

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 234A**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, WASHINGTON AMENDING
CITY OF LIBERTY LAKE ORDINANCE NO. 234 RELATING TO A CODE OF
ETHICS.**

WHEREAS, the City of Liberty Lake passed Ordinance No. 234 creating a Code of Ethics; and

WHEREAS, the City Council of the City of Liberty Lake desires to amend the Code of Ethics as set forth herein.

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, do ordain as follows:

Section 1. Amendment. Ordinance No. 234 and City of Liberty Lake Municipal Code Title 1, Chapter 10-3 are hereby amended as set forth in the attached Exhibit A.

All other provisions set forth in Ordinance No. 234 and Liberty Lake Municipal Code, Title 1, Chapter 10 shall remain in full force and effect.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or unconstitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. The Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

Passed by the City Council this 22nd day of February, 2021.


MAYOR CRISTELLA KAMINSKAS

ATTEST:


ANN SWENSON, City Clerk

APPROVED AS TO FORM:



SEAN P. BOUTZ, City Attorney

**TITLE 1
Chapter 10
CODE OF ETHICS**

Sections:

- 1-10-1 Declaration of policy.
- 1-10-2 Code of ethics.
- 1-10-3 Nepotism.
- 1-10-4 Social Media.
- 1-10-5 Disclosure.
- 1-10-6 Civil penalties.
- 1-10-7 Responsibilities of Hearing Examiner.
- 1-10-8 Enforcement procedures.
- 1-10-9 False charge of misconduct.

1-10-1 Declaration of Policy.

High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. Public officials and public employees are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires that public officials and employees be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest.

1-10-2 Code of Ethics.

The purpose of the code of ethics is to assist City officials in establishing guidelines to govern their own conduct as it relates to official City business. The code is also intended to help develop traditions of responsible public service. This Code of Ethics shall apply to all members of the City Council, Planning Commission, and other City Boards and Commissions (hereinafter collectively "Representatives"). Representatives shall be deemed to have violated this Code of Ethics if he or she:

- (1) Receives or has any financial interest in any sale to or by the City of any service or property when such financial interest was received with the prior knowledge that the City intended to purchase such property or obtain such service;

(2) Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City;

(3) Accepts any gift or favor from any person, firm or corporation having any dealings with the City if he or she knows or has reason to know that it was intended to obtain special consideration;

(4) Influences the selection of or the conduct of business with a corporation, person or firm having business with the City if he or she personally or through household relatives has financial interest in or with the corporation, person or firm;

(5) Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the City, unless he or she has disclosed such relationship as provided by this chapter; provided, that nothing herein shall be deemed to apply to consultants who render professional advice to corporations, firms or persons on matters unrelated to the business with the City. This provision shall not apply if the official or employee disqualifies himself or herself from all participation in the City business with the corporation, firm or person;

(6) Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his or her official duties, would impair his or her independence of judgment or action in the performance of his or her official duties, or would require or induce him or her to disclose confidential information acquired by reason of his or her official position;

(7) Appears on behalf of a private interest before any regulatory governmental agency against the interest of the City, or represents a private interest in any action or proceeding against the interest of the City in any litigation to which the City is a party, unless he or she has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A City Councilmember may appear before regulatory governmental agencies on behalf of constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations; however, no Representative shall accept a retainer or compensation that is contingent upon a specific action by a City agency;

(8) Directly or indirectly possess a substantial or controlling interest in any business entity which conducts business or contracts with the City, or in the sale of real estate, materials, supplies or services to the City, without disclosing such interest as provided by this chapter. An interest is not a substantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern, or the

financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his or her household relatives;

(9) As a City Councilmember, has a financial or other private interest in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the City Council. This provision shall not apply if the City Councilmember disqualifies himself or herself from voting by stating the nature and extent of such interest. Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the City Council and fails to disclose on the records of the City Council the nature and extent of such interest is in violation of this chapter;

(10) Violates any ordinance or resolution of the City;

(11) Discloses confidential information gained by reason of his or her official position or otherwise uses such information for his or her personal gain or benefit;

(12) Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation;

(13) Request or permit the use of City-owned vehicles, equipment, materials or property for personal convenience, improper purposes, or profit, except when such services are available to the public generally or are provided as City policy for the use of such official in the conduct of official business;

(14) Grants any special consideration, treatment or advantage beyond that which is available to every other citizen in similar circumstances;

(15) Knowingly and in willful disregard of LLMC 1-10-3 violates or influences any other person to violate the nepotism policy set forth in LLMC 1-10-3;

(16) Violates any provision of Chapter 42.20 or 42.23 RCW;

(17) Violates the appearance of fairness doctrine in Chapter 42.36 RCW.

1-10-3 Nepotism.

