who has violated the Code.
 - b. **Reprimand:** A reprimand shall be a letter prepared by the City Council, signed by the Mayor, Deputy Mayor, or Mayor Pro Tem, and directed to the Councilmember or member of a City Committee or Commission who has violated the Code.
 - c. **Censure:** A censure shall be a written statement administered personally by the Mayor, Deputy Mayor, or Mayor Pro Tem to the Councilmember or member of a City Committee or Commission who has violated the Code violation. The Councilmember or member of a City Committee or Commission shall appear at a time and place directed by the City Council to receive the censure. The censure shall be given publicly and the official who has violated the Code shall not make any statement in support or opposition thereto or in mitigation. A censure shall be deemed administered at the time it is scheduled whether or not the Councilmember or member of a City Committee or Commission appears as required.
 - d. **Other sanctions:** Any sanction imposed under this Ethics Program is in addition to and not in lieu of any other penalty, sanction, or remedy which may be imposed or sought according to law or equity.
3. The City Clerk shall forward, by registered mail, a copy of the findings, conclusions, and sanctions, if imposed, to the complainant and to the respondent at addresses as given by both persons to the City Clerk. Following approval by the Council, the City Clerk shall publish the written findings, conclusions, and sanctions, if imposed.

ARTICLE V - ETHICS BOARD

A. Creation, Terms, and Appointments

1. Membership of Ethics Board

The Ethics Board consists of seven members appointed in accordance with this Section A.

2. Qualifications of Board Members

- a. Members of the Board shall represent a diverse set of backgrounds and interests.
- b. At least one member of the Ethics Board shall be a former judicial officer or have expertise in ethics acquired through education or experience.
- c. Members appointed or reappointed after the effective date of Resolution No. 2019-26, updating the Ethics Program, shall not, while serving on the Ethics Board, also simultaneously be employees or officers of the city or individuals appointed to another city committee or commission.

3. Method of Appointment

- a. The appointments and confirmations of members of the Ethics Board shall be governed by Chapter 2.01 BIMC.
- b. The Mayor and City Council shall work cooperatively to ensure that any person who is nominated has the required support of the City Council. Nominations shall be presented at meetings of the City Council in which all seven Councilmembers are present, unless exceptional circumstances exist (e.g., a Council vacancy exists and has not yet been filled, or other good cause).

4. Terms of Appointment

- a. Board members shall be appointed to terms of three years; however, the first two members nominated by the Mayor and confirmed by the City Council shall initially serve one-year terms to achieve staggered ending dates.
- b. If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.
- c. Each member shall continue to serve until a successor has been appointed, unless the member is removed or resigns.

5. Removal of Board Members

- a. The absence of any member of the Board from three (3) consecutive meetings, unless the Board has excused the absence for good and sufficient reasons as determined by the Board, shall constitute a resignation from the Board.
- b. The City Council may remove a member for inappropriate conduct before the expiration of the member's term. Before removing a member, the City Council shall specify the cause for removal and shall give the member the opportunity to make a personal explanation.

6. Compensation

Members of the Ethics Board shall serve without compensation. Members may be reimbursed for reasonable expenses pursuant to the rules of the City and as approved by the City Manager or their designee.

7. Rules

The Ethics Board may, by majority vote, adopt reasonable operating rules consistent with this Ethics Program. The City Council reserves the right to modify such operating rules at its discretion.

8. Consultation with City Attorney

The Ethics Board shall consult with the City Attorney's Office or special counsel appointed by the City Attorney's Office regarding legal issues which may arise in connection with the Board's duties and functions under this Ethics Program.

9. Liaison to the Ethics Board

A representative of the City Attorney's Office shall attend Ethics Board meetings and serve as the liaison to the Ethics Board. No Councilmember shall serve as a liaison to the Ethics Board.

B. Training Provided by the Ethics Board

The Ethics Board shall perform the following training related duties:

1. At least every two years, the Ethics Board shall prepare and distribute a pamphlet describing the Code of Conduct (Article I) and Code of Ethics (Article II) to all Councilmembers and members of City Committees and Commissions, after review of the pamphlet by the City Attorney's Office. The Ethics Board shall ensure that all new Councilmembers and members of City Committees and Commissions receive a pamphlet on this Code of Ethics.

2. The Ethics Board shall develop and present a training course on the Code of Conduct and the Code of Ethics to be presented annually to all Councilmembers and members of City Committees and Commissions.

C. Training Provided to the Ethics Board

The Ethics Board shall include all requests for training for the coming year in the Board's annual report to the City Council, and the Council will determine what training to approve, if any.

D. Annual Report

By February 15 of each year, the Ethics Board shall submit an annual report to the City Council summarizing its activities during the previous calendar year and work plan for the following year. The report shall include any recommendations for modifying the Code of Conduct and Ethics Program as well as all training requested by the Ethics Board.

ARTICLE VI - DEFINITIONS

For purposes of the Ethics Program, the following definitions shall apply.

“City Committees and Commissions” and “City Committee or Commission” mean all advisory boards, commissions, committees, and task forces created or appointed by the City Council.

“Confidential Information” means (a) specific information, rather than generalized knowledge, that is not available to the general public on request; or (b) information made confidential by law.

