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CITY AND COUNTY OF DENVER

ETHICS

H A N D B O O K



DENVER

THE MILE HIGH CITY

John W. Hickenlooper
MAYOR



City and County of Denver

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Dear Employees, Officers and Officials of the City and County of Denver:

We are pleased to introduce this updated and revised Ethics Handbook for the City and County of Denver, published by the Denver Board of Ethics. The handbook is one tool with which we want to work with all of you to strive for excellence and the highest ethical standards in our work for the citizens of Denver. We respect and thank all of you for your hard work and dedication.

This handbook includes the Denver Code of Ethics (originally adopted in 1965, significantly amended in 2001 and amended again in 2004 and 2007), case studies, representative opinions from the Denver Board of Ethics and other useful information. We encourage you to review this handbook now and to consult it whenever you encounter ethical questions and issues. We also encourage you to confer with the Board of Ethics, others in your agency or the City Attorney's Office as ethical issues arise.

As stated in Ethical Principles for Public Servants (1992, Council for Excellence in Government):

Public service is a public trust. The highest obligation of every individual in government is to fulfill that trust. Each person who undertakes the public trust assumes two paramount obligations: To serve the public interest; and To perform with integrity.

A handwritten signature in black ink, appearing to read "John W. Hickenlooper", written over a horizontal line.

John W. Hickenlooper
Mayor

A handwritten signature in black ink, appearing to read "Michael Hancock", written over a horizontal line.

Michael Hancock
City Council President

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CITY AND COUNTY OF DENVER

OVERVIEW

WHY HAVE A CODE OF ETHICS?

City employees, officers, and officials are in a unique position to influence the public's confidence and trust in Denver's city government. You not only provide services to the public, but you are also a very visible representative of the City. With this in mind, the Denver City Council enacted, and the Mayor signed, a new Ethics Code for all City officers, officials, and employees in January 2001. The purpose in adopting this new Code of Ethics is to foster confidence in City government by clarifying which actions are allowed and which are a breach of the public's trust. Preserving the public's trust is central to the effective operation of any government.

The Code of Ethics doesn't cover every ethical situation or issue you may encounter. City agencies may adopt stricter codes of ethics (and many have). In addition, the Code states that you “should comply with both the letter and spirit of this ethics code and strive to avoid situations which create impropriety or the appearance of impropriety.” In the absence of specific laws to direct you, your personal integrity and honesty must guide your decisions.

The purpose of this Ethics Handbook is to increase your awareness and understanding of the ethical conduct required of you by your position with the City and County of Denver. It is a convenient summary of the Code, and also provides you with information about how to seek advice from the City's Board of Ethics. It is not intended to be a substitute for the Code. Anyone who is uncertain whether or not a particular action (or inaction) is a violation of the Code of Ethics, or who believes a violation has occurred, should review the Code (included as Appendix A), and seek the advice of the Board of Ethics. You may also want to review the Digest of Advisory Opinions (Appendix B).

**THANK YOU FOR YOUR SERVICE TO THE CITY AND
YOUR COMMITMENT TO PROVIDING HONEST, FAIR, AND
ACCOUNTABLE CITY GOVERNMENT TO THE PEOPLE OF
DENVER.**

TO WHOM DOES THE CODE APPLY?

The Code applies generally to all Denver employees, including Career Service, Civil Service, and contract employees, officers (elected officials and Cabinet members), and officials (appointed members of City boards and commissions). (Code Section 2-52)

However, there are certain exceptions. The City Attorney's Office advises that employees of the following offices are NOT covered by the Code: Denver District Attorney, Denver District Courts, Judges and Magistrates of the County Court, Denver Board of Water Commissioners, and Denver Health and Hospital Authority. If you have questions about the application of the Code to any other office or agency, you may contact the City Attorney's Office or the Board of Ethics.

WHERE CAN I FIND HELP?

The Board of Ethics is committed to helping Denver employees, officers, and officials comply with the Code. The Board has five volunteer members: two appointed by City Council, two appointed by the Mayor, and an official or employee of the City nominated by the Mayor and appointed by City Council. Our purpose is to issue advisory opinions and respond to requests for waivers on ethical issues arising under the Code and to hear complaints and issue findings and recommendations regarding alleged violations.

We encourage you to contact our staff if you have any questions about the Code or the procedures for filing a Request for Advisory Opinion, Request for Waiver, or Complaint. You may discuss the Code with other employees, your supervisor, the Career Service Authority, and where appropriate, the City Attorney's Office. However, when you need formal guidance as to whether or not a specific situation or conduct would constitute a violation of the Code, you should file a request for an advisory opinion directly with the Board of Ethics. Supervisors, city attorneys, and Career Service representatives should make it clear to employees that they are free at any time to request an advisory opinion directly from the Board with or without previous clearance or concurrence.

The members of the Denver Board of Ethics in 2008 are:

Leslie M. Lawson

Edgar Neel

Ann Terry

Lori Mack

Syl Morgan-Smith

(Biographies of Board members can be found at
www.denvergov.org/ethics.)

The Board can be reached at:

Denver Board of Ethics

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NOTE: The Financial Disclosure Ordinance is NOT a part of the Code of Ethics. If you have questions regarding financial disclosure, or need to obtain disclosure forms you should contact your personnel administrator or the City Clerk's Office.

The Financial Disclosure Ordinance requires City officials - those holding elective office and cabinet appointees - to file an annual statement disclosing their business interests, investment holdings as well as gifts received. City employees are also required to file an annual statement which discloses non-family gifts over \$25 in value received as a result of employment with the city including tickets to events, parking privileges, lodging and other kinds of consideration which was not purchased for face value.

CONFLICTS OF INTEREST

The people of Denver expect you to act for their benefit, and not favor a few individuals or yourself. Conflict of interest situations often arise during the course of public service. As a general rule, you should avoid situations where your private interests — financial, or non-financial — may affect or appear to affect your objectivity, independence, or honesty in performing your official duties. (Code Section 2-61)

WHAT IS A CONFLICT OF INTEREST?

A conflict of interest occurs when you take “direct official action” on a matter before the City in which you, or your immediate family member, a business associate or an outside employer have a “substantial financial, contractual, or employment interest”.

Immediate family members are defined in Section 2-52(c) of the Code of Ethics.

HOW DO I KNOW IF I HAVE A CONFLICT?

When all three of the following occur:

1. You take direct official action on a matter before the City AND
2. The result of this action affects your (or your immediate family member's) financial, contractual, or employment interest AND
3. This interest is substantial.

Direct official action includes:

1. Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant, or other similar instrument to which the City is a party.

2. Enforcing laws or regulations or issuing, enforcing, or regulating permits
3. Selecting or recommending vendors, concessionaires, or other types of entities to do business with the City
4. Appointing or terminating employees, temporary workers, and independent contractors
5. Doing research for, representing, or scheduling appointments for an officer, official, or employee

You have a substantial interest in a City matter if:

1. You, or an immediate family member, a business associate or an outside employer are a party to the instrument;
2. You, or your spouse, own 1% or more, or another immediate family member owns 5% or more of another party to the instrument;
3. You, or an immediate family member, a business associate or an outside employer are an officer in another party to the instrument;
4. You, or an immediate family member, a business associate or an outside employer are directly involved in obtaining the City's business for another party to the instrument;
5. You or an immediate family member, a business associate or an outside employer are directly involved in negotiating the contract or preparing the bid, proposal, response to request for qualifications, or similar document for another party to the instrument; or
6. An immediate family member performs, supervises, or manages more than a nominal portion of the work required by the instrument.

WHAT DO I DO IF I HAVE A CONFLICT OF INTEREST?

If a conflict of interest exists, you must not take direct official action in the matter.

If you are in doubt as to whether or not you have a conflict of interest and/or how to proceed, contact the Board of Ethics.

EXAMPLE 1 (Conflicts of Interest and Outside Employment)

Question:

I am an employee of the Community Planning and Development Department and conduct neighborhood inspections. Part of my job is to issue cease and desist orders to property owners who do not promptly remove snow from sidewalks. My brother-in-law has had a small successful snow removal company for several years which he now wants to enlarge and have me help manage. His snow removal contracts involve some of the same neighborhoods for which I have inspection responsibilities. Can I take this opportunity?

Answer: No

Conflicts of interests exist when all three of the following occur:

- (1) You take direct official action on a matter before the City; and
- (2) The result of this action affects your (or your immediate family member's or business associate's) financial contractual or employment interests; and
- (3) This interest is substantial.

You are in a position as a neighborhood inspector in which you might take direct official action on some of the affected properties.

While a brother-in-law is not an immediate family member as defined in the Code (husband, wife, son, daughter, mother, father, stepson, stepdaughter, stepmother, stepfather, grandmother, grandfather, grandchildren, brother, sister, and domestic partner), he would be a

business associate.

You have a substantial interest because your business associate would be a party to the matter.

An additional consideration concerns your prospective outside employment. Even if there was not a conflict of interest as noted above, any outside employment or business activity, must be reported in writing to and receive written approval annually from your appointing authority.

EXAMPLE 2 (Conflicts of Interest)

Question:

I have a maintenance job with the City, helping to make sure that City-owned facilities are clean and functional. One of the facilities where I work has been used as emergency housing for the homeless on occasion which has created more work for me, although my supervisor thinks “it comes with the territory.”

Even more important to me is the fact that I live in a neighborhood where a new shelter for the homeless is being considered and am strongly opposed to this. I have been told by some of my peers that my opposition is a conflict of interest and could jeopardize my job. Can I testify against this?

Answer: Yes.

This is not a conflict of interest as defined in the Code of Ethics. You are not in a position to take direct official action regarding homelessness as a part of your job.

As a City employee you do not give up your rights as a citizen to participate in public processes, assuming that you correctly identify yourself and your job as required. However, it would not be appropriate to give the impression that you were representing an official opinion, rather than your personal feelings regarding this topic. You might also

want to notify your supervisor of your intention so that he or she is not surprised.

EXAMPLE 3 (Conflicts of Interest)

Question:

I am an employee of the Department of Human Services, a licensed social worker, who investigates reports/allegations of child abuse. Recently, I was approached by a non-profit foundation to serve on its Board of Directors. This foundation does fund some programs related to child protection as well as fund stipends for student interns. Can I serve on the Board?

Answer: It depends.

While you may generally serve on such a community board, you are not allowed to take “direct official action on a matter in which you have substantial employment, contractual or financial interest.” So, assuming the City is provided grants by this foundation or has a service contract with this organization to fund its programs, you should not play any role in these decisions or transactions. You should discuss these issues with the foundation prior to joining the board and if there are potential conflicts remove yourself from any related activities, such as serving on a grant application review committee. It is also recommended that you state in writing, as a part of your board application these concerns and the arrangements/understanding as to how they will be addressed.

GIFTS

WHAT IS A GIFT?

A gift is anything of value you receive without giving adequate and lawful compensation for it. A gift may include meals, tickets to events, travel expenses, honoraria, services, loans, rebates, and discounts (unless offered to the public or all city employees, officers, and officials on the same terms and conditions). (Code Section 2-60)

WHICH GIFTS DO I HAVE TO REFUSE?

You, or your immediate family members, cannot accept a gift if:

1. You are in a position to take direct official action toward the giver, AND
2. The giver has (or is about to have) a business, contract, or regulatory relationship with the City.

WHY?

Because such gifts might lead you to favor, or appear to favor, the giver. You should perform your official duties without being influenced, or appearing to be influenced, by gifts.

WHAT ABOUT GIFTS FROM LOBBYISTS?

The same rule applies. You, or your immediate family members, cannot take a gift from a lobbyist or representative of a client if:

1. You can take direct official action toward the client, AND
2. The client has (or is about to have) a business, contract, or regulatory relationship with the City.

WHICH GIFTS CAN I ACCEPT?

You and members of your immediate family may accept the following EVEN IF you are in a position to take direct official action with regard to the giver, or if the giver is a lobbyist:

1. Gifts from other city officers, officials, or employees and their family members on appropriate occasions (for example, birthdays and funerals);
2. Campaign contributions as permitted by law;
3. Nonmonetary awards for public service that are presented by an organization as long as the award is not extraordinary given your position;
4. Meals and event admissions (including parking), but only under the following conditions:
 - A. No more than four meals, tickets, or free or reduced price admissions (including parking) from the same giver in a calendar year;
 - B. A donation from an employee of a business is counted as a gift from the business;
 - C. Whoever pays for the meal, ticket, or admission is considered the giver even if someone else reimburses them (for example, a lobbyist who pays for dinner and then is reimbursed by his or her client);
 - D. Attendance at a meal or event must be reasonably related to your official or ceremonial duties.
5. Unsolicited items valued at twenty-five dollars (\$25.00) or less;
6. Gifts while visiting other places, or hosting visitors from other places, when it would be a breach of protocol to refuse the gift;
7. Reasonable expenses paid by a non-profit organization or government for you to participate in a convention or meeting if you are scheduled to make a speech, presentation, participate on a panel, or represent the City;
8. Appropriate gifts for special and infrequent occasions, such as weddings, funerals, and illnesses;

9. Appropriate gifts to commemorate a public event in which you participated in an official capacity, such as a ground breaking ceremony;
10. Memberships and passes from the Denver Art Museum, Denver Botanical Gardens, Denver Museum of Nature and Science, and Denver Zoo;
11. Gifts from family members.

CAN I ASK OTHERS FOR DONATIONS TO THE CITY OR CHARITIES?

Yes, as long as you or your immediate family member do not keep or use the gift. (Section 2-60(c))

EXAMPLE 4 (Gifts)

Question:

I am a City employee, working as an administrative support person and am very concerned about the behavior of one of my peers who has a similar position. She has become very friendly with one of the vendors who supplies materials to our department. I overhear them talking frequently. He sent a gift basket to her during the Holidays and a floral arrangement recently when her father died. Does this violate the Code of Ethics?

Answer: No.

