

ARTICLE 10 Code of Ethics

Division 1 Legislative Intent and Definitions

Sec. 2-10-10. Legislative intent.

It is in the intent of the City that its elected officials, appointees, and employees adhere to high levels of ethical conduct, honesty, integrity and accountability so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public. Officials, appointees, and employees should comply with both the letter and spirit of this ethics code and strive to avoid situations that create ethical conflicts or the appearance of ethical impropriety.

Ethical issues will likely arise in the course of public service. To address ethical issues, it is the intent of the Code of Ethics:

- (1) To clarify which actions are allowed and which constitute a breach of the public trust and, specifically relating to the use of public office for private gain, employment and supervision of family members, gifts, conflicts of interest, prior employment, outside employment, subsequent employment, improper use of confidential information or records and other ethics matters not inconsistent with the Charter;
- (2) To establish a system that enables citizens to report possible wrongdoing and seek local enforcement so that any breach of the public trust may be discovered and dealt with appropriately.

The City of Centennial Code of Ethics is hereby deemed to be a matter exclusively within the City's home rule authority and a proper exercise of the City Council's legislative authority on behalf of the City. This Code of Ethics supersedes any other applicable Colorado law. Moreover, this Code of Ethics is in compliance with, and therefore supersedes by its own terms, Colorado Constitution, article XXIX, "Ethics in Government." The City Council, through a proper exercise of its legislative authority, considered and evaluated all topics addressed in the Colorado Constitution, article XXIX, "Ethics in Government." To the extent the Code of Ethics covers a topic in the Colorado Constitution, article XXIX, the City Council acted intentionally. To the extent the Code of Ethics does not cover a topic in the Colorado Constitution, article XXIX or covers a topic in a different manner, the City Council acted intentionally, considered the topic, and decided to address the topic in a different manner.

Sec. 2-10-20. Applicability.

This Code of Ethics applies to Public Servants of the City of Centennial. A "Public Servant" means:

- (1) The elected or appointed Mayor; and
- (2) Any elected or appointed Council Member; and
- (3) Officials appointed by the City Council to serve as: City Manager, City Attorney, Municipal Judge, or Associate or Assistant Municipal Judge; and
- (4) Employees of the City; and
- (5) Appointed officials including all members of all boards, commissions, councils, and bodies regardless of whether such member is a regular, alternate, or non-voting advisory member.

Sec. 2-10-30. No private right of action.

Nothing in this Code of Ethics is intended to, or does, create a private right of action against the City or against any Public Servant based upon noncompliance with its provisions. Authority to enforce compliance with this Code of Ethics is vested exclusively in the City pursuant to the provisions of the Code.

Sec. 2-10-40. Definitions.

For purposes of this Article, the following terms have the assigned meaning:

- (1) *Business* means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.
- (2) *City* means the City of Centennial, Colorado.
- (3) *Direct official action* means any action which involves:
 - a. Approving, disapproving, administering, negotiating, enforcing, or recommending for or against an application, contract, purchase order, lease, concession, franchise, grant, vendor, concessionaire, land use, or any other matter to which the City is a party.
 - b. Enforcing laws or regulations or issuing, enforcing, or administering permits and licenses;
 - c. Appointing, supervising, managing, and terminating employees, temporary workers, and independent contractors.

Direct official action does not include acts that are purely ministerial and mandated by law, including *pro forma* or perfunctory signing of documents on behalf of the City and approval of documents as to form. Also, a person who abstains from a vote is not exercising direct official action.

- (4) *Employee* means any person in the employ of the City or of any of its agencies or departments but excluding the Mayor, City Council Members, City Manager, City Attorney, and Municipal Judge. Independent contractors and volunteers are not deemed employees.
- (5) *Financial interest* means any interest equated with money or its equivalent. Financial interest shall not include:
 - a. The interest that a Public Servant or relative has as an employee of a business, or as a holder of an ownership interest in such business, in a decision of any public body, when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the officer, employee or relative;
 - b. The interest that a Public Servant or relative has as a non-salaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal or civic organization in the holdings of such corporation, association or organization;
 - c. The interest that a Public Servant or relative has as a recipient of public services when such services are generally provided by the City on the same terms and conditions to all similarly situated citizens, regardless of whether such recipient is a Public Servant or relative;
 - d. The interest that a Public Servant or relative has as a recipient of a commercially reasonable loan made in the ordinary course of business by a lawfully established financial or lending institution;
 - e. The interest that a Public Servant or relative has as a shareholder in a mutual or common investment fund in the holdings of such fund unless the shareholder actively participates in the management of such fund;

-
- f. The interest that a Public Servant or relative has as a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder, unless the discretionary act of such person, as a Public Servant, could immediately, definitely and measurably affect the value of such policy, deposit or similar interest;
 - g. The interest that a Public Servant or relative has as an owner of government-issued securities unless the discretionary act of such owner, as a Public Servant, could immediately, definitely and measurably affect the value of such securities; or
 - h. The interest that a Public Servant has in the compensation received from the City for services provided to the City as a Public Servant.
- (6) *Gift* means a payment, subscription, advance, favor, discount, promise of future employment, forbearance, discount, promise of future employment, or deposit of money, goods, services, or anything of value given, unless consideration of equal or greater value is received in exchange.
- (7) *Immediate family* means a spouse, civil union partner, domestic partner, fiancé/fiancée, parents, children, brothers, sisters, aunts, uncles, nieces, nephews, grandparents, grandchildren, great grandparents, great grandchildren, first cousins, including step relatives and in-laws, and any person with whom he or she is cohabiting.
- (8) *Personal interest* means any interest (other than a financial interest) by reason of which a Public Servant, or a relative of such Public Servant, would, in the judgment of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public. Personal interest shall not include:
- a. The interest that a Public Servant or relative has as a member of a board, commission, committee, or authority of another governmental entity or of a nonprofit corporation or association or of an educational, religious, charitable, fraternal, or civic organization;
 - b. The interest that a Public Servant or relative has in the receipt of public services when such services are generally provided by the City on the same terms and conditions to all similarly situated citizens; or
 - c. The interest that a Public Servant has in the compensation, benefits, or terms and conditions of his or her employment with the City.
- Examples of personal interest include an increase in the value of a real property interest or advancement of an employment opportunity.
- (9) *Public body* means the City Council or any authority, board, committee, commission, department, or office of the City.
- (10) *Relative* means the spouse, civil union partner, or minor child of the Public Servant, any person claimed by the officer or employee as a dependent for income tax purposes, or any person residing in and sharing with the Public Servant the expenses of the household.

