

Sec. 2-XX – Code of Conduct Complaint and Resolution Process.

(a) Definitions

- (1) *Appointee* shall mean any person who is serving on a Council-appointed board or commission.
- (2) *Code of conduct* shall mean rules of conduct adopted by the City Council that apply to members of the City Council and board and commission members.
- (3) *Colorado Open Records Act* shall mean C.R.S. §24-72-200, et. seq, as the same may be amended from time to time.
- (4) *Covered person* shall mean any appointee or a member of the City Council
- (5) *Reporting party* shall mean a person who has been subjected to or who has witnessed another person be subjected to behavior by a covered person that violates the code of conduct. A reporting party may be a covered person, a City staff member, a member of the public, a City contractor or vendor, an appointed official, a contractor, or a person whose employment gives them access to or contact with City Council or a Council-appointed board or commission.
- (6) *Subject* shall mean a covered person who is alleged to have violated the code of conduct.

(b) The City Council encourages any person who is a witness to a violation of the code of conduct to immediately bring the violation to the attention of the City, in accordance with the following procedures.

(c) Confidentiality and Privacy Interests.

Covered persons must be accountable to the City Council, the City organization and the public they serve. The public deserves to have access to some information about complaints and complaint trends, but this must be balanced with the needs of the parties to have a safe, fair, and impartial process with appropriate confidentiality. The complaint resolution process is a confidential process. Those involved in the complaint process must ensure that reporting parties can communicate privately and confidentially with them in discussing their complaints. Complaints and information about the investigation must be kept confidential by all parties, witnesses, those who handle the complaints, and those who recommend discipline or remediation, to the fullest extent possible. Information received through the complaint process shall not be disclosed pursuant to an open records request except in accordance with the Colorado Open Records Act.

(d) Informal Resolution Process

- (1) The informal resolution process is encouraged to address behavior and resolve the matter in an informal and timely fashion. A reporting party may inform the subject directly that their behavior or activity in their City role appears to be in violation of

the code of conduct and encourage the subject to acknowledge and agree to stop the behavior or end the activity. In addition, the reporting party may request that the Mayor or City Manager, or their designees, facilitate an informal discussion of the alleged complaint to resolve the issue. This informal discussion can take place via phone, online meeting, or in person.

- (2) It is recommended that those involved make note of and preserve relevant information and interactions involved in the informal process. If, in the reporting party's opinion, the informal approach has not worked, or if the reporting party becomes uncomfortable with the process at any time, the reporting party may utilize the formal complaint process outlined below.
- (3) The informal resolution process will not be used unless both the reporting party and the subject independently agree to utilize the informal resolution process. If either party does not wish to utilize this process, then the reporting party may use the formal complaint process below. It is not a prerequisite or precondition that the reporting party pursue the informal resolution process prior to pursuing the formal complaint process.

(e) Formal Complaint Process.

- (1) Any person who believes that a covered person has violated any provision of the code of conduct in their City role may file a complaint with the City Clerk. Complaints may be filed by any City board or commission member, a member of the public, a member of City Council, a City staff member, a City contractor or vendor, or a person whose employment gives them access to or contact with a covered person in their City role.
- (2) The reporting party must include in the complaint all related facts available to the reporting party regarding the alleged violation.
- (3) No action may be taken under this section on any complaint that is filed later than twelve months after discovery of the facts supporting an allegation that a violation of the code of conduct has occurred.
- (4) Upon receipt of the complaint, the City Clerk shall confidentially and immediately notify the City Manager's Office, the respondent, the City Council, and the City Attorney. Each complaint shall name only one individual as its subject.
- (5) The City Attorney and City Manager or their designees shall together review the complaint and confer to determine whether the alleged misconduct falls within the scope and purpose of the code of conduct and whether the complaint warrants investigation in light of commonly known and documented facts and circumstances. If investigation is warranted, the City Attorney shall develop facts relevant to the complaint and interpret and apply the provisions of the code of conduct. The City Attorney may select and retain one or more qualified

attorneys to review or investigate complaints as their designee.

(6) After investigation, the City Attorney or their designee shall issue written findings of fact and conclusions of law to the City Council, which shall be filed with the City Clerk and available for public inspection.

(f) Sanctions and Remedies for Violation.

(1) If the party conducting an investigation pursuant to this section finds that the respondent has violated any provision of the code of conduct, the City Council may take any of the following actions by a majority vote:

(2) In the case of a Council member, a motion of censure, a motion to remove the particular council member from the role of liaison;

(3) In the case of a board or commission member, removal from the applicable board or commission;

(4) In the case of any covered person:

i. Issue verbal or written direction to cease the violative conduct;

ii. Direct or encourage corrective training; or

iii. Require the violator to issue a written or verbal apology to the reporting party if the latter consents to such an apology.

(5) While a violation of the code of conduct shall not constitute a violation of the City Code, as such, this provision is not intended to impair or supersede such other action as may be appropriate under applicable state statutes, the City Charter, ordinances, resolutions, or rules and policies of the City or City Council.