“Direct official action” means any of the following:

1. For Councilmembers and members of City Committees and Commissions, taking action, as defined by RCW 42.30.020, in an open public meeting.
2. For Councilmembers and members of City Committees and Commissions, directly, or indirectly through a proxy, doing the following: negotiating or recommending for or against a contract, purchase order, lease, concession, franchise, grant, or other similar instrument in which the City is a party.
3. For Councilmembers and members of City Committees and Commissions, directly, or indirectly through a proxy, doing the following: recommending for or against the approval of a permit, or other similar City approval or authorization, issued by the City. However, direct official action does not include the submittal, to the City, of a permit application by a Councilmember or a member of a City Committee or Commission or the appeal of a denial of such a permit application by the City. Direct official action includes actions taken by a Councilmember or a member of a City Committee or Commission to use or attempt to use their position to obtain special privileges or exemptions in the processing, or review on appeal, of their permit application.
4. For Councilmembers, appointing or terminating employees (i.e., the City Manager) or appointing or removing members of City Committees and Commissions.

Direct official action does not include acts that do not affect the disposition or decision with respect to the matter. Additionally, a Councilmember or member of a City Committee or Commission who recuses herself or himself in lieu of taking action, as defined by RCW 42.30.020, in an open public meeting is not exercising direct official action.

“Direct line of supervision” means the supervisor of an employee and the supervisor of an employee's supervisor.

“Fact-finding” means any action to gather facts or other evidence not submitted by a complainant in a complaint or a clarification to a complaint or by a respondent in a response or a clarification to a response. However, “fact-finding” does not include review by the Ethics Board of official video or audio recordings of meetings of the City Council or of City Committees and Commissions as well as review by the Ethics Board of the official minutes of such meetings.

“Gift” means any favor, reward, or gratuity and any money, good, service, travel, event ticket, lodging, dispensation, or other thing of value that is given, sold, rented, or loaned to a person without reasonable compensation and that is not available to the general public on the same terms and conditions. Any honoraria or payment for participation in an event will be considered a gift.

“Immediate family” means husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, domestic partner, or spouse of the above. The term includes any minor children for whom the person, or their domestic partner, provides day-to-day care and financial support. A "domestic partner" is an unmarried adult, unrelated by blood, with whom an unmarried officer, official, or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

“Legislation of General Application” means any legislative act, including regulations, policies, ordinances, resolutions, and motions, of general application, as opposed to legislative acts that affect only a particular person or individual or a small group of similarly situated persons or individuals.

“Major Contractor” means any person, corporation, company, firm, business, or other entity doing business over \$5,000 with the City under one contract or annually.

“Political Action Committee” means a legal entity, other than a natural person, that raises, spends, receives, or contributes money to support or oppose the election of one or more candidates for elected office at the local, state, or federal levels.

“Question of Fact” means a factual dispute between the complainant and the respondent concerning an issue that is material to a determination as to whether a violation of the Code of Conduct (Article I) exists.

“Reconciliation” means mediation between a complainant and a respondent facilitated by a trained mediator.

“Rule of Necessity” shall be interpreted and defined in accordance with RCW 42.36.090, which provides: In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

**ARTICLE VII -
CITY COUNCIL REVIEW OF CODE OF CONDUCT AND ETHICS PROGRAM**

The City Council shall, at a minimum, review this Code of Conduct and Ethics Program annually following receipt of the annual report of the Ethics Board.



Ethics Board
Operating Rules
(Effective Date: October 19, 2020)

- 1. Purpose.** The City Council has adopted a Code of Conduct and Ethics Program to guide the conduct of Councilmembers and members of City Committees and Commissions. To assist with the administration of the Code of Conduct and Ethics Program, the City Council created the Ethics Board and empowered the Board to adopt, by majority vote, reasonable operating rules consistent with the Code of Conduct and Ethics Program. The purpose of these rules is to allow the Board to perform its normal duties and operate in an efficient, effective, and consistent manner. The operating rules are also intended to provide transparency to the public on the workings of the Ethics Board.
- 2. Operating Rules.**

 - A. Chair.** Members of the Ethics Board will elect a chairperson. The Chair will serve for one year and may be re-elected. However, one individual may not hold the position of Chair for more than two successive terms. Responsibilities of the Chair include: presiding over meetings of the Board, organization of the meeting agenda in coordination with the Deputy Chair, distributing work of the Board to individual members, communication with City staff, informing respondents of complaints, requesting responses to complaints, and communicating receipt of complaints to the Ethics Board.
 - B. Deputy Chair.** Members of the Ethics Board will elect a Deputy Chair. The Deputy Chair will serve for six months. One individual may not hold the position of Deputy Chair for two successive terms, but may be re-elected to non-successive terms. Responsibilities of the Deputy Chair include: presiding over meetings of the Board in the absence of the Chair, organization of the meeting agenda in coordination with the Chair, taking minutes of meetings of the Board, and serving as time-keeper during public comment periods.
 - C. Election of Officers.** Election of officers shall proceed by nomination among members and by a majority vote of the membership of the Ethics Board. The chair shall be elected each July. A deputy chair shall be elected each July and January. The date of election of the Chair, Deputy Chair, or both the Chair and Deputy Chair may be adjusted at the discretion of a majority of the Ethics Board.

D. Meetings. All meetings of the Ethics Board are subject to the Open Public Meetings Act, Chapter 42.30 RCW. Regular meetings of the Ethics Board will occur on the third Monday of every month from 6:30 PM to 8:00 PM. Special meetings of the Ethics Board may be called and noticed as needed in accordance with Chapter 42.30 RCW.

