

1 DIVISION 2. - ~~ETHICAL STANDARDS AND~~ OUTSIDE OCCUPATIONS AND
2 EMPLOYMENT AND THE DISCLOSURE OF ECONOMIC INTERESTS

3 ~~Sec. 2-181. - Statement of policy.~~

4 ~~(a) It is the policy of the city that in all cases its officers~~
5 ~~and employees perform their duties for the sole benefit of the~~
6 ~~citizens of the city. They shall conduct the affairs of the~~
7 ~~city with integrity and impartiality, without allowing~~
8 ~~prejudice, favoritism or the opportunity for personal gain to~~
9 ~~influence their decisions or actions or to interfere with~~
10 ~~servicing the public interest. Continuing observance of this~~
11 ~~policy is essential to maintaining the public trust necessary~~
12 ~~for good government. The city council therefore adopts this~~
13 ~~division to establish guidelines for an ethical standard of~~
14 ~~conduct for officers and employees of the city and to ensure~~
15 ~~compliance with those guidelines.~~

16 ~~(b) The standards of this division are intended to additionally~~
17 ~~supplement the provisions of section 3-14-4 of the Illinois~~
18 ~~Municipal Code [Ill. Rev. Stat. Ch. 24, ¶ 3-14-4] and section~~
19 ~~3 of "An Act to prevent fraudulent and corrupt practices in the~~
20 ~~making or accepting of official appointments and contracts by~~
21 ~~public officers [Ill. Rev. Stat. Ch. 102, ¶ 3], and any other~~
22 ~~applicable state statutes and ordinances of the city relating~~
23 ~~to ethical conduct for municipal officers and employees.~~

1 ~~However, the obligations of this division shall not be limited~~
2 ~~to the statutory provisions specified hereinabove.~~

3 ~~(c) The failure to include in this Code any provision of any~~
4 ~~statute or ordinance shall not be construed as an attempt to~~
5 ~~release city officers and employees from the obligations,~~
6 ~~responsibilities and penalties imposed by any such statute or~~
7 ~~ordinance.~~

8 ~~(Code 1969, § 2-351)~~

9 ~~Sec. 2-182. - Scope.~~

10 ~~Except as expressly exempted, the provisions of this division~~
11 ~~shall apply to any officer or employee of the city whether elected~~
12 ~~or appointed, paid or unpaid, including members and administrative~~
13 ~~staff of all boards and commissions appointed by the mayor or city~~
14 ~~council. The term "officer" applies throughout this division to~~
15 ~~the mayor and members of the city council; the term "employee"~~
16 ~~refers to all other persons covered by this division.~~

17 ~~(Code 1969, § 2-352)~~

18 ~~Sec. 2-183. - Standards of conduct.~~

19 ~~(a) Compliance. Every officer and employee of the city shall be~~
20 ~~subject to and abide by the standards of conduct in this~~
21 ~~section.~~

22 ~~(b) Impartiality. No officer or employee shall grant any special~~
23 ~~consideration, treatment or advantage to any person or business~~

1 ~~entity beyond that which is available to every other person or~~
2 ~~business entity which is similarly situated.~~

3 ~~(c) Use of public property. No officer or employee shall request,~~
4 ~~use or permit the use of city funds, equipment, services,~~
5 ~~materials or property for personal convenience or profit,~~
6 ~~except when such are available to the public generally or are~~
7 ~~made available, by administrative authorization, to such~~
8 ~~officer or employee in the conduct of official city business.~~

9 ~~(d) Conflicts of interest Generally. No officer or employee shall~~
10 ~~engage in any business or transaction nor have an interest,~~
11 ~~direct or indirect, financial or otherwise, which is~~
12 ~~incompatible with the proper discharge of his official duties.~~
13 ~~For the purposes of this subsection, "interest" means the direct~~
14 ~~or indirect pecuniary or material benefit accruing to an officer~~
15 ~~or employee as a result of a contract or transaction which is~~
16 ~~or may be the subject of an official act or action by or with~~
17 ~~the city except for such contracts or transactions which by~~
18 ~~their terms or by the substance of their provisions confer the~~
19 ~~opportunity and right to realize the accrual of similar benefits~~
20 ~~to all other persons or property; or any such involvement~~
21 ~~arising from a blood or marriage relationship or direct business~~
22 ~~association. For the purposes of this subsection, an officer or~~
23 ~~employee shall be deemed to have an interest in the affairs of:~~

1 ~~(1) Any person or business entity with whom a contractual~~
2 ~~relationship exists with the officer or employee, with~~
3 ~~regard to such relationship;~~

