

ORDINANCE NO. 030-13

AN ORDINANCE AMENDING CHAPTER 6 OF THE CEDAR RAPIDS
MUNICIPAL CODE BY REPEALING SECTION 6.22 THEREFROM AND
ENACTING IN ITS PLACE A NEW SECTION 6.22 REGARDING THE CEDAR
RAPIDS BOARD OF ETHICS RULES AND PROCEDURES

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR
RAPIDS, IOWA AS FOLLOWS:

Section 1. Chapter 6 of the Cedar Rapids Municipal Code is hereby amended by
repealing Section 6.22 therefrom and enacting in its place a new Section 6.22 as follows:

"6.22 CEDAR RAPIDS BOARD OF ETHICS RULES AND PROCEDURES

(a) **Declaration of Policy.** The Cedar Rapids Home Rule Charter, approved by the Cedar Rapids voters during an election held on June 14, 2005 provided for a Board of Ethics and gave it certain duties and responsibilities as set forth therein. The Home Rule Charter contemplates that certain substantive issues pertaining to conflicts of interest and ethics shall be administered by the Board. The purpose of these Rules and Procedures (hereinafter "rules") is to set forth the procedures by which the Board will conduct its business and accomplish the responsibilities assigned to it in the Home Rule Charter.

(b) **Applicable Provisions of Home Rule Charter and City Ordinances.** Sections 6.01 and 6.02 Home Rule Charter of the City of Cedar Rapids, are hereby incorporated herein as if set out in full.

(c) **Definitions.** For the purposes of these Rules the following terms shall have the following definitions. All other words and phrases shall have their normal meaning unless further defined herein.

1. **Appearance** means any communication by a City Official of any kind, including written or oral, or by a City Official's spouse, employee, or partner, regarding a matter or issue to be determined by any City Agency.

2. **Board** means the Cedar Rapids Board of Ethics.

3. **Candidate** means any individual who seeks nomination or election to a public office in the City of Cedar Rapids, Iowa which is normally decided by vote of the electorate, whether such individual is elected by the electorate or is appointed.

4. **City Agency** means the City Council, and any City board, commission, official, department or employee.

5. **City Official** means any member of the Cedar Rapids City Council, and any of the following: City Clerk, City Attorney, City Manager, Chief of Police, Fire Chief, and any member of a City board or commission who is appointed or approved by the City Council.

6. **Conflict of Interest Action** means any one of the following:

A. Any Official Action on a matter in which the City Official has or can reasonably be expected to have a Private Financial Interest in the outcome;

B. The acceptance of gifts and other things of value in violation of applicable provisions of Iowa law or the City of Cedar Rapids Municipal Code;

C. Acting in a private capacity on matters dealt with as a City Official. For purposes of these rules, "acting in a private capacity" is limited to the City Official and does not include the City Official's Immediate Family and also does not include participating in any City program or process in a manner that is the same or similar to the manner, or the terms and conditions by which the general public participates;

D. The use of confidential information for purposes other than the fulfillment of the City Official's official duties; or

E. Appearances on behalf of the private interests of third parties without full and complete disclosure of the City Official's status and that the Appearance is not on behalf of the third parties in any official capacity.

F. Failure to file and thereafter keep current, a Financial Disclosure Form for City Officials.

7. **Immediate Family** means a City Official's spouse, lineal ascendants, lineal descendants, parents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, stepparents, stepchildren, stepbrothers or stepsisters, and domestic partners. For purposes hereof, a person who is adopted shall be treated as having been naturally born to the adoptive parents.

8. **Official Action** means any act taken by a City Official in furtherance of the City Officials duties and powers as a City Official even if such action is advisory only and not binding on the City or any board, commission, agency or officer;

9. **Private Financial Interest/Private Gain** means any direct or indirect economic benefit or other consideration that is not otherwise a benefit or other consideration to the general public and is to:

A. The City Official or to a member of the City Official's Immediate Family, or

B. Any business entity or organization by which the City Official or a member of the City Official's Immediate Family is employed or in which the City Official or a member of the City Official's Immediate Family has an ownership interest representing 5% or more of the voting power or capital interests.