While the behavior may be annoying to you personally, the gifts involved appear to be appropriate ones in that they are for “special and infrequent occasions, such as weddings, funerals and illness.” Gifts that are given during the Holidays are considered appropriate as well.

Such gifts, however, if directed to a specific person in the department, should be put in a public place for all to share.

If you believe, outside of these instances, that the

relationship between your peer and the vendor is disruptive to work operations, then this should be brought to the attention of your supervisor.

EXAMPLE 5 (Gifts)

Question:

I am a Denver firefighter and active in a non-profit recreational program for underprivileged youth that wants me (and everyone else involved) to solicit donations for this program. Can I do this?

Answer: Yes.

You may solicit donations for a charitable purpose, as long as you or your immediate family members do not keep or use the donations and solicitations and financial records are maintained. Solicitation materials should clearly identify the non-profit organization.

It is not appropriate for you to wear your uniform while engaging in this activity however because of the possible appearance of improper pressure. In order to avoid the appearance of impropriety, you should not solicit contributions from owners of properties for which you conduct fire inspections.

EMPLOYMENT

As a public servant, you have to act in the best interests of the City. You should not engage in any activity that would appear to conflict with your duties as a city employee, officer or official. (Code Secs. 2-59, 62, 63, 64)

WHAT ABOUT MY JOBS BEFORE I BEGAN MY SERVICE WITH THE CITY OF DENVER?

You cannot take any direct official action with respect to your former employers for a period of six months after you leave your former employment.

EXAMPLE 6 (Employment)

Question:

I am currently working a part-time (16 hours per week) for a City agency. I have just heard of another part-time opportunity (20 hours per week) with another (different) department within the City. Can I apply for this work?

Answer: Probably, yes.

You may pursue the second position if the two contracts are not incompatible with each other (Section 1.2.8 of the City charter states that “No employee or appointed Charter office shall have other employment or hold other public office that is incompatible with his or her duties . . .”).

You should probably obtain written approval from each of the two agency heads regarding the “outside employment” with the other agency.

An additional consideration concerns your prospective outside employment. Even if there was not a conflict of interest as noted above, any outside employment or business activity, must be reported

in writing to and receive permission from your appointing authority.

EXAMPLE:

Question:

I was recently hired by the City as a buyer in the Purchasing Division of the Department of General Services. Two months ago, I worked for a small manufacturing company which is now seeking to sell equipment to the City. Can I approve the purchase of this equipment?

Answer:

No. You cannot take any direct official action, which includes approving, or disapproving a purchase order, with respect to your former employer for six months after you leave that employment.

CAN I TAKE OUTSIDE JOBS WHILE I AM WITH THE CITY OF DENVER?

Maybe. Before you accept outside jobs, or engage in other outside business activity, you must report it in writing to, and receive permission from your appointing authority (unless you are an elected officer). All officials must report any change in employment status which could give rise to a conflict of interest. If you have received written permission from your appointing authority, and your outside job does not present a conflict of interest under the Code, then you may take the outside job or engage in the outside business activity.

WHAT ABOUT JOBS AFTER I LEAVE MY SERVICE WITH THE CITY OF DENVER?

For six months after you leave office or employment with the City of Denver; you cannot take a job in which you will take direct advantage, unavailable to others, of matters with which you took direct official action during your service to the City. For one year after you leave your service with the City, you (or on behalf of any person or entity) cannot engage in any action or lawsuit in which the City is

involved, when it deals with an issue on which you took direct official action while you were in the service of the City.

EXAMPLE 7 (Employment)

Question:

I recently retired from a City agency after 25 years of service. I have been approached by a non-profit organization with which I had contact while working for the City, if I would be interested in doing some part-time contractual work for them. Can I engage in this work?

Answer: It depends.

The relevant section of the Code of Ethics states:
Section 2-64. Subsequent Employment.

- a. During six (6) months following termination of office or employment, no former officer, official or employee shall obtain employment outside of the city government in which he or she will take direct advantage, unavailable to others, of matters with which he or she took direct official action during his or her service with the city.

The principal issue which 2-64(a) appears to intend to prevent is a conflict between a City employee's loyalty to the City and his or her loyalty to the person's next employer. So, the answer depends upon what work you would be performing for the new employer and how that relates to the work you formerly performed with the City. If there is a relationship, and it sounds likely because of the prior contact, then you are required to wait six (6) months before starting this work.

CAN I HIRE AND/OR SUPERVISE AN IMMEDIATE FAMILY MEMBER?

No, not unless you've obtained a waiver from the Board of Ethics. You must avoid hiring and/or supervising an immediate family member because it is a clear conflict of interest. You cannot appoint or hire an immediate family member to any kind of employment with the City, including employment that is full-time, permanent, part-time, temporary, or contract. If you come into a direct line of supervision (for example, you are the supervisor, or the supervisor's supervisor) of your immediate family member, you have six months to come into compliance (such as terminate the employment) or obtain a waiver.

EXAMPLE: 8

Question:

My son is proposed to be hired and was certified through a legally competitive process. I am the person who would make the appointment. I did not influence or affect the certification in any way. Can I make the appointment?

Answer:

No. Not until you apply for and are granted a waiver from the Board of Ethics. (Note: It was the intent of the City Council that the Board not unreasonably withhold waivers of this sort).

PLEASE NOTE: The examples above may not contain the exact facts or assumptions that apply to your specific situation. They are meant only for general and not specific guidance. Please contact the Board of Ethics for specific guidance.

PENALTIES FOR VIOLATING THE CODE

If the Board finds that you have violated the Code of Ethics, it may notify your appointing authority of the violation and recommend action, including discipline. If you are an employee or official, your appointing authority, after consulting the City Attorney, will determine which penalty is appropriate. For an elected officer, the Board of Ethics may propose appropriate actions including a recommendation that the person abstain from further action on the matter or seek a waiver, or adopt a resolution reprimanding the person.

When the Board has reason to believe that you have not complied with an Advisory Opinion it issued to you, it shall inform you, your appointing authority, and the City Attorney. Your appointing authority, after consulting with the City Attorney, shall take appropriate action to ensure your compliance.

PROCEDURES

The Board of Ethics has adopted Rules of Procedure to establish procedures to be followed by the Board and by parties with cases before the Board. (For more detailed information, See the Rules of Procedure, Appendix D.)

WHAT IS A REQUEST FOR AN ADVISORY OPINION AND WHO CAN ASK FOR ONE?

A Request for Advisory Opinion is a letter written by a person asking the Board of Ethics whether or not his or her conduct, or proposed conduct, would constitute a violation of the Code of Ethics. Like the Code itself, a Request for an Advisory Opinion is a tool for you to use in making ethical choices.

Any current, former, or future employee, officer, or official (or the appointing authority of a non-elected officer, official, or employee) can request an Advisory Opinion from the Board.

HOW DO I FILE A REQUEST FOR AN ADVISORY OPINION?

Submit a written request (this can be in the form of a letter or an e-mail) directly to the Board of Ethics. The Board will give you a written response within six weeks from the time it received your request. Requests for Advisory Opinions and the resulting Opinions from the Board are matters of public record.

WHAT IS A REQUEST FOR A WAIVER AND HOW DO I FILE ONE?

A Request for a Waiver is a written request asking the Board to allow conduct that would, if undertaken, violate the Code of Ethics. The Board may grant a waiver only if it serves the best interests of the City. Requests from current, former, or future city officers, officials, and employees seeking waivers from compliance with specific provisions of the Code must be filed directly with the Board of Ethics.

WHAT IS AN INQUIRY OR COMPLAINT AND HOW DO I FILE ONE?

An Inquiry or Complaint is a written request asking the Board whether or not a current officer, official, or employee has failed to comply with the Code. The Board cannot consider actions that occurred more than two years before filing the Inquiry or Complaint. Anyone can submit an Inquiry or Complaint, but it must be on the approved form (See Appendix E). (The Board will send a copy of the filed form to the subject of the Inquiry or Complaint).

In an effort to minimize frivolous complaints, the Code and the Board's Rules of Procedure require that Complaints be in writing and signed by the person filing them, with information sufficiently detailed to describe the nature of the alleged violation. The Board may immediately dismiss Complaints that are frivolous, or in which the alleged conduct, if true, would not violate the Code of Ethics.

DO I HAVE TO INFORM MY SUPERVISOR BEFORE FILING A REQUEST FOR AN ADVISORY OPINION, REQUEST FOR A WAIVER, OR COMPLAINT?

No. The Code allows employees to send their Requests for Advisory Opinions, Requests for Waivers, or Complaints directly to the Board of Ethics without obtaining supervisory clearance, or informing a supervisor of their intent. You are free to discuss questions regarding the Code with other employees, your supervisor, and the City Attorney's Office, but the Board is solely responsible for official guidance regarding the intent and meaning of the Code.

Again, this Handbook is intended to provide you with a helpful summary of the Code. If you have more specific questions, please refer to the Code and contact the Board of Ethics.

APPENDIX A

CODE OF ETHICS

Denver Revised Municipal Code

ARTICLE IV.

(including amendments adopted July 30, 2007)

Sec. 2-51. Legislative intent.

It is the intent of the city that its officers, officials, and employees adhere to high levels of ethical conduct so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public. Officers, officials, and employees should comply with both the letter and spirit of this ethics code and strive to avoid situations, which create impropriety or the appearance of impropriety.

The council and mayor recognize that ethical issues will arise in the course of public service. 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 and other ethics matters not inconsistent with the Charter;
- (2) To establish a board of ethics empowered to issue advisory opinions so that officers, officials, and employees may seek guidance about ethical issues connected with their service; and
- (3) To establish a system that enables citizens to report possible wrongdoing and seek enforcement so that any breach of the public trust may be discovered and dealt with appropriately.

The City Charter addresses the ethical conduct of officers, employees, and officials. It is the intent of this article that it shall serve to enhance and clarify the Charter and to provide practical guidance.

Agencies may adopt a stricter code of ethics for their own use through published rules or policies. Those agencies which wish to adopt a stricter code of ethics are encouraged to consult with the board of ethics, shall provide information and training to employees of the agency and shall provide a copy to the board of ethics.

Sec. 2-52. Definitions.

- (a) Employee means any person in the employ of the city or of any of its agencies or departments and any person employed without compensation under the terms and provisions of chapter 18, article II, division 19 of this Code.
- (b) Direct official action means any action which involves:
 - (1) Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant, or other similar instrument in which the city is a party. With regard to “recommending,” 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 regulating permits;
 - (3) Selecting or recommending vendors, concessionaires, or other types of entities to do business with the city;
 - (4) Appointing and terminating employees, temporary workers, and independent contractors.
 - (5) Doing research for, representing, or scheduling appointments for an officer, official, or employee, provided that these activities are provided in connection with that officer’s, official’s, or employee’s performance of (1) through (4) above.

Direct official action does not include acts that are purely ministerial (that is, acts which do not affect the disposition or decision with respect to the matter). With regard to the approval of contracts, direct official action does not include the signing by the Mayor, the Auditor, the Manager of Finance or the clerk, as required by Charter, unless the mayor, auditor, manager of finance or clerk initiated the contract or is involved in selecting the contractor or negotiating or administering the contract. A person who abstains from a vote is not exercising direct official action.

- (c) Immediate family means husband, wife, son, daughter, mother, father, step-son, step-daughter, step-mother, step-father, grandmother, grandfather, grandchildren, brother, sister, domestic partner, any person with whom he or she is cohabiting and any person to whom he or she is engaged to be married. The term includes any minor children for whom the person or his or her domestic partner provides day-to-day care and financial support. A “domestic partner” is an unmarried adult, unrelated by blood, with whom an unmarried officer, official, or

employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

- (d) Officer means any of the following: the mayor, the auditor, the members of city council, the clerk and recorder, the manager of public works, the manager of parks and recreation, the manager of finance, the manager of environmental health, the manager of general services, the manager of safety, the city attorney, the manager of human services, the manager of aviation, and the manager of community planning and development.
- (e) Official means a member of a city board or commission.

Sec. 2-53. Board of ethics.

- (a) Creation and appointment. There is hereby created a board of ethics to consist of five members. The purpose of the board shall be to issue advisory opinions and waivers on ethical issues arising under this article and to hear inquiries and issue findings and recommendations regarding alleged violations of this article.
- (b) Qualifications.
 - (1) One and only one member of the board of ethics shall be an officer or employee of the city.
 - (2) At least one member of the board of ethics shall be a former judicial officer.
 - (3) At least one member of the board of ethics shall have expertise in ethics acquired through education or experience.
- (c) Method of appointment.
 - (1) The member of the board of ethics who is an officer or employee of the city shall be nominated by the mayor and appointed by council acting by ordinance.
 - (2) The mayor shall appoint two of the remaining members.
 - (3) The council shall appoint the other two members by ordinance.
- (d) Terms of appointment.
 - (1) Members shall be appointed to terms of four years; however, the first member appointed by the mayor and the first member appointed by the council shall initially serve two year terms to achieve staggered ending dates.
 - (2) If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.
 - (3) Each member shall continue to serve until a successor has been appointed, unless the member is removed or resigns.

