

**FULL TEXT OF MEASURE H
CITY OF IRVINE**

AN ORDINANCE OF THE CITY OF IRVINE PROHIBITING THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL, AND THEIR EXECUTIVE ASSISTANTS AND APPOINTED COMMISSIONERS, FROM (1) ENGAGING IN COMPENSATED EMPLOYMENT OR SERVICE FOR LOBBYING FOR ANY PRIVATE PERSON OR ORGANIZATION BEFORE ANY LOCAL PUBLIC AGENCY LOCATED IN THE COUNTY OF ORANGE, AND (2) HAVING A PERSONAL INVESTMENT OR MONETARY INTEREST IN CITY CONTRACTS

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Irvine City Council Ethical Public Service Ordinance.

Section 2. Purpose. This Ordinance is adopted to ensure that the Mayor and members of the City Council, as elected representatives, and their Executive Assistants and appointed Commissioners, are engaged in public service not for private, personal gain, but to advance the interests of Irvine residents and the entire Irvine community.

Section 3. City allegiance and proper conduct.

A. *Incompatible employment or service*. Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local public agency (county, city or special district) located in the County of Orange.

1. Paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).
2. For purposes of paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.

B. *Interest in City contracts*. The Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

C. *Knowledge of and agreement to abide by provisions*. The Mayor and members of the City Council and their Executive Assistants and appointed Commissioners shall at the time of their election or appointment or upon the effective date of this Section 3, whichever occurs earlier, sign an appropriate form prepared by the City Clerk reciting their knowledge of the provisions of this Section 3 and their agreement to abide by such provisions.

Section 4. Enforcement of City allegiance and proper conduct provisions.

A. The provisions of Section 3 above express standards of ethical conduct expected for City officials and employees. As an expression of such standards, the provisions of Section 3 are intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

B. A violation of the provisions of Section 3 above shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.

C. All suspected violations of Section 3 above that also pertain to provisions of the Political Reform Act (California Government Code section 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.

D. All suspected violations of Section 3 above that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the office of the Orange County District Attorney.

E. Except as otherwise expressly provided by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of Section 3 above:

1. Alleged violations of Section 3 committed by the Mayor, a member of the City Council or a member of a City commission should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in the event one has occurred.
2. Alleged violations of Section 3 committed by a City Council Executive Assistant should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.
3. In the event that the City Attorney or City Manager (or his or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended to diminish or otherwise alter applicable requirements of state and federal law.

Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance, including but not limited to enforcement provisions. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

Section 9. Codification. Upon adoption of this Ordinance pursuant to the approval of the City's voters, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to appropriately codify this Ordinance in the City's Municipal Code.

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE H**

City of Irvine

Irvine City Council Ethical Public Service Ordinance

This ballot measure would enact voter-adopted restrictions on certain conduct of the Mayor and the members of the City Council and of their Executive Assistants and appointed Commissioners. More specifically, the measure would prohibit the Mayor and the members of the City Council and their Executive Assistants and appointed Commissioners from engaging in compensated employment or service for lobbying for any private person or organization before any local public agency located in the County of Orange. The term "lobbying" is defined by the measure. The measure also would prohibit the Mayor and the members of the City Council and their Executive Assistants and appointed Commissioners from having a personal investment or monetary interest in any City contract. In addition, the measure would require the Mayor and the members of the City Council and their Executive Assistants and appointed Commissioners to sign statements that they are aware of the applicable restrictions and that they agree to comply with them. Finally, the measure establishes procedures for enforcement of any violations of the prohibitions.

The current Irvine Municipal Code contains similar restrictions on the conduct of the Mayor and the members of the City Council and of their Executive Assistants. The ballot measure would extend the restrictions to Commissioners who are appointed by the Mayor and the members of the City Council.

Also, the ballot measure would limit the ability to amend or repeal the restrictions. The current Irvine Municipal Code restrictions can be amended or repealed by the City Council at any time and for any reason. If adopted, the provisions contained in the ballot measure could be subsequently amended by a four-fifths vote of the City Council, but only to the extent such amendments further or expand the intent and objectives of the measure, including but not limited to the enforcement provisions. Otherwise, all other amendments or any proposed repeal of the measure must be approved by the voters to be effective.

s/ Philip D. Kohn
City Attorney

ARGUMENT IN FAVOR OF MEASURE H

“Irvine City Council Ethical Public Service Ordinance”

Most people would agree that members of the City Council should not be paid lobbyists. After all, public officials are elected to serve the public interest, not to peddle influence on behalf of private special interests. Surprisingly, while the State regulates public officials in many ways, there is no prohibition on lobbying for private clients while serving as a local elected official.

In 2005, I led the effort to create a comprehensive Ethics Ordinance to encourage public officials in the City of Irvine to conduct themselves in an ethical and professional manner. The only provision which failed to win unanimous support from the City Council was the prohibition on lobbying by local elected officials.

