



## Legislation Details (With Text)

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<b>Enactment date:</b>	10/20/2015	<b>Enactment #:</b>	37
<b>Effective date:</b>	10/28/2015		
<b>Title:</b>	An Ordinance amending and supplementing the Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197, Code of Conduct, by repealing language and replacing it with new language, the following Sections: 197.01 Adoption, 197.09 Ethics Hearing Board, 197.11 Powers and Duties of the Board, 197.12 Investigations, 197.13 Advisory Opinions, 197.16 Penalties, and also by supplementing the Chapter to add additional Sections 197.18 Whistleblower, 197.19 Lists, Complaints and Disclosure Statements, and 197.20 Miscellaneous.		
<b>Sponsors:</b>	Dan Gilman, Bruce A. Kraus		
<b>Indexes:</b>	PGH. CODE ORDINANCES TITLE 01 - ADMINISTRATIVE		
<b>Code sections:</b>			
<b>Attachments:</b>	1. 2015-2059 VERSION 2		

Date	Ver.	Action By	Action	Result
10/28/2015	2	Mayor	Signed by the Mayor	
10/20/2015	2	City Council	Passed Finally	Pass
10/14/2015	2	Standing Committee	AMENDED	Pass
10/14/2015	2	Standing Committee	Affirmatively Recommended as Amended	Pass
10/7/2015	1	Standing Committee	Held in Committee	Pass
9/29/2015	1	City Council	Read and referred	

An Ordinance amending and supplementing the Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197, Code of Conduct, by repealing language and replacing it with new language, the following Sections: 197.01 Adoption, 197.09 Ethics Hearing Board, 197.11 Powers and Duties of the Board, 197.12 Investigations, 197.13 Advisory Opinions, 197.16 Penalties, and also by supplementing the Chapter to add additional Sections 197.18 Whistleblower, 197.19 Lists, Complaints and Disclosure Statements, and 197.20 Miscellaneous.

Whereas, the transparent, consistent enforcement of a municipal Code of Conduct is vital to maintaining the public trust; and

Whereas, an Ethics Hearing Board is key in overseeing the development, evolution, interpretation, and application of that Code; and

Whereas, trusted best practices have evolved substantially since the initial formation of Pittsburgh's Ethics Hearing Board in the early 1990s, to include greater autonomy of the Board from City government, reformed investigation and hearing processes, and authority to issue independent advisory opinions; and

Whereas, it is the will of the Mayor and City Council of Pittsburgh to ensure the highest standards of professionalism in all of the City's employees and dealings;

**Be it therefore resolved that the City of Pittsburgh does hereby enact as follows:**

**Section 1: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.01, Adoption is repealed in its entirety and replaced with the following language:**

## **SEE ATTACHMENT**

There is hereby adopted by the City a Code of Conduct applicable to public officials and employees as defined hereby. This Code of Conduct is comprised of the following:

- (a) Sections 2, 3 and 4 of the Pennsylvania Public Official and Employee Ethics Law (65 P.S. Section 1101 *et seq.*) (the "State Statute"), as the same may be amended;
- (b) Sections 308 (Prohibitions), 705 (Political Activity of Employees-Gifts), 706 (Prohibitions in General), 801 (Disclosure of Interests) and 710 (Ethics Training Requirements) of the City Charter, as the same may be amended;
- (c) Section 161.17, as the same may be amended;
- (d) Section 198, as the same may be amended; and
- (e) The provisions of this Chapter (collectively, the "Code of Conduct").

The terms of the State Statute, the Pittsburgh Charter and the Pittsburgh Code referred to above are incorporated herein by reference.

