

**CITY OF DEADWOOD
ORDINANCE 1405**

NOW THEREFORE, be it ordained by the City Commission of the City of Deadwood, in the State of South Dakota, as follows:

SECTION 1:AMENDMENT “2.04.05 Code Of Conduct For Elected And Appointed Officials” of the Deadwood Municipal Code is hereby *amended* as follows:

AMENDMENT

2.04.05 Code Of Conduct For Elected And Appointed Officials

In order to maintain excellence in government and to facilitate the efficient provision of services to the public, the City of Deadwood adopts this Code of Conduct for Elected Officials. This Code of Conduct is in addition to all other policies of the City of Deadwood.

A. The Code:

1. The City of Deadwood expects each elected official to demonstrate the highest standards of conduct, personal integrity, and honesty in all of their activities in order to inspire public confidence and trust in elected officials and the City.
2. The City of Deadwood expects each elected official to undertake their duties in a fair and impartial manner, refraining at all times from discrimination or the dispensation of special privileges.
3. The City of Deadwood strives to maintain a workplace that facilitates the growth and performance of its employees. To that end, each elected official is charged with the responsibility to ensure that the workplace is free from hostility or harassment in any form and that the workplace is conducive to the provision of services in an efficient and effective manner.
4. The provision of governmental service requires elected officials is to interact with the public. Given the unique relationship between the City and its citizens, each elected official is expected to treat members of the public with the respect and courtesy due to citizens from public servants. However, no elected official shall be expected to endure person hostility or abuse, regardless of the source.

B. Complaint:

Complaints against elected officials shall be made in writing on the form provided by the City Attorney's Office. All information must be completed on the form, or the City Finance Officer shall reject the complaint. All complaints shall be sworn upon oath or affirmation and filed

with the office of the City Finance Officer. Complaints shall describe in detail the act or acts complained of and the specific sections(s) of this Code that have allegedly been violated.

1. Confidentiality. All complaints, subsequent filings, investigative reports, and proceedings before the City Commission shall remain confidential unless or until

a. the elected official accused of a violation elects, in writing, to make the complaint public, or

b. the City Commission votes to make the complaint public.

c. If the City Commission determines that the complainant has violated any confidentiality provisions under this chapter, then the Commission may dismiss the complaint.

C. Due Process:

Except as provided herein, any time a violation of this Code is alleged through the filing of a complaint, the affected elected official(s) shall be entitled to notice of the alleged violation(s) and a public hearing on the merits of the allegation(s).

1. Following receipt of a complaint, the City Finance Officer or his or her designee shall examine the complaint and shall also review any signed written submissions by the person(s) or entity(ies) that are directly involved. Pursuant to SDCL § 1-25-2(1), the complaint may be heard in executive session, and upon completion of the review by the City Attorney, the City Attorney shall submit in executive session an unbiased fact - based investigative report to the City Commission. All laws pertaining to executive session shall apply, and the City Commission shall not take any action regarding any alleged violation of this Code in executive session.

a. At least ten days prior to the scheduled executive session, any affected elected official(s) shall be notified in writing of the complaint and the scheduled date of the executive session discussion, and shall be provided copies of the materials reviewed by the City Attorney, along with the report produced by the City Attorney, or his or her designee.

i. This provision of notice shall be required, except in cases in which the affected elected official(s) has been accused of criminal wrongdoing, or in cases in which notice to the affected elected official(s) would jeopardize an on-going criminal investigation by any local, state, or federal law enforcement agency.

ii. The City Attorney shall make the determination as to whether the above- enumerated notice exception applies, and shall document the file as to the reason(s) therefore.

iii. In cases of alleged criminal wrongdoing or ongoing criminal investigation, the subject complaint of violation of this Code shall be suspended until such times as

the City Attorney deems the criminal allegation and/or criminal investigation has been resolved, either by prosecution, or a determination that no criminal charge(s) are warranted against the affected elected official(s)

b. In the event the notice exception above does not apply, the matter shall proceed and any affected elected official(s) shall have an opportunity to respond and be heard during the scheduled executive session.

c. The City Commission will utilize the executive session to:

i. Become fully informed;

ii. Discuss if there appears to be a violation of the Code;

iii. Seek resolution without further action;

iv. If necessary, discuss scheduling the matter for a public hearing for final determination regarding whether a violation occurred; and

v. If necessary, discuss what sanction if any may be most appropriate.

2. Any elected official(s) affected by a complaint of violation of this Code may be represented by counsel of his or her choosing at the scheduled executive session.

a. Counsel present under this section is allowed to attend only that portion of the scheduled executive session where the complaint at issue under this Code is discussed.

b. Counsel under this section means an attorney at law licensed to practice in the State of South Dakota.

3. Any elected official(s) affected by a complaint of violation of the Code may at any time during the process, at his or her option, choose to have the matter heard at a public hearing.

a. Election of a public hearing must be made in writing to the City Attorney.

b. The public hearing shall take place at the next regular scheduled or special City Commission meeting after written notice has been received, provided however that written notice is received at least 10 days prior to the next regularly scheduled or special City Commission meeting.

4. Official action by a concurrence of two-thirds of the City Commissioners shall be required for a determination that a violation of this Code has occurred, and likewise, a concurrence of two-thirds of the elected City Commissioners shall be required in order to impose sanction.

D. Effect of Violation:

1. Neither an alleged nor confirmed violation of this Code of Conduct by itself provides a basis for challenging the validity of any final action, enactment, ordinance, resolution, decision, determination, or recommendation of the City Commission.

2. The City Commission is the judge of the qualification of its own members; any sanction available under state law, including but not limited to public reprimand and public censure, shall be available to the City Commission in judging its members.

a. Definitions.

i Public reprimand as used in this Code means a public declaration made by resolution at a City Commission meeting announcing that an elected official's conduct was improper and describing the impropriety under this Code.

ii. Public censure as used in the Code means an official public condemnation made by resolution at a City Commission meeting denouncing an elected official's conduct as a violation of the Code and the reasons therefore.

(attach additional explanation if necessary)

This complaint is deemed confidential until it is made public by a vote of the City Commission or by the Commissioner accused of a violation of the Code. If made public by the complainant, the City Commission may dismiss the complaint. If knowledge of the complaint becomes public there is nothing that prohibits the Commissioner accused of violating the Code from commenting on the alleged violation.

State of South Dakota) ss. County of _____) I, _____, being duly sworn, depose and state that I am the person named above and have authorized the filing of this complaint. I declare under penalty of perjury that I have read the complaint, I know the contents thereof, the allegations made are true and correct, except as to matters stated therein upon information and belief, and as to those matters I state that I believe them to be true.

_____ Complainant signature Subscribed and sworn to before me this _____ day of _____, 20____. (SEAL) Notary Public My Commission Expires: _____

COMPLAINT OF CODE VIOLATION CITY OF DEADWOOD CODE OF CONDUCT FOR ELECTED OFFICIALS Complainant Information Name:

_____ Address: _____ City:

_____ State: _____ Zip: _____ Phone: _____ Email:

_____ Status: ___ Resident ___ Property Owner ___ Employee

_____ Doing Business with City ___ None ___ Alleged Violation

_____ Elected Official:

_____ Code provision violated: _____ Narrative

explanation of violation: _____

SECTION 2: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from _____ and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF DEADWOOD CITY COMMISSION

_____.

Presiding Officer

Attest

David Ruth Jr., Mayor, City of
Deadwood

Jessica McKeown, Finance Officer,
City of Deadwood