

EXHIBIT A TO ORDINANCE 2672

CHAPTER 2 - ADMINISTRATION

ARTICLE VI. - CODE OF ETHICS

Sec. 2-6000. – Purpose, legislative intent, and findings.

- (a) The purpose of this article is to establish a code of ethics to ensure all city officers, officials, and employees adhere to the highest levels of ethical conduct, honesty, integrity, and accountability. Officers, officials, and employees should comply with both the letter and spirit of this ethics code and strive to avoid situations that create impropriety or the appearance of impropriety.
- (b) This article is intended to establish procedures for officers, officials, and employees to obtain advisory opinions regarding whether any conduct by that person would constitute a violation of this code of ethics prior to the conduct taking place.
- (c) This article is also intended to establish procedures for the initiation, review, investigation, and determination of complaints against officers, officials, and employees.
- (d) This article is enacted pursuant to the home rule authority of the city and Article XX and Section 7 of Article XXIX of the Colorado Constitution and, with the charter, other city ordinances and resolutions, and city regulations, addresses all matters covered by Article XXIX of the Colorado Constitution. The inclusion, exclusion, omission, or limitation of, and the manner of addressing, any matter specifically addressed in Article XXIX of the Colorado Constitution and the manner such matter is addressed therein, whether or not expressly addressed, is intentional and constitutes the exercise of the rights granted to the city pursuant to its charter and Article XX of the Colorado Constitution as matters of local concern. Accordingly, the provisions of Article XXIX of the Colorado Constitution do not apply to the city or any city officer, official, or employee, as defined by this article, the independent ethics commission created pursuant to Article XXIX of the Colorado Constitution has no jurisdiction over any city officer, official, or employee, and this article supersedes all conflicting state statutes, including without limitation, Title 24, Article 18, Colorado Revised Statutes and C.R.S. § 24-6-203.

Sec. 2-6001. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means any appointive board or commission, or other appointive body, district, or authority of the city created pursuant to Chapters 10 and 11 of the charter or pursuant to state law. *Board* does not include any city council subcommittee, the Quality Community Foundation, the Commerce City Cultural Council, the Commerce City Urban Renewal Authority, or any advisory ad hoc committees.

Board member means a regular or alternate member of a board appointed by the city council.

Confidential information means information and materials not available to the general public under applicable laws, ordinances, and regulations, which information is obtained by reason of the

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city official's position with the city. *Confidential information* specifically includes without limitation any information or materials subject to any common law or statutory privilege, including the work product privilege, deliberative process privilege, or attorney-client privilege.

Conflict of interest means an interest held by an officer, official, or employee or their relative, which interest interferes with or influence of which may reasonably be perceived by the public as interfering with or influencing the conduct of the duties or the exercise of the powers of the officer, official, or employee on behalf of the city. *Conflict of interest* also means any conflict of interest specifically designated by this article.

Contract means any arrangement or agreement, including without limitation the bidding or negotiation process therefor and any subcontract thereof, pursuant to which any material, service, or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or is to be sold or transferred by or to the city.

Councilmember means any member of the city council, including the mayor and mayor pro-tem.

Direct official action is any action that a city officer, official, or employee could take that involves any of the following, but does not include any acts that are purely ministerial (e.g., pro forma signing of documents, approval as to form, attestation) or any excusal from voting:

- (1) Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant, vendor, or other similar instrument in which the city is a party. Direct official action occurs only if the person making the recommendation is in the formal line of decision making;
- (2) Enforcing laws or regulations or issuing, enforcing, or administering permits, licenses, benefits or payments;
- (3) Selecting or recommending vendors, concessionaries, or other types of entities to do business with the city;
- (4) Appointing or terminating employees, volunteers, and independent contractors; and
- (5) Doing research for, representing, or scheduling appointments for an officer, official, or employee, provided that these activities are in connection with the officer, official, or employee's performance of (1) through (4) above, by a person as part of their job performance.

Employee means any person holding a paid position of employment with the city, whether full-time, part-time, regular, temporary, or by contract. *Employee* does not include the city manager, city attorney and municipal judge for purposes of this article.