(Ord. 2018-O-15 §2)

Division 2 Prohibited Acts

Sec. 2-10-210. Gifts.

- (a) Gifts prohibited: A Public Servant shall not accept any gift (as defined) if:
 - (1) The Public Servant is in a position to take direct official action with regard to the giver of the gift; or

-
- (2) The City has or is known to be likely to have a transactional, business, or regulatory relationship with the giver of the gift.

A gift made to a relative of the Public Servant shall be considered a gift made to the Public Servant notwithstanding the Public Servant's knowledge of such gift.

- (b) Exceptions and items not considered gifts: Provided that the gift could not be reasonably considered a bribe or a means of improper influence on a direct official action, the following shall not be considered gifts for purposes of this Section:
 - (1) Campaign contributions as permitted by law.
 - (2) An unsolicited item or items of value less than the dollar amount established and adjusted in Colorado Constitution, article XXIX, Section 3(6), per vendor or third-party per year. As of February 11, 2019, that amount is sixty-five dollars (\$65.00) and the amount increases periodically in accordance with Colorado Constitution, article XXIX, Section 3(6). In valuing the unsolicited item or items:
 - a. The cost of the gift is the retail value of the item unless the receiver has knowledge that the giver paid more than the retail value, in which case the cost is the amount actually paid.
 - b. For a charity event, the cost of the event is the amount the event organizer reports to the Internal Revenue Service as the non-deductible portion of the event.
 - c. It is not permissible to pay part of the cost of a gift that is offered with a value exceeding the amount set forth in subsection (b)(2) of this Section to reduce the value to less than the amount set forth in subsection (b)(2) of this Section in order to accept the gift.
 - (3) An unsolicited token or award of appreciation that is reasonable in value and purpose given the position and responsibility of the Public Servant, such as plaques and professional awards.
 - (4) Items of perishable or nonpermanent value, including but not limited to meals, lodging, travel expenses, or tickets to sporting, recreational, education, or cultural events provided that the value of the item is reasonable and would be customarily accepted when considering the Public Servant's position, responsibility, and role in the City.
 - (5) Tickets or entry fees to an event expressly advertised for the purpose of benefiting and advancing the purpose of a non-profit organization, e.g., greens fees for a golf event benefiting a recognized local charity.
 - (6) Unsolicited informational material, publications, or subscriptions related to the recipient's performance of duties within the scope of elected or appointed office or employment.
 - (7) Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears in an official, representative capacity to speak or to answer questions as part of a scheduled program.
 - (8) Reasonable expenses paid by a nonprofit organization or federal, state, or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities.
 - (9) A gift from an individual who is an immediate family member or personal friend on a special occasion.
 - (10) A component of compensation paid or other recognition given in the normal course of employment, appointment, volunteer services, or business.
 - (11) Any scholarship or grant or other financial aid for education given to any Public Servant or immediate family member for any reason.

-
- (12) Awards or prizes given at competitions or drawings at events open to the public.
 - (13) Discounts that are similarly available to all employees of the City, or discounts that are offered to the public generally or to a large segment of the public (i.e., all uniformed personnel, all government employees, or all first responders).
 - (14) Any exemption granted or exception recognized pursuant to federal or state law.
 - (15) Any other exceptions as may be specified in an advisory opinion as described in Section 2-10-420.

(Ord. 2018-O-15 §2)

Sec. 2-10-215. Fraudulent activity.

- (a) A Public Servant shall not engage in any of the following activities:
 - (1) Receipt of a bribe or kickback, or willing participation in a scheme of bribery;
 - (2) Misappropriation of City funds, supplies, assets, or resources;
 - (3) Falsification of City records, including personnel records;
 - (4) Forgery or alteration of any public record;
 - (5) Accepting, requesting, or seeking any material item or pecuniary benefit from contractors, vendors, or parties providing services or materials to the City where such item or benefit may be reasonably viewed as intending to improperly influence the Public Servant.

(Ord. 2018-O-15 §2)

Sec. 2-10-220. Employment and supervision of immediate family members.

- (a) Unless he or she obtains a waiver pursuant to Section 2-10-420(c), a Public Servant shall not appoint or hire a member of his or her immediate family for any type of employment, including, but not limited to, full-time employment, part-time employment, permanent employment, and temporary employment.
- (b) A Public Servant shall not supervise or be in a direct line of supervision over a member of his or her immediate family. If a Public Servant comes into a direct line of supervision whether by employment or contractual relationship of a member of his or her immediate family, he or she shall have six (6) months to come into compliance or to obtain a waiver pursuant to Section 2-10-420(c).

(Ord. 2018-O-15 §2)

Sec. 2-10-225. Conflict of interest.