- i. *Quorum.* A quorum of the Ethics Board is necessary to transact business of the Board. Four members of the Ethics Board constitute a quorum.
- ii. *Disclosure.* The Ethics Board intends to be a model for transparency and ethical conduct in City affairs. In accordance with the Code of Conduct and Ethics Program, Board members will disclose significant relationships with the City of Bainbridge Island or with individuals subject to the Board's jurisdiction, including all situations that could potentially constitute a conflict of interest or be perceived as a conflict of interest by the public. Disclosures will be an agenda item at each meeting of the Ethics Board. Potential conflicts will be managed by recusal or other means agreed by the Board and consistent with the Code of Conduct and Ethics Program.
- iii. *Public Comment.* Regular meetings of the Ethics Board shall include a period for public comment at the start of the meeting. Special meetings may include a period for public comment, at the discretion of the Board. Members of the public are requested to confine their comments to the public comment period, except at the invitation of the Board. Each member of the public participating in public comment shall be limited to three minutes to provide comment, except that, at the beginning of a public comment period, the Chair may provide for a lesser time for public comment if a large number of individuals wish to speak.
- iv. *Remote Attendance.* Members of the Ethics Board may participate by telephone or other electronic means approved by the City's IT staff if unable to attend in person and effective two-way communication can be established. Members planning on attending a meeting remotely are encouraged to provide as much notice as possible to City staff in advance of the meeting.
- v. *Meeting Minutes.* The Deputy Chair shall keep action minutes of each meeting of the Board and provide said minutes to the Board in advance of the next meeting, where they will be reviewed, revised as necessary, and approved. Approved meeting minutes will be posted on the Ethics Board website. Minutes shall record what actions were taken by the Board, not what was said.
- vi. *Parliamentary Procedure.* The Ethics Board will conduct its business using the simplified parliamentary procedure summarized in **Exhibit A**. To the extent that the procedure outlined in **Exhibit A** is ever insufficient to meet the needs of the Ethics Board, then the Ethics Board may, by majority vote, suspend the simplified parliamentary procedure to take what action may be necessary to effectively and efficiently transact the business of the Ethics Board.

E. Communication with the Public. The Ethics Board's website at <https://www.bainbridgewa.gov/231/Ethics-Board> shall be the primary means of communication with the public. Information posted shall include relevant legislation, operating rules, and forms for making complaints or requests under the Code of Conduct and Ethics Program. The Chair, or a member designated by the Chair, shall speak for the Board on matters of public interest. Board members shall not publicly comment on pending complaints or requests except at Board meetings.

3. Training

A. Overview of Training Requirements. The Ethics Board is responsible for training Councilmembers and members of City Committees and Commissions on the requirements of the Code of Conduct and Ethics Program. Under Article V, Section B, the Ethics Board is responsible for the following:

- i. *Annual Training.* The Training Subcommittee shall develop, and members of the Ethics Board shall present, a training course on the Code of Conduct and the Code of Ethics to be presented annually to all Councilmembers and members of City Committees and Commissions.
- ii. *Pamphlet.* At least every two years, the Training Subcommittee shall prepare, and members of the Ethics Board shall distribute, a pamphlet describing the Code of Conduct (Article I) and Code of Ethics (Article II) to all Councilmembers and members of City Committees and Commissions. The Ethics Board shall ensure that all new Councilmembers and members of City Committees and Commission receive a pamphlet upon election or appointment.

B. Training Subcommittee. The Training Subcommittee shall annually be nominated and appointed by a majority of the Ethics Board at the same meeting during which the Chair is elected and shall consist of no more than three members.

4. Complaint and Request Procedures

A. Article I Complaints

- i. *Procedure.* Article III, Section A of the Code of Conduct and Ethics Program outlines the procedure for review of complaints alleging a violation of the Code of Conduct (Article I) by a Councilmember or a member of a City Committee or Commission. These rules supplement Article III, Section A to provide clarity and transparency to the review of Article I complaints.

- ii. *Submission.* Any individual may submit to the City Clerk a complaint alleging violations of the Code of Conduct (Article I) by a Councilmember or a member of a City Committee or Commission. The complaint must be submitted on a form supplied by the City Clerk. The City Clerk may dismiss a complaint that is not made on the correct form, provided that the City Clerk provide instruction to the complainant regarding where the correct form is located and how it may be filled out.
- iii. *Transmittal to Ethics Board.* The City Clerk shall refer Article I Complaints concerning a Councilmember or a member of a City Committee or Commission, except for complaints concerning members of the Ethics Board, to the Ethics Board for a threshold determination.
- iv. *Ethics Board Review – Threshold Determination*
 - a. Initial Review by Ethics Board. The Ethics Board will review the complaint at an open public meeting. In accordance with Article III, Subsection A.4 of the Code of Conduct and Ethics Program, the Ethics Board will consider whether a notice of dismissal or threshold determination is appropriate.
 - b. Referral to Subcommittee. Following initial review by the Ethics Board, a majority of the Ethics Board will refer the complaint to a subcommittee of not more than three members to draft either a notice of dismissal or a threshold determination, as specified by the Ethics Board at the time of referral, for consideration by the Ethics Board at an open public meeting. A representative of the City Attorney’s Office shall review the draft notice of dismissal or threshold determination prior to review by the Ethics Board.
 - c. Issuance of Threshold Determination or Notice of Dismissal. The Ethics Board will review the draft notice of dismissal or threshold determination prepared by the subcommittee at an open public meeting. A majority of the Ethics Board may do one of the following: (1) refer the draft notice of dismissal or threshold determination back to the subcommittee for additional edits or modifications; (2) adopt and issue the notice of dismissal or threshold determination; or (3) continue review of the draft notice of dismissal or threshold determination at a future meeting.
- v. *Ethics Board Review – Article I Advisory Opinion*
 - a. Response: When Article III, Section A of the Code of Conduct and Ethics Program directs the Ethics Board to prepare an advisory opinion, the Chair of the Ethics Board shall first provide the respondent with a reasonable period of time to submit a written response to the Article I Complaint supported by a declaration in compliance with RCW 9A.72.085. The Chair shall initially request that a response be provided within two weeks, but the Chair may provide for additional time as circumstances warrant.
 - b. Initial Review by Ethics Board. Upon receipt of a response from the Respondent, if submitted within the time period indicated by the Chair, the Chair will schedule time at an open public meeting for the Ethics Board to review the complaint and response, if submitted.