Matters pending before the city means a matter currently under formal review or consideration over which the city has authority to review, regulate, decide, or adjudicate, including without limitation a contract, gift, sale of property, legislation, inspections, permitting, land use matter, licensing, administrative approval, and any related, processing, review, approval, appeal,

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deliberation, solicitation, and implementation, revocation, suspension, or similar action relating thereto.

Person means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, joint venture, institution, trust, foundation, or other legal entity whether organized for profit or not.

Quasi-judicial hearing process means any public hearing related to a quasi-judicial matter and includes without limitation preparations necessary for such hearing, such as review of written staff reports, agendas, proposed resolutions and ordinances; scheduling; posting or publishing notice; and requesting and receiving legal advice.

Official means a member of any city board or commission.

Officer means the mayor, mayor pro-tem, members of city council, city manager, municipal judge and the city attorney.

Ownership interest means the ownership of any part of a business entity by a city official, by a city official's relative, or by any of their ownership in a fiduciary capacity of any securities or of any beneficial interest in securities of a corporation, where the aggregate amount of ownership by the city official and any of the city official's relatives, in any capacity, amounts to ten percent or more of any class of the securities of the corporation then outstanding or constitutes a controlling interest in the business entity. This definition is intended to be consistent with section 4.19(b) of the charter as it applies to councilmembers.

Relative means a husband, wife, domestic partner, partner in a civil union, child, father, mother, siblings, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparent, grandparent-in-law, step-parent, step-child, son-in-law, daughter-in-law, grandchild, and all relationships listed above as they relate to domestic partners or partners in a civil union.

Thing of value means any tangible or intangible benefit, including without limitation a gift, favor, compensation, payment of expense, reward, discount, gratuity, loan, reduced interest rate, or forbearance of a loan.

Sec. 2-6002. – Use of Confidential Information

No officer, official, or employee may disclose or use 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. 2-6003. – Use of Office for Private Gain

No officer, official, or employee shall use their public office or position or disclose or use confidential information in order to obtain private gain for themselves, a relative, for any business entity with which they are affiliated or for any person or entity with whom the officer, official, or employee is negotiating or has any arrangement concerning prospective employment.

Sec. 2-6004. – Conflict of Interest

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No officer, official, or employee shall take any direct official action, receive any confidential information, or influence any other city officer, official, or employee to take or abstain from any direct official action relating to any matter pending before the city in which the officer, official, or employee has a conflict of interest. This subsection shall be deemed to include any prohibition addressed in sections 4.19 and 4.27(c) of the City Charter.

Sec. 2-6005. – Conflict of Interest Disclosure

- (a) Officers and officials shall disclose to the city council or board, as applicable, as soon as possible, any real or known possible conflict of interest in a matter pending before the city as to which the officer or official may take direct official action.
- (b) An employee who is aware of a conflict of interest or a possible conflict of interest in relation to a matter pending before the employee shall promptly disclose in writing the conflict to their direct supervisor and the writing shall be promptly provided to the city manager, or if the employee is with the city attorney's office, to the city attorney. In all cases, the determination by the city manager and city attorney as to whether or not a conflict of interest exists is final and shall not be the subject of a grievance or appeal.

Sec. 2-6006. – Gifts to Officers, Officials, and Employees

The purpose of this section is to avoid special influence by donors or vendors who give gifts to city officers, officials, or employees.

- (a) In accordance with section 9.5 of the City Charter, it shall be a violation of this section for any officer, official, or employee, or relative, to solicit or accept gratuities, favors, or gifts in connection with or relative to any contract or business of the City or related to an officer, official, or employee's duties and responsibilities on behalf of the City. For purposes of this section, a gratuity, favor, or gift shall include any payment, entertainment, subscription, forbearance, service or any other thing of value, rendering or deposit of money, which is transferred to an officer, official, or employee directly or in trust for their benefit without the officer, official, or employee giving adequate and lawful consideration in exchange.
- (b) Provided that the gratuity, favor, or gift could not reasonably be considered to be in connection with or relative to any contract or business of the City, or reasonably considered to be a bribe or means of improper influence on a direct official action, no violation of this section shall be found to apply to the following:
 - 1. A campaign contribution as defined by law;
 - 2. An unsolicited item of trivial value less than seventy-five dollars (\$75.00), such as a pen, calendar, plant, book, note pad or other similar item;

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3. An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
4. Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;
5. Admission to, and the cost of food or beverages consumed at, a reception, meal, or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;
6. Given by an individual who is a relative or personal friend of the recipient on a special occasion.