**Section 2: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.09, Ethics Hearing Board is repealed in its entirety and replaced with the following language:**

- (a) There is hereby established an Ethics Hearing Board composed of nine (9) members. Pursuant to Section 214 of the Pittsburgh Home Rule Charter, the Mayor shall appoint the members of the Ethics Hearing Board subject to the approval of Council. Each member shall be a resident of the City. All members shall hold a reputation of personal integrity and honesty. It is strongly preferred that the membership reflect the City's diversity in regard to race, color, creed, religion, gender, familial status, sexual orientation, national origin, gender identity, age and disability.
- (b) The members shall be recommended to the Mayor by a Nominating Panel. The Nominating Panel shall be considered an informal advisory board to the Mayor and shall therefore not be subject to appointment or confirmation by City Council. The Nominating Panel shall consist of the following members:
  - (1) The Allegheny County Bar Association shall nominate one current or retired individual with experience in ethics training, has published in the topic of ethics, or who is bound by a code of ethics.
  - (2) The dean of the University of Pittsburgh School of Law or the dean of the Duquesne University School of Law, in alternating order (one member at a time) shall nominate, on a rotating basis, a current or former, full-time or part-time tenured or adjunct faculty member from his or her law school who has taught a course in professional ethics or who has published or performed services in the field of professional ethics. The University of Pittsburgh shall be the first to nominate.
  - (3) The Pittsburgh Chamber of Commerce shall nominate one current or retired individual with an ethics background or experience in a field relevant to the Ethics Hearing Board's work.
  - (4) The Allegheny County Labor Council shall nominate one individual whose union is represented in the City of Pittsburgh with a preference to a former elected official for such union.
  - (5) The Pittsburgh Council on Higher Education (PCHE) shall nominate one current or retired individual with ethics background or experience. Such individual may include a certified public accountant, former judge, former government executive with ethics experience, a health care professional, a bioethicist, a journalist, a former police officer or other individual with experiences relevant to the Ethics Hearing

Board's work.

- (6) The Urban League shall nominate one current or retired individual with an ethics background or experience in a field relevant to the Ethics Hearing Board's work.
  - (7) The Greater Pittsburgh Non-Profit Partnership shall nominate one current or retired individual with an ethics background or experience in a field relevant to the Ethics Hearing Board's work.
  - (8) The President of City Council shall nominate one person with an ethics background or experience in a field relevant to the Ethics Hearing Board's work.
  - (9) The Mayor shall appoint one person with an ethics background or experience in a field relevant to the Ethics Hearing Board's work.
- (c) After considering the nominees, the Mayor may either appoint the nominees as members of the Board or reject one or more nominees. If the Mayor rejects a nominee, the member of the Nominating Panel ~~who's~~ **whose** nominee was rejected will nominate another individual. Once the Mayor is satisfied with the qualifications of a nominee, the Mayor will appoint the nominee as member of the Ethics Hearing Board, subject to confirmation by Council.
- (d) Each member of the Ethics Hearing Board shall serve for a term of three years or until a successor is appointed by the Mayor following the process stated in (b) and (c) above. Upon expiration of the term, the member shall remain on the Board until a successor has been appointed. The terms of the initial members shall be staggered in the following manner:
- (1) The member nominated by the Allegheny County Bar Association will serve for a term of one (1) year.
  - (2) The member nominated by the Pittsburgh Chamber of Commerce will serve for a term of one (1) year.
  - (3) The member nominated by the Allegheny County Labor Council will serve for a term of one (1) year.
  - (4) The member nominated by Pittsburgh Council on Higher Education will serve for a term or two (2) years.
  - (5) The member nominated by the Greater Pittsburgh Non-Profit Partnership will serve a term of two (2) years.
  - (6) The member nominated by the Urban League of Greater Pittsburgh will serve a term of two (2) years.
  - (7) The member appointed by the Mayor will serve a term of three (3) years.
  - (8) The member nominated by the President of Council will serve a term of three (3) years.
  - (9) The member nominated by the University of Pittsburgh School of Law will serve a term of three (3) years.
- (e) The position of a member of the Ethics Hearing Board shall be deemed vacated:
- (1) Upon the Board member ceasing to be a City resident;
  - (2) Upon a written resignation of the Board member and appointment of his successor;
  - (3) Upon removal of the member for good cause by a majority vote of the Board. Good cause includes but is not limited to, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this Section, or of ordinances or laws relating to ethical matters after written notice and opportunity for reply.
- (f) No individual while a member or employee of the Ethics Hearing Board shall:
- (1) Hold or campaign for any other public office;
  - (2) Hold office in any political party or political committee; or
  - (3) Hold a position of employment or appointment with any municipal government, the Commonwealth of Pennsylvania or any board ~~or Board~~ formed by the City.
- (g) Five members of the Ethics Hearing Board shall constitute a quorum for the transaction of business and a majority vote of those present at any meeting is sufficient for any official action, except as otherwise provided herein. The recommendation of disciplinary action, as outlined in §197.16, shall require the affirmative votes of five members.
- (h) Members of the Ethics Hearing Board shall serve without compensation except that they may be reimbursed for reasonable expenses related to attending meetings of the Ethics Hearing Board up to \$15 (in 2015 dollars) per

