



# City of Olathe

## Legislation Details (With Text)

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<b>File created:</b>	5/7/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	5/18/2021	<b>Final action:</b>	
<b>Title:</b>	Report regarding City Council Policy A-3 (Code of Ethics).		
<b>Sponsors:</b>	Ron Shaver, Daniel Yoza		
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Attachment A: Council Policy A-3 - Code of Ethics, 2. Attachment B: Ordinance No. 21-XX - O.M.C. Chapter 1.18 - Code of Ethics		

Date	Ver.	Action By	Action	Result
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**DEPARTMENT:** Legal

**STAFF CONTACT:** Ron Shaver; Daniel Yoza

**SUBJECT:** Report on proposed amendments to the Code of Ethics.

**ITEM DESCRIPTION:** Report regarding City Council Policy A-3 (Code of Ethics).

### SUMMARY:

In 1986, the Governing Body adopted a resolution establishing a Code of Ethics for elected and appointed officials of the City of Olathe. The Code of Ethics provides procedures for investigating alleged violations of the Code of Ethics. The Code of Ethics was amended in its entirety by resolution in 1993. Section One of the Code of Ethics was amended by resolution in 1998; the 1998 resolution and the remaining sections of the 1993 resolution were incorporated into City Council Policy A-3, the Code of Ethics for Elected and Appointed Officials and Employees (Attachment A) (the "Ethics Policy").

Staff has prepared an ordinance (Attachment B) (the "Ethics Ordinance") which adds a new Chapter 1.18 to the Olathe Municipal Code pertaining to the Code of Ethics and repealing the Ethics Policy resolution. This Ethics Ordinance clarifies certain provisions of the current Ethics Policy and moves them into the Municipal Code. Adoption of the Ethics Ordinance will formalize the policy as part of the Municipal Code; staff recommends adoption by ordinance not resolution because it involves enforcement procedures for violations of the Code section.

The conduct requirements in Section 1, Subsections (B)(1) - (B)(9) of the Ethics Ordinance are mostly unchanged from the Ethics Policy and were edited for clarity.

The substantive changes from the Ethics Policy are:

- A purpose statement is added (Section 1, Subsection (A)).
- The provision on gifts (Section 1, Subsection (B)(10)) is clarified to explicitly state that certain small gifts (e.g., public service-related awards, gifts which do not create a substantial risk of undermining official impartiality, meals of trivial monetary value) are permitted. The applicability of the Code of Ethics is clarified in Section 2. Although the Code of Ethics applies to all Councilmembers, appointed officials, and employees, certain consequences stemming from complaints involving the Governing Body, City Manager, City Auditor, and Municipal Judge can only be imposed by the Governing Body.
- Section 3 changes the procedure for handling complaints against the Governing Body and officials supervised by the Governing Body:
  - o -Complaints need to be sworn under penalty of perjury. Lying in an ethics complaint would therefore be a felony under Kansas Statute.
  - o -The Governing Body has the authority to dismiss frivolous or groundless complaints without further investigation.
  - o -If the Governing Body determines that further investigation is necessary, the Governing Body may appoint an attorney or law firm to investigate the matter; the investigator would no longer have to be a Johnson County resident.
  - o - Both the complainant and the accused person would have the right to review all documents submitted by the other party and may submit written responses to all material submitted from the other side to the investigator.
  - o -All penalties that may be imposed are listed in Section 3, Subsection (H). The listed penalties include public reprimand or censure, resignation or removal from office, and referral to the Kansas Attorney General or Johnson County District Attorney.
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**FINANCIAL IMPACT:**

None.

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**ACTION NEEDED:**

Accept the report. Unless directed otherwise, staff will prepare the ordinance for formal consideration on June 1, 2021.

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**ATTACHMENT(S):**

Attachment A: Council Policy A-3 - Code of Ethics

Attachment B: Ordinance No. 21-XX - O.M.C. Chapter 1.18 - Code of Ethics