Sec. 2-6007. – Employment and Supervision of Family Members

The purpose of this section is to avoid favoritism by city officers, officials, or employees to their relatives.

- (a) No officer, official, or employee shall appoint or hire a relative for any type of employment, including, but not limited to, full-time employment, part-time employment, regular employment, temporary employment, or contract employment.
- (b) No officer, official, or employee shall supervise or be in a direct line of supervision over a relative. If an officer, official, or employee comes into a direct line of supervision of a relative, they shall have six (6) months to come into compliance.

Sec. 2-6008. – Prior Employment.

The purpose of this section is to indicate that persons are not disqualified from a City job because of prior employment; to avoid special advantage being given to former employers of officers, officials, or employees; and to avoid special advantage being given to an officer, official, or employee by a former employee.

No person shall be disqualified from service with the City as an officer, official, or employee solely because of his or her prior employment. Officers, officials, and employees shall not take any official action with respect to their former employers for a period of six (6) months from the date of termination of the prior employment.

Sec. 2-6009. – Subsequent Employment.

The purpose of this section is to avoid the appearance of or the actuality that employers who hire former City officers, officials, or employees may get special treatment by the City.

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- (a) No former officer, official, or employee shall, at any time within six (6) months following termination of the office or employment, obtain employment outside the city government in which the officer, official, or employee will take direct advantage, unavailable to others, of matters with which the officer, official, or employee took direct official action during the term of office or employment with the City.
- (b) For one (1) year following termination of service with the City, no former officer, official, or employee shall engage in any action or litigation in which the City is involved, on behalf of any other person or entity, when the action or litigation involves an issue on which the person took direct official action while in the service of the City.

Sec. 2-6010. – Outside Employment or Business Activity.

The purpose of this section is to avoid possible conflicts of interest and time conflicts between city jobs and outside employment or business activity.

- (a) All officers, officials (excluding elected officials), and employees shall report existing or proposed outside employment (excluding unpaid volunteer activity) or other outside business activity annually in writing to their appointing authorities and obtain their appointing authority's approval thereof prior to accepting such outside employment or outside business activity. All officers and officials (excluding elected officials) shall immediately report any change in employment status to their appointing authorities which could give rise to a conflict of interest.
- (b) If the appointing authority or the officer, official, or employee believes that there is a potential conflict of interest between the person's public responsibility and their possible outside employment or outside business activity, the appointing authority, officer, official, or employee is encouraged to consult the City Attorney for an advisory opinion.

Sec. 2-6011. – Advisory Opinions.

Officers, officials, and employees may request in writing, before engaging in any conduct that may be in question, an advisory opinion from the City Attorney as to the application of this article to any anticipated or proposed conduct. Provided all pertinent facts and circumstances are fully disclosed in writing to the City Attorney, such person shall be entitled to rely upon the advisory opinion issued for purposes of determining compliance with the Code of Ethics. No officer, official, or employee shall be found to have violated the Code of Ethics if, in good faith, the person has acted in accordance with an advisory opinion issued pursuant to this section.

Sec. 2-6012 – Filing of Complaints Against Employees.

- (a) Complaints generally. Complaints against an employee under this section related to this Code of Ethics must be filed confidentially with the Department of Human Resources. A complaint may only be considered for matters occurring within the last one-hundred eighty

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(180) days. If a complaint is received by another City officer, official, or employee, the complaint shall be transmitted immediately to Department of Human Resources and the recipient shall take no further action regarding the complaint.