meeting. The Board shall employ persons and employees as may be necessary whose salary, together with the necessary expenses of the Ethics Hearing Board, shall be provided for at the discretion of Council and the Mayor by proper annual appropriation. The Ethics Hearing Board shall elect a chairperson and vice-chairperson and other officers as needed.

- (i) Expired terms or vacancies occurring on the Ethics Hearing Board shall be filled in the following manner:

Upon thirty (30) days of the anticipated expired term or vacancy, the Ethics Hearing Board, through its Chair, will notify the Nominating Panel, the Mayor, City Council, the City Clerk and the City Solicitor of the vacancy. The vacancy will, within sixty (60) days, be filled for the unexpired portion of the term in the same manner as regular appointments. Any person appointed to fill a vacancy on the Ethics Hearing Board must meet the qualifications and limitations set forth in this section.

- (j) No resident who has been convicted of a felony, a misdemeanor or a criminal summary offense, who has been disbarred from any professional organization for reasons involving honesty and integrity or who has been disciplined by the Ethics Hearing Board shall serve as a Board member, executive director or staff of the Ethics Hearing Board.
- (k) The Ethics Hearing Board shall adopt rules and regulations for its operations and procedures as it deems necessary to administer, implement and enforce this Chapter. The Board shall also adopt rules and regulations to further interpret the Chapter.

**Section 3: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.11, Powers and Duties of the Board is repealed in its entirety and replaced with the following language:**

- (a) The Ethics Hearing Board may only act with respect to current and former officials and employees (and those who, although acting under contract, appear to act as government officials and employees), consultants, applicants, candidates, contributors to campaigns for City Elected Office, and persons and entities who do or seek business with the city (including the owners and officers of such entities, and subcontractors). The Ethics Hearing Board may also act with respect to those who induce, encourage, or aid anyone to violate any provision of this code, give gifts to officials and employees or their relatives, or are otherwise covered by the provisions of this code.
- (b) The termination of an official's or employee's term of office or employment with the city does not affect the jurisdiction of the Ethics Hearing Board with respect to the requirements imposed on him or her by this code.
- (c) Unless otherwise stated, all Ethics Hearing Board decisions or determinations must be made by the affirmative vote of a majority of members unless otherwise stated in this code.
- (d) The Ethics Hearing Board shall have the following powers and duties:
- (1) To implement, administer, and enforce this Chapter;
  - (2) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this code;
  - (3) To appoint hearing officials, an executive director, if necessary, and such other staff as are necessary to carry out its duties under this code;
  - (4) To delegate authority to the executive director, to act in the name of the Ethics Hearing Board between meetings of the Board. The delegation must be in writing, and the specific powers to be delegated must be enumerated. The Ethics Hearing Board may not delegate the power to render a formal advisory opinion, determine a violation, impose a penalty, seek any remedy not otherwise delegated in this code to the legislative body, or refer a matter to a prosecutor.
  - (5) To prepare and provide forms for complaints and for annual financial disclosure statements;
  - (6) To review, index, and maintain on file disclosure statements filed with the Ethics Hearing Board;
  - (7) To review, index, maintain on file, and dispose of complaints, and to make notifications and conduct

- investigations pursuant to section 197.12 of this code;
- (8) To enforce Chapter 198 of this code;
- (9) To review, index, and maintain on file campaign finance reports pursuant to Chapter 198 of this code;
- (10) To conduct fact-finding and disciplinary hearings
- (11) To apply disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to section 197.16;
- (12) To provide training and education to officials, employees, and those doing business with the city;
- (13) To prepare an annual report and recommend changes to this code;
- (14) To provide for public inspection of records, pursuant to open records laws; and
- (15) To make this code and explanations of it available for reproduction and distribution.