- (a) *Conflicts of interest* as defined by this Section are prohibited.
- (b) Sales to the City. A Public Servant, or relative of such Public Servant, shall not have a financial interest in the sale to the City of any real or personal property, equipment, material, supplies or services, except personal services provided to the City as a Public Servant, if:
 - (1) Such Public Servant is a member of City Council;
 - (2) Such Public Servant exercises, directly or indirectly, any decision-making authority on behalf of the City concerning such sale; or

-
- (3) In the case of services, such Public Servant exercises any supervisory authority in his or her role as a City officer or employee over the services to be rendered to the City.
- (c) Purchases from the City. A Public Servant or relative shall not, directly or indirectly, purchase any real or personal property from the City, except such property as is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as to all members of the general public.
- (d) Interests in other decisions. Any Public Servant who has, or whose relative has, a financial or personal interest in any decision of any public body of which he or she is a member or to which he or she makes recommendations, shall, upon discovery thereof, disclose such interest in the manner prescribed in Section 2-10-410(a), and shall refrain from taking direct official action in the manner prescribed in Section 2-10-410(b), attempting to influence, or otherwise participating in such decision in any manner as a Public Servant.
- (e) A Public Servant who determines that his or her actions arise to a Conflict of Interest is required to disclose the conflict in the manner prescribed in Section 2-10-410(a), and shall refrain from taking direct official action in the manner prescribed in Section 2-10-410(b).
- (Ord. 2018-O-15 §2)

Sec. 2-10-230. Prior employment.

No person shall be disqualified from service with the City as a Public Servant solely because of his or her prior employment. However, Public Servants shall not take any direct official action with respect to matters involving their former employers for a period of six (6) months from the date of termination of the prior employment.

Sec. 2-10-235. Outside employment or business activity.

- (a) A Public Servant's outside employment and business activities may create ethical issues addressed by this Code of Ethics and, in particular, potential conflicts of interest addressed by Section 2-10-225.
- (b) Disclosure of employment and other business activities: All Public Servants shall report in writing to the City Clerk any existing or proposed outside employment or other outside business interests such as membership on volunteer, non-profit, or for-profit boards or commissions that may affect their responsibilities to the City. After being hired, elected, or appointed, all Public Servants shall report to the City Clerk any changes of employment or changes to outside business interests that may affect the person's responsibilities to the City, within thirty (30) days after accepting the same. An employee must obtain approval as required by the City's Human Resources guideline before engaging in outside employment.
- (c) The City Clerk shall maintain for public inspection all reporting made by Public Servants pursuant to this Section.
- (d) City resources may not be used for any outside employment or outside business activity.

(Ord. 2018-O-15 §2)

Sec. 2-10-240. Discrimination and harassment prohibited.

- (a) General rule. City affairs must be conducted without bias or prejudice. A Public Servant shall not, in the performance of official duties, manifest by words or conduct bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit others subject to his or her direction and control to do so.

-
- (b) Exceptions. A Public Servant is not liable under subsection (a) for:
- (1) Conduct undertaken in good faith:
 - a. To implement an existing city policy; or
 - b. To carry out the direction of a superior; or
 - (2) Conduct involving the legitimate advocacy of a position relating to race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status:
 - a. In litigation or similar proceedings; or
 - b. Incidental to the formation of city policy.
- (c) Definitions. For purposes of this Section:
- (1) *Words or conduct* manifesting *bias or prejudice* includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.
 - (2) *Good faith* means that the City official or employee has a reasonable basis for believing, and does believe, that the conduct in question is lawful and not discriminatory.
 - (3) *Legitimate advocacy* means that the position espoused is not frivolous.
- (Ord. 2018-O-15 §2)

Sec. 2-10-245. Criminal offenses.

All Public Servants are expected to comply with the law. It is a violation of the Code of Ethics to be convicted (including a plea of *nolo contendere* or no contest) of a crime that reasonably demonstrates an unfitness for public service or intentional disregard for the public trust or public property. Such offenses include, but are not limited to, crimes against fellow Public Servants or their property, theft or vandalism of public property, offenses involving fraud (see Article 5, Title 18, C.R.S.), offenses relating to morals (see Article 7, Title 18, C.R.S.), or offenses involving governmental operations (see Article 8, Title 18, C.R.S.). It is not the intent of this Section to recognize as an ethical violation traffic offenses or misdemeanors which are unrelated to the Public Servant's official duties or employment.

Sec. 2-10-250. Special consideration.

A Public Servant shall not request or grant to any person any special consideration, treatment, or advantage beyond that which would be made available to every other person in similar circumstances or need.

Sec. 2-10-255. Use of public property.

A Public Servant shall not use or authorize the use of City time, facilities, equipment or supplies for personal or private benefit. It is not a violation of the Section to communicate or correspond with a Public Servant's constituents, family members, or co-workers.

Sec. 2-10-260. Use of public office for private gain.

A Public Servant shall not use his or her public office or position or disclose or use confidential information in order to obtain private gain for himself or herself, for his or her immediate family, for any business entity with

which he or she is affiliated or for any person or entity with whom the Public Servant is negotiating or has any arrangement concerning prospective employment.

Sec. 2-10-265. Use of confidential records.

A Public Servant shall not disclose any information or records that are not available to the public, which were acquired in the course of official duties, except in the performance of official duties or as required by law or court order.

Sec. 2-10-270. Aiding others.

A Public Servant shall not knowingly aid or assist any Public Servant in the violation of any provision of this Code of Ethics.

Division 3 Discouraged Acts

Sec. 2-10-310. Subsequent employment or appointment.

- (a) During the six (6) month period following expiration, resignation, or termination of office or employment, a former Public Servant should not obtain appointment or employment, unavailable to others, to a position that includes the responsibility of acting on the same matters that he or she took direct official action during his or her service with the City.
- (b) For purposes of this Section, "unavailable to others" means employment or appointment that is obtained or secured through a non-competitive process or procedure. Employment or appointment obtained or secured through publicly elective office or through appointment made by elected officials shall not constitute employment or appointment unavailable to others.

(Ord. 2018-O-15 §2)

Sec. 2-10-320. Appearances of impropriety discouraged.