In order to prevent conflicts of interest, the City limits employment of immediate family, as defined in these policies, under any or all of the following circumstances:

- (1) Where an immediate family member would have authority (or practical power) to supervise, appoint, remove, or discipline the other;
- (2) Where an immediate family member would be responsible for auditing the work of the other;
- (3) Where both parties would report to the same immediate supervisor;
- (4) Where, in order to avoid the reality or appearance of improper influence or favor, or to protect confidentiality, the City must limit the employment of immediate family members of policy level officers of any agency or organization currently dealing with the City or which could reasonably be expected to deal with the City in the future;
- (5) Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City;
- (6) Where an immediate family member, other than a spouse, is a ~~member of the City Council~~ public official. If an employee's spouse is a ~~City Council member~~ public official, then a prohibited conflict of interest exists if any or all of subsections (1) through (4) of this section apply.

For purposes of this section, "immediate family" means the public official's or employee's spouse, registered domestic partner, child, parent, brother and sister, mother and father-in-law, son and daughter-in-law, aunt and uncle, grandparents, grandchildren, ~~or step relatives or domestic partner relatives in one of these relationships~~ ~~step relatives, domestic partner relatives in one of these relationships, or other relative, and who lives in the~~ ~~public official or employee's home.~~ same home of the public official or employee.

1-10-4 Social Media.

This section identifies the roles, responsibilities, and best practice recommendations for the use of social media by City Representatives. The City is committed to open and progressive communications between its Representatives and their constituents utilizing available and future online technologies within the limits of the law.

This policy applies to any social media site or tool used by Representatives in their official or employment capacity to communicate with constituents or the general public. Where indicated, certain provisions of this policy shall apply only to social media sites/tools that are owned or maintained by the City of Liberty Lake, including sites/tools that are established by the City for its' Representatives. It is primarily each Representatives responsibility to ensure compliance with this policy.

It is the City's preference and intent that Representatives will not utilize social media to communicate in their official or employment capacity except through social media sites/tools that are owned or maintained by the City of Liberty Lake. The use of private social media sites/tools for this purpose is strongly discouraged.

While social media, with its use of popular abbreviations and shorthand, does not adhere to standard conventions of correspondence, the content and tenor of online conversations, discussions, and information posts and comments should model the same professional behavior displayed during Council meetings and community meetings.

Social media are not to be used by Representatives as mechanisms for conducting official City business other than to informally communicate with the public. Examples of business that may not be conducted through social media include: making policy decisions, official public noticing, and discussing confidential City matters that have not been approved for release to the public. Representatives' social media site(s) should contain links directing users back to the City's official website for in-depth information, forms, documents, or online services necessary to conduct official city business.

The City Administrator shall have primary responsibility to administer and enforce the provisions of this chapter with respect to social media sites/tools that are owned or maintained by the City of Liberty Lake. The City Administrator may cause categories of official City of Liberty Lake social media applications, tools, or sites to be permanently or temporarily discontinued if they are not or cannot be used in compliance with this policy. The City Administrator shall exercise such discretion in a viewpoint-neutral, evenhanded, and non-arbitrary manner. If Representatives are aggrieved by an administrative decision or enforcement action of the City Administrator they may request an informal hearing with the Hearing Examiner to challenge such decision or action consistent with LLMC 1-10-8.

DEFINITIONS

As used in this section, the following shall be defined as:

"Chat" is a feature that allows instant messages to be sent.

"Comment" is a response to a post, an article or other social media content submitted by a visitor.

"City Council Member" includes members, individually or collectively, of the Liberty Lake City Council, and any employees working on behalf of said member(s) to represent him or her, using a social media tool.

“Like” is a feature that allows users to show their support for a specific comments, pictures, wall posts, statuses, or fan pages. The “Like” button allows users to show their appreciation for content without having to make a written comment.

“Mayor” includes the Mayor of the City of Liberty Lake and any employees working on behalf of the Mayor to represent him or her, using a social media tool.

“Post” is an original entry onto a social media site by the user of the site.

“Representatives” includes, but is not limited to, the Mayor, all members of the City of Liberty Lake City Council, Planning Commission, and other City Board and Commission members.

“Sharing” is to relay a previously created post onto a different social media site.

“Social Media” are third-party hosted online technologies that facilitate social interactions and dialogue. These online technologies are operated by non-city hosted services and may be used by the Mayor or City Council Members to communicate with the public. Such third party hosted services/tools may include, but are not limited to: social networking sites (MySpace, Facebook, Linked-In), micro-blogging tools (Twitter, RSS feeds), audiovisual networking sites (YouTube, Flickr), and blogs and similar sites.

“Tagging” is a mechanism of linking a person, page or place to a post.

“Visitor” is a person who views the Mayor or City Council Member’s social media site.