4 ~~(2) Any business entity in which the officer or employee is an~~
5 ~~officer, director or member having a financial interest~~
6 ~~therein, or employed thereby;~~

7 ~~(3) Any business entity the legal or beneficial ownership of~~
8 ~~which is controlled or owned directly or indirectly by the~~
9 ~~officer or employee.~~

10 ~~(c) Same Illustrative enumeration. Prohibited interests under~~
11 ~~subsection (d) expressly include, but are not limited to, the~~
12 ~~following examples:~~

13 ~~(1) Gifts and favors. No officer or employee shall direct or~~
14 ~~indirectly solicit, accept or receive any gifts or favors~~
15 ~~whether in the form of money, services, loan, discount,~~
16 ~~travel, entertainment, hospitality, promise or other similar~~
17 ~~consideration in any other form, which gift or favor arises~~
18 ~~out of or is in any way related to such officer or employee's~~
19 ~~relationship with the city, and is in any way reasonably~~
20 ~~interpreted or expected to influence that officer or~~
21 ~~employee.~~

22 ~~(2) Disclosure of confidential information. No officer or~~
23 ~~employee shall disclose or use information not officially~~
24 ~~available to the public concerning the property, government~~

1 ~~or affairs of the city to advance the financial or other~~
2 ~~private interests of himself or others.~~

3 ~~(3) Pecuniary interests in city business or contracts. No~~
4 ~~officer or employee shall have a pecuniary or material~~
5 ~~interest, directly or indirectly, in any contract, work or~~
6 ~~business of the city or in the sale of any article, whenever~~
7 ~~the expense, price, or consideration of the contract, work,~~
8 ~~business or sale is paid either from the city treasury or by~~
9 ~~an assessment levied by any statute or ordinance. Except as~~
10 ~~otherwise provided in this paragraph, no officer or employee~~
11 ~~shall have a pecuniary or material interest, directly or~~
12 ~~indirectly, in the purchase of any property which belongs to~~
13 ~~the city, or is sold for taxes or assessments, or is sold by~~
14 ~~virtue of legal process at the suit of the city; provided,~~
15 ~~however, that officers and employees, shall be allowed to~~
16 ~~bid at auction or competitive bidding open to the general~~
17 ~~public and thereafter purchase city property.~~

18 ~~(4) Representing private interests before city bodies or~~
19 ~~courts. No officer or employee shall represent or appear on~~
20 ~~behalf of private interests other than his own before any~~
21 ~~city body or department nor represent any such private~~
22 ~~interests in any litigation to which the city is a party;~~
23 ~~provided, however, an employee may represent other employees~~
24 ~~in personnel matters as provided in the city's personnel~~

1 ~~code and civil service rules; and provided further, an~~
2 ~~officer may appear, without receiving additional~~
3 ~~compensation therefor, on behalf of constituents in the~~
4 ~~course of his duties as a representative of the electorate,~~
5 ~~or in the performance of public or civic obligations.~~

6 ~~(5) Incompatible outside occupations or employment. In this~~
7 ~~paragraph, "outside occupation or employment" means any paid~~
8 ~~or unpaid occupation or employment other than the~~
9 ~~performance of official city duties, including, but not~~
10 ~~limited to, self-employment, working for another, rendering~~
11 ~~of services for other than the city, and employment or~~
12 ~~involvement in the management, operation or direction of any~~
13 ~~enterprise, public or private. No employee shall engage in~~
14 ~~or accept an outside occupation or employment when such~~
15 ~~occupation or employment tends to create a conflict with or~~
16 ~~impair the proper and impartial discharge of the person's~~
17 ~~official responsibilities. Such prohibited occupations or~~
18 ~~employments include, but are not limited to, those which:~~
19 ~~a. Are of such a nature as to be reasonably construed by~~
20 ~~the public to be an official act of the city;~~
21 ~~b. Are of such a nature that the employee would be expected~~
22 ~~to perform it as a part of his official responsibilities;~~

1 ~~e. Involve management of an enterprise or business closely~~
2 ~~related to or tending to involve the employee's official~~
3 ~~responsibilities; or~~

4 ~~d. Would tend to influence the employee's impartial~~
5 ~~judgment in the exercise of his official~~
6 ~~responsibilities.~~

7 ~~(Code 1969, § 2-353; Ord. No. 090-66, § 1, 6-19-90; Ord. No.~~
8 ~~093-30, § 2, 4-6-93)~~

9 Sec. 2-184. - Regulation of outside occupations or employment.

10 (a) The mayor, the aldermen, ~~Officers~~ and members of boards and
11 commissions appointed by the mayor or city council are exempt
12 from the provisions of this section.

