

ORDINANCE NO. _____

An ordinance amending Chapter 1 of Division 24 of the Los Angeles Administrative Code to amend a regulation of the City Ethics Commission concerning advice and opinion procedures.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 24.12 of Chapter 1 of Division 24 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 24.12. Opinions.

(a) A person may ask the Ethics Commission to issue a written opinion with respect to that person's duties under the City Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request an opinion extends to that person's authorized representative. The Ethics Commission's Executive Director and Director of Enforcement may also request opinions.

(b) A request for an opinion must be submitted in writing and must include the following:

(1) The name, title or position, mailing or email address, and telephone number of the person or persons by or for whom the opinion was requested. If the opinion is requested by the authorized representative of several similarly situated persons, the identifying and contact information of at least one represented person must be included.

(2) If the requestor is an authorized representative, a specific statement that such authorization has been made.

(3) All material facts, stated as clearly, concisely, and completely as possible.

(4) The question or questions based on the material facts.

(c) The Executive Director determines whether to grant or deny opinion requests.

(1) Within 14 calendar days after a complete request is received and all information in Subsection (b) has been provided, written notice of the Executive Director's decision shall be transmitted to a requestor other than the Ethics Commission's Executive Director or Director of Enforcement. If the

requestor is an authorized representative, a copy of the notice shall also be transmitted to the represented persons identified in the opinion request.

(2) If the request is denied, the notification shall state the reasons for the denial and shall advise the requestor of the right to appeal to the members of the Ethics Commission pursuant to Subsection (d).

(3) Among the reasons for which a request may be denied are the following:

(A) The question raised is expressly covered by the Charter, an ordinance, or Commission regulations.

(B) The question raises no substantial question of interpretation and, therefore, requires only a routine reply more appropriately made by staff.

(C) The requestor is seeking an opinion about another person's duties and has not been authorized to do so by that person.

(D) The person on whose behalf the opinion was requested does not have sufficient interest (standing) in the question to justify an opinion being issued.

(E) The question is hypothetical and does not represent an intended course of conduct.

(F) The question is substantially similar to a previously adopted opinion.

(G) The facts presented are insufficient or appear to be inaccurate or in dispute.

(H) The request does not state a question based on the facts presented.

(I) The question is outside the Ethics Commission's jurisdiction.

(J) The question relates to past action.

(K) The question is more appropriately handled through formal or informal advice, a policy, or a regulation adopted pursuant to Charter Section 703.

(L) Rendering an opinion would be inappropriate or otherwise not in the public interest.

(4) The requestor may ask the members of the Ethics Commission to review an opinion request denied by the Executive Director.

(A) The request for review must be received within 14 calendar days after notice of the denial is transmitted.

(B) The members of the Ethics Commission shall act on a request for review at the next public meeting that occurs at least 30 calendar days after the request for review is received.

(C) If the members of the Ethics Commission approve the granting of an opinion request, the denial shall be rescinded, written notice shall be transmitted to the requestor, and the opinion shall be issued. If the denial is affirmed, the members of the Ethics Commission need not state reasons for doing so.

(d) The following procedures apply to issuing opinions:

(1) The members of the Ethics Commission shall hold a public hearing on the opinion.

(2) The Ethics Commission staff or, in the Executive Director's discretion, the City Attorney shall prepare a draft opinion which discusses the issues and includes any staff recommendations.

(A) The draft opinion shall be transmitted to the requestor at least 21 calendar days prior to the hearing.

(B) The requestor may withdraw the request for an opinion within seven (7) calendar days after the draft opinion is transmitted.

(i) The withdrawal must be submitted in writing.

(ii) If the request is withdrawn, the immunity in Charter Section 705(a) does not apply.

(iii) If the request is withdrawn, the Executive Director may continue the opinion process and the members of the Ethics Commission may adopt the opinion, as long as the requestor and the persons on whose behalf the opinion was originally requested are not identified.

(C) If the opinion process continues, the draft opinion shall be posted on the Ethics Commission's web site at least 14 calendar days prior to the hearing. Copies of the draft opinion shall be transmitted to the members of the Ethics Commission and the City Attorney. If the requestor

withdrew the original request, the draft opinion shall first be modified to remove reference to the requestor and the persons on whose behalf the opinion was originally requested.