RECORDS RETENTION ACT COMPLIANCE

State and local records retention laws and schedules apply to social media content. All social media content that is required to be retained shall be maintained for the legally required retention period based on the subject matter of the content. Prior approval of the retention format and procedures for each social media tool being used must be received from the City Administrator upon the advice and recommendations of the Public Records Officer and City Clerk. Except for social media sites/tools that are owned or maintained by the City of Liberty Lake, which will be retained through the City’s archiving system, it is the ultimate responsibility of Representatives to maintain current, approved retention procedures and to ensure that those procedures are followed.

As with any correspondence sent in his or her capacity, as applicable, Representatives postings to social media sites maintained by others must be retained by the Representatives to the extent that such content

constitutes a “public record” as defined by Chapter 42.56 RCW. Printouts of postings to others’ sites may suffice for retention purposes.

Representatives should consult with the City Administrator or City clerk for the applicable retention schedule and method.

PUBLIC RECORDS ACT COMPLIANCE

Content maintained in a social media format that is related to City business, including communication between individual Representatives and constituents or the general public, and a site’s listing of “friends” or “followers”, may be considered a public record subject to disclosure under the state Public Records Act.

Any social media tools used should clearly state that all content submitted by members of the public is potentially subject to public disclosure pursuant to the Public Records Act, RCW 42.56. If it is not possible to display this notice prominently on the site, Representatives should notify users by including a link from the site to the Public Records Act, notify new users via responses to posts, and/or periodically notify existing users via broadcast message.

Under the state Public Records Act, the City is potentially responsible for responding accurately and completely to any public records request, including a request for public records on social media maintained by individual Representatives. Therefore, it is mandatory that records have been retained for the legally required retention period in accordance with applicable standards.

Users of, and visitors to, social media sites shall be notified that public disclosure requests must be directed to the appropriate City Public Records Officer pursuant to the City’s Public Records Disclosure Policy.

OPEN PUBLIC MEETINGS ACT AND APPEARANCE OF FAIRNESS DOCTRINE COMPLIANCE

Communication between City Council Members via social media, as with telephone and email, may potentially constitute a “meeting” under the Open Public Meetings Act, Chapter 42.30 RCW. For this reason, City Council Members are prohibited from participating in social media discussions/threads regarding City business that involve a quorum of City Council Members, and are strongly discouraged from “friending” other City Council Members or “liking” other City Council Members’ posts.

In addition, receiving or making posts or comments regarding quasi-judicial matters via social media may violate City Council policy, local or state law, including Chapter 42.36 RCW – Appearance of Fairness Doctrine. To avoid receiving any comments on pending quasi-judicial matters that may violate the Appearance of Fairness Doctrine, City Council Members are strongly encouraged to maintain social media sites with settings that can restrict users' ability to post content.

EQUAL ACCESS

Representatives are discouraged, in their official capacity, from posting or commenting on social media sites that require membership or subscription. When posting information or soliciting feedback on such a site, Representatives should always provide an alternate source for the same information or mechanism for feedback on the City's public website so that those that are not members of the social media site may have equal access.

1-10-5 Disclosure.

Disclosure as required by this chapter shall be in writing and filed with the City Clerk. Disclosure shall be made as soon as the person becomes aware of the facts giving rise to the disclosure requirements. An oral disclosure made at a regular or special City Council meeting shall constitute compliance with this section. The oral disclosure shall be included in the official minutes of the Council meeting.

1-10-6 Civil Penalties.

(1) Any member of a City Board or Commission found guilty of a violation of this chapter may be suspended or removed from office by action of the City Council through a majority vote of the City Council Members,

(2) Any member of the City Council found guilty of a violation of this chapter in addition to any other penalties permitted by law may a) receive a written reprimand in a letter approved by the majority vote of the other City Councilmembers, b) a censure by written statement approved by majority vote of the other City Councilmembers and administered personally to the individual Councilmember in open session of the City Council, c) suspension, or d) removal from office for repeated violations as determined and approved by a majority vote of the other City Council members.

(3) In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this chapter, any person or organization which willfully attempts to secure preferential treatment in its dealing with the City by offering any valuable gifts, whether in the form of services, loan, thing or promise, or any other form to any City official or employee, shall have its current contract with the City canceled and shall not be able to bid on any other City contracts for a period of two (2) years.

1-10-7 Responsibilities of Hearing Examiner.

(1) There is hereby delegated to the Hearing Examiner the responsibilities set forth in LLMC 1-10-4 and 1-10-8 relating to enforcement procedures of this Code of Ethics. Once an allegation or complaint has been filed with the office of the City Clerk and notice of such filing has been transmitted to the Hearing Examiner, which notice shall not set forth any names or details concerning the complaint, the Hearing Examiner shall conduct an investigation; provided, that in the event a complaint shall involve in some manner the office of the Hearing Examiner, the matter shall be referred to the City Attorney for investigation, all in accordance with the procedures outlined herein.

