

REVISED CODE of the Consolidated City and County INDIANAPOLIS/MARION, INDIANA Codified thr
1998. (Supple

TITLE I ORGANIZATION AND ADMINISTRATION

Chapter 293 CODE OF ETHICS*

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*Cross reference(s)--Personnel, ch. 291.

Sec. 293-101. Purpose and intent.

The city-county council finds that the proper operation of representative government requires that public officers and employees be independent, impartial and responsible to the people; that government decisions and policies be made in the proper channels of governmental structure; that public office not be used for personal gains; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this article to establish ethical standards of conduct for all officers and employees of the city and county, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the city or county; and to provide effective means for enforcement thereof. This article is not to be construed so as to impair the ability of these officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

This article shall be liberally construed in favor of protecting the public interests by fully disclosing conflicts of interest and promoting ethical standards of conduct for city and county officers and employees.

(Code 1975, § 23-49)

Sec. 293-102. Definitions.

For purposes of this article, the words and phrases defined in this section shall have the following meanings:

- (a) *Agency* means every department, office, board, commission or committee of the City of Indianapolis or of Marion County or any subdivision thereof.
- (b) *Board of ethics* means the board of ethics established by section 293-104, which is an agency under the jurisdiction of this article.
- (c) *Business entity* means a proprietorship, partnership, unincorporated association, trust, firm or corporation.
- (d) *Compensation* means any money, thing of value, service or economic benefit conferred upon or received by any person in return for services rendered or to be rendered.
- (e) *Confidential information* means information which has not been, or will not be, communicated to the general public in the regular course of business.

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Sec. 293-102. Definitions.

(f) *Doing business* means engaging in an activity: (1) for profit or gain or (2) that requires a license or permit by an agency.

(g) *Employee* means any individual, other than an elected official, receiving compensation for services performed for the City of Indianapolis or Marion County except individuals who perform services as independent contractors.

(h) *Fair market value* means the price that would be paid by a willing buyer to a willing seller in a good faith transaction into which neither party is compelled to enter.

(i) *Gifts or honoraria* means money or other property having economic value which is transferred to an officer or employee without consideration in money or money's worth, but does not include:

(1) Food or drink consumed by an official or employee or a member of his or her immediate family, during the conduct of official public business or attendance at public ceremonies as a public official or employee;

(2) Mementos or souvenirs of nominal value received at public ceremonies or commemorating official business;

(3) Invitations or tickets to political fund raising dinners or public charitable benefits when used by an officer or employee or member of his or her immediate family;

(4) Food or drink consumed by an elected official, deputy mayor or department director during attendance in connection with his or her official duties at a convention of public officials if consumed at a reception or gathering with other public officials.

(j) *Immediate family* means:

(1) A spouse; and

(2) Any dependent minor child.

(k) *Material interest* means ownership of five (5) percent or more of a business entity.

(l) *Mayor* means the mayor of the City of Indianapolis.

(m) *Officer* means every individual elected or appointed to an office or position in any agency, commission or municipal corporation subject to IC 36-3-6-9, whether such individual is paid or unpaid.

(n) *Pecuniary interest* means an interest which will result or is intended to result in an ascertainable increase in the income or net worth of the officer or employee or a member of his or her immediate family.



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Sec. 293-104. Board of ethics.

(4) To annually review the statements of economic interest filed pursuant to section 293-106.

(d) *Advisory opinions.* Upon the written request of an officer or employee, or without such request should a majority of the board deem it in the public interest, the board of ethics may render advisory opinions concerning matters of governmental ethics, shall consider questions as to ethical conduct, conflicts of interest and the application of ethical standards set forth in this article, and shall issue an advisory opinion in writing as to any such question. The board shall publish its opinions with any deletions or modifications necessary to prevent disclosure of the identity of the person who is the subject of the opinion.

(e) *Investigations.* Upon request by the mayor, a department director, an officer or employee, member of the board of ethics, or any member of the city-county council, the board of ethics may hold hearings to investigate possible violations of this article. If such board finds that a violation of this article has occurred, it may recommend to the mayor or appropriate official a resolution of the violation, or public disclosure of the violation, or disciplinary action, which may include dismissal.

(Code 1975, § 23-52)

Cross reference(s)—County officials, boards and commissions, ch. 281.

Sec. 293-105. Standards of ethical conduct.

(a) *Disqualification from acting on city or county business.* Any officer or employee shall disqualify himself or herself and refuse to act on any matter in which such officer or employee, a member of his or her immediate family, or the private employer of the officer or employee has a pecuniary interest or might derive a profit and upon which the officer or employee would be required to act in the discharge of his official duties.