- (a) An appearance of impropriety is created when a Public Servant will or may take a direct official action that, although not constituting a conflict of interest, will create a reasonable perception that the Public Servant's ability to carry out his or her official duties with integrity, impartiality, and competency is impaired. As examples only, such appearance may be created in the following circumstances:
 - (1) When the direct official action will involve a close friend of the Public Servant.
 - (2) When the Public Servant is a recipient of an official notice of a quasi-judicial hearing due to the Public Servant's ownership or lease of property to be affected by such hearing.
 - (3) When the Public Servant will be called upon to consider taking official action of a quasi-judicial nature and the Public Servant has previously and publicly expressed an opinion, position, or bias regarding the matter.
- (b) A Public Servant who determines that his or her actions may cause an appearance of impropriety should consider, but is not required to, disclose the appearance of impropriety as provided by Section 2-10-410 and, if deemed appropriate by the Public Servant, to recuse him or herself from participation as provided by Section 2-10-410.

-
- (c) Violations of this Section do not constitute a violation of this Code of Ethics. Compliance with this Section shall not constitute a defense for violation of another subsection or section of the Code of Ethics.

(Ord. 2018-O-15 §2)

Division 4 Disclosure and Recusal Procedure

Sec. 2-10-410. Disclosure and recusal procedure and challenges.

- (a) Disclosure.
- (1) Mandatory disclosure of a potential or actual conflict of interest, or a voluntary disclosure of an appearance of impropriety, shall be made when the conflict or appearance is first reasonably known to the Public Servant. For members of the City Council, disclosure shall be made either orally during a public meeting or in writing to all other members of the City Council. For the City Manager or City Attorney, disclosure shall be made either orally during a public meeting or in writing to the City Council. For appointed officials, disclosure shall be made either orally during a meeting or in writing to all other members of the board or commission. Employees shall make disclosure in writing to their immediate supervisor.
 - (2) A disclosure shall identify whether the matter is a conflict of interest or an appearance of impropriety, the general nature of the interests involved, whether the matter will create or potentially create an economic, pecuniary, or financial benefit or detriment for the Public Servant, and the approximate value of any potential benefit or detriment.

- (b) Recusal. When recusal is required due to a conflict of interest or is voluntarily elected due to an appearance of impropriety, the Public Servant shall:
- (1) Refrain from communicating with any other Public Servant regarding the matter and attempting to influence any other Public Servant's official action concerning the matter;
 - (2) Refrain from voting upon or taking any official action concerning such matter; and
 - (3) Physically leave any room or premises at which the matter is being considered.

A majority of City Council may require the recusal of a Council Member in accordance with subsection (c)(1) below and the City Manager may require the recusal of an employee in accordance with subsection (c)(2) below. In the event that recusal is required, it shall be a violation of this Code of Ethics to fail to act in accordance with this subsection (b).

Notwithstanding the prohibition against participation and voting where a conflict of interest exists, a City Council member may participate and vote on matter notwithstanding a conflict of interest if participation is necessary to obtain a quorum or otherwise enable the City Council to act and if the City Council member complies with the voluntary disclosure procedures of Section 24-18-110, C.R.S.

- (c) Challenges for conflict of interest.
- (1) Challenge of City Council Member. Any person may challenge a City Council member's failure to declare a conflict of interest or failure to recuse himself or herself. A challenge must be submitted to the City Council in writing or orally made during a public meeting stating the facts in support of the challenge. The City Council shall promptly inquire into the basis and facts of the challenge and may request an opinion from the City Attorney regarding the challenge. The City Council may by majority vote of those present and voting (excluding any challenged member) render a determination whether a conflict of interest exists and/or whether recusal of the challenged Council Member is required. That determination is final and not subject to appeal.

-
- (2) Challenge of employee. Any person may challenge an employee's failure to declare a conflict of interest or failure to recuse himself or herself. A challenge must be submitted in writing to the City Manager stating the facts in support of the challenge, with a copy to the Mayor. The City Manager shall promptly inquire into the basis and facts of the challenge and render a determination whether a conflict of interest exists and/or whether recusal of the employee is required. That determination is final and not subject to appeal.
 - (3) Challenge of any other Public Servant. Any person may challenge any other Public Servant's failure to declare a conflict of interest or failure to recuse himself or herself. A challenge in writing or orally made during a public meeting must be submitted to that person's appointing authority or the chair of that person's board or commission. The written challenge must state the facts supporting the challenge. Either the City Council or the person's board or commission shall promptly inquire into the basis and facts of the challenge and render a determination as to whether a conflict of interest exists and/or whether recusal is required. That determination is final and not subject to appeal.

(Ord. 2018-O-15 §2)

Sec. 2-10-420. Advisory opinions and waivers.

- (a) Any Public Servant may submit a written request to the City Attorney for advisory opinions on whether any conduct by that person would constitute a violation of the Code of Ethics. The City Attorney shall render an advisory opinion. Provided that the factual basis of the City Attorney's advisory opinion is accurate and the circumstances are fully disclosed to the City Attorney by the Public Servant, the City Attorney's advisory opinion shall provide the Public Servant a specific defense from prosecution for the failure to disclose a conflict of interest or to recuse themselves as may be required by this Code of Ethics.
- (b) Noncompliance with advisory opinions. When the City Attorney receives information supporting a belief that the advisory opinion has not been complied with, the City Attorney shall inform the person and the person's appointing authority. The appointing authority, after consulting with the City Attorney, shall take appropriate action to ensure compliance.
- (c) Waivers. Any current, former, or prospective Public Servant may submit a written request for a waiver of any provision of the Code of Ethics in advance of taking any action that is subject to the waiver request. The City Council, for waivers on behalf of officials, elected officials, and appointed officials, is empowered to grant a waiver if it finds that the waiver will serve the best interests of the City. The City Council shall issue appropriate notice of its meeting on the waiver and its meeting shall be open to the public. The City Manager, for waivers on behalf of employees, is empowered to grant a waiver if he or she finds that the benefit to the City in granting the waiver outweighs the potential harm.

(Ord. 2018-O-15 §2)

Division 5 Enforcement Process for Code of Ethics

Sec. 2-10-510. Flexibility in enforcement process intended.

