

Council Policy #CP-14
Adopted 8/31/09 by Resolution 2009-31
Paragraph G amended 2/3/14 by Resolution 2014-01
Paragraph J revised 4/19/21 by Resolution 2021-29
Revised [] by Resolution 2025-[]

SUBJECT: ~~Ethics Policy.~~ **RESERVED.**

~~POLICY STATEMENT: This purpose of this policy is to set forth standards adopted by Resolution 2006-30 that ensure any person in government service shall uphold and be ever conscious that public office is a public trust.~~

A. PUBLIC TRUST – BREACH OF FIDUCIARY DUTY.

~~1. Commerce City officials, including elected and appointed officials, hold their positions as a public trust and Commerce City residents have a right to expect that all City officials and staff will place loyalty to the Colorado Constitution, City Charter, laws and ethical principals above private interests; that Commerce City officials and staff shall not use public office for private gain; that officials and staff shall act impartially and not give preferential treatment to any private organization or individual; that government decisions and policy be made in the proper channels of the governmental structure; and that the public have confidence in the integrity of its government.~~

~~2. Upon its own motion, the City Council may hear and determine violations of this policy, and any violation shall be deemed misconduct in office and subject the City official to such penalties as are determined by the City Council, including reprimand or removal from office.~~

~~3. A Commerce City official, upon full disclosure of facts to the City Manager, may request an advisory opinion of the City Manager, with the advice of the City Attorney, regarding the application of this policy to the official.~~

B. CONFIDENTIALITY.

~~1. An elected official or employee shall not knowingly disclose information which he knows or reasonably should know is confidential information regardless of the source of the information unless directed to do so by the City Council or compelled to do so by operation of law. If an issue arises as to whether an item is confidential, the City Attorney shall be requested to furnish a legal opinion on the issue.~~

~~2. An elected official or employee shall not knowingly use or disclose any information gained in the course of or by reason of his or her official position and which has not been made public to advance his or her financial interests or to further the financial interests of any family member.~~

~~3. No elected official or employee shall communicate information concerning a matter subject to or pending litigation in which the City is a party, which~~

~~could reasonably be interpreted as an admission of liability on behalf of the City or which a reasonable person would interpret as being prejudicial to the interests of the City in the subject matter without prior authorization of the City Council unless compelled by legal authority.~~

~~4. Information discussed or to be discussed in executive session is confidential and must remain confidential and is not to be discussed outside the executive session except during and after discussion of the subject matter in an open Council meeting.~~

~~C. CONFLICT OF INTEREST.~~

~~1. No member of the Council shall be interested, directly or indirectly, in any contract, including purchases or sales, with the City except that such contract may be made by the City if the members of the Council in office at the time the vote is taken, having no such interest, shall unanimously determine that the best interests of the City shall be served by the making of such contract, and if either such contract is made after comparative prices are obtained, or if the members of the Council having no interest shall unanimously determine that the obtaining of comparative prices is not feasible in such particular case.~~

~~2. For purposes of this Section, ownership by a member of the Council or his/her immediate family of securities or of any beneficial interest in securities of any corporations, shall not be deemed to create a prohibited interest under this Section, unless the aggregate amount of such securities or interest in such securities, so owned by such Councilmember and the members of his/her immediate family, shall amount to ten percent (10%) or more of any class of the securities of such corporation then outstanding.~~

~~3. No member of the City Council, Board, Council or Commission shall perform a governmental function, participate in the discussion of, or influence or attempt to influence or give the perception of attempting to influence any other member of City Council, Board, Council, Commission or employee, or otherwise participate in any final action, or vote to render any final decision or determination on any matter in relation to which the officer has a prohibited interest.~~

~~4. No member of the City Council, any City Board, Council or Commission shall acquire or hold an interest in any business or undertaking which the official has reason to believe may be directly and substantially affected to the official's economic benefit by official action of the City except as provided in this Section 4 and Section 5.~~

~~5. No member of the City Council shall personally solicit funds for any governmental, civic or charitable purpose from any person or entity engaged in property development or anticipated property development in the City or engage in business activities or anticipated business activities with the City unless authorized by official action of the City Council after full disclosure of the intended solicitation.~~

~~Excepted from this provision are the following: (1) campaign contributions, (2) solicitations by other members of a Board, Council, Commission or other entity or by a Board, Council, Commission or other entity as a group where the City Council is a member.~~

~~D. DISCLOSURE OF CONFLICT.~~

~~1. An elected or appointed official of Commerce City who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.~~

~~2. All Council members and all appointed officials shall be excused from voting on any question in which such member has a financial interest, other than the common public interest, his own conduct is involved, or any other good cause is shown for his being excused from voting. The City Council, Board, Council or Commission, as applicable, by majority vote of those present, shall determine when a member shall be excused from voting. Should any member being present refuse to vote on any measure and not be excused from doing so, his vote shall be recorded in the affirmative.~~

~~E. COMPULSORY ATTENDANCE AND CONDUCT AT MEETINGS.~~

~~1. A majority of the members of the Council may, by vote, request the attendance of its members and other officers of the City at the next regular or special meeting of the Council. Any member of the Council or other officer who, when notified of such request for his attendance, fails to attend such meeting for reasons other than confining illness or absence from the City, or because said Councilmember is attending a meeting as a representative of the City, shall be deemed guilty of misconduct in office unless excused by the Council.~~