(b) Complaint requirements. A complaint shall set forth the following to the best of the complainant's ability:

- (1) The name of the person, either individually or on behalf of an organization, submitting the complaint and such person's contact information, including mailing address, telephone number, and email address. A complaint submitted anonymously may be dismissed;
- (2) The identity of the person(s) alleged to have committed a violation of the Code of Ethics;
- (3) A full description of the facts known to the person filing the complaint which are alleged to constitute a violation of the Code of Ethics, including reference to the applicable Code of Ethics provisions at issue;
- (4) The identities and contact information, if known, of other persons who have knowledge of such facts; and
- (5) A signature of the person submitting the complaint with the following statement:

“The undersigned hereby certifies that the information contained within this complaint is true to the best of my knowledge, information, and belief. I have not filed this complaint for the purpose of harassment or to falsely disparage the individual(s) claimed to have committed violations of the Code of Ethics.”

(c) The Department of Human Resources may investigate any complaint filed against an employee it determines to be non-frivolous. Only the City Manager or their designee, in consultation with the City Attorney, may determine whether the facts underlying the complaint establish a violation of the Code of Ethics. For those employees in the City Attorney's Office, only the City Attorney or their designee may determine whether the facts underlying a complaint substantiate a violation of the Code of Ethics. The City Attorney may consult with the Independent Ethics Counsel when making such a determination.

(d) A violation of the Code of Ethics may be grounds for disciplinary action, including termination of employment and, if relevant, employees may appeal discipline in accordance with city Personnel Policies.

Sec. 2-6013. – Independent Ethics Counsel.

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- (a) City Council shall, through the City Attorney, contract an Independent Ethics Counsel, whose purpose shall be to oversee the complaint, investigation, and enforcement process in response to ethics complaints against officers and officials submitted pursuant to this section and to render written recommendations to City Council regarding the same. The Independent Ethics Counsel's contract shall be a term of 5 years unless amended by the city.
- (b) The Independent Ethics Counsel shall be approved by resolution. The Independent Ethics Counsel shall be an attorney licensed to practice law in Colorado.

Sec. 2-6014. – Filing of Complaints Against Officers and Officials.

- (a) Complaints generally. Complaints against an officer or official must be filed confidentially using the City's complaint submission form. A complaint may only be considered for matters occurring within the last one-hundred and eighty (180) days and shall be filed with the City Attorney or the Independent Ethics Counsel.
- (b) Complaint requirements. A complaint shall set forth the following to the best of the complainant's ability:
 - (1) The name of the person, either individually or on behalf of an organization, submitting the complaint and such person's contact information, including mailing address, telephone number, and email address. A complaint submitted anonymously may be dismissed by the Independent Ethics Counsel;
 - (2) The identity of the person(s) alleged to have committed a violation of the Code of Ethics;
 - (3) A full description of the facts known to the person filing the complaint which are alleged to constitute a violation of the Code of Ethics, including reference to the applicable Code of Ethics provisions at issue;
 - (4) The identities and contact information, if known, of other persons who have knowledge of such facts; and
 - (5) A signature of the person submitting the complaint with the following statement:

“The undersigned hereby certifies that the information contained within this complaint is true to the best of my knowledge, information, and belief. I have not filed this complaint for the purpose of harassment or to falsely disparage the individual(s) claimed to have committed violations of the Code of Ethics.”

Sec. 2-6015. – Dismissals of Frivolous Complaints Against Officers and Officials.

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The Independent Ethics Counsel may dismiss frivolous claims without further action for any of the following reasons:

- (a) The Independent Ethics Counsel has no jurisdiction over the person(s) named in the complaint;
- (b) The alleged violation, even if true, would not constitute a violation of the Code of Ethics;
- (c) The allegations were previously asserted in another complaint that is already being considered or was resolved by the Independent Ethics Counsel;
- (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 involve actions or events that occurred more than one hundred and eighty (180) days prior to the date of the filing of the complaint;
- (f) The complaint is, on its face, groundless, or brought for purposes of harassment;
- (g) The person(s) who is the subject of the complaint previously obtained an advisory opinion from the City Attorney that identifies the conduct as not being in violation of the Code of Ethics;
- (h) The complaint does not include the required factual information or signature affirming the complaint's veracity as required by this Article; or
- (i) The complaint was filed anonymously.

Sec. 2-6016. – Review of Complaints Against Officers and Officials.

