

**A RESOLUTION AMENDING COUNCIL POLICY #CP-25 TO CLARIFY THE
PROCESS FOR RECEIVING AND REVIEWING COMPLAINTS**

NO. 2025-081

WHEREAS, the City of Commerce City is authorized to adopt policies governing Council process and conduct; and

WHEREAS, City Council has determined there is a need to amend #CP-25 to clarify the process for receiving and reviewing complaints.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this resolution are incorporated as findings of the City Council. This resolution is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendments.

- a. Council Policy #CP-25. is amended to read as follows:

Council Policy #CP-25
Adopted 04/03/23 by Resolution 2023-34
Revised 8/19/24 by Resolution 2024-100
Revised [] by Resolution []

SUBJECT: City Council Conduct and Discipline

POLICY STATEMENT: The conduct of City Council members is a matter of public integrity and as such is a matter of public importance. In this regard, the City Council intends that complaints relative to the conduct of City Council members be handled in a manner that is reflective of the values of the City. The handling of such complaints must occur in a fair and impartial manner to preserve the public trust while also protecting elected officials from frivolous complaints that improperly exhaust public resources for otherwise improper purposes. The goal of this policy is to balance these interests while ensuring public integrity.

Process for Receiving and Reviewing Complaints.

- a. Complaints shall be made using a City-provided complaint form. Complaints must have specific information and be signed under penalty of perjury. Specifically, complaints must:
- i. Be verified. “Verified” means a formal declaration made in the presence of an authorized officer, such as a notary public, or made under oath but not in the presence of such an officer, whereby one swears to the truth of the statements in the document;

- ii. Include the complainant's name and contact information;
- iii. Identify the individual alleged to have violated policy; and
- iv. Provide specific and sufficient factual detail to identify a policy that is at issue and the specific conduct alleged to have occurred that was in violation of the policy.

b. Complaints shall be filed with the City Clerk within 30 days of discovery of the alleged conduct and reviewed.

- i. The City Clerk will conduct an initial review. If it appears to meet the complaint requirements above, then the complaint will be sent to a "magistrate". The magistrate must be a neutral municipal judge or attorney on a rotating list funded through a lawful appropriation. If the complaint is obviously defective, then the Clerk can reject it.

- ii. In instances where a magistrate is sent a complaint, the magistrate will review it to determine if the requirements are met, is frivolous, or if the complaint presents plausible allegations.

- 1. If satisfied, the magistrate will forward a summary to the entire Council through the City Clerk with a written finding as to the sufficiency of allegations (but doesn't provide the complaint).
- 2. If not satisfied, the magistrate rejects the complaint and notifies the City Council, City Manager and City Attorney (but doesn't provide the complaint). The City Clerk will inform the complainant of this decision.
- 3. If allegations could be a criminal violation, the magistrate will refer the complaint directly to law enforcement (even if not meeting minimum requirements).

b. Council investigation and review

- i. Council considers the magistrate's referral in public and may investigate it or assign a 3rd party investigator.
- ii. All Council members are expected to cooperate.
- iii. An investigator will provide a confidential report to Council with a public summary. The investigator is also required to notify law enforcement if conduct in question may be criminal.
- iv. If the investigation finds that a violation is more likely than not then:

- 1. Council conducts a hearing; or

2. Assigns to a magistrate to conduct the hearing (if there aren't enough councilmembers eligible to vote).

v. If the investigation determines that a violation is not more likely than not, then the complaint is dismissed.

c. Hearing

i. Quasi-judicial with adequate notice of violations.

ii. Special counsel assigned to prosecute.

iii. Special counsel may be assigned to defend at City's cost if Council consents.

iv. City must establish violation by clear and convincing evidence.

v. Council then determines if violation occurred by a vote of two-thirds (2/3) of those present.

d. Sanctions

i. Council would determine a sanction by a vote of a majority of those present.

ii. Expressly states no removal (though removal can occur by declaring a vacancy under the charter in some circumstances)

iii. Severity depends on willfulness, intent or knowledge, overall impact, mitigating factors, limited discretion; incorporates escalating discipline for repeat offenses

1. Discipline to consider state of mind

a. Unintentional/oversight

b. Negligent

c. Intentional (or repeat unintentional or negligent)

2. Impact to consider

a. Financial impact (cost)

b. Impact to image of City

c. Impact to image of City Council

d. Impact to image of City Staff

e. Impact on constituents

- f. Actual harm or damages
 - g. Criminal
 - h. Mitigating factors (apology, other)
 - i. Aggravating factors (failure to participate in process; obstructive)
- 3. Discipline imposed (punishment intended to fit the severity of violation; discipline is not required to occur on a stepped basis)
 - a. Verbal admonition
 - b. Written reprimand (published with minutes)
 - c. Mandated training (may include cultural responsiveness and trauma sensitivity to cultural impacts)
 - d. Censure (Resolution of City Council)
 - e. Board/Committee assignments modified (including removal)
 - f. Fine
 - g. Invitation to resign from City Council

RESOLVED AND PASSED THIS 19TH DAY OF MAY 2025.

CITY OF COMMERCE CITY, COLORADO

Steve J. Douglas, Mayor

ATTEST

Dylan A. Gibson, City Clerk