



MEMORANDUM

TO: Officers and Employees of the City

FROM: Kristin M. Bronson, City Attorney

DATE: April 12, 2017

SUBJECT: Amendments to the Financial Disclosure Ordinance and the Code of Ethics

City Council recently adopted amendments to the financial disclosure requirements of the Revised Municipal Code (Sections 2-70 to 2-74) and amendments to the Code of Ethics (Sections 2-51 to 2-63). This memorandum summarizes the significant changes that were made that affect elected officials, officers and employees of the city. If you have specific questions, please consult the code or call Shaun Sullivan at 720-913-3261 or David Broadwell at 720-865-8754.

Financial Disclosure Amendments

Purpose.

The purpose of the amendments to the Financial Disclosure ordinance is to create common reporting dates nearer to the end of the reporting period, to make the reporting requirements more consistent with the Code of Ethics, to require semi-annual gift reports by officers and to provide for on-line access to officer gift and financial reports.

Disclosure Requirements for Officers

The definition of “**officer**” expands from elected officials and cabinet members **to add the Director of Excise and Licenses, the other fifty appointees of the Mayor, the five appointees of the Auditor, the two appointees of the Clerk and Recorder and the five appointees of the Manager of Aviation.**

The definition of “immediate family” is modified to be consistent with the Code of Ethics, which now includes in-laws, aunts, uncles, nieces and nephews.

Beginning on **July 31, 2017, officers** must submit **semi-annual gift reports** which are to be submitted on **January 31 and July 31 of each year.**

1. Gift Reporting for Officers.

Sources of gifts to be reported. Officers must report gifts (as specified below) they received during the reporting period from anyone with whom the city has an existing, ongoing, or pending contract, business, or regulatory relationship over whom the officer may take direct official action.

Types of gifts to be reported. Only the following gifts must be reported. Although the types of gifts that must be reported has narrowed, any gift in the following categories must be reported no matter the value because the \$25 trivial value threshold was eliminated.

- a. Meals, tickets to events for which admission is charged, or free or reduced price admission to events for which a fee is charged. Section 2-60 (b)(4).
- b. Reasonable expenses paid by non-profit organizations or other governments for attendance at a convention, fact finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the city. Section 2-60 (b)(7).
- c. Memberships and passes from the Denver Art Museum, Denver Botanic Gardens, Denver Museum of Nature and Science, and Denver Zoo. Section 2-60 (b)(10).
- d. Donations to charitable organizations personally solicited by the officer if the officer is aware the donation was actually made based on information provided to the officer by the person or entity receiving the donation. Section 2-72(c).

Information to be reported.

- a. Identification of the gift
- b. Estimated value; and
- c. Source (name of donor)

2. Financial Reporting for Officers.

Officers must submit an annual Financial Report on January 31 of each year. The “new” officers under the expanded definition must submit a Financial Report for the first time on January 31, 2018.

Disclosure Requirements for Employees

The definition of “immediate family” is modified to be consistent with the Code of Ethics, which now includes in-laws, aunts, uncles, nieces and nephews.

Beginning on **January 31, 2017**, employees must submit their **annual gift reports on or before January 31 of each year.**

Employee Gift Reporting.

Sources of gifts to be reported. Employees must report those gifts (as specified below) received during the reporting period, as a result of employment with the city, from anyone with whom the city has an existing, ongoing, or pending contract, business, or regulatory relationship over whom the employee may take direct official action.

Types of gifts to be reported. Only the following gifts must be reported. Although the types of gifts that must be reported has narrowed, any gift in the following categories must reported no matter the value because the \$25 trivial value threshold was eliminated.

- a. Meals, tickets to events for which admission is charged, or free or reduced price admission to events for which a fee is charged. Section 2-60 (b)(4).
- b. Reasonable expenses paid by non-profit organizations or other governments for attendance at a convention, fact finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the city. Section 2-60 (b)(7).
- c. Memberships and passes from the Denver Art Museum, Denver Botanic Gardens, Denver Museum of Nature and Science, and Denver Zoo. Section 2-60 (b)(10).
- d. Donations to charitable organizations personally solicited by the employee if the employee is aware the donation was actually made based on information provided to the employee by the person or entity receiving the donation. Section 2-72.5.

Information to be reported.

- a. Identification of the gift
- b. Estimated value; and
- c. Source (name of donor)

Other Changes to the Financial Disclosure Ordinance.

1. The Clerk is required to make the financial and gift reports of officers publicly available online within seven days after the reports have been submitted.
2. Employee gift reports must be submitted to and kept by their appointing authority. These reports are to be publicly available on request to the department or agency with whom the employee is employed.
3. Complaints can be filed with the Clerk who can refer them to both the City Attorney for prosecution and the Board of Ethics.
4. Candidates for municipal office no longer must make financial disclosures pursuant to this ordinance.

Changes to the Denver Code of Ethics—gifts involving meals and ticketed events

Shortly after the adoption of the amendments to city disclosure requirements explained above, the City Council also adopted a slate of amendments to the Denver Code of Ethics. City officers and employees should pay particular attention to changes to the city’s gift laws governing donations of meals and admissions to ticketed events.

The Ethics Code has, since 2001, regulated gifts to city officers and employees, but only if the answers to both of the following questions is “YES”:

- Is the person or entity offering the gift someone with whom “the city has an existing, ongoing or pending contract, business, or regulatory relationship with the donor” (including any lobbyist offering a gift on behalf of such a person or entity)?
- Is the officer or employee¹ receiving the gift in a position to take “direct official action”² in regard to the donor?

If the answer to both questions is yes, then the recent amendments to the Ethics Code impose the following restrictions on gifts of meals and event tickets:

General Rule imposing a \$300 annual cap on meals and tickets. A city officer or employee can receive gifts of meals and tickets when attendance at a meal or event is reasonably related to the official or ceremonial duties of the officer or employee, but the cumulative value of such meals and tickets cannot exceed \$300.00 in any calendar year from the same donor.

Exceptions to the Rule. The following types of meals and event tickets are exempt from the new \$300 cap:

- a. Meals provided to all attendees at a public meeting and consumed while the meeting is in progress, including by way of example “working lunches.”
- b. Meals provided to all members of any governmental, civic, or non-profit board of which the officer, official or employee is a member and consumed in conjunction with any meeting of the board.
- c. Tickets or free admission to a charitable event, as long as the ticket or free admission is offered directly by and at the expense of the charitable or other non-profit entity hosting the event.
- d. Meals and tickets that would fall under some other exception in the Ethics Code to which the new \$300 cap does not apply, for example the exception for: “reasonable expenses paid by non-profit organizations or other governments for attendance at a convention, fact finding

¹ This same question applies when the gift is offered to an “*immediate family*” member of the officer or employee, the definition of which was recently expanded to include in-laws, aunts, uncles and cousins. The definition of “immediate family” is codified at Sec. 2-52 (c), D.R.M.C.

² The Ethics Code has always contained a somewhat complex definition of what does or does not constitute “*direct official action*.” In a close case, officers and employees are urged to consult the full definition of the term codified at Sec. 2-52 (b), D.R.M.C.

mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the city in an official capacity reasonably related to the recipient's employment by the city."