10. **Recusal** means an absolute lack of involvement with a matter from which a City Official has recused. All recusals must be in writing and filed with the record keeper of the entity to which the City Official belongs, or otherwise made part of the official minutes of the entity. Once a City Official has recused from a matter, the City Official may not vote, deliberate, discuss, or in any way participate in regard to the matter recused from. To the extent feasible, a City Official must leave the room at any non-public portion of any meeting at which the matter in question is under discussion or being acted upon. NOTE: a City Official who recuses from a matter is still a City Official and may be subject to other Conflict of Interest Actions.

(d) **Penalties.** If the Board finds that a City Official has engaged in a Conflict of Interest Action following the Complaint and Investigation Procedure set forth in subsection (f) herein below, the Board may take one or more of the following actions as may be determined appropriate by the Board:

1. A finding that no action is warranted.
2. Private warning, in which case the decision of the Board shall be made a part of the City Official's file and no public disclosure shall be made of the action.
3. Public reprimand, in which case the decision of the Board shall be made a part of the City Official's file and public disclosure shall be made of the action.
4. Imposition of an administrative fine to cover the costs and expenses of investigating any violation.
5. One or more of the following actions, which may be taken in conjunction with or in addition to the preceding actions:
 - A. Order the City Official to make restitution in accordance with the actions of the Board.
 - B. Order the City Official to cease and desist from engaging in a particular activity deemed to be in conflict with the action of the Board.
 - C. Order the City Official to take specified action to bring him or her in compliance with the Board action.
 - D. Refer the matter for review or with specific recommendation for action to law enforcement, regulatory or other authorities with jurisdiction of the matters.
 - E. Institute appropriate civil or equitable action to enforce the order and decision of the Board.
 - F. Institute appropriate legal action seeking restitution.
 - G. Recommend to City Council the forfeiture of office or position with the City.

(e) **Advisory Opinions.** Upon the written request of any City Official, filed with the City Clerk, or without such request should a majority of the Board deem it in the public interest, the Board may render advisory opinions concerning actual, potential, or hypothetical Conflict of Interest Actions (as defined herein), and shall issue an advisory opinion in writing as to any such question. The Board may in its discretion publish its advisory opinions with any redactions necessary to prevent disclosure of the identity of the person who is the subject of the opinion. Absent extenuating circumstances, Advisory Opinions should be issued within thirty (30) business days of the Board's receipt of the request for the issuance of such Advisory Opinion. An advisory opinion may be used as a defense in any subsequent investigation or prosecution, provided that the City Official who sought the opinion acted on it in good faith and only to the extent material facts were not omitted or misstated in the request for the opinion.

(f) **Complaint and Investigation Procedure.**

1. **Who May File.** Any person may file a complaint asserting the occurrence of an alleged Conflict of Interest Action. In addition, the Board may initiate proceedings by its own action. A person signing a complaint shall affirmatively state that they:

A. Reasonably believe in the existence of facts upon which the claim is based.

B. Reasonably believe that the complaint may be valid under the applicable provisions of the Cedar Rapids Municipal Code and the Home Rule Charter.

2. **How to File.** Complaint forms are available upon request from the office of the City Clerk and shall be filed with the City Clerk. The complaint should state the name, office held by the alleged violator and a description of the facts that are alleged to constitute a violation. It must be executed under penalty of perjury. The City Clerk shall forward five (5) copies of the Complaint to the Chairperson promptly after such Complaint is filed. The City Clerk shall maintain records of all complaints and the disposition thereof.

3. **Screening Inquiry.** If the Board has no jurisdiction in the matter, the complainant will be notified. Otherwise, the Board or a designated committee of the Board will conduct a preliminary screening within 45 business days. If the screening fails to establish that provisions over which this Board has jurisdiction have been violated, the inquiry will be terminated and the complainant and the person who is the subject of the inquiry will be notified. The Board may also refer the complainant to an appropriate State agency or other authority.

4. **Initial Investigation.** If the Board determines that an initial investigation is necessary, the Board shall give written notice of the start of such initial investigation to the complainant and the person who is the subject of the complaint, and may request a response from the subject of the complaint within 30 business days. If, after 30 business days from the receipt of any requested response, the Board finds that a Conflict of Interest Action has not occurred, the investigation will be terminated and complainant and the person who is the subject of the inquiry will be notified.