13 (b) No city employee shall engage in or accept an outside
14 occupation or employment as defined in paragraph (e) ~~section 2-~~
15 ~~183, paragraph (e)(5)~~ without the prior approval of his
16 department head and the human resources director, except those
17 currently pursuing said outside occupations or employments
18 provided said occupations or employments do not violate the
19 provisions of section 15-343 of this Code ~~section 2-183,~~
20 ~~paragraph (e)(5).~~ In the case of department heads or the
21 appointed administrative staff of boards and commissions, such
22 prior approval shall be required from the human resources
23 director.

1 (c) Applications for approval shall be made in writing in forms
2 provided by the human resources department. Thereafter, each
3 change in outside occupation or employment shall require
4 separate approval.

5 (d) Approval or denial of such application shall be made in
6 writing and shall be based on the provisions of section 15-
7 3432-183, paragraph (e) (5). Denial by a department head or human
8 resources director of an application may be appealed to the
9 mayor for a final decision. All applications and written
10 approvals or denials shall be retained in the employee's
11 personnel file.

12 (e) As used in this section, "outside occupation or employment"
13 means any paid or unpaid occupation or employment other than
14 the performance of official city duties, including, but not
15 limited to, self-employment, working for another, rendering
16 of services for other than the city, and employment or
17 involvement in the management, operation or direction of any
18 enterprise, public or private.

19 (Code 1969, §§ 2-244(c), 2-245(c), 2-246(b), 2-247(b), 2-248(b),
20 2-249(b), 2-354; Ord. No. 090-135, § 1, 11-20-90; Ord. No. 000-
21 31, § 2, 3-28-00)

22 Sec. 2-185. - Annual disclosure statement.

1 (a) *Covered persons.* ~~Notwithstanding section 2-182,~~ The
2 provisions of this section shall apply to the following officers
3 and employees:

4 (1) The mayor and the aldermen ~~Officers as defined by this~~
5 ~~division;~~

6 (2) Members of the planning commission and the zoning board of
7 appeals;

8 (3) Appointed administrative staff of such boards and
9 commissions;

10 (4) All persons employed in executive service positions as set
11 forth in the city pay plan.

12 (b) *Filing for covered persons officers.* All persons covered by
13 this section ~~All officers~~ shall submit a signed financial
14 disclosure statement to the city clerk. ~~Such statement shall be~~
15 ~~submitted~~ prior to their taking office, appointment or
16 employment, as the case may be, and thereafter annually no later
17 than May 1, during their tenure with the city. ~~The disclosure~~
18 ~~statements of officers shall be maintained on file with the~~
19 ~~city clerk for five (5) years from the date of filing. These~~
20 ~~statements are available for any person's review upon specific~~
21 ~~request to the city clerk during regular business hours. When~~
22 ~~a request for viewing a disclosure statement is made, the~~
23 ~~officer whose statement is requested shall be notified~~
24 ~~immediately in writing and advised of the name of the person~~

1 ~~viewing the statement. Persons already obligated to file state~~
2 ~~disclosure statements pursuant to state law shall file copies~~
3 ~~of said statements along with the statement herein required.~~

4 (c) City clerk to maintain disclosure statements. The city clerk
5 shall retain the financial disclosure statements required by
6 this section in compliance with the Local Records Act. Such
7 statements when filed shall constitute public records and shall
8 be available for inspection and copying as provided by the
9 Freedom of Information Act (FOIA). Notwithstanding the
10 foregoing, prior to making a financial disclosure statement
11 available in response to a FOIA request, the FOIA Officer shall
12 redact from the report any private and personal information of
13 the covered person, his or her spouse or minor children. *Filing*
14 ~~for covered employees. All employees covered by this section~~
15 ~~shall submit a signed financial disclosure statement to the~~
16 ~~city clerk. Such statement shall be submitted prior to their~~
17 ~~being appointed or employed and thereafter annually no later~~
18 ~~than May 1, during their tenure with the city. The disclosure~~
19 ~~statements shall be maintained on file with the city clerk for~~
20 ~~five (5) years from the date of filing. These statements are~~
21 ~~available for any person's review upon specific request to the~~
22 ~~city clerk during regular business hours. When a request for~~
23 ~~viewing a disclosure statement is made, the employee whose~~
24 ~~statement is requested shall be notified immediately in writing~~

1 ~~and advised of the name of the person viewing the statement.~~
2 ~~Persons already obligated to file state disclosure statements~~
3 ~~pursuant to state statute shall file copies of the statements~~
4 ~~along with the statement herein required.~~

5 (d) *Questions on disclosure statement.* Persons required to
6 submit a financial disclosure statement shall answer the
7 following questions on a form to be supplied by the city clerk.
8 The term "controlling" as used hereinafter is defined to mean
9 non-ownership ~~nonownership~~ control. The term "minor children"
10 refers to children under eighteen (18) years of age unless
11 emancipated.

