

AWC Officials Essentials: *Understanding Washington's Ethics Laws*

Presented by:

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Who we are:

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20 years as a public official in Bellevue (4 terms as a councilmember)

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Today's Conversation:

Washington's Laws on Ethical Issues for Elected Officials

- Prohibited Acts – RCW 42.23.070(1)
- Gifts & Gratuities – RCW 42.23.070(2)
- Confidential Information – RCW 42.23.070(3) and (4)
- Prohibited Contract Interests – RCW 42.23.030
- Appearance of Fairness Doctrine
- Doctrine of Incompatible Offices
- OPMA / PRA Compliance

Benefits of Ethics Policies and Procedures for Your Agency

- Address issues not set out in state law
- Provides sideboards for professionalism
- Enhance reputation of agency

You're a Public Official. . . . What Does this Mean???



Councilmembers are:

Similar to a
Board of
Directors

- Don't run the day to day
- Make policy decisions
- Set the budget
- Establish the vision
- Work with the Executive Department

Have a
fiduciary duty
to your city

- Comply with the municipal code of ethics (Ch. 42.23 RCW)
- Protect the city from legal risk and lawsuits
- Keep information confidential (RCW 42.23.070)
- Implement action that is in the best interest of the City as a whole, and stand behind the action of the Council



City Council Power and Authority

- Powers are exercised by a majority of the City Council in an open public meeting
- Council Members have the right to speak in accord with City Council rules and cast a vote
- Outside of the meeting context, individual City Council Members continue to have the rights and responsibilities of every citizen, **but** those actions can have consequences for the City depending on how those are exercised



What laws govern Council ethics?



Prohibited Acts – RCW 42.23.070

This section describes acts which are violation of ethics for municipal officers and which are “prohibited.”

(1) “No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.”

What does this mean?

It means that you can’t use your position to:

- improperly influence staff,
- Get something for yourself (or another) that you/they aren’t entitled to automatically, or
- Give or get special treatment.

Prohibited Acts – Special Privileges –

RCW 42.23.070(1)

Examples of a violations of this section:

- Asking your building official to “hurry up” a permit for someone
- Asking the Clerk’s office to rush a response to public records
- Asking the Clerk’s office to “waive a fee” for public records, facility rental, late fee on utility bills, etc.
- Using your position to get out of a speeding ticket
- Using your position get freebies from a local business
- Asking the public works staff to clear snow from your street when your street would not normally be cleared

What would you do?

You are a city council member in a small Washington town. The council is voting on whether to approve a contract with a local construction company to repave city roads. Unbeknownst to the other council members, your brother owns 40% of the construction company and has promised to give you a portion of his profits if the contract is awarded.

- A. You participate in the discussion and vote in favor of awarding the contract because it benefits the public, not just your brother.
- B. You do not participate in the discussion, but in advance of the meeting, you talk to a fellow council member about your brother's business.
- C. You recuse yourself from the portion of the meeting where the contract is being discussed and voted upon by leaving the council chambers.
- D. You participate in the discussion and vote against your brother's business to show you are not biased.



Prohibited Acts – RCW 42.23.070(2) Gifts and Gratuities

(2) “No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.”

Prohibited Acts – RCW 42.23.070(2)

Gifts and Gratuities

What does this mean?

- It is unlawful to accept gifts or compensation for a matter connected with service unless specifically permitted by law. (A **local ethics code** can set a low threshold, i.e., up to \$50)
- You can't receive pay from another when doing your council job.
- You can't accept gifts from people if given as a result of your being a council member, including “discounted tickets”.
- You can't accept a loan if it is given to you as a result of your being a councilmember

Prohibited Acts – RCW

42.23.070(2) Gifts and Gratuities

Exceptions for Gifts.

- Minimal gift with an aggregate value of under \$50.00 from single source in calendar year **if allowed under a local ethics code**
- Single gift with aggregate value of less than \$50.00 from multiple sources BUT ONLY IF it could be reasonably expected that the gift would **not** influence the action or judgment of or be considered as reward for action or inaction **if allowed under a local ethics code**
- Value of gifts given to a family member are attributable to official unless an independent business, family or social relationship exists between donor and family member

What would you do?