- c. Referral to Subcommittee. Following initial review by the Ethics Board, a majority of the Ethics Board will refer the complaint to a subcommittee of not more than three members to draft an advisory opinion for consideration by the Ethics Board at an open public meeting. The draft advisory opinion shall be prepared in the manner directed by a majority of the Ethics Board at the time of referral and shall be drafted in accordance with the requirements of Article III, Subsection A.6 of the Code of Conduct and Ethics Program. A representative of the City Attorney's Office shall review the draft advisory opinion prior to review by the Ethics Board.
- d. Issuance of Advisory Opinion. The Ethics Board will review the draft advisory opinion prepared by the subcommittee at an open public meeting. A majority of the Ethics Board may do one of the following: (1) refer the draft advisory opinion back to the subcommittee for additional edits or modifications; (2) adopt and issue the advisory opinion; or (3) continue review of the draft advisory opinion to a future meeting.

B. Article II Complaints

- i. *Procedure.* Article III, Section B of the Code of Conduct and Ethics Program outlines the procedure for review of complaints alleging a violation of the Code of Ethics (Article II) by a Councilmember or a member of a City Committee or Commission. These rules supplement Article III, Section B to provide clarity and transparency to the review of Article II complaints.
- ii. *Submission.* Any individual may submit to the City Clerk a complaint alleging violations of the Code of Ethics (Article II) by a Councilmember or a member of a City Committee or Commission. The complaint must be submitted on a form supplied by the City Clerk. The City Clerk may dismiss a complaint that is not made on the correct form, provided that the City Clerk provide instruction to the complainant regarding where the correct form is located and how it may be filled out.
- iii. *Transmittal to Ethics Board.* The City Clerk shall refer Article II Complaints concerning a Councilmember or a member of a City Committee or Commission, except for complaints concerning members of the Ethics Board, to the Chair of the Ethics Board.
- iv. *Ethics Board Review*
 - a. Response. The Chair of the Ethics Board shall provide the respondent with a reasonable period of time to submit a written response to the Article II Complaint supported by a declaration in compliance with RCW 9A.72.085. The Chair shall initially request that a response be provided within two weeks, but the Chair may provide for additional time as circumstances warrant.

- b. Initial Review by Ethics Board. The Chair will schedule time at an open public meeting for the Ethics Board to review the complaint and response, if submitted, upon the happening of one of the following: upon receipt of a response from the Respondent, if submitted within the time period indicated by the Chair; or, where no response was submitted within the time period indicated by the Chair, at the first regular meeting of the Ethics Board following the expiration of the time period indicated by the Chair. At the open public meeting, the Ethics Board will consider what action under Article III, Subsection B.7 is appropriate. If a majority of the Ethics Board determines that either a notice of dismissal or a determination is appropriate, then the complaint shall be referred to a subcommittee as specified below. If a majority of the Ethics Board determines that the complaint is the subject of litigation, then the Ethics Board will hold the complaint for action at a future time.
- c. Referral to Subcommittee. Following initial review by the Ethics Board, a majority of the Ethics Board will refer the complaint to a subcommittee of not more than three members to draft either a notice of dismissal or a determination, as specified by the Ethics Board at the time of referral, for consideration by the Ethics Board at an open public meeting. A representative of the City Attorney's Office shall review the draft notice of dismissal or determination prior to review by the Ethics Board.
- d. Issuance of a Notice of Dismissal or Determination. The Ethics Board will review the draft notice of dismissal or threshold determination prepared by the subcommittee at an open public meeting. A majority of the Ethics Board may do one of the following: (1) refer the draft notice of dismissal or threshold determination back to the subcommittee for additional edits or modifications; (2) adopt and issue the notice of dismissal or determination; or (3) continue review of the draft notice of dismissal or determination to a future meeting.

C. Requests for Advisory Opinions

- i. *Procedure.* Article III, Section D of the Code of Conduct and Ethics Program outlines the procedure for review of requests for advisory opinions by Councilmembers or members of City Committees or Commissions. These rules supplement Article III, Section D to provide clarity and transparency to the review of Article I complaints.
- ii. *Submission.* Only those individuals specified in Article III, Subsections D.1.a-d may submit to the City Clerk a request for an advisory opinion. The request must be submitted on a form supplied by the Ethics Board. The City Clerk may dismiss a request for one or both of the following reasons:
 - a. The request was not submitted on the correct form, supplied by the Ethics Board, provided that the City Clerk provide instruction to the requestor regarding where the correct form is located and how it may be filled out; or
 - b. The request is not made by an individual authorized to make a request under Article III, Subsections D.1.a-d.

