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**To:** Roy Williams Jr <[williams4ward3@yahoo.com](mailto:williams4ward3@yahoo.com)>

**Sent:** Tuesday, June 27, 2023 at 07:05:07 PM CDT

**Subject:** Appointment of former official who has recently left office

Alderman Williams:

You asked if there was a ban on appointments who left office or were employed by the City for the preceding three years. In short, there is no ban and any attempted ban still allowed for the appointment with City Council approval.

In 2016, Section 10.05 of the City Code containing definitions for the Code was amended. The amendment added the following definition: "*Member of the public*. For the purposes of appointment to any City board, commission, or advisory body of the City shall not include any current city employee, current elected official of another governing body with boundaries in common with or overlapping the city, current elected official of the city, former elected official of the city for a period of 3 years after leaving office or a former city director for a period of 3 years after leaving city employment without the approval of City Council."

The term "member of the public" is not used anywhere in our City Code (pertaining to appointees). Meaning, this definition (and the restriction contained therein) does not apply to any current board, commission or advisory body. It would only apply to boards whose appointees are "members of the public." The closest our Code comes to using this term is for the electrical commission and mechanical commission, both of which require one member to be appointed "from the general public." Even then, it would take a very liberal construction of the Code to apply the definition of "member of the public" to "from the general public."

Chapter 33 of our Code, which governs boards, commissions and subordinate departments, contains no such designation of who can be appointed. Likewise, Chapter 90 Article II of our Code, which governs the liquor control commission, contains no designation of who can be appointed. Chapter 33 governs appointment to boards, commissions, etc., unless otherwise provided by Code. So, the proper way to analyze the code is to review Chapter 90 Article II for liquor commission specific questions and, any item not addressed in that Article, is covered by Chapter 33. For example, a vacancy in the liquor commission is not addressed by Chapter 90 Article II, so Chapter 33 (specifically Section 33.002(e)) governs the liquor commission vacancy.

The 2016 ordinance could have amended Section 33.002 of the Code by adding the following: "No current city employee, current elected official of another governing body with boundaries in common with or overlapping the city, current elected official of the city, former elected official of the city shall be eligible for appointment for a period of 3 years after leaving office or employment without the approval of City Council." This would have had the operative effect of limiting appointees, instead of just creating a new definition that is not used.

Regardless, liquor commissioners must be approved with advice and consent of the Council. So, even if that definition was in place, the vote would be no different, because the City Council still needs to approve her appointment. If there is actually a desire to impose a 3 year restriction, the Council is within its purview to withhold its consent for that reason.

Accordingly, as I interpret the code, there is no current ban imposed upon appointees. I will be prepared to discuss this at the next meeting, but if you have any questions in the interim, please let me know. Thank you.

Yours truly,

**Gregory E. Moredock | Corporation Counsel**

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