The purpose of the enforcement measures in the Code of Ethics is to balance the severity of the alleged violation, the need for efficiency and effectiveness in reaching conclusions as to allegations of ethical wrongdoing, fairness to the parties, and the availability of public resources necessary to address alleged ethical wrongdoing. For that reason, this Section allows for flexibility in determining the appropriate means of enforcement to be determined by the City Council sitting as the Board of Ethics. These enforcement rules apply to ethics allegations

against all Public Servants except for employees. Section 2-10-560 describes the enforcement of ethical violations committed by employees.

Sec. 2-10-515. Definitions for enforcement process.

For purposes of the enforcement process, the following terms have the assigned meaning:

- (1) *Business day* means a day other than Saturday, Sunday, or a recognized City holiday during which the City offices are closed for public business.
- (2) *Complainant* means the person filing a verified complaint with the City in accordance with Section 2-10-525.
- (3) *Respondent* means the person who is alleged by a verified complaint to have violated the Code of Ethics.
- (4) *Verified complaint* means a written complaint meeting the content requirements of Section 2-10-525(c).

Sec. 2-10-520. General provisions related to enforcement.

- (a) The complainant shall not participate in the processing of the verified complaint except as a witness.
- (b) Disqualification. The Mayor or a member of the City Council shall disqualify him or herself from participating in any matter where that person is the respondent.
- (c) No ex parte communications. Neither respondent nor complainant, or their representatives, may engage in ex parte communications with the City Council, Board of Ethics, Hearing Body, or Hearing Officer on any matter pertaining to the verified complaint except as specifically provided by the Code of Ethics. Correspondence or other general inquiries shall be directed only to the City Attorney.
- (d) The City Attorney will serve as the advisor to the Board of Ethics. Where the City Attorney is the respondent in any verified complaint or is unable to participate due to a Conflict of Interest or a declaration of an appearance of impropriety, the Board of Ethics shall designate another person to serve as the Board's advisor.
- (e) Members of the Board of Ethics shall be unbiased and neutral in their processing of the verified complaint. An appearance of impropriety does not arise solely from a professional relationship between a member of the Board of Ethics and the respondent. However, if a member of the Board of Ethics unable to remain unbiased and neutral or has a conflict of interest shall disqualify him or herself from participation in accordance with Section 2-10-410.
- (f) General administrative meetings of the Board of Ethics will be held during a regular or special meeting of the City Council. An informal administrative review or a formal hearing may be held on another date and time as set by the Board of Ethics. For all actions of the Board of Ethics, a quorum shall be three (3) or more members of the Board. Unless otherwise provided by this Code of Ethics, a majority of a quorum present shall be required for any decision of the Board.

(Ord. 2018-O-15 §2)

Sec. 2-10-525. Filing a complaint.

- (a) Verified ethics complaint.

-
- (1) An ethics action is commenced by filing a formal written ethics complaint ("verified complaint") with the City.
 - (2) Any person, either individually or on behalf of an organization, may file a complaint with the City.
- (b) Contents of the verified complaint. A verified complaint must set forth the following:
- (1) The name of the individual, either personally or on behalf of an organization, submitting the verified complaint, together with mailing address, telephone number and, if available, electronic mail address. A verified complaint may not be anonymously submitted.
 - (2) The name of the person(s) alleged to have committed a violation of the Code of Ethics.
 - (3) A full description of the facts which are alleged to support a violation of the Code of Ethics together with a specific citation to the Code of Ethics alleged to be violated.
 - (4) The names of witnesses who have knowledge of such facts, together with information sufficient to contact the persons identified.
 - (5) A signature of the person submitting the complaint with a verification stating the following:
"The undersigned hereby certifies or affirms that the information contained within this verified complaint is true to the best of my knowledge, information, and belief formed after reasonable reflection. I have not filed this verified complaint for the purpose of harassment or to falsely disparage the individual(s) claimed to have committed violations of the Centennial Code of Ethics."
- (c) Filing of the verified complaint. Verified complaint is filed by delivery by mail or hand delivery to any one (1) of the following:
- (1) Mayor (or where such complaint concerns the Mayor, the Mayor Pro Tem); or
 - (2) City Clerk (or where such complaint concerns the City Clerk, to the City Manager); or
 - (3) City Attorney (or where such complaint concerns the City Attorney, to the City Manager).
- The complaint shall be deemed filed with the City as of the date of receipt of the complaint by the person listed above.
- (d) A verified complaint is be processed in the following manner:
- (1) Within five (5) business days of the date filed with the City, the City Attorney shall cause to be mailed or otherwise delivered a copy of the verified complaint with a dated cover letter to the respondent. The delivered verified complaint must include a copy of the Code of Ethics.
 - (2) The respondent may submit a written explanation or response ("answer") to the allegations within twenty-one (21) calendar days of the date on the cover letter.
 - (3) Within five (5) business days of the date filed with the City, the City Attorney must deliver a copy of the verified complaint to all members of the Board of Ethics and the City Manager. The City Attorney will also deliver the answer received from respondent to the Board of Ethics and the complainant.

(Ord. 2018-O-15 §2)

Sec. 2-10-530. Initial administrative review.

No sooner than thirty (30) calendar days following the date the complaint is filed with the City, the Board of Ethics shall convene during a regular or special public meeting for a review of the verified complaint and answer. The Board of Ethics may meet in an executive session pursuant to Section 24-6-402, C.R.S., to perform this review.