(e) Ex Parte Communications

- (1) An Ethics Hearing Board member may not communicate, directly or indirectly, with any party to an ethics proceeding or with any person who has a direct or indirect interest in the outcome of an ethics proceeding (other than communications necessary to procedural aspects of maintaining an orderly process, including settlement negotiations) without notice and opportunity for all parties to participate. Such communications constitute ex parte communications.
- (2) It is a violation of this Chapter for anyone to make, or attempt to make, directly or indirectly, an ex parte communication to an Ethics Hearing Board member.
- (3) An Ethics Hearing Board member who receives an ex parte communication must place on the record of the matter all written communications received, all written responses to the communications, and/or a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the member received, directly or indirectly, an ex parte communication. The member must advise all parties that these documents and information have been placed on the record.
- (4) Within fourteen days after receiving notice of an ex parte communication, any party, or other person mentioned, may place a written rebuttal statement on the record.
- (5) If necessary, to eliminate the effect of an ex parte communication, an Ethics Hearing board member who receives the communication may be asked by the Ethics Hearing board, upon a vote of the board, to withdraw from participation in the hearing. However, the Ethics Hearing Board shall not remove a member from an active role in a proceeding purely because of an objection made by a party to a proceeding, or other interested person, related to an ex parte communication.

- (f) No person shall disclose or acknowledge to any other person any information relating to a complaint, probable cause determination, investigation, hearing or petition for reconsideration which is before the Ethics Hearing Board.

**Section 4: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.12, Investigations is repealed in its entirety and replaced with the following language: The Pittsburgh Code of Ordinance Title One, Administrative, Article XI, Personnel, Chapter 197.12, Complaints, Investigations and Hearings**

- (a) Complaint
  - (1) Upon receipt of a complaint on a form prepared by the Ethics Hearing Board, which any person or entity may file, three (3) members of the Board shall be chosen by the board to form a Probable Cause Panel.
  - (2) Within 30 days of receipt of the complaint, the Probable Cause Panel will determine if the complaint, in fact, alleges an action or inaction that, if the allegations are true, might constitute a violation of this code and that at least one person or entity accused of a violation is covered by this code.
  - (3) If no opinion is rendered within 30 days, the Probable Cause Panel must provide a written explanation to the complainant as to the reason for the delay.
  - (4) If the Probable Cause Panel determines by a majority vote that no such action or inaction has been alleged or that no one accused is covered by this code then it will dismiss the complaint with notice to the complainant and subject of the investigation ("subject"). If, in exercising its discretion, it determines that the nature of the violation is minor, then it will dismiss the complaint with notice to the complainant and

the subject. The “subject” of an investigation is the person accused of violating the code. Here and elsewhere “complainant” and “subject” may consist of more than one person or entity.

- (5) Members of the Probable Cause Panel may not participate in the adjudication of guilt phase of the case.
- (6) If the Probable Cause Panel determines that there is probable cause, it will send notification of this finding with a copy of the complaint and any amendments to the complainant and subject by certified or registered mail.
- (7) The letter of dismissal or notification of finding must be sent within five (5) working days after the vote on probable cause.
- (8) A complaint must be filed within the longer of either one year after the alleged violation took place or 90 days after complainant became aware of the alleged violation.
- (9) The Ethics Hearing Board may, on its own initiative, determine through an inquiry into informal allegations or information provided directly to the Ethics Hearing Board, through the hotline, by referral, in the public news media, or otherwise that a violation of this code may exist, and prepare a complaint of its own. An internally originated complaint must still be considered by a Probable Cause Panel.
- (10) The Ethics Hearing Board may amend a complaint that has been filed with it by adding further allegations, by adding subjects involved in the same conduct. The Ethics Hearing Board may also consolidate complaints where the allegations are materially related.
- (11) Complainant and subject must preserve all records pertaining to the allegations. Records include, but are not limited to, documents, e-mails, voicemails, text messages or any other type of physical, digital, or oral communication.

