

Code of Ethics for the City of Honeyville

Preface

This document, Code of Ethics for the City of Honeyville, is structured as follows.

Section 1 contains definitions of terms used in the code.

Section 2 states the purpose of the code and lists the provisions of ethical behavior required in city government.

Section 3 describes the procedure for registering a complaint of ethics violation.

Section 4 discusses annual ethics training requirements.

This code is designed to be consistent with and derive from Utah Code, Part 13 (defined below). If future state legislation updates Part 13, its provisions prevail over this code.

1.0 Definitions

1.1 Utah Code, Part 13

Utah Code, Title 10, Chapter 3, Part 13, "Municipal Officers' and Employees' Ethics Act."

1.2 City

The City of Honeyville, Utah.

1.3 City Officials

Persons elected to City positions, appointed to City boards or committees, hired as employees, and selected as long-term contractors working for the City.

1.4 Immediate Family

Consists of spouse, siblings and siblings-in-law, persons of lineal ancestry (parents, grandparents, etc.), persons of lineal descent (children, grandchildren, etc.) and persons living in the same household whether related or not.

1.5 Council

Any administrative body of the City, including city council, boards, committees, or commissions.

1.6 Substantial Interest

The ownership, either legally or equitably, by an individual or the individual's Immediate Family, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business activity (from Utah Code, Part 13, Section 10-3-1303(9)).

An extended list of definitions relevant to this code is in Utah Code, Part 13, Section 10-3-1303.

2.0 Provisions of Ethical Behavior in City Government

The purpose of this Honeyville City Code of Ethics is to provide a statement of standards of ethical conduct required of all City Officials so that they shall

- a. Never knowingly use their office or position for personal gain or profit at the expense of the interests of the City,
- b. Never use City-owned property or services for personal gain or profit, and
- c. Never disclose confidential information obtained by reason of their official position for other than City purposes.

2.1 Conflicts of Interest

2.1.1 City Officials shall not knowingly engage in activities which are in conflict, or have potential to create conflict, with performance of official duties. Examples of conflicts of interest include, but are not limited to:

- a. Influence in selection or non-selection of, or the conduct of business between the City and an entity in which the City Official or an Immediate Family member has financial interest.
- b. Acceptance of a retainer, compensation, gift, or anything of value that is contingent upon a specific action or non-action by the official.
- c. Intentional use or disclosure of information not available to the general public, acquired by reason of their position, which personally benefits themselves, Immediate Family or others.

2.1.2. City Officials shall not take any action concerning any contract, property, or other matter which provides a financial or other personal benefit to the official, Immediate Family members, customers, clients, an employer, or a person who has made a campaign contribution to the official within the term of office.

2.1.3 City Officials shall not be deemed to violate Subsection 2.1.2 of this section when they have only a remote interest (as opposed to a Substantial Interest) in a contract or sale. Officials shall disclose the fact and extent of a remote or Substantial Interest for the official minutes of the city council prior to the city council taking any action related to the interest.

2.1.4 City Officials are prohibited from being awarded contracts with the City. Notwithstanding this prohibition, officials may have a beneficial interest in a contract with the City under the following circumstances:

- a. If an item of business relating to a contract comes before the official, the official must identify the contract on record and recuse themselves from acting in any way on that item. The official shall not remain in the meeting during the discussion of that item; and
- b. The official has not lobbied the City to enter into a contract; and
- c. The official has not influenced policy with the primary purpose of creating the need for the contract; and
- d. A contract cannot be made by, through or under the supervision of the official, in whole or in part, for the benefit of their office.

2.1.5 If the City enters into any transaction for which conflicts of interest should have been disclosed but were not, then a complaint of ethics code violation may be lodged against the City Official(s) failing to disclose. Any contracts or subcontracts entered into pursuant to that transaction may be rescinded or voided without returning any part of the consideration received by the City. This Subsection 2.1.5 derives from Utah Code, Part 13, Section 10-3-1312.

2.2 Disclosure Statements

At the time of their appointment, every City Official must submit written disclosure statements which list, to the best of their knowledge, all potential associations with persons or business entities, if any, that could lead to a conflict of interest during the discharge of their municipal responsibilities. Thereafter disclosure statements must be amended throughout their tenure in office as additional associations arise or end. Disclosure statements by City Officials must be a sworn, written document to the mayor which thereafter must be included in the minutes of the Council of which the official is a member. Disclosure statements are required at least 10 days before items of business come before the Council to which the disclosure has bearing.

This Section 2.2 conforms to Utah Code, Part 13 which details disclosure statement requirements:

- Section 10-3-1305 “Compensation for assistance in transaction involving municipality – Public disclosure and filing required”
- Section 10-3-1306 “Interest in business entity regulated by municipality – Disclosure statement required”
- Section 10-3-1307 “Interest in business entity doing business with municipality – Disclosure
- Section 10-3-1308 “Investment creating conflict of interest with duties – Disclosure.”

Disclosure statements must contain:

- Name and address of City Official
- Name and address of person or business entity who is the subject of the disclosure
- A brief description of the transaction between said City Official and said person or business entity that has or may be enacted.

2.3 Appearance of Impropriety

All City Officials shall endeavor to avoid any action creating the appearance that they are violating the law or the ethical standards of the City. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with the knowledge of relevant facts. Based on this standard, before a complaint is submitted, the complainant should have sufficient information in support of the allegation.