Based on the contents and allegations of the verified complaint and any answer, the Board of Ethics may, make one (1) or more of the following determinations:

- (1) That the verified complaint alleges facts that may be sufficient to constitute a claim for violations of the Code of Ethics.
- (2) That a claim or claims stated in the verified complaint shall be dismissed without further action because:
 - a. The Board has no jurisdiction over the individual(s) alleged to have violated the Code of Ethics;
 - b. The alleged violation, even if true, would not constitute a violation of this Code of Ethics;
 - c. The allegations of the verified complaint were previously asserted in another verified complaint and is already being considered or was resolved by the Board of Ethics;
 - d. The alleged violation, even if true, is minor in nature and fails to justify the use of public resources to prosecute;
 - e. The allegations of the verified complaint involve actions or events that occurred more than one (1) year prior to the date of the filing of the verified complaint and, due to the passage of time and the likely unavailability of evidence, witnesses, and witnesses' recollections, prosecution of the verified complaint will not justify the use of public resources;
 - f. The verified complaint is, on its face, frivolous, groundless, or brought for purposes of harassment;
 - g. The alleged violation is unlikely to be proven by the required standard of preponderance of the evidence due to the evidence consisting of conflicting oral testimony and unverifiable statements;
 - h. The person who is the subject of the verified complaint has admitted wrongdoing and made or committed to make sufficient redress or remedy satisfactory to the Board of Ethics;
 - i. The matter has become or will become moot because the person who is the subject of the verified complaint is no longer a Public Servant or will no longer be a Public Servant prior to the conclusion of any consideration or investigation of the verified complaint's allegations;
 - j. The person who is the subject of the verified complaint previously obtained an advisory opinion under Section 2-10-420 that identified the conduct as not being in violation of the Code of Ethics;
 - k. The Board of Ethics elected to refer the verified complaint to another agency with jurisdiction of the allegations of the complaint and such referral will better serve the public interest (e.g., law enforcement, District Attorney, state or federal Attorney General; or Department of Justice); or
 - l. Other reason based on legal principals in civil cases.

Dismissal of any claim and the reason for dismissal shall be made in writing and made available to the public. The Board of Ethics shall maintain continuing jurisdiction and authority to dismiss any allegations at any time.

Sec. 2-10-535. Prosecution of allegations.

Based on the initial administrative review, if the Board of Ethics determines the verified complaint alleges facts that may be sufficient to constitute violations of the Code of Ethics, the Board of Ethics may direct that one or more of the following processes be initiated:

- (1) Assignment to investigation. Investigation may be warranted where there are serious and contested factual issues associated with ethical behavior which may be conclusively established through independent evidence review and the interview of witnesses.

-
- (2) Informal administrative review. Informal administrative review may be appropriate to balance the need to resolve serious or important ethical allegations with the reasonable allocation of public funds. The informal administrative review process is intended as the more common procedure used in adjudicating ethical allegations.
 - (3) Formal hearing. A formal hearing is generally for resolving serious and contested allegations of ethical behavior which necessitates the use of public funds to restore the public confidence in the City's government and its Public Servants.

Sec. 2-10-540. Investigation.

- (a) Scope of investigation. The Board of Ethics' referral for investigation must include the following:
 - (1) The person, firm, or agency assigned to perform the investigation;
 - (2) The scope and purpose of the investigation including the specific issues of importance to the Board of Ethics;
 - (3) A budget for the investigation;
 - (4) A timeline for completion of the investigation and delivery of any report or work product(s) of the investigation. The timeline may not exceed forty-five (45) days unless approved by the Board of Ethics;
 - (5) The City staff member or contractor assigned to administer and oversee the investigator;
 - (6) The Board of Ethics shall be authorized to enter into one (1) or more contracts for the conduct of an investigation.
- (b) Confidential work product investigation report. If requested by the Board of Ethics, the appointed investigator must prepare a written report for the Board of Ethics. Such report is a confidential work product document and not be subject to public disclosure as an inter-agency advisory or deliberative report assembled for the benefit of the City Council which expresses an opinion or is communicated for the purpose of assisting the City Council in reaching a decision within the scope of the Council's authority. See Section 24-72-202(6.5), C.R.S.
- (c) Subpoena power. The appointed investigator is authorized to prepare and serve an administrative subpoena in a form approved by the City Attorney to compel an interview or to compel the production of evidence or documents. A party's failure to comply with a subpoena shall be noted in the investigator's report and the Board of Ethics may make reasonable inference from such failure as deemed appropriate by the Board of Ethics.
- (d) Upon conclusion of the investigation and production of the report, if requested, the investigator has no other role in the processing of a verified complaint other than as a witness.

(Ord. 2018-O-15 §2)

Sec. 2-10-545. Informal administrative review.

- (a) Generally. An informal administrative review is intended to permit the Board of Ethics the opportunity to consider allegations of a verified complaint and use an expedited and cost-effective process to reach conclusions concerning allegations contained in a verified complaint. The informal administrative review process may be modified for any review without formally amending this Code of Ethics at the Board's direction given the particular nature of the allegations.
- (b) Notice. Notice of the date, time, place, and purpose of the informal administrative review hearing will be provided to the respondent and the Complainant not less than twenty-one (21) days prior to the date of the

hearing. Notice of the informal administrative review hearing may also be posted on the City's website to advise those persons generally interested in the proceeding.

- (c) The notice must also state the deadline for submission of affidavits or witness statements and any documentation supporting or refuting the allegations to the Board of Ethics. The Board of Ethics will not accept documentation after the submitted deadline. The notice must inform the parties that they may have in attendance at the administrative review hearing any persons available to respond to questions asked by the Board of Ethics; provided, however, that no formal opportunity for testimony shall be scheduled.
- (d) Administrative review. At the designated time and place of the Informal administrative review hearing, the Board of Ethics may consider timely submitted documentation related to the allegations in the verified complaint. The Board of Ethics may ask questions of individuals in attendance. No person shall have a right to present statements or testimony to the Board of Ethics and formal presentations are not required. Cross-examination is not permitted.
- (e) At the conclusion of the informal administrative review, the Board of Ethics shall deliberate and reach conclusions as to whether the allegations of the verified complaint are established by a preponderance of evidence available to the Board. A majority vote of a quorum present shall be required for any decision made by the Board of Ethics. For those allegations that are established by a preponderance of evidence, the Board may impose one (1) or more of the following penalties as approved by a majority of all members of the Board of Ethics:
 - (1) Oral or written reprimand delivered to the individual;
 - (2) Oral or written reprimand announced or read publicly during a meeting of the City Council;
 - (3) Suspension or removal of the respondent from any committee, board, liaison or representative position of the City;
 - (4) Payment of a monetary amount as restitution or reimbursement for all or a portion of actual damages incurred by the City and/or another party damaged or harmed by the ethical violation of the respondent which amount shall not exceed the salary to be earned by the respondent for their remaining term in office;
 - (5) Penalty of double the amount of the financial benefit obtained by the individual for a breach of the public trust for private gain; and/or
 - (6) Such penalty as deemed just and appropriate depending on the seriousness of the violation and the mitigating circumstances.