12 (1) a. Please list the common address and tax parcel number
13 of any and all real property located within the corporate
14 limits or the one-and-one-half-mile planning jurisdiction
15 of the city in which you, your spouse or minor children
16 have a direct or indirect ownership or financial interest
17 presently or during the preceding calendar year. Please
18 indicate whether any of the real property you have listed
19 above constitutes your residence or the residence of your
20 spouse or minor children.

21 b. For the purpose of this question, ownership interest in
22 real property shall further include:

1 1. Beneficial interest in any land trust, including such
2 beneficial interest as may be under contract for sale
3 or purchase;

4 2. Real property being purchased or sold by contract;

5 3. Real property held by a corporation, an investment
6 group or a partnership, which is controlled or owned
7 hereunder, directly or indirectly.

8 (2) Please list the name(s) of any entity located in whole or
9 in part within the corporate limits of the city or otherwise
10 doing business within said limits:

11 a. In which you, your spouse or minor children have a direct
12 or indirect controlling or ownership interest, either
13 presently or during the preceding calendar year; or

14 b. From which you, your spouse or minor children receive
15 income, either presently or during the preceding calendar
16 year, excluding interest income from all accounts
17 invested in banks and savings and loan associations,
18 mutual funds and ownership holdings with a fair market
19 value of twelve hundred fifty dollars (\$1,250.00) or less
20 at the date of filing.

21 (3) Please list the name(s) of any entity doing business with
22 the city presently or during the preceding calendar year:

- 1 a. In which you, your spouse or minor children have a direct
2 or indirect controlling or ownership interest, presently
3 or during the preceding calendar year; or
- 4 b. From which you, your spouse or minor children receive
5 income, including pension or retirement income, either
6 presently or during the preceding calendar year excluding
7 interest income from all accounts invested in banks and
8 savings and loan associations, mutual funds and ownership
9 holdings with a fair market value of twelve hundred fifty
10 dollars (\$1,250.00) or less at the date of filing.
- 11 (4) Please list the name(s) of any entity which has applied to
12 the city for any license, franchise, certificate,
13 annexation, permit, zoning or other authorized approval,
14 either presently or during the preceding calendar year, in
15 which you, your spouse or minor children have a direct or
16 indirect controlling or ownership interest.
- 17 (5) Please list the name(s) of those organizations that receive
18 funds from the city in which you are an employee, officer,
19 board member or trustee.
- 20 (6) a. Please state whether you performed any compensated
21 service for the city other than that which you performed
22 in your official capacity.
- 23 b. Please further list any other occupation, employment,
24 including self-employment, in which you are presently

1 engaged or have been during the preceding calendar year.

2 Please include the name(s) of the employing entity(ies)

3 and the nature of the services rendered.

4 (7) Please indicate any person, firm or corporation doing
5 business or having any contractual relationship with the
6 city or engaged in any activity having substantial potential
7 of doing business with the city or any entity which has
8 applied to the city for any license, franchise, certificate,
9 annexation, permit, zoning or other authorized approval from
10 whom you, your spouse or minor children received during the
11 preceding calendar year a gift, or service ~~or campaign~~
12 ~~contribution~~ in excess of one hundred fifty dollars
13 (\$150.00).

14 (8) Please indicate any person, firm or corporation doing
15 business or having any contractual relationship with the
16 city or engaged in an activity having substantial potential
17 of doing business with the city or from any entity which has
18 applied to the city for any license, franchise, certificate,
19 annexation, permit, zoning or other authorized approval from
20 whom you, your spouse or minor children had been released
21 from any indebtedness exceeding in its principal amount one
22 hundred dollars (\$100.00) within the year, without paying
23 the total balance due on such indebtedness or giving adequate
24 consideration.

1 (9) a. Please list the names of any campaign, candidate, or
2 political committee or similar organization ("committee")
3 that you have authorized to solicit or receive campaign
4 contributions and make expenditures on your behalf. This
5 specifically includes the principal campaign committee of a
6 candidate seeking election to federal office and the
7 candidate political committee or committees of a candidate
8 seeking election to State or local office.

9 b. For each committee listed above, please indicate whether
10 and with what regulatory body the committee is registered or
11 to which it submit periodic reports disclosing the sources
12 and amounts of campaign contributions. If the committee does
13 not file periodic disclosure reports with any regulatory
14 body, please so indicate.

15 c. Please provide a list of all campaign contributions
16 received by all committees you have listed in (9)a. in the
17 preceding calendar year in excess of one hundred fifty
18 dollars (\$150).