You are a city council member for a large city in Washington. A local developer who frequently submits development proposals and associated land use planning permit applications and offers you two free tickets to a popular local theater production (valued at \$75 total) as a gesture of appreciation for your “continued support of smart development.” You are unsure how to proceed and want to act ethically and within the law.

- A. Decline the tickets to avoid the appearance of using your position for personal benefit from someone with business before the City.
- B. Accept the tickets without disclosing them, since the total value is relatively low and could be considered a token of appreciation.
- C. Accept the tickets but abstain from voting on any future matters involving the developer.
- D. Accept the tickets and disclose them at the next council meeting, assuming disclosure resolves any ethical concern.





What would you do?

You are a long-serving member of the city council in a mid-sized Washington city. One afternoon, while driving 15 miles per hour over the speed limit in a school zone, you are pulled over by a local police officer. As the officer approaches your window, you consider mentioning your city council position and recent work with the police chief on department funding. You're tempted to suggest that giving you a ticket could make future conversations "awkward" at budget meetings. You stop to think: What should you do?

- A. Say nothing about your position and accept responsibility for the traffic violation, allowing the officer to proceed according to standard procedure.
- B. Mention your city council role to the officer and imply that writing a ticket could negatively impact the department's upcoming budget request.
- C. Accept the warning if offered but follow up later with the police chief to make it clear you expect leniency in future encounters.
- D. Tell the officer you are a council member and ask for a professional courtesy, since you've supported the department in the past.



Prohibited Acts – RCW 42.23.070(3)&(4) Disclosure of Confidential Information

(3) “No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.”

(4) “No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.”

Prohibited Acts – RCW 42.23.070(3)&(4) Disclosure of Confidential Information

Examples of subpart 3.

- Your company is submitting for a public works contract that the City is soliciting, if you are on the “pitch” team, that could be a violation.
- Someone who is suing the City, you should not become their business partner until the lawsuit is completely finished.

Examples of subpart 4.

- You get an email from the Mayor about a potential opportunity for the City. This opportunity has not been discussed on the dais and is not widely known. You only know about this because of your role as a council member. *Even if the email is subject to public records, you cannot share the information because you only know about it due to being a councilmember.*

Prohibited Acts – RCW 42.23.070(4)

Disclosure of Confidential Information

Examples of subpart 4.

- You learn about a potential property deal, including the price offered and other information about the property during executive session. The City then decides not to purchase the property. So, using the information you learned in executive session, you purchase the property.
- You find out the City is going to hire a new employee, but you think the employee would be great in your business. So, before the City makes the offer, you make an offer to that employee.
- You find out a utility customer is behind on her bills. You don't like her, so you make sure your neighbors know she is “stealing from the City” by not paying her bills.

What would you do?



You are a council member and you serve on the public safety committee of a Washington city council, where you receive confidential updates from the police department about internal investigations, staffing issues, and departmental audits. One afternoon, you are pulled over for running a red light. As the officer approaches, you consider bringing up some of the internal department issues you know about him from closed-door meetings, hoping to influence the officer's decision.

You pause and ask yourself: What is the right thing to do here?

- A. Say nothing about any internal police matters and accept responsibility for the traffic violation like any other member of the public.**
- B. Mention the officer's recent reassignment and suggest you are aware of some internal complaints, implying that issuing a ticket could complicate things.**
- C. Subtly reference confidential department challenges learned in closed council meetings to pressure the officer into letting you off.**
- D. Offer to keep certain sensitive information private in exchange for being let off with just a warning.**

Conflict of Interest

RCW 42.23.030 prohibits officials from having any interest in a contract with the City, with some exceptions.

“No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.”





Conflict of Interest

What does it mean to be “beneficially interested, directly or indirectly, in any contract”?

If you or a close family member or business partner are an owner in a business that is making the contract or will receive compensation as a result of the contract, you are “beneficially interested.”

This means the City cannot enter into that contract.

What happens if the contract is approved and signed in violation?

RCW 42.23.050 Prohibited contracts void— Penalties for violation of chapter. Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a **penalty in the amount of five hundred dollars**, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.