5. **Full Investigation.** If an initial investigation by the Board establishes that a Conflict of Interest Action has occurred, a full investigation will be initiated. The subject of the investigation will be notified and provided with a general statement of the alleged violation(s) and of the identity of the complainant. The Board will notify the complainant within three (3) business days of the commencement of the investigation. In carrying out such investigation, the Board shall be authorized to exercise the powers granted to it hereunder. Absent extenuating circumstances, such investigations shall be completed within ninety (90) business days of their commencement.

6. **Recusal.** A City Official who has recused from a matter as provided by these Rules and Procedures may be found to have not acted on a matter in which the City Official has or can reasonably expect to have a Private Financial Interest in the outcome or in a private capacity on a matter dealt with as a City Official. The City Official bears the burden of establishing the recusal as a defense to an alleged Conflict of Interest Action.

7. **Findings Report, Evidentiary Hearing and Board Decision.** The findings report shall set forth the pertinent findings of fact. The subject, within thirty (30) days after the report is issued, has the right to respond to the report and request an evidentiary hearing, unless an extension is obtained from the Board. The evidentiary hearing must be instituted within forty-five (45) days after the filing of the subject's response and request for hearing. The subject will have access to any evidence intended to be used at the hearing. The hearing will be closed to the

public unless the subject requests an open hearing. Following the hearing, the Board will determine whether a Conflict of Interest Action has been proven and shall issue a final order.

8. **Reconsideration.** Within ten (10) business days of the issuance of a final order by the Board, a petition for reconsideration of the final order may be filed by the complainant or the subject of the complaint. No response or resistance to a petition for reconsideration will be received unless requested by the Board. Ordinarily, no petition for reconsideration will be granted by the Board without such a request. If a petition for reconsideration is not filed within the specified time period, the decision of the Board shall become final and not subject to further review or appeal.

9. **Protection of Complainant.** No person or official or employee may be penalized for a good faith filing of a complaint with the Board, or providing information or testifying in any Board proceeding. No person may be discharged, suffer change in his/her official rank, grade or compensation, be denied a promotion, or be threatened or otherwise retaliated against as a result of any of the above.

10. **Wrongful Use of Board of Ethics.** The purpose of the Board is to endeavor to maintain a high standard of ethical behavior by City officials. This will be most effective when City officials and citizens work together to set and maintain high ethical standards. Complaints directed to the Board must be based on fact and have the intent to improve the ethical climate of the City. Wrongful use of the Board is defined as the filing of a false complaint in a grossly negligent manner without any reasonable basis in law or fact. Wrongful use of the Board is prohibited. The Board may utilize the Complaint and Investigation Procedure contained herein to consider alleged wrongful use of the Board. Persons found to have committed wrongful use of the Board may be subject to administrative fines and such cases may be referred for criminal prosecution.

(g) **Confidentiality of Board Information.** The filing of a Complaint shall be a matter of public record; however, all Board proceedings and records relating to an investigation shall be confidential until a final determination is made by the Board, except as may be required to effect due process. The final order is a public record. All other file material shall remain confidential.

(h) **Annual Review.** Each year, at its first meeting, the Board shall conduct a thorough review of its actions and work in the prior calendar year, and consider such addenda or modifications to these Rules as will assure the most effective performance by the Board. In addition, at such meeting the Board shall be provided with additional education and training that will enable the Board and its members to function more effectively and in the best interests of the City of Cedar Rapids.

(i) **Financial Disclosure Form.** Upon appointment or qualifying for office, every City Official must file with the City Clerk a Financial Disclosure Form in the form attached hereto as Appendix A. The City Official must file a new Form when necessary to reflect material changes in the matters reported thereon.”

Section 2. SEPARABILITY OF PROVISIONS.

It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

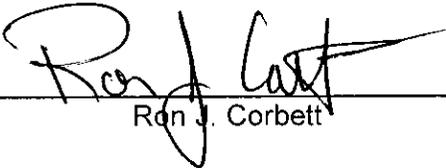
Section 3. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 4. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Municipal Code, City of Cedar Rapids, Iowa, and made a part of said Code as provided by law.

Section 5. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Introduced this 23rd day of April, 2013.

Passed this 14th day of May, 2013.


_____, Mayor
Ron J. Corbett

Attest:


_____, City Clerk
Amy Stevenson



FINANCIAL DISCLOSURE FORM City Officials

City Agency (board, commission, or department):			
Member Name:			
Member Address (city, state and zip):			
Email:		Phone:	
Term Begin Date:		Length of Term:	

Section 6.02 of the Cedar Rapids Home Rule Charter states:

"The city council shall, by ordinance, establish an independent Board to administer and enforce the conflict of interest and financial disclosure ordinances."