2.4 Recusal

City Officials must recuse themselves when faced with any conflict of interest that could reasonably be perceived as influencing their unbiased judgment in any matter before their Council. Recusal means the official may not deliberate, vote, or participate in the Council's decision-making process on the matter from which they have recused themselves. They may present information to the Council as a private citizen if they have direct ties to that matter of business.

If a City Official deems a disclosed matter to be insufficient to warrant their recusal and declines recusal, a motion may be made in the meeting of that Council, after discussion, on the issue of forced recusal with majority rule carrying. The official who is the subject of the recusal motion may not vote except in the case of a tie among remaining voting members.

2.5 City Property and Resources

City Officials may not use City-owned property, assets or resources for personal purpose, profit or benefit. Use is restricted for official business and to further authorized public purposes.

2.6 Nepotism

Immediate Family members of any City Official may not serve in positions whose duties conflict or appear to conflict with duties of the official. They may not serve on a Council of which the official is a member. They may not be an employee under the jurisdiction of that official.

2.7 Gifts

City Officials may not solicit any gift nor may they receive any gift, whether financial or in any other form, from any person who is doing or seeking to do business with the City. Officials may not solicit or receive any gift or payment as a reward for exercise of their official duties. In general, officials may not receive or solicit any gift creating the appearance that their official duties may be influenced or that their responsibility to make impartial decisions solely in the public interest is compromised. Exceptions listed in Utah Code, Part 13 include:

- a. an occasional nonpecuniary gift having a value of less than \$50;
- b. an award publicly presented in recognition of public services;
- c. any bona fide loan made in the ordinary course of business; or
- d. a political campaign contribution.

Gift definitions and exceptions are further elaborated in Utah Code, Part 13, Section 10-3-1304 with which this provision is consistent.

2.8 Representation

City Officials shall not appear on behalf of, or represent a person in any matter before any municipal agency except on their own behalf.

2.9 Confidential Information

City Officials and former officials shall not, except as required or reasonably believed to be required, disclose confidential information gained by reason of their position or use such information for their personal benefit. "Confidential information" is all information, transmitted orally or in writing to the official which is intended to be used for City purposes and is not intended for public knowledge, and is not of public record. Confidential information includes, but is not limited to:

- personal information regarding City Officials;
- private financial and other personal information provided by taxpayers, license holders, contractors, and customers;
- intelligence and information, including the identity of persons filing complaints;
- formulas, designs, drawings, and research data obtained or produced by the City; and
- preliminary opinions and recommendations concerning policy and action.

2.10 Subordinates

No City Official shall solicit political contributions from subordinates or request that they attend political functions or engage in any political activity. Officials shall not request a subordinate to perform any service providing pecuniary or other benefits to the official in a manner outside the duties of their office or that is inconsistent with the provisions of this code.

2.11 Incompatible Positions

A City Official is prohibited from (a) holding more than one position with the City when one is subordinate to the other and (b) holding more than one position with the City when the duties of the positions conflict.

2.12 Harassment and Discrimination

Harassment or discrimination of any kind (e.g., verbal, physical, or visual) that creates an intimidating, hostile, or offensive work environment for any City Official, their contractors, or the general public is strictly prohibited. Honeyville City Employee Policy, Section 2.2 contains definitions of harassment, discrimination, and unacceptable behavior by City Officials. Definitions and policies in Section 2.2 transfer to and are applicable to this code.

3.0 Registering a Complaint of Violation

When any person, including other City Officials, wish to file an ethics violation complaint against a City Official(s), that person should give a written and signed copy of the complaint to

- the City mayor or, if the complaint is against the mayor, to the mayor pro tem; or

- the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 of the Utah Code (see Part 13, Section 10-3-1311); or
- legal counsel.

The complaint should contain the following items:

- a. The specific provision(s) of this ethics code or of Utah Code, Part 13, that have allegedly been violated;
- b. Who committed the alleged violation(s);
- c. A description of the alleged violation(s) with accompanying evidence. Verbal evidence or hearsay testimony is not acceptable. If witness testimony is included, it must also be written and signed by the witness(es).

If the complaint is lodged with the City, the City Official receiving the complaint shall review the evidence and respond to the complainant within 7 business days unless the urgency of the complaint requires a more immediate response. The responding City Official shall investigate the evidence, confirm witness testimony (if any), and notify the complainant of the disposition of the complaint. The outcomes may be either

- a. Insufficient evidence or misconstrued interpretation of ethics provisions.
The complaint is withdrawn by the complainant or dismissed by the City Official. If the complainant is unsatisfied with this decision, he/she may (1) petition for an agenda item on the next city council meeting to present the complaint to the city council and/or (2) forward the complaint to the Political Subdivisions Ethics Review Commission.
- b. Sufficient evidence.
The matter is investigated by the City Official with assistance from other City Officials, legal counsel, or law enforcement as required. The city council is responsible to determine appropriate actions regarding the subject of the complaint, consistent with Honeyville City Employee Policy, Section 2.3⁷; Utah Code, Part 13, Sections 10-3-1309, 1310, 1311, and 1312; and with state and federal law.

4.0 Ethics Training

Each City Official shall receive annual training on the requirements of this code of ethics and shall sign a document certifying that the training was received and that the official agrees to adhere to the provisions of this code. Current copies of the code shall be provided to all officials.