In addition to all other penalties, **civil or criminal**, the violation by any officer of the provisions of this chapter may be **grounds for forfeiture of his or her office.**



Contracts allowed as Exceptions RCW 42.23.030



If allowed, the officer must not be involved in the approval of the contract:

“A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.”

This means, the interested officer must:

- Disclose the relationship
- Recuse him/herself from the consideration (voting, discussion, influencing staff or fellow councilmembers, etc.)
- Leave the room until the matter is completed

Contracts – Remote Interests RCW 42.23.040

If an interest is “remote” the contract is not prohibited, but the interest must be disclosed on the record and noted in the official minutes prior to approval of the contract by the other members of the council. The councilmember will need to **recuse, make no attempt to influence, and leave the room** until the item is completed.

Remote Interests:

- (1) That of a non-salaried officer of a nonprofit corporation;
- (2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
- (3) That of a landlord or tenant of a contracting party;
- (4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.



What would you do?

You are a council member on the city council of a mid-sized Washington city. The city is preparing to award a contract for engineering services related to the design of a new stormwater drainage system. One of the firms bidding for the project is North Sound Engineering, a large regional firm with dozens of employees. Your adult daughter is employed there as a junior administrative assistant. She works in a different department from the team bidding on the project and is not involved in the proposal or any contract execution. You disclose this relationship to the city attorney and the city council, stating you have no financial interest in the firm and your daughter will not benefit from the contract. The city attorney advises that your interest qualifies as a “remote interest” under RCW 42.23.040(3). Following this, you recuse yourself from the vote.

Based on RCW 42.23.040, what was the most appropriate action for you to take?

- A. Disclose the relationship and recuse yourself from the vote, since your daughter’s role in the company qualifies as a remote interest.**
- B. Vote on the contract anyway, because you have no financial interest in the engineering firm.**
- C. Resign from the council to avoid even the appearance of a conflict.**
- D. Request the company withdraw its bid to eliminate any potential perception issues.**

Other Ethical Laws to Remember

Appearance of Fairness Doctrine: Chapter 42.36 RCW

When council members sit in judgment, rather than in a legislative function.

Actual and the mere appearance of bias must be addressed.

Doctrine of Incompatible Offices

Court-created legal doctrine that prohibits an individual from simultaneously holding two offices that are considered “incompatible” because, by their nature and duties, it is deemed improper from a public policy standpoint for one person to simultaneously serve in both.

OPMA / PRA Compliance

“[D]isclosure by a municipal officer of information learned in an executive session that is made confidential by the Open Public Meetings Act is a violation of the Code of Ethics for Municipal Officers.” AGO 2017 No. 5.

Improper Use of Public Facilities for Campaign Purposes

How to avoid violating ethics laws?

1. Understand that you are a fiduciary for the City and make sure that you put the City's interests above your own.
2. Don't share information you learn as an official unless you are certain the information is not confidential and is already publicly known or shared.
3. Be careful with gifts and favors – to you or to others, including influencing staff for the benefit of yourself or another.
4. If you have any concern that you may be at risk of violating one of these requirements, call the City Attorney and discuss the situation and obtain legal advice about how to avoid a violation. The City Attorney can help make sure you don't have a violation.



What happens if I violate an ethics law?

- Contracts / Actions may be void (through legal action)
- Position can be forfeited / recalled (knowing or intentional violation – RCW 42.23.050)
- Personal civil liability – repay losses to the city caused by conflict / unethical conduct
- Criminal liability – fraud, embezzlement, bribery, misuse of public funds or official misconduct
- Erosion of reputation and trust in the City.

Local Code of Ethics

What is a Local Code of Ethics?

State ethics laws are narrow, so many local government agencies adopt their own ethics codes that include additional restrictions. These policies cannot conflict with state law, but they can supplement it.

These policies often address issues like:

- Nepotism
- Accepting “de minimis” gifts
- Use of public resources, such as use of copy machines or requesting copies of records
- Public statements / use of social media
- Outside employment
- Use of confidential information after leaving office
- Disclosure of personal investment interests
- Enforcement mechanisms (other than running to court)

Local Ethics Policies: Why They Matter



Washington's ethics laws provide a foundation, but only address certain circumstances and do not establish a framework for professional, ethical behavior that can benefit the city in a variety of ways.