- (a) Investigation. The Independent Ethics Counsel shall take such steps as are necessary to investigate complaints not dismissed as frivolous pursuant to this Article. During the investigation, if potential violations of the Code of Ethics not raised in the original complaint are discovered, the Independent Ethics Counsel may amend the scope of the investigation and the subject(s) of the investigation shall be notified of the additional possible violations as soon as practicable.
- (b) Findings. Within fourteen (14) days of the conclusion of its investigation of a complaint, the Independent Ethics Counsel shall issue a confidential written recommendation to City Council containing its investigative findings. The Independent Ethics Counsel's recommendation shall include specific findings of fact and a recommendation, with citation to specific provisions of the Code of Ethics, regarding whether or not, by a preponderance of the evidence, one (1) or more violations of the Code of Ethics appear to have occurred. The written recommendation to City Council is a work product

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prepared for elected officials and is not a public record under the Colorado Open Records Act.

- (c) The Independent Ethics Counsel, after its investigation, may find there are no violations of the Code of Ethics and dismiss the complaint, or in the recommendation to City Council, recommend proceeding to a hearing. The Independent Ethics Counsel may dismiss the complaint due to insufficient evidence to proceed if the standard of proof cannot be met; dismiss all or any part of the complaint because there is no substantial likelihood of success on the merits through an adversarial hearing; stay proceedings after referring the matter for action by law enforcement, regulatory, or other authorities with jurisdiction over the matter; or dismiss the complaint in the interests of justice where proceeding with the matter would be contrary to the interests of the City or its residents. The findings and dismissal by the Independent Ethics Counsel is a final action.
- (d) Following the receipt of the Independent Ethics Counsel's investigative findings, City Council may choose to schedule a hearing whereby a pre-selected hearing officer, licensed to practice in the State of Colorado, shall preside over the hearing and make potential penalty and sanction recommendations to City Council.

Sec. 2-6017. – Notice of Allegations of Ethics Violations; Mandatory Recusal.

- (a) The Independent Ethics Counsel shall notify the accused party, the complainant, and the City Attorney, or the Deputy City Attorney in the event the City Attorney is the accused party, of the ethics charges in writing within fourteen (14) days after an independent hearing officer is appointed.
- (b) The accused party shall be given fourteen (14) days to respond in writing to the Independent Ethics Counsel and the hearing officer, either admitting the violations or requesting a public hearing. The hearing officer shall consider the accused party's failure to respond within fourteen (14) days to be an admission of guilt and may then move to recommend that Council impose sanctions. The time for response may be extended or the matter may be reconsidered upon a showing of good cause for failure to timely respond.
- (c) If the accused party is a member of City Council, such person is automatically recused from the vote to appoint the hearing officer and is required to refrain from voting on or taking any direct official action concerning the matter.
- (d) If the accused party is subject to a criminal investigation or a criminal charge is pending against the accused party and the investigation or charge is related to the conduct underlying the allegations of ethics violations, the accused party may submit a request to stay the proceedings until the conclusion of the criminal investigation or charges. The hearing officer has sole discretion to stay the proceedings pursuant to a request under this subsection.

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Sec. 2-6018. – Public Hearing Procedures.