- iii. *Transmittal to Ethics Board.* The City Clerk shall refer requests for advisory opinions to the Ethics Board for review.
- iv. *Ethics Board Review*
 - a. Initial Review by Ethics Board. Upon receipt of a request for an advisory opinion, the Chair will schedule time at an open public meeting for the Ethics Board to initially review the request.
 - b. Referral to Subcommittee. Following initial review by the Ethics Board, a majority of the Ethics Board will refer the request to a subcommittee of not more than three members to draft an advisory opinion for consideration by the Ethics Board at an open public meeting. The draft advisory opinion shall be prepared in the manner directed by a majority of the Ethics Board at the time of referral and shall be drafted in accordance with the requirements of Article III, Section D of the Code of Conduct and Ethics Program. A representative of the City Attorney's Office shall review the draft advisory opinion prior to review by the Ethics Board.
 - c. Issuance of Advisory Opinion. The Ethics Board will review the draft advisory opinion prepared by the subcommittee at an open public meeting. A majority of the Ethics Board may do one of the following: (1) refer the draft advisory opinion back to the subcommittee for additional edits or modifications; (2) adopt and issue the advisory opinion; or (3) continue review of the draft advisory opinion to a future meeting.

D. Requests for Waivers

- i. *Procedure.* Article III, Section E of the Code of Conduct and Ethics Program outlines the procedure for a Councilmember to request a waiver from the Ethics Board of the conflict of interest restrictions related to the hiring of and supervision over family members, as provided by Article II, Section G. These rules supplement Article III, Section E to provide clarity and transparency to the review of requests for waivers.
- ii. *Submission.* Councilmembers may submit a request for a waiver to the City Clerk on a form supplied by the Ethics Board. The City Clerk may dismiss a request that is not made on the correct form, provided that the City Clerk provide instruction to the complainant regarding where the correct form is located and how it may be filled out.
- iii. *Transmittal to Ethics Board.* The City Clerk shall refer request for waivers to the Ethics Board for review.
- iv. *Ethics Board Review*
 - a. Initial Review by Ethics Board. Upon receipt of a request for a waiver, the Chair will schedule time at an open public meeting for the Ethics Board to initially review the request.

- b. Referral to Subcommittee. Following initial review by the Ethics Board, a majority of the Ethics Board will refer the request to a subcommittee of not more than three members to draft a response for consideration by the Ethics Board at an open public meeting. The draft response shall be prepared in the manner directed by a majority of the Ethics Board at the time of referral and shall be drafted in accordance with the requirements of Article III, Section E of the Code of Conduct and Ethics Program. A representative of the City Attorney's Office shall review the draft response prior to review by the Ethics Board.
- c. Action by Ethics Board. The Ethics Board will review the draft response prepared by the subcommittee at an open public meeting. A majority of the Ethics Board may do one of the following: (1) refer the draft advisory opinion back to the subcommittee for additional edits or modifications; (2) adopt and issue the advisory opinion; or (3) continue review of the draft advisory opinion to a future meeting.

5. Preparation of Annual Report and Work Plan

- A. **Overview.** By February 15 of each year, the Ethics Board shall submit an annual report to the City Council summarizing its activities during the previous calendar year and work plan for the following year. The report shall include any recommendations for modifying the Code of Conduct and Ethics Program as well as all training requested by the Ethics Board.
- B. **Annual Reports.** Reports may include but are not limited to: the number and type of any complaints, advisory opinions, and waivers; proposed or enacted changes to the Code of Conduct and Ethics Program; documents created; composition of membership; proposed or completed trainings; and community outreach.
- C. **Work Plan.** Work plans may include but are not limited to: the articulation of strategic goals, action or proposed initiatives; continuation of pending agenda items; and preparation for rotation of roles, responsibilities, and board membership.
- D. **Planning and Reporting Subcommittee.** The Planning and Reporting Subcommittee shall annually be nominated and appointed by a majority of the Ethics Board at the same meeting during which the Chair is elected and shall consist of no more than three members.

Exhibit A

SIMPLIFIED PARLIAMENTARY PROCEDURE

To do this:	You say this:	May you interrupt speaker?	Second Req.?	Is motion debatable ?	Vote required
Introduce business	"I move that ..."	NO	YES	YES	MAJORITY
Amend a motion	"I move to amend this motion"	NO	YES	YES	MAJORITY
Table a matter for later discussion	"I move we table it"(until when?)	NO	YES	NO	MAJORITY
Take up a matter previously tabled	"I move to take from the table ..."	NO	YES	NO	MAJORITY
Postpone discussion to a specific time	"I move we postpone this matter until ..."(when?)	NO	YES	YES	MAJORITY
Call the question (i.e., end debate and vote on a matter)	"I call the question."	NO	YES	NO	MAJORITY
Have something further studied by a committee	"I move we refer ..."	NO	YES	YES	MAJORITY
Ask for a vote count to verify a voice vote	"I call for a division of the house"	NO	NO	NO	NO VOTE
Object to considering some matter	"I object to consideration"	YES	NO	NO	MAJORITY
Reconsider something already disposed of	"I move we reconsider action on ..." (time-date?)	YES	YES	YES	MAJORITY
Consider something in unscheduled order	"I move we suspend the rules and ..."	NO	YES	NO	MAJORITY
Vote on a ruling by the chair	"I appeal the chair's decision"	YES	YES	YES	MAJORITY
Object to procedure or personal affront--chair decides	"Point of order"	YES	NO	NO	NO VOTE
Complain about noise, room temperature, etc.	"Point of privilege"	YES	NO	NO	NO VOTE
Request information	"Point of information"	YES	NO	NO	NO VOTE
Recess the meeting	"I move that we recess until ..."	NO	YES	NO	MAJORITY
Adjourn the meeting	"I move that we adjourn"	NO	YES	NO	MAJORITY