~~2. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.~~

~~F. ACCEPTANCE OF GRATUITIES PROHIBITED.~~

~~1. It shall be a violation for any City elected or appointed officer or any City employee to accept gratuities, favors or gifts in connection with or relative to any contract or business of the City.~~

~~2. It shall be a violation for any City elected or appointed officer or any City employee to accept a gift or economic benefit which:~~

- a. ~~Intends improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or~~
- b. ~~Which he/she knows or which a reasonable person in his/her position should know under the circumstances is primarily for the purpose of rewarding him/her for official action he has taken.~~

3. ~~Excepted from this provision are the following:~~

- a. ~~Campaign contributions.~~
- b. ~~A pecuniary award publicly presented in recognition of public service.~~
- c. ~~Payment of or reimbursement for actual and necessary expenditures as authorized by the City Council for travel and subsistence for attendance at a meeting, convention or other gathering at which the City Councilperson is authorized to attend.~~
- d. ~~Reimbursement to the elected official or appointed official and their spouses or significant companions for or acceptance of an opportunity to participate in a social function, meeting or event which is for a governmental purpose, public purpose or public benefit and which is not extraordinary when viewed in light of the customary practice of other elected officials similarly situated, provided that such reimbursement for expenses incurred on behalf of spouses or significant companions shall only be for such meetings, functions or events that take place in the State of Colorado.~~

~~G. ELECTED OFFICIALS NOT TO BE EMPLOYED AND RESTRICTION ON EMPLOYMENT OF FORMER ELECTED AND APPOINTED OFFICIALS.~~

1. ~~No elected official shall be appointed to any City office with compensation or be employed by the City during that period of time while he is in office. Provided, however, this shall not be construed to prohibit reimbursement or payment of bona fide expenses incurred by an elective officer in performance of official duties or business on behalf of the City.~~

2. ~~If any City Councilperson, including the Mayor, any member of a City Board, Council or Commission, or the City Manager or any department head employs or causes to be employed any member of the City Council, any member of a City Board, Council or Commission, or any employee of the City or agency of the City, the new employer shall file a statement under oath with the City Clerk within ten (10) days after such employment and the Council shall be so advised in writing. The statement shall specify the nature of employment, the name of the person to be paid thereunder and the amount of pay or consideration to be paid thereunder.~~

3. ~~The following restrictions on City employment shall apply:~~

a. ~~No City Council member, including the Mayor, or the City Manager shall, within one (1) year of the termination of his/her office or employment, obtain employment with the City.~~

b. ~~No member of any City board, commission, authority or the Cultural Council shall continue to hold office upon obtaining employment with the City.~~

4. ~~Notwithstanding the above, this Section G shall not in any way affect the compensation of the Mayor and City Council as provided in Section 4.6 of the City Charter for Commerce City.~~

H. ~~ANTI-NEPOTISM.~~

1. ~~The spouse of any elected official or of the City Manager or of any department head and the following relatives and their spouses of any elected official or his/her spouse or of the City Manager or of his/her spouse or of any department head or of his/her spouse are disqualified from holding any appointive office or from any City employment during the term for which said elective official was elected or during the tenure of office of the City Manager or department head, respectively: child, grandchild, parent, grandparent, brother, sister, half brother, half sister, nephews and nieces. All relationships shall include those arising from adoption and those arising from marriage.~~

2. ~~This section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the City at the time of the election (not re-election) of said elective official or the appointment of said City Manager or department head, respectively, or adoption of this Resolution.~~

I. ~~EX-PARTE CONTACT.~~

~~When a governmental function requires a member of City Council to act in a quasi-judicial capacity, the member of City Council shall take reasonable precautions to avoid and prevent improper ex parte communication with any party in interest or with their representative and refrain from any activity which could give the perception of an improper ex parte communication with a party in interest or with the representative of any party in interest. Any member of City Council may seek an advisory opinion from the City Attorney concerning any ex parte communication received pertaining to a matter the subject of which is or may become the subject of a quasi-judicial proceeding in which the officer may perform a governmental function. If any member of City Council receives ex parte communications regarding a matter which is before the Council for quasi-judicial action the Councilmember shall disclose the communication as part of the hearing. After disclosure, the Councilmember may participate in the hearing and vote on~~

~~any action unless the Council concludes that the communication may prevent him or her from participating and voting thereon in an unbiased manner. If the member of Council concludes that the ex parte communication may prevent him or her from voting in an unbiased manner, he or she shall excuse himself or herself and shall not participate in the discussion or vote in the proceeding.~~

~~**J. — BEHAVIOR OF ELECTED OR APPOINTED OFFICIALS OF THE CITY OF COMMERCE CITY.** In all official matters, including at any time during a function, event, conference, or trip sponsored by the City or at which the official's attendance was paid for by the City, elected and appointed officials of the City shall conduct themselves in a manner so as not to bring disrespect or disrepute to the office held or to the City. During sessions or meetings of the official Council, officials shall treat their fellow officials, the public and City employees with respect. Officials shall refrain from personal attacks on the public and their fellow officials and shall not attack the motives of their fellow officials.~~