The Board of Ethics shall not issue a penalty involving suspension or removal from elected office following an informal administrative review.

Sec. 2-10-550. Formal hearing.

- (a) In the event that one (1) or more allegations are not dismissed by the Board of Ethics, the Board of Ethics may direct that the matter proceed to a formal hearing in accordance with the procedure set forth in this Section.
- (b) Appointment of Ethics Prosecutor. Subject to contract approval by the City Council, the Board of Ethics may appoint an attorney to serve as the Ethics Prosecutor of the verified complaint. The Ethics Prosecutor is authorized to perform in accordance with the provisions of this Section and a contract approved by the City Council. Following the appointment of the Ethics Prosecutor, the name of the appointed Ethics Prosecutor will be hand delivered or mailed to the respondent.

(c) Notice of formal hearing. A notice of formal hearing setting forth the alleged violations must be mailed to the respondent and the Ethics Prosecutor. The notice of formal hearing will inform the respondent that he or she may be represented by an attorney or other representative at his or her own cost. The notice will invite the respondent to file an answer to the allegations contained in the verified complaint, or to update any answer previously filed pursuant to Section 2-10-525(d)(2), within twenty-one (21) days of the date of the receipt of the notice. The received answer will be mailed or delivered promptly to the Ethics Prosecutor.

(d) Appointment of Hearing Body and Chairperson or Hearing Officer. The Board of Ethics shall appoint one (1) of the following to preside over and decide the alleged violation:

(1) A Hearing Officer; or

(2) A Hearing Body comprised of one (1) of the following:

a. A three-person panel comprised of members of the Board of Ethics;

b. The Board of Ethics; or

c. An odd-numbered panel of residents of the City (not to exceed seven (7)) selected at random from among persons expressing interest in serving as a hearing body for matters arising under the Code of Ethics. The Board may select alternate members to be available in the event that appointed members are later unavailable to participate.

The Hearing Body must designate a Chairperson. The Chairperson of a Hearing Body or the Hearing Officer shall be authorized to hear and decide pre-hearing matters and to act as Chairperson at the hearing. Following the Hearing Body or Hearing Officer selection, notice of the name(s) of those persons appointed shall be mailed to the respondent and the Ethics Prosecutor.

(e) Challenge of Hearing Officer, hearing body members, or Ethics Prosecutor for bias or prejudice. The respondent or complainant may challenge any appointed member of the Hearing Body, Hearing Officer, or the Ethics Prosecutor for bias or prejudice by submission of a written challenge containing the specific reasons for such challenge. A challenge must be made within seven (7) days of the date of notice of the appointment of the member of the Hearing Body, Hearing Officer, or Ethics Prosecutor; thereafter, no challenge shall be considered. The Board of Ethics shall consider all timely challenges and shall remove any appointed member or the Ethics Prosecutor upon a finding of reasonable bias or prejudice under Colorado law. The Board shall promptly appoint another member to fill the position of a removed person with notice of such appointment to the respondent and complainant.

(f) Pre-hearing matters.

(1) Setting of hearing date. As a representative of the Hearing Body or Hearing Officer, the City Attorney or a Board of Ethics-appointed representative shall contact the respondent and Ethics Prosecutor to set a date and place for the formal hearing taking into consideration the timeline for pre-hearing matters. A reasonable attempt will be made to accommodate the parties' schedules in selecting a hearing date. A notice of hearing will be mailed to the Hearing Body or Hearing Officer, the respondent, the Ethics Prosecutor, and the Complainant. Rescheduling of the noticed date of formal hearing shall require approval of the Hearing Body or Hearing Officer.

(2) Pre-hearing statements. The parties shall file their pre-hearing statements at least twenty-one (21) days before the date of the formal hearing. The pre-hearing statements must list final witnesses (including a detailed summary of their offered testimony and the estimated time required for direct examination), final exhibits relevant to the issues being appealed, and any agreed upon stipulations of the parties.

Evidence that was not disclosed timely by a party in a prehearing statement shall not be admissible at hearing absent a showing of good cause.