- (e) Removal.
 - (1) The unexcused absence of any member of the board from three (3) consecutive meetings, unless the board has excused the absence for good and sufficient reasons as determined by the board, shall constitute a resignation from the board.
 - (2) The appointing authority may remove a member for inappropriate conduct before the expiration of the member's term. Before removing a member, the appointing authority shall specify the cause for removal and shall give the member the opportunity to make a personal explanation. Before removing the member who is jointly appointed, either the mayor or the council shall specify the cause for removal and the mayor and council shall give the member the opportunity to make a personal explanation. Members appointed by the council and the member who is nominated by the mayor and appointed by council may only be removed by ordinance.
- (f) Compensation. Members of the board of ethics shall serve without compensation. The member who is an officer or employee of the city shall not receive any additional compensation for serving on the board of ethics. Members may be reimbursed for reasonable expenses pursuant to the rules of the city.
- (g) Consultation with city attorney. The board of ethics may consult with the city attorney or a designee of the city attorney regarding legal issues which may arise in connection with this article and may request advisory assistance from the city attorney in conducting hearings on inquiries during any stage of the process.
- (h) Disqualification. Any member or employee of the board of ethics shall disqualify himself or herself from participating in any matter before the board in which his or her impartiality might reasonably be questioned, including, but not limited to, instances where he or she has a personal bias or prejudice concerning a party or personal knowledge of or involvement in disputed evidentiary facts concerning the matter. In the event that an employee of the board of ethics receives a request for an advisory opinion, a request for a waiver or an inquiry from which the employee is disqualified, and the employee has recused himself or herself, the board shall request a designee of the city attorney or a member of the board to perform all functions the employee would otherwise perform.

Sec. 2-54. Advisory opinions and waivers.

- (a) Any current or former officer, official, or employee or the appointing authority of a non-elected officer, an official, or an employee may submit

a written request to the board of ethics for advisory opinions on whether any conduct by that person would constitute a violation of the code of ethics. The board of ethics shall render an advisory opinion pursuant to written rules adopted by the board, but in no case shall the board take longer than six (6) weeks from the time it received the request to issue an advisory opinion or to give written notice explaining the reason for delay and stating an expected issuance date.

- (b) The board of ethics may render advisory opinions to individuals who intend to become employees, officers, or officials upon written request of the person or the person's appointing authority. The board of ethics shall render an advisory opinion pursuant to written rules adopted by the board.
- (c) The board of ethics may publish its advisory opinions. It shall do so with deletions as may be lawful and necessary to prevent disclosure of the identity of the individual involved. The board may publish guidelines based on advisory opinions.
- (d) A person whose conduct is in accordance with an advisory opinion or a published unreversed advisory opinion of the board of ethics shall not be found in violation of any of the provisions of this article.
- (e) Noncompliance with advisory opinions. When the board of ethics has reason to believe that the advisory opinion has not been complied with, it shall inform the person, the person's appointing authority, and the city attorney. The appointing authority, after consulting with the city attorney, shall take appropriate action to ensure compliance.
- (f) Waivers. Any current, former, or prospective officer, official, or employee may submit a written request for a waiver of any provision of the code of ethics. The board of ethics is empowered to grant a waiver if it finds that the waiver will serve the best interests of the city. The board shall issue appropriate notice of its meeting on the waiver and its meeting shall be open to the public. The board shall either issue or deny the waiver within six (6) weeks of receiving the request. (Ord. No. 96-01, ° 1, 1-29-01)

Sec. 2-55. Complaints or inquiries to the board of ethics.

Any person may file a complaint or inquiry with the board of ethics asking whether a current officer, official, or employee has failed to comply with this code of ethics. Subject to section 2-56 and the rules adopted by the board pursuant to section 2-56, the board of ethics shall:

- (1) Conduct a hearing in a meeting, which shall be open to the public on all complaints or inquiries which have not been dismissed pursuant to paragraph (6) of section 2-56 or resolved under paragraph (7) of section 2-56.

- (2) Except as otherwise provided in this article, make public written findings and recommendations, if any, on complaints or inquiries. Board findings should characterize the seriousness of the violation, if any.
- (3) Inform the person who is the subject of the complaint or inquiry and the person who submitted the complaint or inquiry of its findings, and recommendations; and
- (4) If the person who is the subject of the complaint or inquiry is an employee, non-elected officer, or appointed official, and if the board feels corrective action may be necessary, notify the person's appointing authority and recommend that the appointing authority take action, appropriate to the finding, including discipline. If the person who is the subject of the complaint or inquiry is an elected officer, the board may propose actions appropriate to the finding, ranging from a recommendation that the person abstain from further action on the matter or seek a waiver, to adopting a resolution reprimanding the person.

Sec. 2-56. Procedures for complaints or inquiries.

The board of ethics shall adopt written rules for complaints or inquiries that create a process that is fair both to the person who submitted the complaint or inquiry and the person who is the subject of the complaint or inquiry. In addition to rules which the board may in its discretion adopt, the rules shall:

- (1) Establish time lines for all aspects of its handling of complaints or inquiries. The time lines shall be sufficiently long to enable a person who is the subject of a complaint or inquiry to have adequate time to understand the complaint or inquiry and prepare a response. The rules shall allow the board to alter the time lines upon a request of the subject of a complaint or inquiry for more time to prepare;
- (2) Require the complaint or inquiry to be in writing on a form approved by the board, to be signed, and to show the home or business address and telephone number of the person who submitted it. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint or inquiry is true. The rules shall require the complaint or inquiry to describe the facts that constitute the violation of this code of ethics in sufficient detail so that the board and the person who is the subject of the complaint or inquiry can reasonably be expected to understand the nature of any offense that is being alleged;
- (3) Prohibit the board from accepting complaints or inquiries about actions that took place more than two years prior to the date of filing;

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- (4) Require the board to notify the person who is the subject of the complaint or inquiry that a complaint or inquiry has been filed. The rules shall require the board to provide the notification in a timely manner, but no more than five (5) days from the day the complaint or inquiry was filed, provided that they shall require the board to notify the person who is the subject of the complaint or inquiry immediately if he or she so requests. The rules shall require the notification to include a copy of the full complaint or inquiry; a copy of any portion of this article that is alleged to have been or that may be violated; and the board's rules for dealing with complaints or inquiries;
- (5) Require the board to provide the subject of the complaint or inquiry with a copy of the complaint or inquiry before it provides copies to any other parties. The rules shall recognize that distribution to the public of a complaint or inquiry prior to screening by the board as required in (6) below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the rules shall prohibit the public release of the complaint or inquiry until the screening process in (6) below has been completed;
- (6) Require the board or a committee of the board to consult in confidence within fourteen (14) days of receiving a complaint or inquiry to screen the complaint or inquiry. The rules shall allow the board to immediately dismiss a complaint or inquiry if:
 - a. It has no jurisdiction;
 - b. The alleged violation, if true, would not constitute a violation of this article;
 - c. The alleged violation is a minor or de minimis violation;
 - d. The complaint or inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment;
 - e. The matter has become moot because the person who is the subject of the complaint or inquiry is no longer an officer, official, or employee;
 - f. The person who is the subject of the complaint or inquiry had obtained a waiver or an advisory opinion under section 2-54 permitting the conduct; or
 - g. The appointing authority has already taken action as a result of finding a violation and the board believes the action was appropriate.

The rules shall require the dismissal and the reason for dismissal to be in writing and available to the public.

- (7) Allow the board, at its discretion, to make a finding solely on the basis of written arguments without holding a public hearing, if it determines that

there is no significant discrepancy in the facts as presented by the person filing the complaint or inquiry and the person who is the subject of the complaint or inquiry; and the board determines that it doesn't need any additional information. However, the person charged retains the right to request a hearing, which shall be open to the public.

- (8) Require the board to have hearings at meetings, which are open to the public on complaints or inquiries, which have not been dismissed pursuant to paragraph (6) of section 2-56 or resolved under paragraph (7) of this section.
- (9) Allow any person who is the subject of a complaint or inquiry to designate a representative if he or she wishes to be represented by someone else, to present evidence, and to cross-examine witnesses. The rules shall allow the person who submitted the complaint or inquiry and the subject of the complaint or inquiry sufficient time to examine and respond to any evidence not presented to them in advance of the hearing;
- (10) Require deliberations on complaints or inquiries to be conducted in closed session;
- (11) Allow the board to dismiss a complaint or inquiry without a finding for or against the subject of the complaint or inquiry if the person committed the violation due to oversight and comes into voluntary compliance;
- (12) Allow the board to dismiss a complaint or inquiry if the person who submitted it does not appear at hearing and if, in the opinion of the board, it would be unfair to the subject of the complaint or inquiry not to have the opportunity to examine the person. The rules shall, however, require the board to schedule the hearing at a time that is reasonably convenient to both the person who submitted the complaint or inquiry and the subject of the complaint or inquiry;
- (13) Require the board to base a finding of a violation upon clear and convincing evidence;
- (14) Require the board to inform the person who submitted the complaint or inquiry and the subject of the complaint or inquiry in writing if it believes a complaint or inquiry is frivolous, groundless, or brought for purposes of harassment;
- (15) Prohibit members who have not been present for the hearing from participating in a recommendation;
- (16) Require that findings and recommendations be made only by a majority of the board;
- (17) Allow the board to consider, when it makes findings and recommendations, the severity of offense; 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;

- (18) Allow the board to issue an advisory opinion in response to a complaint or inquiry, in lieu of making findings and recommendations, where deemed appropriate by the board.

Sec. 2-57. Reimbursement of reasonable legal expenses.

A person who is the subject of a complaint or inquiry pursuant to section 2-55 who is subsequently exonerated may apply to the city attorney for reimbursement of reasonable legal expenses from the “liability claims” appropriations. The city attorney shall promptly provide reimbursement subject to the limitations of this section. As used in this section, the term “legal expenses” shall include reasonable attorney fees, witness fees, stenographer fees, investigator fees, and other direct costs in connection with the answer to a complaint or inquiry. The person applying for reimbursement shall submit his or her application for reimbursement to the city attorney within fourteen (14) days of the board’s decision. The city attorney, or in the case of a conflict, a designee of the city attorney, shall determine, in his or her sole discretion, the reasonableness of the legal expenses. The exonerated person may not appeal or challenge the city attorney’s determination with the board or any other entity. The maximum reimbursement from the city shall not exceed the sum of seven thousand five hundred dollars (\$7,500.00).

Sec. 2-58. Subpoenas.

The board of ethics shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or production of documents based upon such information being privileged as recognized by Colorado law. The board may issue a subpoena only after a written request to appear or provide records has not been complied with and after consultation with the city attorney.

Sec. 2-59. Employment and supervision of family members.

- (a) Unless he or she obtains a waiver pursuant to section 2-54, no officer, official, or employee shall 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, temporary employment, and contract employment.
- (b) No officer, official, or employee shall supervise or be in a direct line of supervision over a member of his or her immediate family. If an officer, official, or employee comes into a direct line of supervision 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 2-54.

- (c) When waivers from this section are sought so that a member of the immediate family may be hired or may be in the direct line of supervision, it is the intent of the council that the board of ethics not unreasonably withhold waivers. Examples of circumstances which might result in a waiver include, but are not limited to:
 - (1) The family member who is proposed to be hired was certified through a competitive process conducted pursuant to law and the officer, official, or employee who would make the appointment did not influence or affect the certification.
 - (2) The officer, official, or employee who would officially make the appointment is acting ministerially and did not select the family member or attempt to influence the person who did.
 - (3) The family member who would be in the line of supervision was already working in the agency before the officer, official, or employee came into the line of supervision, and the officer, official, or employee can and will abstain from participating in any personnel actions involving the family member.
- (d) The phrase “direct line of supervision” shall mean the supervisor of an employee and the supervisor of an employee’s supervisor.

Sec. 2-60. Gifts to officers, officials, and employees.

- (a) Except when acceptance is permitted by paragraph (b) below, it shall be a violation of this code of ethics for any officers, officials, or employees, any member of their immediate families to solicit or to accept any of the following items if (1) the officer, official, or employee is in a position to take direct official action with regard to the donor; and (2) the city has an existing, ongoing, or pending contract, business, or regulatory relationship with the donor:
 - (1) Any money, property, service, or thing of value that is given to a person without adequate and lawful compensation;
 - (2) Any honoraria or payment for participation in an event;
 - (3) Any loan of goods, equipment, or other items that is not available to the general public on the same terms and conditions;
 - (4) Any loan of money that is not available to the general public at the same interest rate and the same conditions;
 - (5) Any ticket to a sporting, recreational, or cultural event except as provided for in subsection (b)(4) of this section;
 - (6) Travel expenses and lodging;

- (7) Any reduction in price or any discount that is not similarly available to all city officers, officials, and employees on the same terms; and
- (8) Parking passes except as provided for in subsection (b)(4) of this section.

This prohibition shall also apply to gifts from a lobbyist or representative of a client if (1) the officer, official, or employee is in a position to take direct official action with regard to the client and (2) the city has an existing, ongoing, or pending contract, business, or regulatory relationship with the client.

- (b) Officers, officials, and employees and the members of their immediate family may accept the following even if the officer, official, or employee is in a position to take direct official action with regard to the donor, or, if the donor is a lobbyist or representative, the donor's client:
 - (1) Gifts from other officers, officials, or employees and their family members on appropriate occasions;
 - (2) Campaign contributions as permitted by law;
 - (3) Nonpecuniary awards that are publicly presented by an organization in recognition of public service if the award is not extraordinary when viewed in light of the position held by the recipient;
 - (4) The donation of meals, tickets to events for which admission is charged, or free or reduced price admission to events for which a fee is charged, but only under the following conditions:
 - a. No more than a total of four meals, tickets, or free or reduced price admissions may be accepted from the same donor in any calendar year, regardless of the value;
 - b. A donation from an employee of a business or entity shall be counted as a gift from the business or entity;
 - c. The individual or entity which pays for the meal, ticket, or admission shall be considered the donor for purposes of this subsection regardless of whether that individual or entity is reimbursed for the cost;
 - d. Attendance must be reasonably related to the official or ceremonial duties of the officer, official, or employee;

- e. **The donation of parking for the meal or event shall be allowed on the same terms and conditions;**
 - (5) Unsolicited items of trivial value. “Items of trivial value” means items or services with a value of twenty-five dollars (\$25.00) or less, such as inexpensive tee shirts, pens, calendars, books, flowers, or other similar items;
 - (6) Gifts while visiting other cities, counties, states, or countries or hosting visitors from other cities, counties, states, or countries when it would be a breach of protocol to refuse the gift;
 - (7) Reasonable expenses paid by non-profit organizations or other governments 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 city;
 - (8) Gifts on special and infrequent occasions if the gift is appropriate to the occasion. These occasions include weddings, funerals, and illnesses;
 - (9) Gifts to commemorate a public event in which the officer, official, or employee participated in an official capacity, provided that the gift is appropriate to the occasion. Such occasions include ground breaking ceremonies and grand openings;
 - (10) Memberships and passes from the Denver Art Museum, Denver Botanic Gardens, Denver Museum of Nature and Science, and Denver Zoo.
 - (11) Gifts from family members;
 - (12) Items which are similarly available to all employees of the city or the general public on the same terms and conditions.
- (c) It shall not be a violation of this article for an officer, official, or employee to solicit donations to the city or to solicit or redirect donations for charitable purposes to a 501(c) or other charitable organization or to provide assistance to individuals affected by illness, crime or disaster or who have educational or other charitable needs, provided that solicitation and financial records are maintained and provided that the soliciting person , or a member of the soliciting person’s immediate family does not keep or use the gift or receive any monetary benefit therefrom.
- (d) It shall not be a violation of this article for a member of an officer’s, official’s or employee’s immediate family to accept a gift which arises from an independent relationship of an adult member, if:
 - (1) The officer, official or employee does not use the gift; and

- (2) It cannot reasonably be inferred that the gift was intended to influence the officer, official, or employee in the performance of his or her duties.