As a result, the Cedar Rapids City Council is requiring all city officials as defined at Cedar Rapids Municipal Code Section 6.21, subsection 4.E., to complete this Financial Disclosure Form at the time of assuming the office and to update it as necessary in order to be current. The information in this form is a public record.

The following definitions apply for purposes of this form:

City Official is any member of the Cedar Rapids City Council, the City Clerk, the City Attorney, the City Manager, the Chief of Police, the Fire Chief, and any member of a City board or commission who is appointed or approved by the City Council.

Vendors/contractors include individuals, sole proprietors, companies, partnerships, corporations and any other entity type that the City may enter into a contract or purchase from.

Immediate family includes the spouse, lineal ascendants, lineal descendants, parents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, stepparents, stepchildren, stepbrothers or stepsisters, and domestic partners of the City Official.

Private financial interest/private gain is any direct or indirect economic benefit or other consideration 1) received by the City Official or the City Official's Immediate Family, 2) received by any business entity or organization by which the City Official or a member of their Immediate Family is employed, or 3) received by any business entity or organization in which the City Official or their Immediate Family has an ownership interest representing 5% or more of the voting power or capital interests and which does not otherwise benefit the general public.

Completed forms and questions regarding the ordinance should be submitted to the City Clerk's Office. Questions will be referred to the City of Cedar Rapids Board of Ethics or other City office as appropriate. Contact information for the Clerk's Office is:

City Clerk's Office
101 First Street SE
Cedar Rapids IA 52401

Email city-clerk@cedar-rapids.org

Telephone: 319-286-5060

If the Disclosure Form does not provide enough space to disclose your financial interest, attach a separate sheet listing all the information requested on the form. Please include your name at the top of the separate sheet.

Disclosure of Private Financial Interests and Private Financial Gain

Identify by name and address any entity, such as a vendor or contractor, that now has, or is seeking to have, a contract with the city or who will be directly and substantially affected financially by performance or nonperformance of your official duties in a way that is greater than the effect on the general public or a substantial class to which the person belongs, and with whom you or Immediate Family have a private financial interest or receive private gain.

Organization or Business	Address (city, state and zip)	Position or Title	Start Date	End Date

Additional Requirements for Federal Grants

Members of boards or commissions responsible for approving contracts or purchases funded by federal grants or have property affected by a federal grant project must be aware each Federal Agency sets forth conflict of interest disclosure requirements in the Code of Federal Regulations. These requirements provide guidance for promoting public trust by fully disclosing any appearance as well as actual conflict of interest. The additional definitions to be considered are:

Appearance of conflict of interest is a set of circumstances that creates a risk that a City Official's professional judgment or actions regarding the primary interest of representing the general public will be unduly influenced by a secondary interest. *Secondary interest* includes not only financial gain but also such motives as the desire for professional advancement and the wish to do favors for others. The secondary interests are not treated as wrong in themselves, but become objectionable when they are believed to have greater weight than representing the general public. The *appearance of a conflict of interest* exists whether or not a particular individual is actually influenced by the secondary interest. It exists if the circumstances are reasonably believed to create a risk that decisions may be unduly influenced by secondary interests.

Subcontractors include individuals, sole proprietors, companies, partnerships, corporations and any other entity type that the City may enter into a contract with or purchase from.

Property ownership includes direct or indirect financial or other personal interest in any real property to be acquired or affected by a federal grant funded project or program.

Identify any entity that has or is seeking to subcontract with the City and/or list property to be acquired or affected by a federal grant:

Organization or Business	Address (city, state and zip)	Position or Title	Start Date	End Date

I, _____, have reviewed Cedar Rapids Municipal Code Section 6.22, Cedar Rapids Board of Ethics Rules, and the additional requirements related to federal grants, and I understand that it is my obligation to disclose a conflict of interest, or appearance of a conflict, to the board or commission when a conflict arises, and that for transactions in which I have a conflict, I will abstain from any vote on the matter involving the conflict. I certify that I have used all reasonable diligence in preparing this statement and to the best of my knowledge it is true and complete.

Name

Signature

Date