(3) Any person may submit memoranda, briefs, arguments, or other relevant material regarding the opinion no later than three (3) calendar days prior to the hearing.

(4) Ethics Commission staff and the requestor may each provide up to 20 minutes of testimony or oral argument at the hearing. Other persons may also present testimony or oral argument directly related to the opinion, subject to the Ethics Commission's standard rules for public comment at public meetings.

(e) Opinions shall be adopted by the members of the Ethics Commission at a public meeting, are effective upon adoption, and shall be posted on the Ethics Commission's web site.

(f) Acting in accordance with opinions adopted by the Ethics Commission is evidence of good faith for similarly situated persons, as long as the opinion remains in effect and the underlying laws remain unchanged. However, the immunity in Charter Section 705(a) extends only to the persons identified in the opinion request and on whose behalf the opinion was requested.

(g) An opinion may be rescinded by the members of the Ethics Commission at a public meeting.

(1) The members of the Ethics Commission must state the reasons for rescinding the opinion, which may include but are not limited to a change in the law, previously unforeseen circumstances, and the interests of justice.

(2) Whenever an opinion is rescinded, the Ethics Commission staff shall transmit written notice to the original requestor.

(3) Subsection (f) applies to an opinion from the date of adoption until the date of rescission.

Sec. 2. Existing Section 24.13 of Chapter 1 of Division 24 of Los Angeles Administrative Code is renumbered as Section 24.14.

Sec. 3. A new Section 24.13 is added to Chapter 1 of Division 24 of Los Angeles Administrative Code to read as follows:

Sec. 24.13. Advice.

(a) **Formal Advice.**

(1) A person may ask the Ethics Commission to issue formal advice regarding that person's duties under the Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request formal advice extends to that person's authorized representative.

(2) Requests for formal advice will not be acted upon unless all required information has been provided.

(A) Required information is all of the following:

(i) The name, title or position, mailing or email address, and telephone number of the person by or for whom the formal advice was requested.

(ii) If the request is submitted by an authorized representative, a specific statement that such authorization has been made.

(iii) All the facts material to the questions presented, stated as clearly, concisely, and completely as possible.

(B) The time period specified in Charter Section 705(b) does not begin to run until all required information has been received.

(C) If a request for formal advice does not contain all required information, the requestor shall be notified.

(3) When a complete request for formal advice is received, a written acknowledgement of the request shall promptly be transmitted to the requestor.

(A) The acknowledgement shall provide the requestor with the date on which the period specified in Charter Section 705(b) expires.

(B) If the requestor is an authorized representative, a copy of the acknowledgement shall also be transmitted to the person on whose behalf the advice was requested.

(C) If the request is received from an official or employee of a City agency, a copy of the request and the acknowledgement may also be transmitted to the agency's general manager or chief administrative officer if the request is related to the official duties of the agency.

(4) The Executive Director may extend the response deadline for good cause that reasonably prevents an answer within the 21 business days specified by Charter Section 705(b).

(A) The Executive Director may extend the deadline to any date the Executive Director believes is reasonable.

(B) The requestor may appeal the Executive Director's decision to extend the deadline to the members of the Commission, who shall decide the appeal at their next regular meeting which occurs at least three (3) business days after receipt of the appeal. The members of the Commission may uphold the Executive Director's decision, overturn the decision, or extend the deadline to a different date without stating the reasons for their decision.

(5) Formal advice shall be drafted by Ethics Commission staff or, at the Executive Director's request, by the City Attorney. Formal advice shall be approved by the Executive Director prior to release.

(6) Copies of the advice request and the formal advice are public records, subject to the following:

(A) When the request relates to whether a person is required to disclose a specific private interest and the advice is that the interest need not be disclosed, neither the request nor the advice shall be disclosed to members of the public, in order to protect the privacy interests of the person on whose behalf the advice was requested.

(B) Any information that is confidential by law will be redacted before the request or the advice is disclosed to members of the public.

(7) A request for formal advice may be declined.

(A) A request may be declined for any of the following reasons:

(i) The question raised is expressly covered by the Charter, an ordinance, a Commission opinion, or Commission regulations.