Sec. 2-61. Conflict of interest while employed.

- (a) Except when advised by the city attorney that the rule of necessity applies, an officer, official, or employee shall not take direct official action on a matter before the city if he or she or a member of the immediate family, a business associate or an employer other than the city of the officer, official or employee has any substantial employment, contractual, or financial interest in that matter. A substantial interest shall be deemed to exist if:
 - (1) He or she or a member of the immediate family, a business associate or an employer other than the city is the other party in the matter;
 - (2) He, she, a spouse, a domestic partner or minor children solely or aggregated together, a business associate or an employer owns or own one (1) percent or more, or a member of the immediate family other than a spouse, domestic partner or minor children own or owns five (5) percent or more, of another party in the matter;
 - (3) He or she, a member of the immediate family, a business associate or an employer is an officer in another party in the matter;
 - (4) He or she, a member of the immediate family, a business associate or an employer is directly involved in obtaining the city's business for another party in the matter;
 - (5) He or she, a member of the immediate family, a business associate or an employer is directly involved in negotiating the contract or preparing the bid, proposal, response to a request for qualifications, or similar document for another party in the matter, other than in a purely clerical capacity; or
 - (6) A member of his or her immediate family performs more than a nominal portion of the work in the matter, or supervises or manages more than a nominal portion of the work. For purposes of this section, business associate means a person or entity with whom an officer, official or employee or a member of his or her immediate family is a partner or a co-owner of a business in which the business associate and the officer, official or employee or a member of his or her immediate family each own at least one percent of the business.
- (c) An officer, official, or employee may represent himself or herself before a board in accord with such board's procedures, provided that the

officer, official, or employee does not also participate in the board's decision in his or her official capacity.

- (d) An officer, official, or employee may acquire an interest in bonds or other evidences of indebtedness issued by the city or the board of water commissioners so long as they are acquired on the same terms available to the general public.
- (e) It shall not be a violation of this code of ethics for an officer, official, or employee to take direct official action on the following matters even if the person or a relative employed by a city agency would benefit:
 - (1) The city's annual budget or an amendment to the annual budget; or
 - (2) Establishing the pay or fringe benefit plans of city officers, officials, or employees
- (f) Officers, employees or officials who are prohibited from taking direct official action due to a substantial conflict of interest shall disclose such interest to his or her colleagues on a board or commission or to his or her supervisor or appointing authority, shall not act or vote thereon, shall refrain from attempting to influence the decisions of others in acting or voting on the matter and shall work with his or her supervisor or appointing authority to ensure that the matter is assigned to someone without conflicting interests.
- (g) No officer, employee or official may have any other employment or position which is incompatible with his or her duties or that adversely affect the interests of the city.

Sec. 2-62. Prior employment.

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 direct 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. 2-63. Contemporaneous or outside employment.

- (a) All officers other than elective officers and all 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 his or her appointing authority's approval thereof prior to accepting initial employment or outside business activity. All 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 his or her possible outside employment or outside business activity, he, she or they are encouraged to consult the board of ethics.
- (c) An officer or employee who has received the written permission of the appointing authority may engage in outside employment or other outside business activity.
- (d) Copies of documents arising from this section shall be placed in each officer's or employee's departmental personnel file.

Sec. 2-64. Subsequent employment.

- (a) During six (6) months following termination of office or employment, no former officer, official, or employee shall obtain employment outside of the city government in which he or she will take direct advantage, unavailable to others, of matters with which he or she took direct official action during his or her service 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. 2-65. Employee training.

- (a) At least annually, the board of ethics shall prepare and distribute an employee handbook on this code of ethics, after obtaining the city attorney's review. In addition to the annual updates, the board may disseminate any change in policy that results from a finding of the board if it applies to other city employees.
- (b) Every appointing authority shall give a copy or electronic version to each employee annually and shall provide training to employees regarding the code of ethics.

Sec. 2-66. Annual report.

By February 15 of each year, the board of ethics shall submit an annual report to the mayor and council summarizing its activities during the previous calendar year. The report shall include any recommendations for modifying the code of ethics.

Sec. 2-67. Use of public office for private gain.

No officer, official or employee shall 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 officer, official or employee is negotiating or has any arrangement concerning prospective employment.

Secs. 2-68, 2-69. Reserved.

APPENDIX B

DENVER BOARD OF ETHICS DIGEST OF SELECTED OPINIONS May 1, 2001- June 30, 2005

PLEASE NOTE: This is a selected set of summarized opinions given by the Denver Board of Ethics between May 1, 2001 and June 30, 2005 in response to fact-specific requests for advisory opinions or inquiries (complaints). **They should not be used as conclusive guidance for situations where the facts may differ.** The full texts are available for review.

Case 01-3 (Outside Employment, Conflict of Interest)

The Police Department requested an advisory opinion regarding whether there would be a violation of the Code of Ethics if a police officer would be allowed to operate an off-duty outside business in which he would lease and manage private parking lots for use by people attending concerts and other special events in the vicinity. The parking lots were in the police district where the officer was on patrol while on duty.

Under Section 2-61 of the Code of Ethics, an actual conflict of interest would occur only if the officer were required to take “direct official action” regarding persons or situations involving one of the parking lots in which he had a “substantial interest.” The Board urged the Department and the officer to consider whether such outside employment would constitute an “appearance of impropriety” and whether it was wise to place the officer in a situation where he might be forced to choose between his interests as a police officer and his interests as a business owner.

Case 01-4 (Conflict of Interest)

A deputy director of a city agency requested an advisory opinion regarding whether the Code of Ethics would be violated if the deputy director's brother applied for a business loan from the agency.

There would not be a violation of the Code under the above facts if the deputy director was not involved in any manner in reviewing, recommending, discussing, or monitoring the loan application or the loan, if granted.

Cases 02-11, 02-12, 02-24, 02-27, 02-28 and 02-29 (Travel Expenses - Waivers Denied)

In these cases, city employees requested advisory opinions or waivers related to accepting travel and lodging expenses for out-of-state conferences or field trips from companies that do business with the city.

In each instance, the Board determined that the employee was in a position to take direct official action, as defined in Section 2-52 (b), with regard to the companies offering to pay the expenses, because the employee was able to negotiate, approve, disapprove, administer, enforce or recommend for or against a contract or purchase order or to select or recommend vendors. The Board, therefore, concluded that acceptance of the travel and lodging expenses would violate Section 2-60 (a).

The Board decided not to grant waivers in these cases, holding that waivers for travel expenses should only be granted when there are emergency, unusual or exigent circumstances.

Case 02-26 (Conflict of Interest)

The Director of the Department of Excise and Licenses asked for an advisory opinion as to whether the Code of Ethics would prevent an inspector in her agency from being assigned to the area of town where his father owns 100% of a restaurant which has a liquor license issued by the Department. An inspector makes reports and recommendations as to whether a business is complying with the requirements of its licenses. The director has ordered the inspector and the inspector has agreed: 1) to refrain from any involvement in any enforcement regarding his father's restaurant and 2) to resign as an officer in his father's corporation.

The Board indicated that Section 2-61 (a) of the Code of Ethics prohibits a City employee from taking direct official action on any matter in which any member of the immediate family (which includes a father) owns 5% or more of another party to the instrument. Direct official action includes “enforcing laws or regulations or issuing, enforcing or regulating permits,” which would include enforcing license requirements. The Board determined that Section 2-61 (a) of the Code of Ethics will not be violated if the inspector complies with the two conditions stated above.

Cases 02-37 through 02-48 (Gifts)

A citizen filed inquiries (complaints) against twelve City Council members, alleging that they improperly accepted gifts (free passes to allow them access to the Denver Grand Prix automobile races in Denver) from the Denver Grand Prix when those Council members had voted to approve an ordinance that suspended the application of traffic, noise-control and air-pollution-control ordinances for the Denver Grand Prix and another ordinance approving a contract with the Grand Prix. The Board of Ethics also learned that the Council members had been invited to attend a free dinner in connection with the Grand Prix.

The Board of Ethics found that four City Council members attended neither the Grand Prix nor the related dinner and dismissed the inquiries against those Council members.

Six members attended either the Grand Prix or the related dinner or both and indicated that they believed that their attendance “was reasonably related to

their official or ceremonial duties,” which is an exception in Section 2-60(b)(4)d, which permits up to four such free events or meals per calendar year from the same donor even if the city officer, official or employee is in a position to take direct official action with regard to the donor. (The Board found that the two ordinances passed by City Council did amount to “direct official action.”)The Board of Ethics consequently dismissed the inquiries against those Council members.

The Board indicated, that, in the future, it will interpret the phrase “official or ceremonial duties” to apply only to all elected officials of the City, members of the Mayor's cabinet who have a direct relationship to an event and other City officials or employees who have a direct relationship to an event. The Board indicated that, if a person is within such a group, the Board will evaluate, among other things, the nature of the event and the job duties of the free or reduced price attendees to make its determination.

Two other City Council members accepted free passes to the Grand Prix, but, instead of attending themselves, gave the passes to others. Those Council members, since they did not use the passes, could not claim the exception for “official or ceremonial duties” and, therefore, violated Section 2-60(a) of the Code of Ethics. However, the Board dismissed the cases against those Council members, pursuant to Section 2-56(11) because the members received little or no benefit from the gifts, and because this was the first time that the Board had considered this issue, and because the Board believed that the members violated the Code through oversight and that they would comply with this ruling in the future.

The Board indicated that, in the future, it will not look favorably at situations in which a person subject to the Code of Ethics transfers a gift to one or more persons and there is no applicable exception available under the Code of Ethics.

Case 02-50 (Travel Expenses)

A superintendent of a Denver golf course received payment for out-of-state travel and lodging expenses for an educational course and factory tour provided by a fertilizer manufacturer. The superintendent purchases fertilizer for his golf course from this manufacturer, as well as from other companies. The superintendent, after participating in ethics training, requested an advisory opinion from the Board of Ethics. The Board determined that the acceptance of travel and lodging expenses under such circumstances violated Section 2-60(a) of the Code of Ethics because the superintendent was in a position to take direct official action (specifically, approving a purchase) with respect to the manufacturer and because the manufacturer was doing business with the city. The Board did not recommend any discipline, however, because the superintendent did not participate in ethics training until after the trip and he then promptly recognized that there was an ethical issue and requested an advisory opinion.

Case 03-7 (Gifts)

The Director of the Office of Information Technology filed a request for an advisory opinion as to whether city employees could accept small gifts or light lunches from computer hardware or software vendors wishing to present their products at “lunch and learn” sessions. Some of the city employees who would attend such vendor presentations would be in a “position to take direct official action” with respect to the vendor(s). The Board determined that city employees will not violate Section 2-60 of the Code of Ethics so long as gifts are unsolicited and are of trivial value (defined as “items or services with a value of \$25.00 or less, such as inexpensive tee shirts, pens, calendars, books, flowers or similar items”) or so long as meals, regardless of the value, do not total to more than four per calendar year from the same donor and attendance “must be reasonably related to the official or ceremonial duties of the employee.” The Board noted that city employees are obligated to comply with the Financial Disclosure ordinance of the Revised Municipal Code relating to disclosure of gifts; therefore, if a vendor provides any gifts over the value of \$25.00 or meals, the city employees should be advised of the source of those items, so that the employees can determine whether to list such items in the annual financial disclosure statement.

Case 03-14 (Outside Employment)

A police officer requested an advisory opinion as to whether the Code of Ethics would prohibit him from selling membership plans in a legal services insurance program in his off-duty hours. The Board advised the officer that, as long as he obtained written permission from his appointing authority, in compliance with Section 2-63 of the Code of Ethics, he would be permitted to engage in such outside employment. However, the Board recommended that, if he does receive his appointing authority's written permission, he should comply with the following conditions in order to avoid the appearance of impropriety: (1) he should not solicit persons that he or his fellow officers have detained or arrested as potential customers; (2) he should not use any city records or databases to find potential customers and (3) he should not conduct any outside business during on-duty hours or in his police uniform or in city workplaces.

Case 03-20 (Conflicts of Interest)

During the municipal election campaign, a candidate for mayor, John Hickenlooper, requested an advisory opinion “to determine how to deal with any perceived conflicts” that might arise from his business interests, specifically his interests as a majority shareholder in a company that operates several restaurants within the city of Denver. After he succeeded in being elected mayor, the Board of Ethics responded to his inquiry.

The Mayor-elect indicated to the Board that, now that he had been elected Mayor, he will play no role in operational decisions of the company, that he will

place his company shares into a trust or other similar structure and that he pledged “not to discuss” business issues with the CEO, board members or any other officers, employees or shareholders of the company.

