

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

I. GENERAL RULES AND PROCEDURE

1.1 Description of Organization

The Tacoma Board of Ethics ("Board") is a five member board established pursuant to Tacoma Municipal Code 1.46.045. Members of the Board are appointed by the City Council.

1.2 Meetings

1. Regular meetings of the Board shall be held quarterly. Such meetings shall be held at 747 Market Street or at such other place as may be designated by the Chair of the Board.
2. Special meetings of the Board may be called by the Chair or any three members of the Board with 24 hours prior written notice, mailed, hand-delivered, faxed or e-mailed to all Board members and to each local newspaper of general circulation and each local radio and television station that has on file with the Board a written request for notice of such meetings and to individuals who have requested notice of such meetings. The notice shall include the time and place of the meeting and each item of business to be transacted. Any Board member may waive the requirement that he or she receive such notice by so notifying the Board by e-mail, telephone, or fax, or by being present when the special meeting convenes. See RCW 42.30.080.
3. All meetings of the Board shall be open meetings in accordance with the State Open Meetings Act, RCW 42.30.110.
4. Minutes shall be produced for all meetings, and all meetings and hearings shall be electronically recorded, except all closed sessions.

1.3 Telephonic Meetings

1. The Board may hold meetings in which, for some or all of the meeting, any or all members are present and voting by telephone conference call. Such meetings shall be designated "telephonic meetings" on the meeting agenda.
2. A telephonic meeting shall be deemed to take place in the meeting place designated on the agenda, where at least one member of the Board staff shall be present and where there shall be a telephone device on which can be heard the voices of all Board members on the telephone line by everyone present in the meeting room and by all other Board members on the telephone line. Each Board member who is on the telephone line shall identify himself or herself before speaking, and shall notify the others if he or she is about to disconnect from the call. A Board member who is connected remotely to the telephone line in the meeting place shall be considered to be actually present at that meeting for the period of time he or she is so connected, and that presence shall count toward a quorum of the Board for all purposes, unless subsection (1) of this rule 1.3 provides otherwise.

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

1.4 Quorum and Voting

1. Three members of the Board are required for a quorum.
2. Any matter coming before the Board may be decided by majority vote of those members present and voting, provided that the quorum requirements are met.
3. Voting by Board members at all meetings and all votes shall be by voice vote, unless any Board member asks for a roll call vote.

1.5 Membership of the Board

1. The Board shall annually elect a Chairperson and a Vice Chairperson to take office on January 1 of the following year or as soon thereafter as is practicable.
2. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson or in the event of a vacancy in that position.
3. In the event any member of the Board has three consecutive unexcused absences, the Board shall report such fact to the Mayor and City Council with the request that removal proceedings be initiated.

1.6 Public Records Available; Public Records Officer

All records of the Board are deemed to be available for public inspection except as specifically exempted by these rules or Chapter 42.56 RCW, or other applicable law. The Board's public records shall be in the charge of the City Clerk's Office.

1.7 Index

The Board has indexed by subject matter the advisory opinions of the Board. The index is maintained in the City Clerk's Office and shall be publicly available. The volume of correspondence managed by the office is such that it would be unduly burdensome to formulate and maintain an index of all correspondence. In lieu of an index, the following filing system will be utilized:

1. Complaints received by the Board are indexed and filed in chronological order, by type of complaint, and by year.
2. Requests for advisory opinions received by the Board are indexed and filed in chronological order, by type of request, and by year received.

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

II. INVESTIGATIONS

2.1 Computation of Time

Computation of any period of time prescribed or allowed the Code of Ethics or by these rules shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or a national, state, or city holiday, the period shall run until the end of the next following business day.

2.2 Form of Complaint

A complaint alleging violation of Tacoma Municipal Code Chapter 1.46 by the City Manager, Director of Public Utilities, member of the Public Utility Board or member of other multi member City Board or Commission, or City-elected official ("Covered Official") may be brought to the attention of the Board by any person. Complaints concerning Covered Officials shall either be made to the Board or forwarded to the Board if received by any other City official. A complaint should be in writing.