19 (e) Compliance.

20 (1) Not later than May 15 of each calendar year, the Clerk
21 shall provide the ethics adviser with a list of the persons
22 covered by this ordinance as well as a copy of each of their
23 respective disclosure statement for review by the ethics
24 adviser. The clerk shall also provide the ethics adviser

1 with a list of any covered persons who failed to comply with
2 the requirements of this section.

3 (2) Any covered person who willfully fails to comply with
4 the requirements of this Section by May 31 of any calendar
5 year or within thirty (30) days of his or her appointment or
6 employment with the city commits a violation of the City of
7 Aurora Ethics Ordinance.

8 (3) Any covered person who willfully submits a disclosure
9 report he or she knows to contain false or materially
10 incomplete information commits a violation of the City of
11 Aurora Ethics Ordinance.

12 (Code 1969, § 2-355; Ord. No. 090-15, § 1, 2-6-90; Ord. No. 091-
13 11, § 1, 2-19-91)

14 ~~Sec. 2-186. - Disclosure of financial or personal interest.~~

15 ~~Any city officer or employee serving as a member of any board~~
16 ~~or commission and having an interest, as defined in section 2-183,~~
17 ~~subsection (d), in any matter coming before his respective body~~
18 ~~shall publicly disclose the nature and extent of such interest to~~
19 ~~the other members and such interest shall be made a matter of~~
20 ~~record. Any member having such an interest shall not present or~~
21 ~~speak on such matter before the body or in any way use his personal~~
22 ~~influence on the matter before the body, and shall abstain from~~
23 ~~voting and shall not be considered present for the purposes of~~
24 ~~establishing a quorum.~~

1 ~~(Code 1969, § 2-356)~~

2 ~~Sec. 2-187. - Advisory opinions.~~

3 ~~Any person covered by this division who wishes to have advice~~
4 ~~on the applicability of any provision of this division to a~~
5 ~~particular situation, or an interpretation of terms used in this~~
6 ~~division, may apply for an advisory opinion in writing to the~~
7 ~~corporation counsel. Requests shall contain a summary of pertinent~~
8 ~~facts. Advisory opinions issued by the corporation counsel shall~~
9 ~~be in writing and a copy shall be filed with the mayor and city~~
10 ~~clerk. Officers may orally seek opinions hereunder, and opinions~~
11 ~~in such cases may be orally rendered.~~

12 ~~(Code 1969, § 2-357)~~

13 ~~Sec. 2-188. - Complaint procedures and sanctions.~~

14 ~~(a) Complaints that a person covered by this division has violated~~
15 ~~any of its provisions shall be made in writing, signed by the~~
16 ~~person making the complaint and filed with the city clerk and~~
17 ~~kept confidential. No action thereon shall be taken solely on~~
18 ~~hearsay information.~~

19 ~~(b) If the complaint is filed against an officer, it shall be~~
20 ~~referred by the city clerk to an ad hoc committee (being also~~
21 ~~the local ethics commission under section 2-191), consisting of~~
22 ~~three (3) members of the city council chosen by lottery at the~~
23 ~~first council meeting in May of each year, three (3) members of~~
24 ~~the community appointed by the mayor with the advice and consent~~

1 ~~of the council, at least one (1) of which public members shall~~
2 ~~be a member of the clergy and one (1) shall be an attorney at~~
3 ~~law, and two (2) at-large members appointed in the same manner.~~
4 ~~The personnel director shall be the ninth member of the~~
5 ~~committee and shall serve as the chairman. The complaint shall~~
6 ~~be kept confidential unless otherwise requested by the subject~~
7 ~~thereof, until such time as the committee finds that there is~~
8 ~~a substantial reason to believe that this article has been~~
9 ~~violated. If one (1) of the members of the committee is the~~
10 ~~subject of the complaint, the mayor, or the committee if the~~
11 ~~mayor is the subject thereof, shall appoint another alderman to~~
12 ~~the committee. If the complaint is filed against any employee,~~
13 ~~it shall be referred to the mayor. The complaint shall be kept~~
14 ~~confidential unless otherwise requested by the subject thereof,~~
15 ~~until such time as the mayor finds that there is substantial~~
16 ~~reason to believe that this division has been violated. Upon~~
17 ~~referral, a copy of the complaint shall be submitted to the~~
18 ~~subject thereof.~~

19 ~~(c) Within thirty (30) days following receipt of a complaint~~
20 ~~regarding an officer, the ad hoc committee shall conduct a~~
21 ~~hearing to determine if there is substantial reason to believe~~
22 ~~that this article has been violated. Concerning such hearings,~~
23 ~~the committee may request the appearance of relevant witnesses~~
24 ~~and production of relevant documents and other effects relevant~~