(b) *Improperly using official position.* No officer or employee shall use or permit the use of any individual, funds or property under his or her official control, direction or custody, or of any funds or property of an agency, for a purpose which is, or to a reasonable person would appear to be, for the private benefit of the officer or employee or any other person; provided that nothing shall prevent the private use of property of an agency which is available on equal terms to the public generally (such as the use of library books or tennis courts), or use of property of an agency in accordance with municipal policy in the conduct of official business (such as the use of automobiles of an agency), or the use of off-duty equipment by law enforcement officers assigned to those law enforcement officers, if allowed by the rules of the respective department, if, in fact, the property is used appropriately.

(c) *Improper influence.* No officer or employee, except in the course of official duties, shall assist any person in any transaction with an agency when such officer's or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer's or employee's position with an agency; provided that this subsection shall not apply either to any elected official, or to any officer or employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest, if not otherwise prohibited by law.

(d) *Prohibition of certain financial interest.* No officer or employee, regardless of prior disclosure thereof, who has a material interest, personally or through a member of his or her immediate family, in any business entity doing or seeking to do business with an agency shall influence or attempt to influence the selection of or the conduct of business with such business entity by an agency.

(e) *Gifts or loans prohibited.* No officer or employee shall solicit or receive any thing of monetary value from any person when it has been solicited, received or given or, to a reasonable person, would appear to have been solicited, received or given, with the intent to give or obtain special consideration or influence as to any action by such officer or employee in his or her official capacity; provided that nothing shall prohibit contributions, including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of an agency, or an honorarium, travel or other expenses reimbursed to any officer or employee as a result of a speaking engagement or personal appearance made as a result of that individual's official position.

(f) *Gifts or honoraria in excess of \$250.00 prohibited.* No employee or appointed officer shall accept gifts or honoraria (including such received by members of his or her immediate family) that exceed an aggregate value of two hundred fifty dollars (\$250.00) in any twelve (12) consecutive months from an individual business entity that is doing business with the agency in which the appointed officer or employee holds an office or position of employment.

(g) *Disclosure of privileged information.* No officer or employee shall disclose or use any information gained by reason of his or her official position for the immediate or anticipated personal gain or benefit of the officer or employee or any other person; provided that nothing shall prohibit the disclosure or use of the information which is a matter of public knowledge or which is available to the public on request.

(Code 1975, § 23-53)

Sec. 293-106. Statement of economic interests.



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Sec. 293-106. Statement of economic interests.

- (a) The board of ethics shall require:
 - (1) All officers; and
 - (2) Any employee who, as of December 31 of the previous year:
 - a. Was a sworn member of the Indianapolis police department at a rank of lieutenant or above, was a sworn merit deputy in the Marion County sheriff's department at a rank of lieutenant or above, or was a sworn member of the Indianapolis fire department at a rank of captain or above;
 - b. Was a civilian employee and received annual compensation from the City of Indianapolis or Marion County during the previous calendar year at a base rate of pay greater than twenty-eight thousand dollars (\$28,000.00) per annum;
 - c. Was employed as a purchasing agent for the city or the county or was employed by the purchasing division of the department of administration; or
 - d. Received from an individual business entity, doing business with an agency in which the officer or employee holds an office or position of employment, gifts or honoraria (including those received by members of his or her immediate family) during the previous calendar year having an aggregate value (excluding the value of any events occurring in Marion County to which all members of the city-county council were invited) of more than one hundred dollars (\$100.00);

to file a statement of economic interests on or before the first day of May of each year.

- (b) Any applicant for employment with an agency for a position which would qualify under (2)a., b., or c., above, shall be required to file a statement of economic interest prior to an offer of employment being extended by the agency.
- (c) Such statement of economic interests shall be affirmed as to its truth and accuracy under penalties of perjury and include the following information:
 - (1) The name of the officer or employee;
 - (2) The business address of the officer or employee;
 - (3) The position in which the officer or employee serves an agency;
 - (4) The employer of the officer or employee;
 - (5) A list stating the amount and source of all gifts or honoraria the officer or employee and members of his or her immediate family received during the past calendar year having an aggregate fair market value in excess of one hundred dollars (\$100.00) from any individual business entity doing business with an agency;



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(6) A statement of whether or not the officer or employee or any member of his or her immediate family had a direct or indirect pecuniary interest in any contract with the City of Indianapolis or Marion County during the past calendar year, other than a contract of employment and, if so, an explanation of the extent of the interest;

(7) The name of any business entity from which the officer or employee received any compensation which, to the best of his or her knowledge, does or contemplates doing business with an agency during his or her term of office or employment with an agency; and

(8) The name of any business entity in which the officer or employee or his or her immediate family owns stocks, bonds or other investments which represent ownership of five (5) percent or more of that business or have a value in excess of five thousand dollars (\$5,000.00) and which business entity, to the best of his or her knowledge, is doing or contemplates doing business with an agency.

(Code 1975, § 23-54)

Sec. 293-107. Complaints, investigations, hearings and enforcement.

(a) Any person may file a complaint alleging a violation of this article. If such complaint is filed by a member of the board of ethics, such member is then disqualified from participating in any proceedings that may arise from the complaint.