The Board indicated that several agencies of the City and County of Denver do or may “take direct official action” with respect to restaurants in Denver. Section 2-52 (b) of the Code of Ethics defines direct official action as:

Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant or other similar instrument in which the city is a party. With regard to “recommending,” direct official action occurs only if the person making the recommendation is in the formal line of decision making;

Enforcing laws or regulations or issuing, enforcing, or regulating permits;

Selecting or recommending vendors, concessionaires, or other types of entities to do business with the city;

Appointing and terminating employees, temporary workers, and independent contractors . . .

Examples would be the issuance of building permits by the Building Department, zoning permits by the Zoning Administration, and liquor licenses and restaurant licenses by the Department of Excise and Licenses. Other examples would be fire inspections by the Fire Department, restaurant inspections by the Department of Environmental Health, enforcement by the Police Department against possible disturbances or other lawbreaking by customers, enforcement by the Revenue Department regarding possible overdue sales tax or real estate tax collections and enforcement by Parking Management against nearby parking violators.

Under the conflict of interest provisions of the Code of Ethics, Section 2-61, there are no stringent barriers to any person's holding elective office and owning businesses in the City. The Board suggested that the Mayor consider taking the steps set forth below, so that he may avoid the appearance of impropriety. He should under no circumstances attempt, directly or indirectly, to influence any city officials, officers or employees with respect to actions or decisions that would specifically affect one or more of the businesses in which he holds an interest. The Board recommended that he communicate to his appointees that he expects them, as he advised the Board that he would, to give his businesses “exactly the same treatment” as any similar businesses. The Board recognized that, as chief executive of the City and County of Denver, the Mayor will be obligated to set general citywide policies for all city agencies and departments, including policies that will affect all restaurants in the city, and the Board recognized that such general policymaking is neither unethical nor inappropriate.

Case 03-21 (Gifts)

The Deputy Manager of Safety requested an advisory opinion regarding acceptance of gifts. A software company wished to give several tickets to the Deputy Manager and several Department of Safety employees for the company's hospitality booth at Coors Field to attend a Colorado Rockies game during a national convention in Denver. The company had sold equipment to the City and County of Denver and the Deputy Manager was the chief decision-maker regarding the purchase and will likely be the chief decision-maker regarding any continuing relationship with the company. The Deputy Manager indicated that he did not wish to accept any of the tickets for himself, but he asked if he could draw from the names of Department of Safety employees who use the software system to allocate the tickets. There would not be any business conducted during the game, so that attendance would be a purely social event.

The Board concluded that it would be a violation of Section 2-60(a) of the Code of Ethics if the Deputy Manager accepted any of the tickets for himself, since he was in a position to take direct official action with regard to the software company and since the city has an “existing, ongoing or pending contract, business or regulatory relationship” with the company. The exception in Section 2-60(b)4 does not apply, because, since attendance at the game was a purely social affair, it was not related to the Deputy Manager's official or ceremonial duties. The Board further concluded that the Code of Ethics prohibits him from passing along to others any gifts which he is prohibited from accepting for himself.

Case 03-24 (Travel Expenses — Waiver Granted)

A professional engineer in the Community Planning and Development Agency requested an advisory opinion or a waiver. His responsibility is to supervise several engineers who review plans from applicants for building permits. The supervisor has been a member for a few years of a committee of a national non-profit organization of the masonry industry. He represents building code officers on the committee, which also consists of industry representatives and academic representatives. The committee meets twice per year to develop and maintain safe design provisions for masonry. Until recently, the City and County of Denver paid the supervisor's travel expenses and lodging for these trips; however, due to budget constraints, the city is no longer able to pay those expenses. A non-profit trade association for the Colorado masonry industry has offered to pay the travel expenses and lodging.

The Board concluded that acceptance by the supervisor of the travel expenses and lodging would violate Section 2-60 of the Code of Ethics because (1) he and his subordinates are in a position to take direct official action over those who submit applications for building permits and some of the members of the non-profit Colorado trade association are likely to benefit by approval of permits by the supervisor or his subordinates and (2) some of the members of the association have a

regulatory relationship with the city. The Board, however, found that the supervisor's participation in the committee benefited the public through the development of standards that govern the masonry industry and that such participation served the best interests of the city. Accordingly, the Board granted a waiver to allow acceptance of the travel and lodging expenses.

Case 03-25 (Gifts)

A lieutenant in the Fire Department requested an advisory opinion regarding acceptance of gifts from citizens. The fire rig to which the lieutenant is assigned has responded several times to calls from a citizen who had an incapacitating health problem. On one occasion the citizen telephoned the firehouse and asked the lieutenant to bring the rig's firefighters to her home. When the crew arrived, she presented the lieutenant and the other crew members with several handcrafted gifts, such as figurines and gift boxes. The Board of Ethics determined that firefighters generally (except when conducting fire inspections) are not in a position to take direct official action and, therefore, acceptance of gifts presented to the crew by a grateful citizen does not violate Section 2-60 of the Code of Ethics, especially when the gifts were unsolicited and were modest in size.

Case 03-27 (No Jurisdiction - Job Classification)

A city employee filed an inquiry against a co-worker in her department, concerning allegedly false information given by the co-worker regarding the co-worker's job classification. The Board of Ethics dismissed the case during the Board's screening review, after determining that the Board of Ethics has no jurisdiction to regulate or review job classifications, which are under the authority of the department heads and the Career Service Authority.

Case 03-28 (Gifts - Donation to City)

The executive director of the Denver Election Commission advised the Board that the Election Commission no longer had sufficient funds in its budget to pay for the printing of "I Voted" stickers that are customarily given to citizens after they have voted at their precinct polling places. She requested an advisory opinion about whether a citizen could raise funds and donate the funds for the printing of such stickers. The Board concluded that such a donation would not violate the gift section of the Code of Ethics because the donation would be to the city (as permitted in Section 2-60)(c), rather than to any city officer or employee, and that no city officer or employee would derive any personal benefit from the donation.

Case 03-29 (Subsequent Employment)

The deputy director of the Mayor's Office of Economic Development and International Trade (MOED/IT) requested an advisory opinion concerning an

application by a former employee of that agency for a small business loan from MOED/IT. The former employee worked as an economic development specialist at MOED/IT and made recommendations to her supervisor as to whether loan requests met necessary qualifications. The former employee left her employment at MOED/IT on March 31, 2003. The Board noted that Section 2-64 of the Code of Ethics prohibits former city employees from taking direct advantage of information and relationships unavailable to others relating to their former positions with the city during the first six months after leaving city employment. The Board found that the former employee would have a direct advantage from being in the direct line of the MOED/IT decision-making on loan applications and that both the letter and the spirit of the Code of Ethics require that former employees must honor the six-month period of not benefiting from the advantage gained by city employment.

Case 03-35 (Supervision of Family Member — Waiver Granted)

A major in the Sheriff's Department requested a waiver from the prohibition in Section 2-59(b) of the Code of Ethics against the supervision by a city employee of an immediate family member who is also a city employee. Due to city budget issues, the Sheriff's Department recently added responsibility for an additional facility to the major's supervisory responsibilities. The major's wife, a deputy sheriff, is assigned to the facility recently assigned to the major. The working shifts of the major and his wife significantly overlap. The Board determined that it was in the best interests of the city to grant a waiver to the major so that he and his wife may remain in their assignments, so long as the major abstains from participating in any personnel actions regarding his wife.

Case 03-38 (Travel Expenses - Waiver Denied)

An employee of the Denver Office of Information Technology informed the Board that the City and County of Denver pays license fees to a vendor of particular computer software and is seeking to expand the use of the software to additional city computers in the future. The software vendor invited the employee and a few other city employees to attend a "users' conference" in Toronto, Canada at the expense of the company. The company and the city employee both indicated that they believed that the payment of the expenses by the company were not gifts to the employees, because the city's contract with the company provides that the company would pay those expenses. The employee requested an advisory opinion as to whether acceptance of the travel and lodging would violate the Code of Ethics and, if so, requested a waiver. The Board determined that all of the invited employees were in a position to take direct official action regarding the software company and that the City and County of Denver has an existing and pending contract with the company. As a result, the Board determined that acceptance of travel expenses and lodging by those employees would violate Section 2-60(a) of the Code of Ethics. According to the Board, the reason for this prohibition is that the public, including competitor

vendors, should have confidence that contracts are awarded or extended based on merit and are not influenced by gifts of any kind to city employees or officers who are in a position to take direct official action regarding the contracts. The Board then considered and denied the request for a waiver, indicating that waivers regarding travel expenses and lodging should be granted only in emergency, unusual or exigent circumstances.

Case 03-39 (Solicitation of Gifts for Charitable Purposes)

The Chief of Police requested an advisory opinion regarding whether the gift section of the Code of Ethics would allow him to solicit contributions to pay health care claims from Denver police officers, firefighters and their families. The claims should have been paid by an existing fund, which is experiencing financial trouble and is unable to pay many of the claims. The Board found that such solicitation of donations for charitable purposes is specifically allowed by Section 2-60 (c) of the Code.

Case 03-41 (No Jurisdiction - Un-neighborly Conduct)

A citizen filed an inquiry against a city employee who is his next-door neighbor, alleging a number of instances of rude and un-neighborly behavior, such as weeds, barking dogs and insults. The Board dismissed the inquiry, after its preliminary review, finding that the Board did not have jurisdiction over such complaints.

Case 04-3 (Subsequent Employment)

An Associate Landscape Architect for the Department of Parks and Recreation requested an advisory opinion. She planned to retire from her city employment and establish a freelance writing and marketing firm. She asked if Section 2-64 of the Code of Ethics would permit her to do some marketing work on a contract basis for the Department of Parks and Recreation during the first six months after she left city employment. Section 2-64 provides:

Sec. 2-64. Subsequent employment.

During six (6) months following termination of office or employment, no former officer, official, or employee shall obtain employment in which he or she will take direct advantage, unavailable to others, of matters with which he or she took direct official action during his or her service with the city.

The Board of Ethics determined that, during the period that she served as an Associate Landscape Architect, the employee did not take any “direct official action” with regard to any marketing matters; therefore the Board found that Section 2-64 did not prohibit the former employee from working on a contract basis for the Department immediately, without having to wait six months.

Case 04-4 (Dual Employment)

The Manager of the Department of Human Services requested an advisory opinion as to whether she was permitted by the Code of Ethics to hire on a contract basis for thirty-two hours per week a person who was already working on a contract basis for eight hours per week for another Department of the City and County of Denver. The Board of Ethics concluded that, pursuant to Section 1.2.8 of the City Charter, which provides that “no employee or appointed Charter officer shall have other employment or hold other public office that is incompatible with his or her duties...,” the two contracts were not incompatible with each other. The Board also advised that the contract employee should obtain written approval from each of the two agency heads regarding the “outside employment” with the other agency, as required by Section 2-63 of the Code of Ethics.

Case 04-9 (Gifts)

A Division Chief in the Sheriff’s Department requested an advisory opinion. He is responsible for overseeing certain departmental construction projects. His recently-retired predecessor received tickets to a Denver Avalanche game from a construction contractor involved in one of the projects that the Division Chief now oversees. The predecessor wishes to invite the Division Chief to accompany him to the hockey game. There would not be any business associated with attendance at the game; rather, it would be only for a social purpose.

The Board determined that acceptance of the ticket by the Division Chief would violate Section 2-60(a) of the Code of Ethics because the Division Chief would be in a position to take direct official action over the construction company, such as by recommending renewal or termination of the construction contract or by recommending future contracts with the same company, and because the construction company has a contract with the city. The Board said that the fact that the gift of the game ticket did not come directly to the Division Chief, but rather passed through the hands of his predecessor, did not alter that conclusion. Since the game was only for a social purpose, the exception in Section 2-60(b)(4) does not apply, which allows acceptance of gifts by those otherwise prohibited by 2-60(a) but only if attendance at a game or event or meal is “reasonably related to the official or ceremonial duties of the officer, official or employee.”

Case 04-11 (Outside Employment)

An inspector in the Building Inspection Division requested an advisory opinion concerning whether he could engage in outside business activity by establishing a small garage construction company. The Board advised the inspector that he was required by Section 2-63 of the Code of Ethics to obtain approval from his appointing authority. The Board said “the Board of Ethics is not able and does not wish to overrule any appointing authority’s decision not to allow a city employee to engage in outside business activity or outside employment. The Board is willing to

analyze any request and provide its analysis **if the appointing authority is interested in receiving such an analysis.**” In this case, the appointing authority had a number of reasons why such outside business activity would not be approved for any of the Division's inspectors.

Case 04-12 (Gifts)

A City Council staff member requested an advisory opinion as to whether a City Council member would violate the Code of Ethics by accepting an airline ticket that was awarded in a drawing after a speech at a public meeting made by an executive of the airline company. Anyone who attended the speech was eligible for the drawing. The City Council has responsibility for approving or disapproving contracts or leases with the airline company. The Board of Ethics concluded that acceptance of the ticket was not prohibited by the gift section of the Code of Ethics because “Section 2-60 was not intended and should not be interpreted to prohibit acceptance of prizes awarded by chance, so long as the prizes are not targeted to officials, officers or employees who are in a position to take direct official action with respect to the donor. In other words, the prizes must be legitimately awarded on a random or chance basis.”

Case 04-18 (Outside Employment, Gifts, Conflicts of Interest)

The Auditor of the City and County of Denver requested an advisory opinion. He has recently retired as a professor at a local university and asked whether he might accept travel expenses and an honorarium from that university to conduct an educational trip to Ireland for students and be in compliance with the Code of Ethics. The Board of Ethics reviewed three issues. First, the Board reviewed Section 2-63 of the Code regarding outside employment and determined that elected officers of the city are not required by that section to obtain approval from any appointing authority to engage in outside employment or outside business activity. Second, the Board reviewed the gift section of the Code of Ethics, 2-60, and determined that the gift section does not prohibit the proposed payment by the university, because the Auditor is not in a position to take direct official action with respect to the university, since there is no current or pending contract or business relationship between the city and the university. Third, the Board considered section 1.2.8(B) of the city charter. That section provides that “Elected officers of the City shall not hold any other elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City.”