-
- (3) Pre-hearing conference. The Chairperson of the Hearing Body or Hearing Officer may choose to set a pre-hearing conference, at which time a schedule and hearing order may be adopted. Such hearing order shall include the exchange of proposed exhibits and witness lists. The Chairperson of the Hearing Body or Hearing Officer may determine any outstanding procedural or evidentiary issues at the pre-hearing conference.
 - (4) Subpoena authorized. Subpoenas to compel the attendance of witnesses at hearing, whose testimony is determined by the Hearing Officer to be relevant and necessary to the proceeding, may be issued only by the Hearing Officer or Hearing Body upon the motion of either party and supported by an offer of proof as to the material facts that will be provided by the witness.
 - a. Subpoenas shall be served on the witness to whom it is directed in the same manner as subpoenas served in proceedings in the district courts for the State of Colorado pursuant to Colorado Rule of Civil Procedure (C.R.C.P.) 45. A subpoena for testimony at a hearing shall be served at least forty-eight (48) hours before the first day of hearing. Immediately following service of a subpoena, the party who requested the subpoena shall serve a copy of the return of service on all parties.
 - b. Any non-party or a representative thereof may move to quash or modify a subpoena. The Chairperson of the Hearing Body or the Hearing Officer in consultation with the City Attorney or other representative assigned by the Board of Ethics to assist in the formal hearing process will decide the issues raised in the motion to quash.
 - c. Subpoenas properly and timely served on an individual may be enforced in accordance with the Denver City Charter.
 - d. If it is not feasible for a subpoenaed witness to appear at the hearing in person, upon motion the Hearing Officer or Hearing Body may require the witness to answer written interrogatories, to appear at a deposition, or to testify remotely by telephone or other means. The Hearing Officer or Hearing Body shall require that the costs of such a deposition be paid by the party requesting the witness' testimony.
 - e. Subpoenas issued pursuant to this Section may be enforced pursuant to Section 2-3-90 of this Code.
 - (g) Hearing process.
 - (1) The Hearing Officer or the Chairperson of the Hearing Body shall conduct the hearing in as informal a manner as is consistent with a fair, efficient, and speedy presentation of the appeal. The Chairperson of the Hearing Body or the Hearing Officer shall administer oaths or accept affirmations from witnesses and decide all points of order, procedure and evidence unless overruled by the majority vote of the Hearing Body. Whether and how the Colorado Rules of Evidence are applied lies within the discretion of the Hearing Officer or Hearing Body.
 - (2) Conduct of hearing.
 - a. Any stipulated exhibits and facts shall be admitted into evidence at the beginning of hearing.
 - b. The party with the burden of proof shall proceed first and may call witnesses and seek the admission of evidence. The opposing party shall proceed second and may call witnesses and seek the admission of additional evidence. Witnesses may be called out of order as determined by the Hearing Officer or Hearing Body. The party with the burden of proof may present rebuttal evidence at the close of the opposing party's case.
 - c. The parties may present evidence and witnesses, and may cross-examine the other party's witnesses.

-
- i. Testimony shall be given under oath or affirmation.
 - ii. At the request of the opposing party, the Hearing Officer or Hearing Body may require an offer of proof before beginning the testimony of any witness to establish the witness's testimony is necessary to resolve the issues on appeal.
 - iii. No witness shall be badgered, abused, insulted, or berated. The Hearing Officer or Hearing Body may cut short any examination being conducted in an unproductive or unprofessional manner. The Hearing Officer may examine that witness or direct the examiner to inquire only about topics germane to the resolution of the appeal.
 - d. At the conclusion of the evidence, the parties may make closing arguments or, with the consent of the Chairperson of the Hearing Body or Hearing Officer, submit briefs or written summaries of their respective positions.
 - (h) Record of hearing. An electronic or stenographic record of the hearing shall be made by the City as the official record of proceeding and retained in the Office of the City Clerk for two (2) years after the matter is concluded. No other recording or record shall be made or recognized as official or accurate.
 - (i) Deliberation. As soon as practicable, the Hearing Body or Hearing Officer shall review the evidence and determine if the allegations in the Notice of hearing have been proven by a preponderance of the evidence. The Hearing Body or Hearing Officer shall issue a written decision which includes findings of fact and application of the facts to the Code of Ethics. Only members who have been present for the hearing may participate in the deliberations and written opinion. Any findings and recommendations must be adopted by a two-thirds majority vote of a quorum of the Hearing Body present and voting. The Hearing Body or Hearing Officer shall dismiss any allegation or claim of the verified complaint if it determines the violation was not established by a preponderance of the evidence.

The written decision of the Hearing Body or Hearing Officer shall be delivered to the Board of Ethics and scheduled for formal acceptance and approval by the Board of Ethics at a public meeting. Such formal acceptance and approval shall require a two-thirds majority vote of a quorum of the Board of Ethics. The Board of Ethics shall mail a written copy of the Board's accepted and approved findings, conclusions, and order to the respondent, complainant, and the Ethics Prosecutor.

- (j) Available penalties. Following a formal hearing conducted in accordance with this Section and a finding of violation of one (1) or more of the provisions of the Code of Ethics, the Hearing Body or Hearing Officer may recommend any one (1) or more of the following penalties:
 - (1) Oral or written reprimand delivered to the individual;
 - (2) Oral or written reprimand announced or read publicly during a meeting of the City Council;
 - (3) Leave from any committee, board, liaison or representative position of the City;
 - (4) Suspension or removal from any committee, board, liaison or representative position of the City;
 - (5) Prohibition against being eligible for any future appointment to a committee, board, liaison or representative position of the City (e.g., ineligibility for appointment as Mayor Pro Tem);
 - (6) Payment of a monetary amount as restitution or reimbursement for all or a portion of actual damages incurred by the City or another party damaged or harmed by the ethical violation of the Respondent;
 - (7) Penalty of double the amount of the financial benefit obtained by the individual for a breach of the public trust for private gain; and/or
 - (8) Such penalty as deemed just and appropriate depending on the seriousness of the violation and the mitigating circumstances.

-
- (k) Recommendations of suspension or removal. In the event that the findings, conclusions, and order of the Hearing Body or Hearing Officer recommend suspension or removal of the Respondent from elected or appointed office or from an appointment as an officer of the City, the Board of Ethics shall promptly consider such recommendation in a public meeting. Where the respondent is the Mayor or a member of the City Council, the respondent shall be recused from participation due to a conflict of interest. Any decision by the Board of Ethics to suspend or remove a respondent from public service shall require a unanimous vote of all City Council members present and voting.
 - (l) Appeal. The respondent or complainant may appeal any decision resulting from a formal hearing in accordance with C.R.C.P. 106(a)(4). For purpose of appeal, the date of final decision shall be the date of hand delivery or certified mailing of the findings, conclusions, and order.

(Ord. 2018-O-15 §2)

Sec. 2-10-555. Enforcement of ethical violations committed by employees.

The method and manner of enforcement of this Code of Ethics for allegations made against employees shall be subject to the discretion of the City Manager who, pursuant to Centennial Charter Section 8.8, is responsible for the supervision of employees and the suspension, transfer, or termination of any employee. When enforcing this Code of Ethics for ethical allegations against employees, the City Manager may be guided by the purpose and intent of the enforcement section of the Code of Ethics and its processes and procedures to effectuate a fair and effective result which instills confidence in the employees.