1 ~~to the matter. Failure to provide the requested information may~~
2 ~~constitute a violation of this Code. All testimony before the~~
3 ~~committee shall be under oath. At any such hearing the presiding~~
4 ~~officer shall have the power to administer oaths and~~
5 ~~affirmations and compel attendance of persons and production of~~
6 ~~books, documents, papers, accounts, letters and records by~~
7 ~~subpoena. In addition:~~

8 ~~(1) At hearings, the same rules of evidence pertaining to~~
9 ~~hearings by administrative bodies in the state shall apply.~~
10 ~~Strict rules of evidence and procedure shall not apply.~~
11 ~~Further, a record of the proceedings before the committee~~
12 ~~concerning any hearing shall be documented by a court~~
13 ~~reporter and maintained by the city clerk. Any person~~
14 ~~appearing before the committee shall be entitled to~~
15 ~~representation of counsel.~~

16 ~~(2) The committee shall be represented by the corporation~~
17 ~~counsel, as authorized by the city council concerning the~~
18 ~~hearing. He shall present evidence to the committee~~
19 ~~concerning the alleged action.~~

20 ~~(3) Prior to the time any hearing is held by the committee~~
21 ~~concerning any alleged violation hereunder, the committee~~
22 ~~shall provide written notice to any individual accused of~~
23 ~~making the violation notifying the person of the alleged~~
24 ~~violation and providing him with at least ten (10) days'~~

1 ~~notice prior to any hearing. The notice shall specify the~~
2 ~~nature of the conduct being considered, the nature of~~
3 ~~violation being alleged, the time and date of any hearing~~
4 ~~pertaining to the individual and shall be served upon such~~
5 ~~individual by certified mail or by personal service. The~~
6 ~~hearing may be continued from time to time at the discretion~~
7 ~~of the committee, but must be completed within thirty (30)~~
8 ~~days from the date of commencement of the hearing.~~

9 ~~(4) The committee shall enter its confidential written opinion~~
10 ~~within ten (10) days of any hearing. All opinions of the~~
11 ~~committee shall be submitted to the person making the~~
12 ~~complaint, the accused and the council.~~

13 ~~(5) If the committee finds that there is substantial reason to~~
14 ~~believe that this division has been violated, the committee~~
15 ~~shall make a recommendation to the council concerning~~
16 ~~disciplinary action. The recommendation may be that the~~
17 ~~council:~~

18 ~~a. Direct the person to cease and desist from continuing to~~
19 ~~commit the improper act; or~~

20 ~~b. Direct the person to correct the improper act or~~
21 ~~situation; or~~

22 ~~c. Refer the matter to the corporation counsel for~~
23 ~~prosecution for a violation of this Code. Where~~
24 ~~participation by the corporation counsel is~~

1 ~~inappropriate, the referral of the matter to a special~~
2 ~~prosecuting attorney; or~~

3 ~~d. Remove the person from office, if convicted under a~~
4 ~~circuit court prosecution as hereinabove provided.~~

5 ~~(d) Within thirty (30) days following receipt of a complaint~~
6 ~~regarding an employee, the mayor shall conduct a hearing to~~
7 ~~determine if there is substantial reason to believe that this~~
8 ~~article has been violated. At hearings, the mayor may request~~
9 ~~the appearance of relevant witnesses and production of relevant~~
10 ~~documents and other effects relevant to the matter. Failure to~~
11 ~~provide the requested information may constitute a violation of~~
12 ~~the Code. All testimony before the mayor shall be under oath.~~
13 ~~At any such hearing the mayor shall have the power to administer~~
14 ~~oaths and affirmations and compel attendance of persons and~~
15 ~~production of books, documents, papers, accounts, letters and~~
16 ~~records by subpoena. In addition:~~

17 ~~(1) At hearings, the same rules of evidence pertaining to~~
18 ~~hearings by administrative bodies in the state shall apply.~~
19 ~~Strict rules of evidence and procedure shall not apply.~~
20 ~~Further, a record of the proceedings before the mayor~~
21 ~~concerning any hearing shall be documented by a court~~
22 ~~reporter and maintained by the personnel director. Any~~
23 ~~person appearing before the mayor shall be entitled to~~
24 ~~representation of counsel.~~

1 ~~(2) The mayor shall be represented by the corporation counsel~~
2 ~~concerning the hearing. He shall present evidence to the~~
3 ~~mayor concerning the alleged action.~~