The Board determined that there is not any conflict of interest or any other aspect of the trip to Ireland or other similar teaching duties that would be incompatible with the duties of the Auditor.

Case 04-21 (Subsequent Employment)

The Deputy Chief of the Fire Department asked for an advisory opinion concerning a recently retired firefighter, who wished to be employed on a contract basis by the city's Department of Aviation to conduct certain fire inspections at Denver International Airport. The firefighter had been conducting fire inspections for many years during his service with the city. The Deputy Chief wished to know whether such contract employment would violate Section 2-64 of the Code of Ethics, which provides:

Sec. 2-64. (Subsequent employment)

During six (6) months following termination of office or employment, no former officer, official, or employee shall obtain employment in which he or she will take direct advantage, unavailable to others, of matters with which he or she took direct official action during his or her service with the city.

The Board of Ethics concluded that the retired firefighter could immediately begin the contract work at DIA, without waiting six months. The Board said that it believed that “the principal problem which 2-64(a) appears intended to prevent is a conflict between a city employee's loyalty to the city and his or her loyalty to the person's next employer. If the next employer is also the city (although a different department or agency), that problem is alleviated.” The Board indicated that it could not discern any conflict in the employee's relationship with the Fire Department and his subsequent employment as a fire inspector at DIA.

Case 04-29 (Conflict of Interest - Board and Commission Members)

A citizen filed a complaint/inquiry concerning a member of the Mayor's Commission on Homelessness alleging a conflict of interest, among other issues. The Board of Ethics, during its screening process, determined that this case should be dismissed, as well as other inquiries filed by the same person against other members of the same Commission. The Board, however, in interpreting Section 2-52(e) of the Code of Ethics, determined that the Code of Ethics does apply to members of “informal” Denver boards or commissions (those not created by ordinance or charter) as well as to members of boards or commissions that are created by ordinance or charter. The Board held that “members of informal commissions should not be held to a lesser standard than members of formal commissions and the Board finds that members of all city commissions, both formal and informal, qualify as city officials under the Code of Ethics.”

Case 04-33 (Outside Employment)

A restaurant inspector in the Department of Environmental Health requested an advisory opinion on two separate issues. First, he has been asked to serve on a volunteer steering committee to advise a non-profit business incubator

organization that provides training and facilities for small businesses, including several that are food-related. The organization provides a central kitchen for the food-related businesses, which requires inspection by the Department of Environmental Health.

Second, he is considering setting up an outside paid consulting business in which he would consult on various matters relating to restaurants, such as food safety plans, cost control issues, cleaning schedules, training, etc., for restaurants outside the City and County of Denver. He indicated that he would not consult for any multi-location entity that operates restaurants both inside and outside of Denver.

The Board of Ethics concluded that the employee would have to obtain written approval from his appointing authority for any paid consulting work, pursuant to Section 2-63 of the Code of Ethics. The Board also determined that, in the circumstances of this case, he is not required to obtain approval from his appointing authority to consult on an unpaid basis with the non-profit organization, but indicated that he might wish to advise his appointing authority as a matter of courtesy. The Board specifically indicated that it had no opinion as to whether the appointing authority should approve the paid consulting activity or not. If the appointing authority does approve the paid consulting activity, the Board recommended that the employee should recuse himself from any involvement in inspections by the Department of Environmental Health of any facilities or restaurants connected with either the non-profit business incubator or any of his consulting clients.

Case 04-38 (Solicitation of Charitable Contributions)

A deputy sheriff requested an advisory opinion as to whether the Code of Ethics would permit her and her husband, also a deputy sheriff, to solicit donations and sponsorships for a fund-raising golf tournament for the Correctional Peace Officers' Foundation (CPO), a 501(c)(3) charitable tax-exempt organization. She indicated that neither she nor her husband have any “direct official action” power with regard to any contracts, etc., with the city or the Sheriff's Department. She indicated that the fundraising letters would be on CPO letterhead, rather than Sheriff's Department stationery.

The Board determined that the deputy sheriff and her husband would not violate the Code of Ethics if they solicit vendors, contractors bail-bond companies or other entities to donate to a fund-raising event for CPO, because CPO is a charity and the solicitation will be for a charitable purpose, as permitted by Section 2-60(c) of the Code of Ethics. The Board also found that neither she nor her husband is in a position to take direct official action with respect to any of the prospective donors. The Board recommended, however, in order to avoid the appearance of impropriety, that solicitation should not be done on City and County of Denver letterhead and that any other Denver Sheriff Department members who are in a position to take direct

official action with respect to prospective donors should not participate in the solicitation of those prospective donors. In addition, the Board reminded the deputy sheriff that she and her immediate family members must not keep or use any of the donations and that solicitation and financial records should be maintained. (The latter requirement pertaining to records was added by the City Council in an amendment to section 2-60(c) on September 7, 2004.)

Case 04-40 (Conflict of Interest)

A citizen filed an inquiry (complaint) concerning the Mayor, indicating that the Mayor has an ownership interest in a restaurant very close to Denver Union Station and claiming that the Mayor should not publicly advocate in favor of the FasTracks initiative on the November 2, 2004 ballot. If FasTracks passed, it would fund the construction of several light rail transit lines converging at Denver Union Station. The citizen stated that passage of FasTracks would benefit the Mayor's "personal self-interest" and would violate the Code of Ethics.

The Board of Ethics stated that the Board only has authority and jurisdiction to administer the Denver Code of Ethics and that no section of the Code of Ethics deals with these types of allegations and no section of the Code attempts to prohibit an elected officer or any city employee from expressing an opinion about a public issue. The Board re-iterated a statement from an earlier advisory opinion to the Mayor from 2003, Case 03-20, which said:

. . . The Board recognizes that, as chief executive of the City and County of Denver, you will be obligated to set general citywide policies for all city agencies and departments, including policies that will affect all restaurants in the city, and the Board recognizes that such general policymaking is neither unethical nor inappropriate . . .

The Board determined that FasTracks was a major general policy matter for the entire metropolitan area, not a specific issue that affected the Mayor's restaurant in particular. The Board dismissed the inquiry pursuant to 2-56(6)(a) of the Code of Ethics because the Board has no jurisdiction over these issues and pursuant to 2-56(b) because the allegations, if true, would not constitute violations of the Code of Ethics.

Case 04-42 (Solicitation of Loans)

A department head filed an inquiry and requested the Board of Ethics to investigate the facts and to determine if a violation of the Code of Ethics had occurred by a supervisor in the department who requested and received loans of money from employees under the supervisor's supervision.

Preliminary investigation by the Board of Ethics confirmed that the supervisor had requested and received loans from some of the employees under the supervisor's supervision.

The Board of Ethics reviewed Section 2-60(a) of the Code of Ethics, which provides that city employees should not solicit or accept gifts (which include loans) from those over whom the city employee is in a position to take direct official action. The Board determined to dismiss this case, without having a hearing because 1) this is a case of first impression for the Board of Ethics and this issue had not earlier been publicized to city employees; and 2) the amounts of loans which the supervisor received recently were minor and have mostly been repaid.

The Board, however, stated that it strongly believes that it is a poor employment practice for a supervisor to solicit or to accept loans of any amount from an employee under his or her supervision. Such loans may lead to the appearance of impropriety, even if no intimidation of the employee is intended by the supervisor. The Board indicated that few employees would feel comfortable in refusing a loan to or requesting repayment of a loan from a supervisor. A supervisor often has a position of power over the employee, namely the power to reprimand, transfer to a less desirable assignment, suspend or terminate. Even if a supervisor is not the appointing authority with power to take such personnel actions directly, a supervisor has the power at a minimum to recommend such actions to the final decision-maker.

Case 04-44 (Gifts - Waiver Granted)

A division chief in the Police Department requested an advisory opinion to determine whether the gift section of the Code of Ethics would permit a police officer to accept a reward from a grateful citizen and, if not, the chief requested a waiver. The chief indicated that a police officer sustained severe cuts from broken glass and other injuries during a scuffle with a person suspected of using a stolen credit card at a store on the officer's beat. The store owner wished to present the officer with gift certificates from a restaurant totaling \$100 along with a letter of appreciation.

Acceptance of gifts is governed by Section 2-60 of the Code of Ethics, including:

- (a) Except when acceptance is permitted by paragraph (b) below, it shall be a violation of this code of ethics for any officers, officials, or employees or any member of their immediate families to solicit or to accept any of the following items if (1) the officer, official, or employee is in a position to take direct official action with regard to the donor; and (2) the city has an existing, ongoing, or pending contract, business, or regulatory relationship with the donor:

- (1) Any money, property, service, or thing of value that is given to a person without adequate and lawful compensation . . .

“Direct official action” is defined in Section 2-52(b) of the Code of Ethics and includes:

Enforcing laws or regulations or issuing, enforcing, or regulating permits
. . .(emphasis added)

In several past cases, the Board of Ethics determined that police officers are “in a position to take direct official action” concerning all citizens and businesses within their beat because they “enforce laws” in many different situations. Because of the unique responsibility of a police officer to enforce laws in many different situations on his or her beat, acceptance of a gift over the value of \$25.00 by a police officer from the owner of a business on his or her beat would violate Section 2-60(a) of the Code. None of the exceptions in Section 2-60(b) apply to the facts of this case.

Because of the circumstances of this specific case, however, the Board granted a waiver to the officer pursuant to Section 2-54(f), which empowers the Board to grant a waiver “if it finds that the waiver will serve the best interests of the city.” The gift from the store owner was modest in size, was unsolicited, expressed appreciation for service as well as for injury suffered in the line of duty and was not motivated by any desire to gain favor with the officer or the Denver Police Department.

Case 04-47 (No Jurisdiction)

A citizen filed an inquiry (complaint) concerning an employee of the Denver Community Planning and Development Department (CPD). Different divisions of CPD administer the zoning code, investigate allegations of zoning violations and issue building permits.

The citizen has claimed for several years that her next-door neighbors are violating zoning regulations by operating a business illegally out of their residentially-zoned home and garage. Based on their complaints, NIS inspectors issued a number of cease and desist orders to the neighbors and court cases were filed; however, these cases were either resolved before trial and/or dismissed by the County Court.

On a number of occasions, the CPD employee had telephone conversations with the citizen and her son and wrote several letters to them explaining the status of their complaints. On at least one occasion, he drove by and observed the situation at the neighbors' home. On another occasion, he met with the complaining party's son.

The complaining party and her son apparently believed that the CPD employee was rude, incompetent and/or biased in dealing with their complaints against the neighbors. The Board determined that none of these allegations, even if true, would violate any provision of the Denver Code of Ethics and found that the weight of evidence indicates that not only the CPD employee but also several other city employees went far beyond the call of duty to investigate these numerous complaints and to communicate frequently in a fair and courteous manner with the complaining party and her son.

The Board of Ethics dismissed this inquiry pursuant to section 2-56(6)(a) of the Code of Ethics because the Board does not have jurisdiction over complaints of this nature and also pursuant to section 2-56(6)(b) because the alleged violation, if true, would not constitute a violation of the Code of Ethics.

Case 05-6 (Gifts)

A city employee who had significant responsibility for planning some of the aspects of the 2005 National Basketball Association's all-star game events in Denver requested an advisory opinion. The NBA delivered to the employee a package of items, including a parka and scarf, with the NBA All Star Game logo several days after the conclusion of the events, along with a letter thanking the employee for work supporting the successful events. The employee wished to know if acceptance of the gifts would violate the Code of Ethics.

The Board of Ethics concluded that the gift section of the Code of Ethics, Section 2-60(a), does apply to this situation because 1) the employee was in a position to take direct official action with respect to the NBA by “enforcing laws or regulations or issuing, enforcing or regulating permits” and 2) the city had a contract or regulatory relationship with the NBA. However, the Board determined that this relationship no longer existed after the conclusion of the NBA events. The Board believed that the thank-you gift, which was unsolicited, had no intended or actual effect on the employee's decisions regarding the NBA events. Therefore, the Board decided that the employee would not violate Section 2-60(a) by accepting the gift.

Case 05-11 (Solicitation of contributions to the city)

For many years, the City and County of Denver has celebrated and recognized city employees through a series of events, formerly known as City Team Week, now known as City Spirit. A city employee who is a volunteer member of the City Spirit fundraising subcommittee requested an advisory opinion about fundraising to pay the costs of a picnic for city employees as a major City Spirit event.

The fundraising subcommittee wished to raise funds from major companies to cover the costs of the lunch. Monetary contributions would be placed in a “special revenue fund” established by City Council for City Spirit and expenditures would be taken from that fund.

The pertinent section of the Code of Ethics, Section 2-60(c), which was significantly amended in September 2004, is as follows:

2-60(c) It shall not be a violation of this article for an officer, official, or employee to solicit donations to the city or to solicit or redirect donations for charitable purposes to a 501(c) or other charitable organization or to provide assistance to individuals affected by illness, crime or disaster or who have educational or other charitable needs, provided that solicitation and financial records are maintained and provided that the soliciting person or a member of the soliciting person's immediate family does not keep or use the gift or receive any monetary benefit there from.

This section provides that, even if the terms of the gift section of the Code of Ethics, Section 2-60(a), would be violated by a specific solicitation or acceptance of a gift, it would not violate the Code of Ethics so long as the donation is “to the city . . . or . . . for charitable purposes.”

The Board of Ethics concluded that employee recognition and fun and food for city employees do not fit any of the regulations defining a charity and do not fit the recently-added definition in 2-60(c). By this conclusion, the Board reversed an earlier decision (Case 01-8), which had interpreted City Team Week as a charitable purpose.