- (a) Legal representation. The Independent Ethics Counsel will prosecute the charges. The accused officer or official is entitled to be represented by legal counsel at their own expense.
- (b) Burden of proof. The prosecution bears the burden to establish, by clear and convincing evidence, the existence of a violation of the Code of Ethics.
- (c) Hearing date. Within fourteen (14) days after the accused has requested a hearing, the hearing officer shall set the date for the hearing, after making reasonable attempts to consult with the accused party and the prosecution. The hearing shall be set within sixty (60) days. The hearing officer may continue the hearing in his or her sole discretion and may grant a request for a continuance by the accused party or the prosecution for good cause.
- (d) Discovery. Within ten (10) days of electing to proceed to hearing, the accused party shall be entitled to a copy of the summary of the investigation and the confidential written recommendation to City Council. At least thirty (30) days before the hearing, the accused party and the prosecution shall exchange copies of any other relevant documents and other tangible things within their possession, and a list, including any known contact information, of all persons who have relevant information or knowledge about the matter with a short statement regarding the relevant facts or opinions about which they have information or knowledge. Each party has an ongoing duty to supplement disclosures in a timely manner when additional information is received.
- (e) Subpoenas. At the request of the accused party, the prosecution, or in the hearing officer's discretion, the hearing officer shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents. Requests for subpoenas by the accused party or the prosecution must be submitted to the Hearing Officer no later than twenty (20) days prior to the hearing. Subpoenas must be served in accordance with the rules governing service followed by courts of general jurisdiction within the State.
- (f) Witnesses and exhibits. At least ten (10) days before the hearing, the parties shall exchange and submit to the hearing officer a proposed list of witnesses and a list of proposed exhibits to be introduced at the hearing. The hearing officer shall have the sole discretion to exclude any witness or exhibit disclosed to the opposing party fewer than ten (10) days prior to the hearing.
- (g) Hearing presentation. The hearing officer shall have sole discretion to determine the hearing procedures. However, at a minimum, the hearing procedures shall include affording each side the opportunity to make opening statements and closing arguments,

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to call and cross-examine witnesses, and to introduce evidence. Testimony by telephone or video may be permitted at the discretion of the hearing officer.

- (h) Hearing matters and evidence. The hearing officer shall determine all pre-hearing matters; preside over the hearing; administer oaths; and decide all points of order, procedure, and evidence. The hearing is an administrative hearing and, as such, need not be conducted according to the Colorado Rules of Civil Procedure or the Colorado Rules of Evidence. The hearing officer may admit any relevant evidence of probative value, including hearsay or unauthenticated documents, and may exclude or strike evidence that is incompetent, immaterial, irrelevant, cumulative, or unduly repetitious.
- (i) Record. A record of the hearing shall be made by the City as the official record of proceeding and retained with all exhibits admitted in the hearing with the City Clerk for no less than the time required by the applicable records retention schedule.
- (j) Hearing Officer decision. The hearing officer will render a decision with findings of fact, a summary of the evidence supporting each finding, conclusions of law, a determination of whether or not the accused party violated the Code of Ethics, and may recommend any sanction(s) pursuant to section 2-6019 of this article. In recommending a sanction, the hearing officer's decision may consider the severity of the offense; the credibility of the witnesses and reliability of the evidence; the presence or absence of any intention to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern.
- (k) Formal Council action. As soon as practicable after receipt of the hearing officer's decision, City Council shall, in a public meeting, adopt the hearing officer's decision regarding whether or not the accused committed a violation of the Code of Ethics. City Council may affirm, reject, or modify the hearing officer's recommended sanctions. Adoption of the hearing officer's decision regarding whether or not the accused committed a violation of the Code of Ethics and any sanctions imposed shall be expressed in a written resolution passed by City Council. City Council's resolution shall be final agency action.

Sec. 2-6019. – Sanctions.

- (a) If the person who is the subject of the complaint is a non-elected officer or an official, and the City Council feels corrective action may be necessary, then City Council may act in the form of any of the following sanctions:
 - (1) Reprimand: Issue an oral or written reprimand;
 - (2) Monetary Fine: A monetary fine is appropriate if the individual who committed an ethics violation financially benefitted from their action(s) or a relative benefitted from the action(s) of the covered person. The monetary fine shall be no more than double

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the amount of financial equivalent of any benefits obtained by the unethical action(s); and/or

(3) Suspension/Removal: Suspension or removal of the non-elected officer or official.

(b) If the person who is the subject of the complaint or inquiry is a Councilmember, and the City Council believes corrective action may be necessary, then City Council may act in the form of any of the following sanctions:

(1) Censure: Censure is a formal official reprimand by City Council of one of its members. This penalty carries no fine or suspension of the rights of the member as an elected official; and/or

(2) Monetary Fine: A monetary fine is appropriate if the individual who committed an ethics violation financially benefitted from their action(s) or a relative financially benefitted from the action(s) of the covered person. The monetary fine shall be no more than double the amount of financial equivalent of any benefits obtained by the unethical action(s).