Washington's ethics laws do NOT address: civility between councilmembers, conduct on social media, public decorum, treatment of Staff/retaliation, and abuse of procedural rules.

A local ethics policy fills this gap by serves as a commitment by all members of your council to each other, by defining how we will treat one another, in the service of our city, while we serve.

Why does a local ethics policy matter?

1. Builds Public Trust in the City Council.
2. Promotes Accountability and Disincentivizes Unprofessional Conduct.
3. Ensures Fair and Respectful Interactions.
4. Professionalism and Cohesive Functionality is Directly Tied to Available Opportunities for your City.

Pro Tip:
A Local Ethics
Policy can set
Professionalism
Expectations
and make your
City more
Effective

Encourages Respectful and Functional Governance

Councils without clear conduct rules are more vulnerable to dysfunction, hostility, or grandstanding.

A strong ethics policy can:

- Set clear expectations for council behavior inside and outside meetings,
- Prevent personal attacks, harassment, or disruptive conduct,
- Promote a culture of civility and teamwork,
- Provide procedures to resolve disputes before they spiral.

This fosters a more effective governing body and increases public confidence.

Builds Public Trust and Transparency

Voters expect elected officials to be accountable, professional, and respectful.

A local ethics policy shows that the council:

- Takes its role seriously,
- Holds itself to a higher standard,
- Is committed to good governance and ethical leadership.

It's a public signal of integrity and accountability.

Attracts and Retains Quality City Staff and Leadership

Strong ethics policies create a healthy organizational culture where:

- Talented professionals want to work,
- Turnover is lower,
- Staff feel protected from political interference or retaliation.

This leads to:

- More competent and consistent project execution, and
- A better ability to partner with private entities that expect professionalism.

Enhances the City's Reputation Regionally and Nationally

A city with visible ethical leadership can build a reputation as:

- A trusted partner for regional infrastructure projects,
- A reliable recipient of state and federal grants,
- A model community for public-private collaboration.

Ethical governance often attracts:

- State/federal infrastructure dollars
- Institutional investors looking for low-risk public partners,
- Philanthropic and nonprofit partnerships

Pro Tip:
A Local
Ethics
Policy can
enable you
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Pro Tip:
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Protects the City from Legal and Political Risk

Unchecked unethical or unprofessional behavior can lead to:

- Lawsuits (e.g., hostile workplace claims),
- Public records liabilities (from inappropriate communications),
- Loss of staff morale or turnover, and
- Reputational damage.

A good policy can prevent problems or at least provide tools for managing them early.

Signals a Stable and Transparent Business Environment

Investors, developers, and businesses want to operate in cities where:

- Rules are predictable,
- Decisions are made fairly, and
- Public officials act with integrity.

A clear ethics policy shows that:

- The city is committed to transparency, professionalism, and fair governance
- Favoritism, backroom deals, and conflicts of interest will not be tolerated.

This builds investor confidence and reduces perceived risk for companies making major financial decisions.



*A Shared
Commitment
to Ethical
Conduct
Increases City
Effectiveness:
City of
Bellevue, a
Case Study*

Ethical Use of Social Media



Changing landscape in politics and policy making

Tips for Staying out of trouble

On your personal page accounts, be careful to not mix business and personal.

- Avoid personal attacks, just like you would on the dais.
- Avoid announcing policies that you plan to implement on these pages.
- Put a disclaimer on the page description, i.e., “Personal Page, Not a Public Forum” or “Campaign Page, Not an Official City Page”

Don't comment on your fellow councilmembers' pages regarding City business – you could create a serial meeting

If in doubt, talk to your city attorney

You are a
Leader and
set the tone
for the city

- As a public official, you're held to a **higher** standard of conduct—both online and off.
- RCW 42.23 (Code of Ethics for Municipal Officers) doesn't prohibit criticism per se, but it emphasizes avoiding behavior that undermines public trust or the proper functioning of government.
- Many cities in Washington adopt codes of conduct or ethics policies that call for professionalism and respect among colleagues—even in disagreement.



Questions?

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