However, since the donated funds will be placed in a special revenue fund established by the city, donations for City Spirit do constitute donations “to the city.” Therefore, the Board of Ethics concluded that solicitation and acceptance of gifts by city employees of donations for City Spirit do not violate the Code of Ethics so long as the city employee doing the soliciting or a member of the employee’s immediate family does not keep or use any of the donated items or funds.

The Board strongly recommended, however, in order to avoid the appearance of impropriety, that no city employee or officer should solicit any donations from a person or business if that city employee or officer has any type of regulatory or enforcement or contractual or other type of relationship with the person or business. For example, a restaurant inspector or a police officer who patrols that area should not solicit a restaurant owner. The reason for this is that the restaurant owner and the public should not have any belief that the restaurant owner may receive favorable treatment from the restaurant inspection division or from the police officer if the owner makes a donation or may receive unfavorable treatment if the owner does not make a donation. As another example, if an insurance company does business or wishes to do business with the City and County of Denver, no city employee involved in selecting the insurance company or negotiating or monitoring the insurance contract should be involved in soliciting a donation from the insurance company.

The Board also recommended that the letter soliciting donations should include a statement to the effect that there will be no consequence, favorable or unfavorable, should the donation be given or not.

The Board of Ethics limited this opinion only to City Spirit events. If the city government or city employees wish to engage in solicitation of donations for other projects, the Board encourages any parties involved to contact the Board so that issues specific to those projects can be considered.

Case 05-14 (Travel Expenses)

The director of an agency was requested by a vendor of new equipment purchased by the city for use of the agency to send an agency employee to a users’ conference in Omaha to learn about and discuss the equipment with other users. The vendor would pay the travel and lodging expenses for the employee. The director

requested an advisory opinion from the Board of Ethics. The Board determined that the employee in question is not “in a position to take direct official action” with respect to the vendor and, therefore, the employee is not prohibited from accepting the travel and lodging expenses by Section 2-60(a) of the Code of Ethics. The Board indicated that its approval was also based on the understanding that the purpose of the trip was to provide users with education about the new equipment, rather than to be a sales conference for the benefit of the manufacturer.

APPENDIX C
OTHER SOURCES OF
DENVER LAW PERTAINING TO ETHICS

In addition to the Code of Ethics, Denver has several other sources of law or regulation which relate to what is commonly understood as “ethics”, namely:

- 1) charter provisions;
- 2) executive orders;
- 3) ordinances and,
- 4) Career Service Authority rules.

Although the Board of Ethics does not enforce or interpret these other provisions, the Board wishes to provide a compilation of these provisions for review by Denver employees, officers and officials.

I. Denver Ordinances Pertaining to Ethics

(in addition to Code of Ethics)

- | | |
|-------|--|
| 2-70 | FINANCIAL DISCLOSURE Summary: Public officials must file an annual financial disclosure statement and City employees who are not “public officials” must report to their supervisors the sources of any gift above \$25 (individually or in the aggregate) as a result of employment with the City from anyone pursuing business with the City. |
| 2-300 | REGULATION OF LOBBYISTS Summary: Requires registration and filing of information by lobbyists. |
| 15-31 | CAMPAIGN FINANCES Summary: Establishes limits and reporting requirements for campaign finances. Legislative intent: “preserving integrity and openness in the political process is a matter of the highest public interest; . the trust of the people is essential to representative government . to protect public confidence in the political process.” (February 19, 1991) |
| 20-1 | APPROPRIATION LIMITS Summary: “No officer or employee of the City shall authorize any expenditures that would cause the total of its expenditures for any appropriation account to exceed the amount appropriated by ordinance.” |

20-142

TRAVEL POLICY Summary: Travel for which the City pays must be for travel on official City business and shall be at the most reasonable cost and means under the circumstances.

DENVER CITY CHARTER

PROVISIONS REGARDING ETHICS

1.2.8 Holding other office or employment.

- (A) Employees and Appointed Charter Officers. No employee or appointed Charter officer shall have other employment or hold any public office that is incompatible with his or her duties. Every employee and appointed officer shall notify his or her appointing authority in writing before accepting any other employment or public office; newly hired employees and appointed officers shall report any outside employment or office immediately upon being hired or appointed.
- (B) Elected Charter Officers. Elected officers of the City shall not hold any other public elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City. Elected officers shall waive any additional compensation when they serve upon the governing board or body of any public body or any municipal or quasi-municipal corporation within which or part of which the City or a part of it is located, or of which the City is an interested or constituent member.

(Charter 1960, C5.13; amended June 5, 1962; Ord. No. 428-02, ° 1, 6-3-02, elec. 8-13-02; Ord. No. 136-03, ° 1, 2-24-03, elec. 5-6-03)

1.2.9 Ethics and Conflicts of Interest.

- (A) No officer or employee shall have any interest arising by contract or other relationship that creates a substantial conflict of interest with respect to his or her duties, unless the conflict can be avoided by abstention or disqualification from participating in a transaction without adversely affecting the interests of the City. Every employee and appointed officer shall report promptly in writing to his or her appointing authority any business activity or situation that may be or may become a substantial conflict of interest.
- (B) No officer or employee shall have a direct interest in a contract or similar instrument with the City if he or she participated in approving or establishing the contract or instrument or its terms or conditions; provided, however, that subject to the conditions that may be established by ordinance or other applicable law, any officer or employee may purchase City property or financial instruments in a public sale at a fixed price or a public auction.
- (C) The City Council shall establish by ordinance a Code of Ethics for officers, employees, and members of boards and commissions 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, and other ethics matters not inconsistent with the Charter. The Code of Ethics shall also establish a Board of Ethics to inform and assist officers, employees, and members of boards and commissions in interpreting the provisions of the Code of Ethics, investigate complaints, issue advisory opinions and waivers, assist agencies in conducting ongoing ethics programs, and perform other duties, not inconsistent with the Charter, as may be provided by ordinance. The Mayor and the Council shall each appoint an equal number of members of the Board of Ethics, and if the Board consists of an odd number of members, one member shall be nominated by the Mayor and confirmed by ordinance. If there is a conflict between the Code of Ethics and another rule or regulation, the Code of Ethics shall prevail but nothing herein shall be construed to impair the power of appointing authorities to adopt standards of conduct more stringent than the Code of Ethics for employees under their control.

(Charter 1960, C5.13; amended June 5, 1962; Ord. No. 428-02, ° 1, 6-3-02, elec. 8-13-02; Ord. No. 136-03, ° 1, 2-24-03, elec. 5-6-03)

1.2.10 Contributions for political purposes.

No officer or employee shall initiate any disciplinary action against, discharge or change the rank or compensation of any officer or employee, or promise or threaten to do so for giving, withholding or neglecting to make contributions or any service for any political purpose. No person shall, in any room or building occupied for the discharge of official duties, solicit or receive any contribution for political purposes.

(Charter 1960, C5.74; Charter 1904, ° 205; amended November 4, 1986)

Whistleblower Protection Ordinance (passed by City Council on August 13, 2007)

Sec. 2-106. Legislative Declaration

The city council hereby determines and declares that employees of the City and County of Denver should never suffer retaliation from their supervisors or appointing authorities for communicating information about illegal activities, unethical practices or other forms of official misconduct experienced or witnessed by employees in the scope of their employment. The interests of the City and County and Denver and the larger interests of the citizens of Denver are served by encouraging all employees to speak out fully and frankly on any official misconduct which comes to their attention without fear of retaliation. Therefore, the purpose of

this Article VII is to eliminate the possibility or the threat of any adverse employment action that may be taken against any City and County employee for reporting such information to appropriate reporting authorities.

Sec. 2-107. Definitions

As used in this Article VII:

- (a) “Appropriate reporting authority” means any officer, board or commission, or other person or entity vested with legal authority to receive, investigate, or act upon reports of official misconduct by officers and employees of the City and County, including, by way of example:
 - (1) The mayor and members of the mayor's cabinet;
 - (2) The city council, any committee of the city council, and individual members of the city council;
 - (3) The auditor and the audit committee;
 - (4) The board of ethics;
 - (5) The district attorney and other law enforcement agencies; or
 - (6) The appointing authority for the officer or employee who is alleged to have engaged in the official misconduct that is the subject of the report.
- (b) “Adverse employment action” means any direct or indirect form of employment discipline or penalty, including, but not limited to, dismissal, suspension, demotion, transfer, reassignment, official reprimand, adverse performance evaluation, withholding of work, denial of any compensation or benefit, layoff, or threat of any such discipline or penalty.
- (c) “Employee” means any employee of the City and County of Denver within the meaning of §1.2.11 of the charter.
- (d) “Official misconduct” means any act or omission by any officer or employee of the City and County that constitutes:
 - (1) A violation of law;
 - (2) A violation of any applicable rule, regulation or executive order;
 - (3) A violation of the code of ethics as codified in article IV of this chapter 2, or any other applicable ethical rules and standards;
 - (4) The misuse, misallocation, mismanagement or waste of any city funds or other city assets; or
 - (5) An abuse of official authority.

- (e) “Supervisor” means any person who is authorized to recommend or to impose any adverse employment action upon an employee.

Sec. 2-108. Retaliation prohibited.

- (a) Except as provided in subsection (b) of this section, no supervisor shall impose or threaten to impose any adverse employment action upon an employee on account of the employee's disclosure of information about any official misconduct to any person.
- (b) The protections afforded by this Article VII shall not apply to any employee:
 - (1) Who discloses information that the employee knows to be false or who discloses information without regard for the truth or falsity thereof;
 - (2) Who discloses information in a manner prohibited by law including, by way of example, information that is prescribed as being confidential by law; or
 - (3) Who otherwise discloses information in bad faith.
- (c) It shall be the obligation of an employee who wishes to disclose information under the protection of this Article VII to make a good faith effort to provide to an appropriate reporting authority the information to be disclosed prior to the time of its disclosure. The protection of this Article VII shall not extend to reports of official misconduct that are made anonymously.

Sec. 2-109. Remedies.

- (a) Employees in the career service. Any employee in the career service may file a complaint with the career service board or its designated hearing officer alleging a violation of section 2-108 within thirty (30) days of the alleged retaliatory adverse employment action. The complaint shall be processed in accordance with the rules of the board governing employee appeals; provided, however, that the employee shall not be required to pursue a complaint or grievance within the employee's department or agency prior to appealing the alleged retaliatory adverse employment action to the board or its designated hearing officer. In addition to the foregoing procedure, any employee who is otherwise contesting a disciplinary action before the board or its designated hearing officer in accordance with the rules of the board may defend against the disciplinary action upon a showing by the employee that the disciplinary action constitutes a violation of section 2-108. In either event, if the board or the designated hearing officer finds that a violation of section 2-108 has occurred, the board or the hearing officer

shall order appropriate relief on behalf of the employee including, but not limited to, reinstatement, back pay, restoration of all benefits and seniority rights, and the expunging of the records of any retaliatory adverse employment action made in violation of section 2-108.

- (b) Employees in the classified service.
 - (1) Any employee in the classified service may file a complaint with the employee's appointing authority alleging a violation of section 2-108 within thirty (30) days of the alleged retaliatory adverse employment action. The complaint shall be processed in accordance with any departmental rules of the appointing authority governing employee appeals of disciplinary actions.
 - (2) Any employee in the classified service who contests a disciplinary action before the civil service commission in accordance with charter sections 9.4.14 and 9.4.15 may defend against the disciplinary action upon a showing by the employee that the disciplinary action constitutes a violation of section 2-108. If the hearing officer appointed by the commission finds that a violation of section 2-108 has occurred, the board shall order appropriate relief on behalf of the employee including, but not limited to, reinstatement, back pay, restoration of all benefits and seniority rights, and the expunging of the records of any retaliatory adverse employment action made in violation of section 2-108.
- (c) Other employees. Any employee who is neither in the career service nor the classified service may file a complaint with the employee's appointing authority alleging a violation of section 2-108 within thirty (30) days of the alleged retaliatory adverse employment action. The complaint shall be processed in accordance with any rules of the appointing authority governing employee appeals of disciplinary actions. In addition to the foregoing procedure, any employee who is otherwise contesting a disciplinary action by the appointing authority may defend against the disciplinary action upon a showing by the employee that the disciplinary action constitutes a violation of section 2-108. In either event, if the appointing authority finds that a violation of section 2-108 has occurred, the appointing authority shall order appropriate relief on behalf of the employee including, but not limited to, reinstatement, back pay, restoration of all benefits and seniority rights, and the expunging of the records of any retaliatory adverse employment action made in violation of section 2-108.
- (d) Sanction against supervisors. Upon a determination by the career service board or its designated hearing officer, the civil service commission or its designated hearing officer, or an appointing authority that a violation of section 2-108 has occurred, any supervisor who

committed the violation shall be subject to appropriate disciplinary action by the supervisor's appointing authority, up to and including termination from employment.

Sec. 2-110. Posting Required.

All departments, agencies and other appointing authorities of the City and County of Denver shall post and maintain, in one or more prominent locations accessible to employees of the department or agency, a notice of the rights and protections afforded to employees by this Article VII. The notice shall be in a form approved by the city attorney.

**CAREER SERVICE AUTHORITY
RULE 15**

**CODE OF CONDUCT –
Selected Sections as of December 31, 2007**

Section 15-5 Employee Conduct

Every employee in the Career Service shall conscientiously fulfill the duties and responsibilities of his or her position. The conduct of every employee during work hours or at any time while representing the agency, department, or City shall reflect credit on Career Service and the City and County of Denver (City).

Section 15-10 Definition

Conviction: The adjudication of a criminal charge through:

- A. A guilty plea;
- B. The acceptance of a plea bargain;
- C. A finding of guilty by a judge or jury;
- D. A plea of nolo contendere (no contest);
- E. The acceptance of a deferred sentence or deferred judgment; or
- F. A plea where a defendant enters a guilty plea without actually admitting guilt (Alford plea).