(2) The Hearing Examiner is also authorized to issue advisory opinions upon request of City officials concerning the applicability of this chapter to specific factual situations. Administrative employees under the supervision of the Mayor concerned with the applicability of this chapter to specific factual situations may address their concerns to the Mayor or his/her designee.

1-10-8 Enforcement Procedures.

(1) Any person who has knowledge of a violation of this Code of Ethics by a person other than an administrative employee under the supervision of the Mayor may make a signed written report of the same to the City Clerk. The fact that a report has been received, the contents of the report, and the identity of the person making the report shall remain confidential until such time as the Hearing Examiner has made an initial threshold determination that probable cause exists to believe that a violation of the Code of Ethics has occurred.

(2) Upon receipt of a report, the Hearing Examiner, without benefit of subpoenas or sworn testimony, shall make such preliminary investigation as he or she deems appropriate to determine whether probable cause exists to believe that a violation of the Code of Ethics has occurred. Once the preliminary investigation is complete, the person accused shall be given the name(s) of the accuser(s) and the allegations whether or not the Hearing Examiner finds probable cause. If the Hearing Examiner is satisfied that probable cause does exist, he or she may choose between two (2) courses of action as follows:

(a) Refer the matter to the proper authorities for criminal prosecution; provided, that upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the proper authorities may refer the matter back to the Hearing Examiner for proceedings consistent with the civil burden of proof (e.g., a simple preponderance of the evidence); or

(b) Retain the matter for his or her own formal investigation with a view toward the ultimate disposition by the City Council in the event it is determined an actual violation has occurred.

(3) If the Hearing Examiner should determine probable cause does not exist, he or she shall communicate his or her decision in writing to the person who made the initial report. The Hearing Examiner's determination of lack of probable cause shall remain confidential, unless the person who made the initial report chooses to make his or her complaint public. Should this latter event occur, all of the Hearing Examiner's records, files, notes, correspondence, and investigative materials relating to the finding of lack of probable cause shall be made open for public inspection.

(4) Should the Hearing Examiner decide to retain the matter for his or her own formal investigation pursuant to subsection (2)(b) of this section, the Hearing Examiner shall notify, in writing, the person who made the report and the person complained against, of his or her decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred. The person complained against may choose whether the hearing shall be open or closed to the public.

(5) Hearings conducted by the Hearing Examiner shall be informal. The person complained against may be represented by legal counsel and may present and cross examine witnesses and give evidence before the Hearing Examiner. The Hearing Examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence needed. To that end, the proper authorities shall issue subpoenas and subpoenas duces tecum at the request of the Hearing Examiner or the person complained against. 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.

Upon motion made by the person complained against or upon his or her own motion, the Hearing Examiner may temporarily stay or permanently suspend his or her investigation when, in his or her formal discretion, the manifest needs of justice and fairness will be better served thereby.

The Hearing Examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the Hearing Examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

(6) Within thirty (30) days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her determination of a recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be forwarded by registered mail to the person who made the initial report and to the person complained against at addresses as given by both persons to the Hearing Examiner. An additional copy of the findings, conclusions, and recommendations shall be forwarded to the City Council for its formal action, if any.

(7) Upon receipt of the Hearing Examiner's final action, the City Council shall schedule a public hearing. The person complained against shall have not less than two (2) weeks' written notice of this hearing. At this hearing the Hearing Examiner, the person complained against, and other interested parties shall be given a reasonable opportunity to be heard, following which the City Council may adopt, reject, amend, or modify the Hearing Examiner's findings, conclusions, and recommendations, or remand the matter for further investigation and consideration by the Hearing Examiner. The Council's decision shall be in writing, setting forth its findings, conclusions, and in appropriate cases, the civil sanction(s) imposed.

(8) After a complaint has been filed and during the pendency of a complaint, members of the City Council shall not discuss, directly or indirectly, with any party or other person about any issue or fact or law regarding the complaint, except as part of the investigation or disposition of the complaint.

(9) Neither the City nor any Representatives may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, responsibilities, against any person because that person filed a complaint.

1-10-9 False Charge of Misconduct.

Any person who shall file with or report a charge of misconduct on the part of any public official or other person encompassed within the definition of this chapter, knowing such charge to be false or to have been recklessly made without any reasonable attempt to determine relevant facts and circumstances, shall be guilty of a misdemeanor and shall be punished as provided in Chapter 1-4-1 LLMC. In addition, the City Administrator may request that the Hearing Examiner make a finding that a complaint brought pursuant to this Code of Ethics is frivolous and without merit. Upon such a finding, the person making such a complaint may be liable to the City for the cost of any investigation, if applicable. If the complainant is a City employee, he or she may be subject to disciplinary action as set forth in LLMC 1-10-6 and any other action applicable to a City employee, including but not limited to, termination of employment.