Adopted on a 3-2 vote in January of 2006, the anti-lobbying ordinance prohibits the Mayor, members of the City Council and, by extension, their Council Executive Assistants from engaging in compensated lobbying activities during their term of elected or appointed public service.

I believe the anti-lobbying ordinance is an important provision which should never be repealed by a future City Council. That’s why I asked that this measure be placed before the voters of Irvine for ratification — so that, with your approval, it will be made permanent and “tamper-proof.” I am pleased that, prior to placing the measure on the ballot, the City Council elected to strengthen the ordinance by extending its provisions to include appointed City Commissioners.

If you believe, as I do, that Irvine elected officials and those they appoint or employ should be prohibited from using their public position for personal financial gain, please join me in voting YES on Measure H, The Irvine City Council Ethical Public Service Ordinance.

s/ Beth Krom
Mayor

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE H

“Irvine City Council Ethical Public Service Ordinance”

Mayor Krom makes a curious argument.

When the Ethics Ordinance was adopted in January 2006, the three-member council majority — Mayor Krom, and councilmen Sukhee Kang and Larry Agran — rejected a motion to hold a separate council vote for the anti-lobbying provision of the Ethics Ordinance.

Now those three will allow you to vote only for the anti-lobbying section. They voted against a motion by councilwoman Christina Shea to let you vote for the entire Ethics Ordinance. Councilman Steven Choi supported Ms. Shea.

Mayor Krom is concerned a future City Council might alter the anti-lobbying provision. If that is true, why not let you vote to protect the entire Ethics Ordinance? Shouldn't they give you the same privilege they voted for themselves?

By leaving the rest of the Ethics Ordinance off the ballot, a future City Council majority can change it, and you'll have no say.

The three also voted against Ms. Shea's proposal that Council members agree not to solicit campaign contributions from those doing business at City Hall, and not to accept contributions greater than \$250 from those doing business at City Hall.

Vote NO to send a message. Demand the entire Ethics Ordinance be on the November general election ballot. Demand it include a provision restricting campaign contributions from those doing business at City Hall. Demand the ordinance include real penalties, which Mayor Krom's proposal lacks.

That would be REAL ethics reform.

s/ Stephen C. Smith
Auditor

ARGUMENT AGAINST MEASURE H

"Irvine City Council Ethical Public Service Ordinance"

An ordinance regulating lobbyist activity at Irvine City Hall should be supported. This measure, unfortunately, does nothing to regulate lobbyists. This measure is missing several lobbyist controls:

- **This measure contains no penalties!** Please read it for yourself — Section 4, Paragraph E. No jail time, no fines, no banishment from public service. Just a discussion with the City Attorney! That won't stop a city official from lobbying.
- **This measure does not restrict contributions from those doing business with City Hall.** One council member proposed a \$250 cap on such contributions, but a three-member majority voted against it. In the last Irvine city election, hundreds of thousands of dollars were pumped into slush funds not regulated by Irvine's campaign finance laws. Those slush funds stuff your mailbox at election time with slate mailers promoting some candidates while attacking others.
- **This measure does not restrict council members from controlling slush funds and slate mailer organizations.** News stories have linked certain council members to slate mailers, links that may be illegal under state law. By supporting this "Ethics Ordinance," they could claim they are ethical when their acts suggest they're not.

The City Council budgeted \$200,000 to hold this special election, but **the ordinance is already the law.** It was enacted in January 2006, and will still be part of the Irvine Municipal Code whether you vote yes or no.

Use your NO vote to send a message. Demand that the entire ethics ordinance be on the general election ballot in November when it won't cost \$200,000. Demand that it include provisions banning council members from controlling slush funds and slate mailers. Demand it include penalties with teeth.

For more information, visit www.irvinetattler.com.

s/ Stephen C. Smith
Auditor

REBUTTAL TO ARGUMENT AGAINST MEASURE H

“Irvine City Council Ethical Public Service Ordinance”

It is unfortunate that Stephen Smith ignores the relevant issue at the heart of Measure H. Rather than addressing the merits of the Irvine City Council Ethical Public Service Ordinance, he seeks to defame, distort and distract.

Irvine voters have demonstrated time and again their ability to effectively advance positive community interests through the initiative process. In fact, because important campaign reform initiatives have been adopted by the voters of this city in the past, Irvine today has the strongest, most effective campaign finance laws of any city in Orange County.

Now Irvine voters have another opportunity to raise the bar on public accountability. Passage of Measure H will ensure that public officials and their appointed commissioners and employees will be prohibited from trading on their public position for personal financial gain during their term of public service.

I am pleased that the Irvine City Council unanimously voted to expend the funds necessary to place Measure H on the ballot. Voter ratification will strengthen the ordinance and assert the will of the people.

The matter is now in your hands. If you agree that elected officials and those they appoint or employ should be prohibited from engaging in compensated lobbying for private clients during their term of public service, please join me in voting YES on Measure H, the Irvine City Council Ethical Public Service Ordinance.

s/ Beth Krom
Mayor