(b) Investigations

- (1) If probable cause has been found pursuant to the process described in this sSection \_\_\_, the Ethics Hearing Board, through its executive director must conduct an investigation. In conducting such an investigation, the Executive Director, or his/her designee on behalf of the Ethics Hearing Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material.
- (2) All city boards, authorities, departments, commissions, bureaus, , officials, candidates, contractors, those seeking business with the City, and employees are required to respond fully and truthfully to all inquiries and cooperate with all requests of the Ethics Hearing Board or its agents relating to an investigation. It is a violation of this code for any official, employee or any person covered under this code to deny access to information requested by the Ethics Hearing Board in the course of an investigation or a hearing, except to the extent that such denial is required by federal, state, or local law.
- (3) If the complainant wishes to withdraw a complaint, the Ethics Hearing Board may do so only after reviewing a written statement made by the complainant under oath explaining the reasons for withdrawal.
- (4) The subject may file with the Ethics Hearing Board a response to the complaint within thirty (30) days after his or her receipt of the complaint. The response, if any, must be sent to the complainant by the Ethics Hearing Board within five (5) working days after its filing. Within fifteen (15) days after receipt, the complainant may file with the Ethics Hearing Board a reply to the subject’s response. The Ethics Hearing Board must send to the subject the complainant’s reply within five (5) working days after its filing. If no reply to the subject’s response is received in that time, complainant is deemed to have waived the opportunity to reply, and the Ethics Hearing Board shall proceed with the complaint. If any required filings fall on a weekend or a City recognized holiday, the date of filing will be extended to the next working day.
- (5) During the investigation period, the Ethics Hearing Board may amend a complaint to include other subjects and violations which it reasonably suspects to have occurred. It must send a copy of any such amendment to the subject and complainant within seven (7) days after the amendment has been made.
- (6) After the investigation is completed the Executive Director will submit his/her investigative report to the Board indicating whether the investigation revealed a code violation by a subject within the Board’s jurisdiction. If the investigation revealed a code violation, the Executive Director may

make a recommendation for the Board to proceed to a hearing. If the investigation reveals no code violation, the Executive Director may recommend to the Board to terminate the case.

(7) Settlement Agreements

- (a) At any time after a complaint has been filed, the Ethics Hearing Board may seek and enter into a settlement agreement with the subject. The settlement agreement will include the nature of the complaint, findings of fact, conclusions of law, the Hearing Board's reasons for entering into the agreement, an admission of violation by the subject, and a waiver of the right to a hearing and to appeal. It will also, where relevant, include a promise by subject not to perform certain actions, the imposition of penalties permitted by this code and remedial action to be taken.
- (b) In determining whether a matter is appropriate for settlement, the Ethics Hearing Board should consider the following factors, as well as other factors it considers relevant: (i) the severity of the alleged conduct; (ii) the subject's apparent level of knowledge and willfulness regarding the alleged conduct; (iii) whether the alleged conduct appears to be an isolated event or part of a pattern of conduct; (iv) whether the alleged conduct appears to indicate violations of criminal laws; (v) the complexity of issues or evidence, and the likely scope of an investigation and hearings; (vi) the involvement of other agencies in the investigation of the subject's conduct; (vii) the existence of Ethics Hearing Board precedent concerning the alleged conduct; (viii) the age of the facts alleged in the complaint; (ix) the resources and priorities of the Ethics Hearing Board; and (x) whether the subject self-reported the alleged conduct or sought an Advisory Opinion regarding it.
- (c) Any settlement agreement approved by a majority of the quorum (3) will be a public record. However, all meetings pertaining to settlement discussions shall be held in executive session. All documents relating to the settlement negotiations will be kept confidential, unless the parties agree otherwise.
- (d) If a settlement agreement is breached by the subject, the Ethics Hearing Board may rescind the agreement and reinstitute the proceedings. However, no information obtained from the subject in reaching the settlement, which is not otherwise discoverable, may be used in the proceeding.

- (8) Nothing in this section may be construed to permit the Ethics Hearing Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Hearing Board receives a complaint alleging that the Hearing Board or any of its members or staff has violated any provision of this code, or any other law, the Hearing Board must promptly transmit a copy of the complaint to the city's Law Department, who will determine whether it is necessary to contract a special prosecutor in the matter.