(ii) The requestor is seeking advice regarding past conduct.

(iii) The requestor is seeking advice about another person's duties and has not been authorized to do so by that person.

(iv) The person on whose behalf the advice was requested does not have sufficient interest (standing) in the question to justify formal advice being issued.

(v) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.

(vi) The request does not present a question within the Ethics Commission's jurisdiction.

(vii) The request presents a question that is purely hypothetical and does not represent an intended course of conduct.

(viii) The request presents issues requiring a policy interpretation best made through an opinion, a policy, informal advice, or by adoption of a regulation pursuant to Charter Section 703.

(ix) Rendering formal advice would be inappropriate or otherwise not in the public interest.

(B) If a request is declined, written notice shall be transmitted to the requestor and the immunity in Charter Section 705(b) does not apply.

(8) A request for formal advice may be treated as a request for an opinion or as a request for informal advice.

(9) Formal advice does not constitute an Ethics Commission opinion or a declaration of Ethics Commission policy.

(10) Formal advice is the application of the law to a particular set of facts provided by the requestor. Formal advice may provide guidance to others for as long as the underlying law remains unchanged. However, formal advice is not a defense for anyone other than the person on whose behalf the formal advice was requested.

(11) The immunity in Charter Section 705(b) is limited to the person on whose behalf the formal advice was requested, to the specific facts contained in the formal advice, and to the law in effect at the time the formal advice was issued.

(b) Informal Advice.

(1) A person may ask the Ethics Commission for informal advice regarding that person's duties under the City Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request informal advice extends to that person's authorized representative. Informal

advice may also be requested by a City agency whose members, officials, or employees are subject to the provisions of such laws.

(2) Informal advice may be requested and rendered verbally or in writing.

(3) Informal advice does not provide the immunity in Charter Section 705(b).

(4) A request for informal advice may be declined or limited to a general explanation of the requirements of the law. A request may be declined or limited for any of the following reasons:

(A) The requestor is seeking advice regarding past conduct, unless the advice is related to the possible amendment of previously filed reports.

(B) The requestor is seeking advice anonymously.

(C) Advice is being sought regarding the duties of another person, and the requestor either does not appear to be authorized to make the request or does not provide the identity of the person on whose behalf the request is being made.

(D) The question presented is purely hypothetical and does not reflect an intended course of action.

(E) The question presented is too complex for resolution by informal advice.

(F) The question presented is best addressed through formal advice, a policy, or an opinion.

(G) The facts presented are insufficient, incomplete, too vague to render specific informal advice, or appear to be inaccurate or in dispute.

(H) The facts presented do not appear to present a question within the Ethics Commission's jurisdiction.

(I) Rendering informal advice would be inappropriate or otherwise not in the public interest.

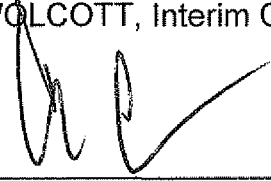
(5) Requests for informal advice and any informal advice provided in response are confidential as required to preserve the confidentiality mandated by Charter Section 706.

(6) Informal advice does not constitute an Ethics Commission opinion or a declaration of Ethics Commission policy.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 12 2014.

HOLLY L. WOLCOTT, Interim City Clerk

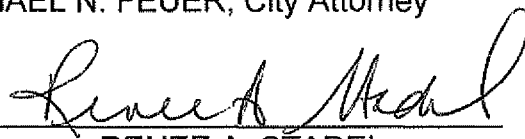
By  _____ Deputy

Approved 2/19/14 _____

 _____ Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
RENEE A. STADEL
Deputy City Attorney

Date 2/5/2014 _____

File No. 14-0049 _____

DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 182906 – Amending Chapter 1 of Division 24 of the Los Angeles Administrative Code to amend a regulation of the City Ethics Commission concerning advice and opinion procedures - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on **February 12, 2014**, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on **February 21, 2014** I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on **February 21, 2014** and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this **21st** day of **February, 2014** at Los Angeles, California.



Maria Vizcarra, Deputy City Clerk

Ordinance Effective Date: **April 2, 2014**
Rev. (2/21/06)

Council File No. **14-0049**