(b) The complaint shall be in writing and signed by the complainant. The written complaint shall state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and name of the person(s) charged with the violation(s). The complaint shall be filed with the secretary of the board of ethics, who shall provide a copy to the person charged with a violation, unless in the opinion of the secretary anonymity of the complainant should be maintained. The complainant shall provide the secretary with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.

(c) All complaints shall remain confidential. When a complaint reaches public hearing before the board of ethics, the complaint and all records pertaining thereto shall become public records.

(d) Within thirty (30) days after receipt of a complaint, the secretary shall conduct a preliminary investigation. The secretary may request that the board of ethics extend the time for the completion of such preliminary investigation. If the board of ethics determines that such extension is necessary or desirable and would not be prejudicial to the person charged with the violation, the board of ethics shall grant the extension. If the board of ethics determines that the preliminary investigation must be completed in less than thirty (30) days in order to avoid prejudice or irreparable harm to the person charged with the violation, the board of ethics shall order the secretary to complete the preliminary investigation in a shorter period of time, and the secretary shall comply.

(e) If the secretary determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the secretary shall dismiss the complaint. If the secretary does so dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and provide copies of the written dismissal to the complainant, to the person charged with the violation and to the board of ethics. The complainant shall have the right to appeal the decision of the secretary to the board of ethics. If the complaint is dismissed, the record shall remain confidential unless the person against whom the complaint was made requests disclosure.

(f) If, after a preliminary investigation, the secretary does not dismiss the complaint or ask for additional time to conduct a more extensive investigation, the secretary shall refer the complaint to the board of ethics for hearing, unless the matter is resolved at a prehearing conference between the secretary and the person charged with the violation, and the prehearing resolution is approved by the board of ethics, all in accordance with applicable rules and regulations.

(g) All hearings that are held to determine whether the provisions of this article have been violated shall be conducted in conformance with rules and regulations of the board of ethics except as otherwise provided in this article.

(h) Within thirty (30) days from the date the secretary refers a complaint to the board of ethics for hearing, the board of ethics shall hold a public hearing and issue a written determination stating whether the article has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of such determination shall be delivered to the complainant, to the person charged with the violation and, where appropriate, to the person's superior.

(i) If the board of ethics determines that a city officer or employee has violated the provisions of this article, the board may recommend to the proper authority that the officer or employee be subject to disciplinary action.

(Code 1975, § 23-55)



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Sec. 293-108. Enforcement.

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(a) Any officer or employee who fails to file a statement of economic interest when required by section 293-106 shall be subject to a fine of twenty-five dollars (\$25.00) for each thirty (30) days such statement is delinquent, which shall be in addition to the other provisions of this section. Following a hearing, the board shall have the discretion to waive any fine imposed by this section.

(b) Failure of any officer or employee to file a statement of economic interest when required by section 293-106 may result in the board reporting such failure to the appropriate supervisory or appointing authority and may be cause for suspension, discharge, removal from office, or such other disciplinary action as may, by the appropriate authority, be deemed necessary and proper.

(c) A violation of this article shall be cause for suspension, discharge, or removal from office, or such other disciplinary action as may, by the appropriate authority, be deemed necessary and proper, and consistent with personnel ordinances and rules. A written response outlining any action taken as a result of a violation or the recommendation of the board of ethics shall be made by the appropriate authority to the board of ethics within fourteen (14) calendar days after receipt of the written recommendation. This section shall not derogate from employee rights under any collective bargaining agreement or personnel ordinance, or rules promulgated thereunto. If the appropriate authority determines that the written response required in this section cannot be made within fourteen (14) calendar days after receipt of the recommendation, because of procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated thereunto, the appropriate authority shall so report within fourteen (14) days after receipt of the recommendation, stating the date on which the written response will be submitted to the board of ethics. Upon receipt of the written response, or in the event no response is received, the board of ethics shall review such matter and make such further recommendation as may be appropriate.

(Code 1975, § 23-56)

Chapter 295 CONTRACTING REQUIREMENTS*

*Cross reference(s)—Buildings and construction, ch. 536.

Sec. 295-1. Definitions.

Whenever used in this chapter, the following definitions shall apply:

(a) *Construction* means the building, erection, alteration, demolition or repair (including but not limited to dredging, excavating, and painting) of public buildings, structures, sewers, storm waste drains, highways and other improvements or additions to real property. It does not include routine repairs, or the remediation of environmentally impaired public buildings, structures, sewers, storm waste drains, highways or other improvements or additions to real property.

(b) *Contract* means all types of agreements, grants, and orders for the procurement or disposal of supplies, services, construction, insurance or any other item. It includes awards and notices of awards, contracts of a fixed price, cost, cost plus fixed fee, or incentive types, contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts, purchase orders and leases.

(c) *Contractor* shall mean any person having a contract with the city.

(d) *Invitation for bids* means all documents including documents attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in provisions related to competitive sealed bidding.