(c) Hearings

- (1) Fact-finding and disciplinary hearings shall be conducted in accordance with all of the due process rights, privileges and responsibilities of a party or witness appearing before an administrative agency of this Commonwealth.
- (2) Rules and Procedure for Public Hearings.
  - (a) Public hearings will be conducted under the Ethics Hearing Board's rules and regulations, subject to any applicable provisions of law and collective bargaining agreements. The rules and regulations will include the following: oral evidence will be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available and, upon request, parties and the Ethics Hearing Board will be given the opportunity to compare the copy to the original; the state's administrative rules of evidence, rather than strict rules of judicial evidence, will be followed, to allow a liberal introduction of testimony and documentary evidence; and the subject has the right:
    1. To be represented by counsel.
    2. To present oral or written documentary evidence that is relevant and material.
    3. To examine and cross-examine witnesses required for a full and true disclosure of the facts.

- (3) The Ethics Hearing Board may subpoena, and its members may question verbally or in writing, witnesses to testify and may compel production of documents and other effects as evidence. Failure to obey such subpoena may result in sanctions by a court of jurisdiction.
  - (4) At the conclusion of a hearing concerning an alleged violation and in accordance with the rules, regulations and procedures promulgated by the Ethics Hearing Board, the Board will deliberate on the evidence and determine whether there has been a violation of the code based on clear and convincing evidence. This decision must be made by a majority of the Hearing Board who were not responsible for the finding of probable cause.
  - (5) The determination of the Board shall become a final order. The final order shall contain the pertinent findings of fact.
  - (6) Final orders shall be public documents but the files and records of the Board and staff, the City Solicitor and independent investigators shall remain confidential. Final orders must be sent to the complainant, subject and the City Solicitor.
  - (7) The subject of the hearing shall have a right to appeal therefrom in accordance with law and general rules.
- (d) Confidentiality
- (1) No person shall disclose or acknowledge to any other person any information regarding a complaint, the determination of probable cause, investigation and/or hearing before the Ethics Review Board. The following are exceptions to this confidentiality provision:
    - (a) a final order;
    - (b) content of hearings conducted in public;
    - (c) seeking legal counsel;
    - (d) filing an appeal from a final Board order;
    - (e) communicating with the Board or its staff, in the course of an inquiry by the Probable Cause Panel, investigation, and/or hearing by the Board;
    - (f) consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;
    - (g) such other exceptions as the Board, by regulation, may direct.
- (e) Frivolous complaints and wrongful disclosure:
- (1) A “frivolous complaint” is a complaint filed in a grossly negligent manner, without basis in law or fact.
  - (2) If a public official, City employee or anyone covered under this code has reason to believe a complaint is frivolous, or without probable cause and made primarily for a purpose other than that of reporting a violation of the City provisions, or a person publicly disclosed or caused to be disclosed that a complaint against the public official, City employee or anyone covered under this code has been filed with the Board, the public official, City employee or other person covered under this code shall notify the Board and the Board, shall conduct an investigation.
- (f) Liability for wrongful use of this code: A person who signs a complaint alleging a violation of this chapter against another is subject to liability for wrongful use of this chapter if
- (1) the complaint was frivolous, as defined by this chapter, or without probable cause and made primarily for a purpose other than that of reporting a violation of this chapter; or
  - (2) He/she publicly disclosed or caused to be disclosed that a complaint against a person had been filed with the Board.
- (g) Probable Cause: A person who signs a complaint alleging a violation of this chapter has probable cause for doing so if he reasonably believes in the existence of the facts upon which the claim is based and either:
- (1) Reasonably believes that under those facts the complaint may be valid under this chapter; or
  - (2) Believes to this effect in reliance upon the advice of counsel, sought in good faith and given after full disclosure of all relevant facts within his knowledge and information.