1. A complaint shall state the basic facts surrounding the alleged violation including nature of the alleged violation(s), date, time, and place, of the alleged violation(s), name of the person or persons responsible, and any documentation or other evidence the complainant can produce regarding the alleged violation, including the name, address, telephone number of each person having knowledge of the violation alleged. The Complaint should also state or reference the specific provision or provisions of the Code of Ethics alleged to be violated.
2. All complaints filed with the Board shall be considered part of the Board's investigative record and shall be public record and subject to public disclosure unless subject to exemption pursuant to state law.

2.3 Complaint Process

Upon receipt of a complaint, the following procedures shall be followed:

1. The Board will send written confirmation of receipt of the Complaint to the person from whom it was received;
2. The Board will send a copy of the Complaint to the person against whom the Complaint was filed and to the City Attorney.
3. The City Attorney (or assigned Deputy City Attorney), as legal advisor the Board, shall make an initial review for legal sufficiency of all complaints received. Where, in the opinion of the City Attorney, a complaint (a) alleges facts which, even if true, would not constitute a violation of the Code of Ethics or (b) concerns matters over which the Board has no jurisdiction, the City Attorney shall issue an opinion via email to all members of

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

the Board that dismissal under TMC 1.46.045(F)(2)(a) appears appropriate. After consideration of the complaint, along with the City Attorney's opinion, a concurrence of a majority of a quorum of the Board via return email shall be required for dismissal. Board members shall provide responsive e-mail, sent separately to the City Attorney with a copy to the Board staff, within 5 business days of receipt of the e-mail opinion. The above process shall be deemed to satisfy the requirement of TMC 1.46.045(F)(2) that the Board meet to consider a complaint prior to dismissal for the reasons stated in this section.

4. The Board will meet as soon as is practicable after receipt of a Complaint to review the Complaint, unless the Board has previously determined pursuant to subsection 3 above that the complaint lacks an adequate factual basis or that the Board's jurisdiction is lacking in the matter.

2.4 Investigative Authority of the Board

1. Pursuant to TMC 1.45.045(C)(3), the Board may subpoena witnesses, take testimony under oath (either in person or via written interrogatory or other form of written testimony), and compel the production of any books or papers (including information stored electronically) that relate to a matter complaint before the Board.
2. As necessary, the Board may appoint an independent investigator to conduct an investigation of the facts of a complaint. If an investigator is appointed, the procedures and deadlines specified by TMC 1.46.045(F)(3)(a) shall be followed. The investigator may be an employee or official of the City so long as the Board is satisfied that the investigator is sufficiently removed from the person or matter under investigation that a reasonable person would be satisfied as to the investigator's impartiality. The investigator may seek the Board's permission to hire technical experts in support of the investigation as needed.
3. In addition, the Board may hold hearings as necessary.

2.5 Content of Determinations

The Board's determinations shall include a statement of the following:

1. The nature and background of the proceeding;
2. Findings of fact, which shall be based exclusively on the evidence of record presented to the Board during its consideration of a complaint. Evidence of record may include facts alleged in the complaint, written or oral testimony presented to the Board, records, and papers or other information requested by the Board, facts presented in an investigator's report, or testimony presented in a hearing held by the Board.
3. A determination, by application of the preponderance of evidence standard, whether the Code of Ethics has been violated with reference to a specific section or sections of the Code.

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

III. CONDUCT OF HEARINGS FOLLOWING BOARD'S PRELIMINARY FINDING OF A VIOLATION

3.1 General

1. The format for a hearing will be of an informal nature yet designed so that reliable evidence will become most readily and efficiently available to the Board. Relaxed rules of evidence will apply and hearsay evidence may be admitted if deemed reliable.
2. A hearing shall include, but not be limited to, the following elements:
 - a. A brief introductory statement by the Chair;
 - b. Presentation of the Complaint and supporting evidence;
 - c. Response to the charges and response to the Board's preliminary findings by the respondent and presentation of supporting evidence if desired.

For good cause, the order of presentation of evidence may be altered.

