



CITY OF CONCORD

REPORT TO MAYOR AND THE CITY COUNCIL

FROM: Rules Committee
DATE: November 28, 2022
SUBJECT: Amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics

Recommendation:

Accept this report and consider the attached ordinance amending the Code of Ordinances, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics.

Discussion

At the January 11, 2022 City Council meeting, the City Council requested that the Rules Committee meet to review the Ethics Ordinance. On January 24 and 31, 2022, the Rules Committee met and reviewed the Ethics Ordinance, the City Charter and the City Council Rules, and, submitted a proposed amended ordinance to the City Council.

On March 14, 2022, the City Council held a public hearing on the amended Ethics Ordinance as proposed by the Rules Committee. Following the public hearing, the City Council tabled action on the proposed amended Ethics Ordinance, and referred it back to the Rules Committee for further review.

On March 29, 2022, October 20, 2022, and, November 15, 2022, the Rules Committee met and reviewed the amended Ethics Ordinance. Following its review, the Rules Committee proposes further amendments to Sections, 1-6-3, Definitions, 1-6-4, Recusal, and, 1-6-5, Representing Private Interest Before City Agencies. The proposed amendments are as follows:

1-6-3 - Definitions.

Conflict of Interest. A conflict of interest exists when [~~a person~~] ***an officer or elected official*** takes an action or makes a decision that would affect his or her financial interest, the financial interests of the [~~person~~] ***officer or elected official***'s family member or the interests of any organization in which the [~~person~~] ***officer or elected official or the officer or elected official***'s family ***member*** is ***an employee of the organization or*** a member of [~~a~~] ***its*** governing

body. *For employment with the City of Concord and for other governmental entities, a conflict of interest shall exist when the matter before the Public Body involves the department for which the officer or elected official or officer or elected official's family member is employed. A conflict of interest shall also exist for an officer or elected official whose family member is employed in the City of Concord when such family member is a member of a union in the City and the Public Body is discussing or voting upon any collective bargaining matters. In addition, a conflict of interest shall exist for an officer or elected official whose family member is employed in the City of Concord as a non-contractual employee or otherwise employed in the City in any other non-contractual employee capacity and the Public Body is discussing or voting upon employee compensation or benefits.*

...

Employee of an Organization. An officer or elected official or the officer or elected official's family member who is employed in any capacity by any organization.

Family member. Any person who is related to an officer or elected official in one of the following ways: spouse, mother, father, stepmother, stepfather, foster mother, foster father, father-in-law, mother-in-law, grandmother, grandfather, grandchild, sister, brother, child, stepchild, foster child, or any other person living in the same household as the officer or elected official.

...

Organization. Any public, private, for-profit, or non-profit entity, including governmental entities.

...

1-6-4 - Recusal.

Whenever a matter comes before any City of Concord Public Body, no officer or elected official shall introduce, ask questions, speak on or vote on any motion, ordinance, resolution or issue in which he/she has a conflict of interest and shall disclose the reason for the conflict of interest prior to the Public Body's discussion on the matter, or if discussion has occurred, then as soon as the conflict becomes known to the officer or official. If the matter before the Public Body is a legislative matter, the officer or elected official who has a conflict of interest may remain seated on the panel during the term of the recusal. If the matter before the Public Body is a quasi-judicial matter, the officer or elected official who has a conflict of interest shall, *subject to the final sentence of this Section 1-6-4*, physically leave the room until consideration of the matter is completed. *If, however, the recused officer or elected official is the applicant or an abutter in a quasi-judicial matter or otherwise recused in a legislative matter before a Public Body, then the recused officer or elected official may provide comment or testimony as a public citizen, representing their own interests and not that of a third-party, and, not as a member of the Public Body.*

...

When the City Council is in a non-meeting under RSA 91-A:2, I (a) or (b), or, in non-public session under RSA 91-A:3, II, any member of the City Council who has a conflict of interest, shall physically leave the room until consideration of the matter is completed.

1-6-5 - Representing Private Interest[(s)] Before A [City Agencies] ***Public Body***.

An elected official shall not appear on behalf of another's private interests before the ~~[governing body or]~~ any ~~[land use regulatory board]~~ ***Public Body***. Officers ***shall not appear on behalf of another's private interest before the Public Body of which they are a member.*** Officers appearing on behalf of another's private interests before any ~~[city]~~ ***Public*** ~~[b]~~ ***Body of which they are not a member*** shall disclose such interests prior to proceeding.

Explanation: Matter inserted into the current ordinance appears in ***bold and italics***.

Matter removed from the current ordinance appears in [brackets and ~~struck through~~].