- (h) Procedures: When the Board determines that a complainant has violated the provisions set forth in subsection (a), the Board, upon receiving a written request from the subject of the complaint, shall provide the name and address of the complainant to said subject. If the Board determines that a complainant has not violated the provisions of subsection (a), the Board shall notify the subject accordingly. The subject shall have the right to appeal the Board's determination, and the Board shall schedule an appeal hearing. The subject shall show cause why the complainant violated the provisions of this section. If the Board grants the appeal, the Board shall immediately release the complainant's name and address to the subject. If the Board denies the appeal, it shall present evidence why the complainant's name and address shall not be released.
- (i) Appeal: Any party aggrieved by final decisions made by the Ethics Hearing Board has the right to file an appeal within 30 days pursuant to Local Agency Law 2 PaC.S. §751 et.al.

**Section 5: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.13, Advisory Opinions is repealed in its entirety and replaced with the following language:**

- (a) Upon the written request of any person covered under this Code, the Ethics Hearing Board must render, within thirty (30) days after the date of its next regular meeting, a written advisory opinion with respect to the interpretation or application of this Code with respect to future actions only.
- (b) The Ethics Hearing Board will designate one of its members, or another individual selected by the Board in accordance with this Code, to be the Ethics Officer, for the purpose of quickly responding to questions regarding the requirements of this Code. The Ethics Officer's e-mail address will be made available on the Hearing Board's website. The Ethics Officer's informal opinions may be relied upon, in good faith, but will not be binding upon the Hearing Board or upon the person making the request.
- (c) A formal advisory opinion rendered by the Ethics Hearing Board, until and unless amended or revoked prior to the commencement of the questioned act, is binding upon the Ethics Hearing Board in any subsequent proceeding concerning the person or entity that requested the opinion, or to which the advisory opinion referred, and acted in good faith, unless the requester omitted or misstated a material fact in requesting the advisory opinion. A material fact is to be determined by the Ethics Hearing Board.
- (d) Deliberations regarding advisory opinions among Board members must be made in executive session.
- (e) Advisory opinions (with unnecessary financial and personal details redacted) will be indexed and maintained on file by the Ethics Hearing Board and will also be available on the city website.
- (f) A requester of ethics advice may seek reconsideration of a written advisory opinion by the Ethics Officer or the Ethics Hearing Board. A request for reconsideration must allege that (1) a material error of law has been made; or (2) a material error of fact has been made. The Ethics Officer's decision upon reconsideration may be appealed to the Ethics Hearing Board. An Ethics Hearing Board's decision upon reconsideration is final and may not be appealed. The Ethics Officer or Ethics Hearing Board may reconsider its advice on its own initiative, providing notice to the requester. Advice stands until it has been amended; it is not suspended pending reconsideration or appeal.

**Section 6: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.16, Penalties is repealed in its entirety and replaced with the following language:**

- (a) When determining the appropriate penalty, the following should be considered: the severity of the subject's offense; the position and responsibilities of the subject; the presence or absence of any intention on the part of the subject to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. Another consideration is whether the subject has depended on advice of counsel, but this cannot be used as a defense against the finding of a

violation; only **formal** advice of the Ethics Officer or Ethics Hearing Board may be considered as a defense, **per § 197.13**.