Request for Formation of City Council/Ethics Board Subcommittee

From Doña Keating <dona.keating@cobicommittee.email>

Date Fri 7/26/2024 12:36 AM

To Joe Deets <jdeets@bainbridgewa.gov>; Ashley Mathews <amathews@bainbridgewa.gov>; Kirsten Hytopoulos <khypoulos@bainbridgewa.gov>; Brenda Fantroy-Johnson <bfantroy-johnson@bainbridgewa.gov>; Jon Quitslund <jquitslund@bainbridgewa.gov>; Leslie Schneider <lschneider@bainbridgewa.gov>; Clarence Moriwaki <cmoriwaki@bainbridgewa.gov>

Cc Karen Anderson <karen.anderson@cobicommittee.email>; Rafael Escandon <rafael.escandon@cobicommittee.email>; Rosemary Hollinger <rosemary.hollinger@cobicommittee.email>; Donna Davison <donna.davison@cobicommittee.email>; Hildja Saas <hildja.saas@cobicommittee.email>; Mark Markuly <mark.markuly@cobicommittee.email>; Peggy Nimb <pnimb@bainbridgewa.gov>; Drew T. Pollom <dpollom@omwlaw.com>

For your information/consideration only. Please be mindful of invoking OPMA in forwarding or replying to multiple recipients.

Councilmembers:

On behalf of the Ethics Board, I respectfully request the formation of a joint City Council/Ethics Board subcommittee (as we did in September 2021) to discuss and address several recommendations in the Annual Reports and Work Plans we've submitted since that time. Previous efforts to get this on the Council's agenda have been unsuccessful, and as we begin preparation of the 2024 Annual Report and 2025 Work Plan this September for submission in February 2025, we are concerned about the potential backlog and redundancy of unaddressed recommendations.

Below are the key recommendations that remain outstanding:

2022 Annual Report and 2023 Work Plan:

- 1. City Manager and Advisory Opinions:** Initially, the Board declined a request for an Advisory Opinion from the City Manager. Upon further reflection, we recommended that the City Manager be included in the program for Advisory Opinions, aligning with the educational intent of the Ethics programme.
- 2. Statute of Limitations Regarding Complaints:** We suggested a time limitation akin to a Statute of Limitations for Ethics Complaints of 12 months or longer. This would prevent complaints regarding actions that occurred years prior from being lodged and ensure that the Board can focus on current and relevant issues, enhancing the educational benefit of our reviews. In the past, the Board received complaints regarding actions which took place years prior to the complaint being filed. The Board, in its interpretation of the programme, had no choice but to review the complaint, despite the Board's inability to discern certain appropriate salient points due to the delayed nature of the complaint. The Board notes that prior allegations, when recourse or redress is not an option, provide little to no educational benefit. By placing a limit of time on complaints, Council would emphasise the educational aspects and limit any other intended uses of the Board's process.
- 3. Mandatory Ethics Training:** We recommended mandatory ethics training for all members of City Council-appointed committees, commissions, boards, and task forces, as well as for City Council

members, with annual follow-up training. City Staff will assist in tracking those members who have taken the training and those who still are required to complete the training.

2023 Annual Report and 2024 Work Plan:

1. **Statutes of Limitations or Expiration of Complaints:** The Board again recommended the City Council consider some type of Statute of Limitations or expiration in cases where Ethics Complaints reference individuals or actions who are either no longer with the City Council or Committee/Commission after a period of 12 months (or longer) from event(s) referenced in the complaint. The recommendation along with assurance of consistent and proper training should reduce the number of complaints. Similarly, when recourse or redress is not an option and provides no educational benefit, such a reduction may aid the Ethics Board in maintaining its focus on the most contemporaneous and relevant complaints. Similarly, the Board also recommends the City Council establish an additional Statute of Limitations on the date(s) by which complaints may be filed against prior actions. In the past, the Board has received complaints regarding actions that took place years prior to the complaint being filed. The Board, in its interpretation of the Ethics programme, had no choice but to review the complaint, despite the Board's inability to discern certain salient points because of the elapsed time and Council/Committee turnover. By placing a time limit on both instances, the City Council would emphasise the educational aspects over the political or punitive possibilities that may emerge without such adoption.
2. **Ethics Training Mandatory:** The Board again recommended mandatory Ethics programme training for all members of all Committees/Commissions/Boards and Task Forces appointed by the City Council and for all City Council members. Members must complete the training along with follow-ups on an annual basis. City Staff may assist in tracking those members who have completed training and inform those who are still required to complete the training.
3. **Timely Placement and Public Access to Key Documents:** The Board recommended a timely review and placement of important documents (e.g., the 2022 Annual Report/2023 Work Plan) into the public's view (e.g. hyperlinked into the EB's public archive) allowing full transparency to the public on work completed and planned activities for the current year.
4. **Addition of Student/Young Adult Memberships:** In the Fall of 2023, we discussed and subsequently proposed a programme allowing 6-month or 1-year memberships for young adults (aged 16 to 22 years) on the Ethics Board to foster early exposure to municipal volunteer service.
 - o Update: We are pleased to note that this recommendation is being addressed per the Deputy Mayor's urging and your recent vote at City Council's July 23, 2024 meeting (8.G Discuss Potential Youth Participation in Local Government Via Youth Consultation Exercises and Activities).