3. All hearings shall be open to the public, however deliberations will be conducted in closed session.

3.2 Oath

All testimony before the Board shall be taken under oath or affirmation, administered by the presiding official.

3.3 Presiding Officials

1. The Chair shall preside over all hearings. If the Chair is absent or disqualified, the Vice-Chair shall preside as the Chair. If both the Chair and Vice-Chair are absent or disqualified, the remaining members shall elect a presiding officer for the hearing.
2. The Board has the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of the proceedings, and to maintain order. The Chair or his or her designate shall have all powers necessary to that end, including the following:
 - a. Administering oaths and affirmations;
 - b. Ruling on offers of proof and receiving evidence;
 - c. Regulating the course of hearings and the conduct of parties and their agents;
 - d. Considering and ruling on all procedural and other motions appropriate to the proceedings;
 - e. Making and issuing written determinations and recommendations.
3. Any Board member may, on his or her own initiative, recuse him or herself in the event of a conflict of interest, bias or prejudice, or the appearance thereof.

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

4. A complainant or respondent may file a request that a Board member recuse him or herself, by stating that a fair and impartial hearing cannot be had by reason of the conflict of interest, bias, or prejudice of a Board member. The request must set forth facts and reasons for the belief that the conflict of interest, bias, or prejudice exists. The request shall be filed not less than 24 hours before the hearing, unless good cause is shown, and in any case before the commencement of the hearing. The Chair shall rule on the request prior to making any other ruling and prior to the hearing.

3.4 Time Limit on Oral Testimony

1. The Chair may impose time limitations on oral testimony as necessary to expedite proceedings and avoid continuation of a hearing. The Chair will provide as much advance notice as is practicable when time limits are imposed.
2. If the parties are unable to present their arguments and testimony within the allotted time, they may request of the Chair an opportunity to submit written materials after the close of the hearing.

3.5 Rights of Parties

Every party shall have the right of due notice, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing. Cross-examination shall be permitted as is necessary for a full disclosure of the facts.

3.6 Role of Complainant

1. When a Complaint has been filed with the Board, neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the Board.
2. The complainant or any other person may submit relevant documentary evidence and/or written factual or legal statements to the Board prior to the Board's consideration of a complaint. The complainant or any other person wishing to be heard in a hearing may request permission of the Board in advance of such hearing, and the Board may grant such person a reasonable opportunity to be heard on relevant issues.

3.7 Ex Parte Communications

1. "Ex Parte Communications" for purposes of this section means a communication with the complainant, respondent, a witness, or any other person regarding a pending complaint when that communication takes place outside of a scheduled hearing.
2. Unless required for the disposition of administrative matters or unless necessary to procedural aspects of maintaining an orderly process, a Board member shall not engage in ex parte communications.

**Tacoma Board of Ethics
Administrative Procedures
ADOPTED AND EFFECTIVE FEBRUARY 13, 2012**

3. A Board member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the Board member received an ex parte communication.
4. If necessary to eliminate the effect of an ex parte communication received in violation of this section, a Board member who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.

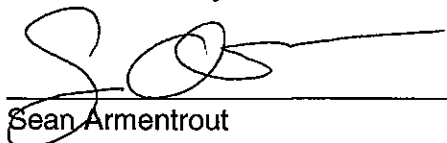
IV. ADVISORY OPINIONS

4.1 Advisory Opinions

1. The Board is authorized to issue opinions in accordance with TMC 1.46.
2. If the Board receives a request from a Covered Official for an opinion it shall meet within 10 business days to decide whether to respond to the request.
3. If the Board chooses to respond to a request from a Covered Official for an opinion, the Chair shall designate one or more members to draft the opinion.
4. Draft opinions shall be presented to the Board at the next regularly scheduled meeting, or at a special meeting called by the Board. The full Board may adopt or modify the draft, or may ask the drafter to revise the draft to answer specific concerns.

ADOPTED BY A MAJORITY VOTE OF THE CITY OF TACOMA BOARD OF ETHICS

DATE: February 13, 2012


_____, Chair
Sean Armentrout