- (b) All decisions regarding disciplinary action require the majority of the Ethics Hearing Board at large, including members of the Probable Cause Panel (an affirmative vote of 5).
- (c) Upon any violation of the City provisions, including the undertaking of wrongful acts as described above, one or several of the following penalties shall be available to the Ethics Hearing Board for imposition:
  - (1) Admonition. In compliance with existing personnel practices, collective bargaining agreements and/or statutes, a letter to the subject, the Mayor, the Director of the Department in which the subject is employed, if any, and the complainant, if any, indicating that the subject has been found to have violated the City provisions;
  - (2) Public censure. In compliance with existing personnel practices, collective bargaining agreements and/or federal, state and local laws, notification to the subject, the Mayor, the Director of the Department in which the subject is employed, if any, and the complainant, if any, indicating that a violation of the City provisions took place and that the Board strongly disapproves of the actions by public official's, public employee's or any person covered under this Code, and in cases of violations of the campaign finance regulations set forth in Chapter 198, the candidate for City Elected Office must attest to a statement corroborating the content and subject matter of the public censure and accepting responsibility for the actions that led to the public censure;
  - (3) Recommendation to the Mayor of Suspension. Recommendation of suspension, without compensation, in compliance with existing personnel practices, collective bargaining agreements and/or federal, state and local law, with notification to the subject, the Director of the Department in which the subject is employed, if any, and the complainant, if any;
  - (4) Recommendation to the Mayor of Termination. Recommendation of termination, in compliance with existing personnel practices, collective bargaining agreements and/or federal, state and local laws, with notification to the subject, the Director of the Department in which the subject is employed, if any, and the complainant, if any;
  - (5) Reimbursement of Financial Gain. Any person who realizes financial gain by way of a violation of any provision of the City Code, in addition to any other penalty provided by the law or this Chapter, shall pay into the Treasury of the city a sum of money up to the financial gain resulting from the violation. The Board shall determine the amount of financial gain realized;
  - (6) Debarment. Any public official, public employee, person, corporation, company or other covered entity found to have participated in or benefitted from a violation of this Chapter, may be barred from participating in business dealings with the City for a period of time to be determined by the Board, in addition to being subject to any other penalty deemed appropriate by the Board; and
  - (7) A fine of up to one thousand dollars (\$ 1000.00), per violation, to be paid into the City Treasury. In the case of fines related to violations of the campaign finance regulations, the Ethics Hearing Board may levy fines in accordance with the regulations set forth in Chapter 198 of this code.
  - (8) In cases where the violation of this Chapter is also a violation of federal or state law, the matter shall be turned over to the proper authority for criminal prosecution.

**Section 7: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.18, Whistleblower Protection is created and supplemented by adding the following language:**

- (a) Neither the city nor any person, including officials and employees, 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 **material** change in job salary, **job**, or responsibilities **that causes an adverse employment action**, against any official, employee, or other person (or against any member of their family) because that person, or a person acting on his or her behalf, (1) reports, verbally or in writing, or files a complaint with the Ethics Hearing Board regarding an alleged violation of this code, or (2) is requested by the Ethics Hearing Board to participate in an investigation, hearing, or inquiry, or is involved in a court action relating either to the alleged violation or to evidence presented or given as part of an Ethics Hearing Board investigation or hearing. The provisions of this section are not applicable when the complainant, witness, or reporter of a violation made accusations or other statements that were frivolous as per §197.12 (d) or in violation of §197.112 (e) “Wrongful Use of this Code”. A violation of this section is a violation of this code.

**Section 8: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.19, Lists, Complaint Forms, and Disclosure Statements is created and supplemented by adding the following language:**

- (a) The Ethics Hearing Board will annually review the list of officials and employees required to file annual disclosure statements, to determine whether the lists are complete and accurate. Within ninety (90) days after it has been formed, and by February 1 each year thereafter, the Ethics Hearing Board must (1) cause to be filed with the City Clerk a list of names and offices, or positions, of all officials and employees and others required to file annual disclosure statements pursuant to §197.08 of this code and § 801 of the City Charter; and (2) notify all such persons of their obligations to file an annual disclosure statement.
- (b) The Ethics Hearing Board will prepare forms for complaints and for annual disclosure statements, and will make these forms available at the City Clerk’s office and on the city’s website, for easy downloading.
- (c) By June 15 of each year, the Ethics Hearing Board must review all annual disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this code.
- (d) If the Hearing Board determines that a disclosure statement is deficient or reveals a possible or potential violation of this code, the Hearing Board will notify the person in writing of the deficiency or possible or potential violation, and of the penalties for failure to comply with this code.

**Section 9: The Pittsburgh Code of Ordinances Title One, Administrative, Article XI, Personnel, Chapter 197.20 Miscellaneous is created and supplemented by adding the following language:**

- (a) No existing right or remedy may be lost, impaired, or affected by reason of this code.
- (b) Any law of any sort - local, state, or federal - that requires a higher, greater, more exacting, or more restrictive standard of conduct than is provided in this code prevails over the provisions of this code and continues in full force and effect with respect to those covered by this code.
- (c) *Severability*: If any provision of this Chapter or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Chapter which can be given effect without the invalid provision or application, and for this purpose the provisions of this Chapter are declared severable.