4 ~~(3) Prior to the time any hearing is held by the mayor~~
5 ~~concerning any alleged violation hereunder, the mayor shall~~
6 ~~provide written notice to any individual accused of making~~
7 ~~the violation notifying the person of the alleged violation~~
8 ~~and providing him with at least ten (10) days' notice prior~~
9 ~~to any hearing. The notice shall specify the nature of the~~
10 ~~conduct being considered, the nature of violation being~~
11 ~~alleged, the time and date of any hearing pertaining to the~~
12 ~~individual, and shall be served upon such individual by~~
13 ~~certified mail or by personal service. The hearing may be~~
14 ~~continued from time to time at the discretion of the mayor,~~
15 ~~but must be completed within thirty (30) days from the date~~
16 ~~of commencement of the hearing.~~

17 ~~(4) The mayor shall enter his confidential written opinion~~
18 ~~within ten (10) days of any hearing. All opinions of the~~
19 ~~mayor shall be submitted to the person making the complaint,~~
20 ~~the accused and the council.~~

21 ~~(5) If the mayor finds that there is substantial reason to~~
22 ~~believe that this division has been violated, the mayor may~~
23 ~~take appropriate remedial action which may include~~
24 ~~reprimand, suspension without pay, or removal from office or~~

1 ~~employment as permitted by law and the rules and regulations~~
2 ~~of the civil service commission. The remedial action may~~
3 ~~also include referral of the matter to the corporation~~
4 ~~counsel for prosecution as a violation of this Code or, where~~
5 ~~participation by the corporation counsel is inappropriate,~~
6 ~~the referral of the matter to a special prosecuting attorney.~~

7 ~~(Code 1969, § 2-358; Ord. No. 099-97, § 1, 11-9-99)~~

8 ~~Sec. 2-189. - Adoption of State Officials and Employees Ethics~~
9 ~~Act.~~

10 ~~(a) The regulations of Sections 5-15 and Article 10 of the State~~
11 ~~Officials and Employees Ethics Act (5 ILCS 430/1-1 et seq.,~~
12 ~~("Act") are hereby adopted by reference and made applicable to~~
13 ~~the officers and employees of the city to the extent required~~
14 ~~by 5 ILCS 430/70-5.~~

15 ~~(b) The solicitation or the acceptance of gifts prohibited to be~~
16 ~~solicited or accepted under said Act, by any officer or any~~
17 ~~employee of the city, is hereby prohibited.~~

18 ~~(c) The offering or making of gifts prohibited under the Act, by~~
19 ~~any officer or employee of the city, is hereby prohibited.~~

20 ~~(d) The participation in political activities prohibited under~~
21 ~~the Act, by any officer or employee of the city, is hereby~~
22 ~~prohibited.~~

23 ~~(e) For purposes of this section, the terms "officer" and~~
24 ~~"employee" shall be defined as set forth in 5 ILCS 430/70-5(c).~~

1 ~~(f) The penalties for violations of this section shall be the~~
2 ~~same as those penalties set forth in 5 ILCS 430/50-5 for similar~~
3 ~~violations of the Act.~~

4 ~~(g) This section does not repeal or otherwise amend or modify any~~
5 ~~existing ordinances or policies which regulate the conduct of~~
6 ~~city officers and employees. To the extent that any such~~
7 ~~existing ordinances or policies are less restrictive than this~~
8 ~~section, however, the provisions of this section shall prevail~~
9 ~~in accordance with the provisions of 5 ILCS 430/70-5(a).~~

10 ~~(h) Any amendment to the Act that becomes effective after the~~
11 ~~effective date of this section shall be incorporated into this~~
12 ~~section by reference and shall be applicable to the~~
13 ~~solicitation, acceptance, offering and making of gifts and to~~
14 ~~prohibited political activities. However, any amendment that~~
15 ~~makes its provisions optional for adoption by municipalities~~
16 ~~shall not be incorporated into this section by reference without~~
17 ~~formal action by the corporate authorities of the city.~~

18 ~~(i) If the Illinois Supreme Court declares the Act~~
19 ~~unconstitutional in its entirety, then this section shall be~~
20 ~~repealed as of the date that the Illinois Supreme Court's~~
21 ~~decision becomes final and not subject to any further appeals~~
22 ~~or rehearings. This section shall be deemed repealed without~~
23 ~~further action by the corporate authorities of the city if the~~
24 ~~act is found unconstitutional by the Illinois Supreme Court.~~

1 ~~(j) If the Illinois Supreme Court declares part of the Act~~
2 ~~unconstitutional but upholds the constitutionality of the~~
3 ~~remainder of the Act, or does not address the remainder of the~~
4 ~~Act, then the remainder of the Act as adopted by this section~~
5 ~~shall remain in full force and effect; however, that part of~~
6 ~~this section relating to the part of the Act found~~
7 ~~unconstitutional shall be deemed repealed without further~~
8 ~~action by the corporate authorities of the city.~~