The formation of a subcommittee to consider these recommendations is crucial for maintaining the integrity and effectiveness of our programme. Timely addressing these issues, hopefully by end of year, will enhance the Board's ability to serve the community and uphold the public's trust in our municipal processes.

We appreciate your interest in our advisory feedback, and your consideration of opportunities to ensure continued success and relevance. Kindly advise if you believe a redline of proposed changes will facilitate and inform our discussion as we'd happily provide one.

Thank you for your time and consideration.



Doña Keating, Chair
Ethics Board, Position 1
dona.keating@cobicommittee.email

City of Bainbridge Island Ethics Board 2022 Annual Report and 2023 Workplan

February 2023

Pursuant to Article V, § D of the City of Bainbridge Island Code of Conduct and Ethics Program (the “Program”), the Bainbridge Island Ethics Board hereby provides its annual report and workplan to the Bainbridge Island City Council.

I. Annual Report

A. Complaints and Advisory Opinions

In 2022, the Ethics Board received no complaints and one request for advisory opinions. The three other complaints, which are related to each other, have been deferred while the Board awaits a ruling in related litigation.

B. Ethics Board Members

The Board is presently operating with three members who are serving their initial terms. The three members who are serving their initial terms are Rosemary Hollinger, Donna Davison, and Rafael Escandon. Mr. Mallon’s and Mr. Woodruff’s terms expire in June of 2024, and Ms. Keating’s and Mr. Cash’s terms expire in June of 2023.

C. Changes to the Ethics Program

Through a joint sub-committee of Council members and Ethics Board members, a recommendation was made to Council, which was subsequently approved, to modify the complaint process. Under Section III.A.3 of the Ethics Program, the parties’ names will now be redacted in all published complaints and related materials. This change will help stress the process is educational in nature rather than punitive.

D. Requests and Recommendations

1. Training

In 2022, the Board presented to Council its revised plan for conducting its training and educational duties under the Program. Council initially approved that plan.

The Board has spoken with the City Manager and related to Council the requirements to begin the training process and provide the necessary technical support.

The training is structured as follows:

- Hold an informational session for Council at a designated Council meeting. The Board anticipates this could be completed in 15 minutes, depending on the questions and discussion generated by the presentation.
- Hold additional training and informational sessions open to the public and all members of City Committees and Commissions as instructed by City Council. Again, the Board anticipates each of these to run about 15 minutes, depending on questions and discussion.
- In lieu of a physical pamphlet, given the current remote nature of City meetings, a recording of at least one of these presentations and the related materials would be available for review on the City's web page for the Ethics Board.

In order to complete this training, the Board needs technical assistance from the Council and the City with the following:

- Sending notices of the training sessions to all current members of City Committees and Commissions.
- Scheduling the training sessions and providing the Board with the necessary tools and permissions to host the Zoom meetings.
- Scheduling the joint session with Council.
- Recording the training sessions and posting at least one recording on the Ethics Board website.
- If desired, keeping track of which Committee and Commission members have attended or viewed a training session.

2. City Manager and Advisory Opinions

The Board was approached by the City Manager with a request for an Advisory Opinion. This request was respectfully declined by the Board. Upon further consideration and in keeping with the spirit and intent of the educational nature of the Ethics Program, the Board would recommend the City Manager be included in the program for Advisory Opinions.

3. Statute of Limitations Regarding Complaints

The Board would also recommend Council consider some type of time limitation akin to a Statute of Limitations for Ethics Complaints of 12 months or longer. The Board recommends that that complaints could not be lodged in connection with actions that took place after this time period had elapsed, or with regard to members of Council, City Committees, or City Commissions who left their position after this time period.

In the past, the Board received complaints regarding actions which took place years prior to the complaint being filed. The Board, in its' interpretation of the Program, had no choice but to review the complaint, despite the Board's inability to discern certain appropriate salient points due to the delayed nature of the complaint. The Board notes that actions involving prior bad acts, when recourse or redress is not an option, provide little to no educational benefit. By placing a limit of time on complaints, Council would emphasize the educational aspects and limit any other intended uses of the Board's process.

4. Ethics Training Mandatory

The Board recommends that Ethics training be mandatory and all members of all Committees/Commissions/Boards and Task Forces appointed by City Council and City Council Members be required to take the training along with annual follow-up training. City Staff will assist in tracking those members which have taken the training and those which still are required to complete the training.

II. Work Plan for 2023

- A. Provide Ethics Code training for Council Members, Committees, and Commissions, with a focus on including new members.
- B. Update training and documentation as applicable to reflect Ethics Code changes.
- C. Continue to respond to ethics complaints and requests for advisory opinions.
- D. Assist City Council, as needed, in the selection of new Ethics Board members to fill vacant seats and soon-to-be vacant seats.

Ethics Board

Annual Report and Workplan for 2024

Report on 2023 Activities

Pursuant to Article V, § D of the City of Bainbridge Island Code of Conduct and Ethics Program (the “Program”), the Bainbridge Island Ethics Board hereby provides its annual report and workplan to the Bainbridge Island City Council.

I. Complaints and Advisory Opinions

In 2023, the Ethics Board received no new complaints, however in late 2022 a complaint was received. This complaint, numbered EB 2023 01, was reviewed, discussed and dismissed by the EB at the March 20, 2023 regular meeting. Dismissal was under Article III. B. 8. subsection c.