9 ~~(Ord. No. 099-44, § 1, 6-22-99; Ord. No. 004-47, § 1, 5-11-04)~~

10 Sec. 2-190. - Adoption of the Illinois Whistleblower Reward and
11 Protection Act.

12 The provisions of the Illinois Whistleblower Reward and
13 Protection Act (740 ILCS 175/1 et seq.) are hereby adopted. To the
14 extent of any conflict between the terms of this division and said
15 Act, the terms of this division shall control.

16 (Ord. No. 005-90, § 1, 7-12-05)

17 Sec. 2-191. - Whistleblower protection.

18 (a) For the purposes of this section:

- 19 (1) *City contractor* means a person who enters into a contract
20 or who has taken any action to obtain a contract, or any
21 owner, officer, director, employee or agent of such a person,
22 or any subcontractor, or any person acting in concert or
23 conspiring with such person.

1 (2) *Public body* means (i) the city council of the City of
2 Aurora; (ii) the federal government including federal law
3 enforcement agencies and prosecutorial offices; (iii) the
4 state government including state law enforcement agencies
5 and prosecutorial offices; (iv) the appropriate state's
6 attorneys office; and (v) any federal or state judiciary
7 including grand or petit juries.

8 (3) *Retaliatory action* means the reprimand, discharge,
9 suspension, or demotion, of any city employee that is taken
10 in retaliation for any city employee's involvement in
11 protected activity as set forth in subsection (b) of this
12 section.

13 (b) No person shall take any retaliatory action against a city
14 employee because the city employee does any of the following:

15 (1) Discloses or threatens to disclose to a public body policy
16 or practice of any officer, agency, employee or city
17 contractor that the employee reasonably believes evidences
18 an unlawful use of public funds, criminal misconduct, or
19 unlawful conduct that poses a substantial and specific
20 danger to public health or safety by any officer, agency,
21 employee or city contractor; or

22 (2) Provides information to or testifies before any public
23 body conducting an investigation, hearing, or inquiry into
24 any policy or practice described in subsection (b)(1); or

1 (3) Assists or participates in a proceeding to enforce the
2 provisions of this section.

3 (c) A violation of this section may be established only upon a
4 finding that (i) the employee engaged in the conduct described
5 in subsection (b) and (ii) that conduct was a substantial
6 contributing factor in the retaliatory action alleged by the
7 employee. It is not a violation, however, if it is determined
8 by a preponderance of the evidence that the same unfavorable
9 personnel action would have occurred in the absence of conduct
10 described in subsection (b).

11 (d) An employee who is exonerated or otherwise proves that
12 retaliation as defined herein did occur and that he was harmed
13 thereby, shall, in addition to any award by an arbitrator, the
14 civil service commission or a court of competent jurisdiction
15 be entitled to two (2) times the amount of back pay. In
16 addition, said employee may be entitled to the following from
17 an arbitrator, the civil service commission or a court of
18 competent jurisdiction:

19 (1) Reinstatement of the employee to either the same position
20 held before the retaliatory action or to an equivalent
21 position;

22 (2) Interest on the back pay;

23 (3) Reinstatement of full fringe benefits and seniority
24 rights; and

- 1 (4) The payment of reasonable costs and attorneys' fees.
- 2 (e) Nothing in this section shall be deemed to diminish the
3 rights, privileges, or remedies of any employee under any other
4 federal or state law, rule or regulation or under any collective
5 bargaining agreement or employment contract.
- 6 (f) Any officer, agent, employee or city contractor who has
7 violated the terms of this ordinance shall be subject to
8 disciplinary action up to and including discharge and/or
9 removal from office and/or any contractual relationship with
10 the city shall be voided.
- 11 (g) In the event it is determined by an arbitrator, the civil
12 service commission, or a court of competent jurisdiction, that
13 an employee's rights have been violated, the matter shall be
14 referred to the corporation counsel who shall within thirty
15 (30) days thereafter (or within a reasonable extension thereof,
16 should the corporation counsel so notify the city council in
17 writing within such thirty (30) days), advise the city council
18 as to the potential disciplinary action against those
19 responsible for such violation.
- 20 (h) Any employee who alleges a violation of this section and does
21 so frivolously shall be subject to discipline up to and
22 including discharge. An allegation is considered frivolous if
23 it is lacking in any reasonable basis and was not brought in
24 good faith.

1 (Ord. No. 005-90, § 2, 7-12-05)