Another, incomplete complaint was received in early 2023. Attempts by EB Chair Cash requesting the complainant to complete the form and provide missing information were unanswered. Therefore, this incomplete complaint was not assigned a number and retired.

The three previously reported complaints, referenced in the 2022 Annual Report, which are all related to each other, have been deferred while the Board continues to await a ruling in related litigation.

II. Ethics Board Members

The Board is presently operating with three members who are serving the second years of their initial terms; Rosemary Hollinger, Donna Davison and Rafael Escandon. Ms. Davison, Dr. Escandon and Ms. Hollinger have all served 6-month terms as Deputy Board Chair, and Dr. Escandon was appointed to a 12-month term as Board Chair from July 2023 – June 2024.

Mr. Mallon and Mr. Woodruff’s terms expire in June of 2024 and Ms. Keating’s and Mr. Cash’s terms expired in June of 2023. The Ethics Board is appreciative that Ms. Keating and Mr. Cash have continued to serve on the Ethics Board throughout the completion of the 2023 calendar year, beyond the expiration of their terms in lieu of appointment of new (or existing members who have re-applied) to serve full terms on the EB.

III. Changes to the Ethics Program

No specific changes to the ethics program were recommended by the Ethics Board in 2023.

IV. Training

In 2023, the Board completed generation of recorded training content and distributed to relevant COBI Boards and Committees as presented in the plans presented to Council in 2022. This included the plan for conducting training and the Board's educational duties under the Ethics Program.

The training was structured and completed as follows:

1. A remote, Zoom-based training and informational session for City Council was completed on 2/28/2023.
2. Remote/Zoom-based and in-person training and informational sessions open to the public and all members of City Committees and Commissions. A member of the EB attended the 8/24/2023 Planning Commission meeting in-person at the Commission's request to address questions on the ethics training materials.
3. A recording of the June 06, 2023 training presentation and the related materials posted and available for review on the City's Ethics Board Web Page, under the "Resources" Section, available [here](#).
4. Update documentation and training program as applicable to reflect appropriate Ethics Code changes and effective dates.

V. Requests and Recommendations

A. Statutes of Limitations or Expiration of Complaints

The Board recommends the City Council consider some type of Statute of Limitations or expiration in cases where Ethics Complaints referencing individuals or actions who are either no longer with the City Council or Committee/Commission after a period of 12 months (or longer) from event(s) referenced in the complaint. The aforementioned recommendation along with assurance of consistent and proper training should reduce the number of complaints. Similarly, when recourse or redress is not an option and provides no educational benefit, such a reduction may aid the Ethics Board in maintaining focus on the most contemporaneous and relevant complaints.

Similarly, the Board also recommends the City Council establish an additional Statute of Limitations on the date(s) by which complaints may be filed against prior actions. In the past, the Board has received complaints regarding actions that took place years prior to the complaint being filed. The Board, in its interpretation of the Ethics Program, had no choice but to review the complaint, despite the Board's inability to discern certain salient points because of the elapsed time and Council/Committee turnover.

By placing a time limit on both of these instances, the City Council would emphasize the educational aspects over the political or punitive possibilities that may emerge without such adoption.

B. Ethics Training Mandatory

The Board recommends the continuation of mandatory Ethics Program training for all members of all Committees/Commissions/Boards and Task Forces appointed by the City Council and for

all City Council members. Members must complete the training along with follow-ups on an annual basis. City Staff may assist in tracking those members who have completed training and inform those who are still required to complete the training.

C. Timely Placement and Public Access to Key Documents

The Board recommends a timely review and placement of important documents (eg; the 2022 Annual Report/2023 Work Plan) into the public's view (eg hyperlinked into the EB's public archive) allowing full transparency to the public on work completed and planned activities for the current year.

D. Addition of Student/Young Adult 6 Mo/1-Year Membership(s)/Ethics Board Rotations

Implement a program allowing 6-month or 1-year EB membership terms for young adults (roughly high-school, undergraduate age: ~ 16 to 22 years) to allow exposure to municipal volunteer service.

2024 Workplan Priorities

- A. Assist City Council by encouraging application, consideration, interview, and confirmation of qualified persons for the (currently two) Ethics Board positions whose over-term members are generously continuing to volunteer their service beyond the completion of their terms in June 2023. Additionally, assist with interviews and confirmations of qualified applicants for the two current members whose terms will be completed in June 2024.
- B. Design any appropriate updates to the Ethics Program during the 2024 term based on experience in the application of the Ethics Code and provide such suggested updates to BI City Council.
- C. With the assistance of City Staff, ensure that all appropriate individuals have received Ethics Program training. Ensure that all new members are trained as soon as possible, perhaps at the same time or near the OPM training.
- D. Provide Q&A support relating to Ethics Code training for Councilmembers if requested and be available for questions from any members of Committees and Commissions, after each has reviewed the archived (video) training content on the COBI Ethics Board website.
- E. Increase public exposure to the existence of the Ethics Board/Ethics Program, its membership and its function at times during the 2024 calendar year through outreach. This may be achieved by having member(s) available at scheduled times at the community farmer's market, the moonlight market, the national night out, and other community events, as availability dictates.
- F. Continue to refine and clarify aspects of the Ethics Program as an educational resource that maintains the public trust and provides transparency to the process of Government operations to the residents of Bainbridge Island. This may include education on methods of how to apply elements of the Ethics Program in hypothetical cases.

- G. Continue to respond to official ethics complaints and inquiries for advisory opinions in adherence to the Ethics Program.

Approved, May 14, 2024