Section 15-15 Employee Responsibility to Report Charges or Convictions

- A. Offenses that must be reported:
 - 1. All employees who are charged with or convicted of any felony or misdemeanor, as well as any other offense which involves violence against persons, destruction of property, dishonesty, theft, or the sale or possession of illegal drugs, must report such charges or convictions to their appointing authority.
 - 2. In addition to the requirement set forth in subsection 1, any employee who operates a motor vehicle as part of their job assignment must report any citation for traffic violations, whether received on or off the job (this does not apply to parking violations).
 - 3. Additional reporting requirements may be established by a department or agency consistent with business necessity. Such additional requirements must first be approved by the Career

Service Authority (“CSA”), and approved for legality by the City Attorney’s Office.

B. Reporting procedure:

1. The department or agency must post or provide to all employees the name and telephone number of the department or agency designee(s) to whom employees must report charges and convictions as required by this section. If the department or agency does not appoint a designee, employees shall report charges and convictions to the appointing authority.
2. The employee or the employee’s representative must report charges and convictions as required by this section as soon as possible, but no later than three (3) calendar days after the occurrence.

C. Record-keeping;

Records of charges or convictions resulting from an employee’s reporting shall not be included in the employee’s personnel file unless and until disciplinary action has been taken pursuant to Rules 16-60 P. and 16-61.

D. Disciplinary action;

Failure to report as required under this section may lead to disciplinary action, up to and including dismissal from employment.

Section 15-20 Ethics

All employees shall comply with the following:

- A. The Denver Code of Ethics, D.R.M.C. § 2-51 et seq, as currently codified and any subsequent amendments thereto;
- B. Any provisions in the Denver Charter regarding ethical conduct of employees; and,
- C. Any stricter Code of Ethics promulgated by an employee’s Department or Agency as authorized by D.R.M.C. § 2-51.

A violation of the Denver Code of Ethics, Denver Charter provisions regarding ethical conduct of employees, or any stricter departmental or agency code of ethics shall be grounds for discipline up to and including dismissal from employment.

Section 15-21 Retaliation Prohibited

- A. Except as provided in subsection (B) of this section, no Appointing Authority or supervisor shall initiate or administer any disciplinary or adverse employment action against an employee on account of the employee filing an inquiry or other complaint with the Denver Board of

Ethics, testifying before the Denver Board of Ethics, or otherwise participating in any proceeding or investigation of the Denver Board of Ethics.

B. Subsection (A) shall not apply to:

1. An employee who files an inquiry or complaint knowing that the underlying information of the inquiry or complaint is false;
2. An employee who files an inquiry or complaint without regard to the truth or falsity of the allegations; or,
3. An employee who has intentionally lied as a witness in any investigation, hearing, or other proceeding of the Denver Board of Ethics.

Section 15-24 Solicitation and Distribution

Employees may not solicit or distribute any non-job-related material of any kind during working time on City property except for designated City programs.

Section 15-30 Political Activities (6/5/80, 121A)

15-31 Policy

Employees are prohibited from engaging in political activities during working hours. Accordingly, the following practices are prohibited on City premises during work hours:

- A. soliciting monetary political contributions from any officer or employee;
- B. soliciting any contribution of services or resources for political purposes from any officer or employee;
- C. taking any personnel action or making any promise or threat of action with regard to any employee because of the giving or the withholding of a political contribution or service;
- D. engaging in solicitation or politically motivated behavior that is harassing or discriminatory; or
- E. using employer resources for political purposes.

Accordingly, employees are not permitted to spend work time involved in campaign activities. Employees also are prohibited from using City facilities and/or resources in connection with campaign or other political activities. City resources include, but are not limited to, telephones, e-mail, fax machines, interoffice mail, voice mail, photocopiers and office supplies.

Section 15-50 Outside Employment (3/22/84, 60B)

15-51 Policy

Any employee desiring to take outside employment or engage in other business activities must submit a written request to his or her appointing authority before the outside employment or business activities commence. The appointing authority will not approve outside employment that compromises an employee's ability to perform effectively or to accept overtime or travel assignments. Outside employment or business activities shall not be incompatible with an employee's duties, nor shall the outside employment or business activities create an actual or apparent conflict of interest.

Violation of the outside employment policy can lead to corrective action, up to and including dismissal.

Section 15-60 Alcohol Policy

The Career Service Board has a special concern about the use and abuse of alcohol because alcohol can affect an employee's productivity and efficiency; jeopardize the safety of the employee, co-workers, and the public; and harm the reputation of the City and its employees. Employees are subject to pre-employment, post accident and/or random drug and alcohol testing if there is reasonable suspicion that the employee is in violation of this rule. Accordingly, the Career Service Board strictly enforces the following rules:

- A. The consumption, possession or storage of alcoholic beverages on City property, except for officially sanctioned functions when the employee is not on duty, is prohibited. When an employee is involved in a workplace accident or where there is reasonable suspicion that an employee is intoxicated while on the job, the employing agency shall require the employee to submit to an alcohol and drug test.
- B. The serving of alcohol at City functions must be approved in advance, in writing, by the appropriate appointing authority or designee. The appointing authority is responsible for seeing that events comply with state and local alcohol regulations and are planned with the safety of employees and the public in mind.
- C. Off-the-job use of alcohol that adversely affects an employee's job performance or the City, or jeopardizes the safety or property of employees is prohibited. Employees are also prohibited from reporting to work under the influence of alcohol.
- D. Employees who drive a motor vehicle as a part of their work can be removed from their position if they are found to have been driving under the influence of alcohol, whether on duty or off duty. The supervisor may

- initiate a post accident drug and alcohol screening. Employees with a CDL license are subject to random drug and alcohol testing.
- E. The City provides an employee assistance program for any employee who wants to seek confidential counseling.
 - F. A supervisor who has reasonable suspicion that an employee is in violation of this policy may initiate drug and alcohol testing.
 - G. Violations of this policy can lead to corrective action, up to and including dismissal.

Section 15-70 Drug-Free Workplace Policy

The Career Service Board has a special concern about the use and abuse of illegal drugs (controlled substances) because illegal drugs can affect an employee's productivity and efficiency; jeopardize the safety of the employee, co-workers, and the public; and harm the reputation of the City and its employees. Employees are subject to pre-employment, post accident and/or random drug and alcohol testing if there is reasonable suspicion that the employee is in violation of this rule. Accordingly, the Career Service Board strictly enforces the following rules:

- A. The manufacture, distribution, dispensation, possession, sale, or use of a controlled substance is strictly prohibited in all City facilities, on all City property, in any City-owned vehicle, and at any City-sponsored event. When an employee is involved in a workplace accident, or where there is reasonable suspicion that an employee is under the influence of a controlled substance or illegal drug while on the job, the employing agency can require the employee to submit to a drug test.
- B. Career Service Authority presents a drug-free awareness education program for all employees at all levels on a periodic basis.
- C. Off the job use of controlled substances that adversely affects an employee's job performance or the City, or jeopardizes the safety or property of employees, is prohibited. Employees are prohibited from reporting to work under the influence of illegal drugs or controlled substances.
- D. Employees who drive a motor vehicle as a part of their work can be removed from their position if they are found to have been driving under the influence of illegal drugs, whether on duty or off duty. Employees on legally prescribed or over the counter medications that could impair their ability to drive shall notify their immediate supervisor who will take appropriate steps to ensure that there are no risks to the employee or other. The supervisor may initiate a post accident drug and alcohol screening. Employees with a CDL license are subject to random drug and alcohol testing.

- E. The City provides an employee assistance program for any employee who wants to seek confidential counseling.
 - A. A supervisor who has reasonable suspicion that an employee is in violation of this policy may initiate drug and alcohol testing.
- G. Violations of this policy can lead to corrective action, up to and including dismissal.

Section 15-80 Electronic Communications Policy

15-81 Policy

To better serve our customers and give our talented workforce the best tools to perform their jobs, the City continues to adopt and make use of new means of communication and information exchange. Employees who have access to one or more forms of electronic media and services, including but not limited to computers, e-mail, telephones, voice mail, fax machines, external electronic bulletin boards, wire services, on-line services, and the internet should use these services for official business.

The City encourages the use of these media and associated services because they can make communication more efficient and effective, and because they are valuable sources of information about customers, technology, and new products and services. However, all employees should remember that electronic media and services provided by the City are City property and their purpose is to facilitate and support City business.

15-82 Prohibited Communications

Electronic media shall not be used for knowingly transmitting, retrieving, or storing any communication that is:

- A. discriminatory or harassing;
- B. derogatory to any individual or group;
- C. obscene;
- D. defamatory or threatening; or
- E. engaged in for any purpose that is illegal or contrary to the City's policies or business interests.

15-83 Personal Use

The City provides electronic media and services primarily for employees' business use. Limited, occasional or incidental use of electronic media for personal, non-business purposes is understandable as long as it is of a reasonable duration and frequency, does not interfere with the employee's performance of job duties, and

is not in support of a personal business. Employees are expected to demonstrate a sense of responsibility and not abuse this privilege. Abuse of this privilege may result in corrective action, up to and including dismissal.

15-84 Access to Employee Electronic Communications

Employees cannot have an expectation of privacy with respect to messages or files sent, received, or stored on the City's electronic communication systems, including Internet activity. Any information gathered or communicated using the City's electronic communication systems can be accessed, monitored, and read by authorized employees.

Section 15-100 Harassment and/or Discrimination

15-101 Policy

It is the policy of the Career Service Board that all employees have a right to work in an environment free of discrimination and unlawful harassment. The City maintains a strict policy prohibiting discrimination, sexual harassment and harassment because of race, national origin, sexual orientation, physical or mental disability, age, gender, marital status, military status, religion, political affiliation, or any other basis protected by federal, state, or local law or regulation. All such harassment or discrimination is unlawful. The Career Service Board's anti-harassment policy applies to all persons involved in the operation of the City and prohibits unlawful harassment or discrimination by any employee of the City, including supervisors and co-workers. Unlawful harassment in any form, including verbal, physical, and visual conduct, threats, demands, and retaliation is prohibited.

15-102 Types of Harassment

Unlawful harassment because of race, national origin, sexual orientation, physical or mental disability, age, gender, marital status, military status, religion, political affiliation, or any other basis protected by federal, state, or local law or regulation, includes but is not limited to:

- A. verbal conduct such as epithets, derogatory comments, slurs, unwanted sexual advances, invitations, or comments;
- B. visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures;
- C. physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work directed at an employee because of the employee's sex or race or any other protected basis;

- D. threats or demands to submit to sexual requests in order to keep a job or avoid some other loss, and offers of job benefits in return for sexual favors; and
- E. retaliation for having reported or threatened to report harassment.

15-103 Action of Individual Experiencing Unlawful Harassment

Individuals who experience unlawful harassment are urged to:

- A. make it clear that such behavior is offensive to them and request that such behavior be discontinued; and
- B. report such conduct to their supervisor so that the agency may investigate and resolve the problem. If the complaint involves an employee's supervisor or someone in the direct line of supervision, or if the employee for any reason is uncomfortable in dealing with his or her immediate supervisor, the employee may go to another supervisor, to his or her agency human resource representative or directly to the Career Service Authority Employee Relations Section.

15-104 Investigation

The agency or Career Service Authority will immediately undertake effective, thorough, and objective steps concerning the allegation of harassment or discrimination. If an investigation is deemed necessary, it will be completed and a determination regarding alleged harassment will be made and communicated to the employee as soon as practicable. Agency staff conducting harassment or any other type of workplace investigation will be required to complete a training program on investigation techniques as developed by the Career Service Authority Training Section.

15-105 Action

If it is determined that unlawful harassment or discrimination has occurred, the agency will take effective remedial action commensurate with the severity of the offense. Appropriate action will be taken to deter any future harassment.

15-106 Retaliation Prohibited

Retaliation against employees for reporting unlawful harassment or discrimination or assisting the City in the investigation of any complaint is against the law and will not be permitted. Retaliation can include, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he or she qualifies, spreading rumors about the employee, encouraging hostility from co-workers and escalating the harassment. Any employee engaging in retaliation may be subject to corrective action, up to and including dismissal.

Section 15-110 Preventing Violence in the Workplace

Violence, or the threat of violence, will not be tolerated in any City work locations. Any violence or the threat of violence will subject the employee to serious corrective action, up to and including dismissal and possible criminal charges.

The following, though not inclusive, will not be tolerated:

- A. Intimidating, threatening or hostile behaviors, physical assault, vandalism, arson, sabotage, unauthorized use of weapons, bringing unauthorized weapons onto City property or other acts of this type clearly inappropriate to the workplace.
- B. Jokes or comments regarding violent acts which are reasonably perceived to be a threat of imminent harm.
- C. Encouraging others to engage in violent behaviors.

15-111 Reporting

- A. In an emergency situation, call 9- 911 or 911. Next, immediately contact the building security, division/department/office manager involved, and agency human resource and safety officers.
- B. In a non-emergency situation, if the employee feels that he or she has been subjected to any type of violence or threat of violence, or has observed or has knowledge of any violation of this rule, the employee shall immediately report the incident to his or her supervisor, the agency human resource representative or safety officer, or to the Career Service Authority Employee Relations Section.

Section 15-130 Reporting Violations

Any alleged violation of this rule should be reported to the appropriate supervisor, manager, agency human resource representative, appointing authority, or the Career Service Authority Employee Relations Section.

Any alleged ethics violation covered under this rule should be reported to the appropriate supervisor, manager, appointing authority, human resource representative, or the Career Service Authority Employee Relations Section. The employee may also contact the Board of Ethics.

APPENDIX D

RULES OF PROCEDURE by the Denver Board of Ethics (adopted June 15, 2001, with amendments through June 26, 2008)

ARTICLE I - INTENT

It is the intention of the Denver Board of Ethics in these Rules of Procedure to establish procedures that are timely and that are fair to officers, officials and employees of the City and County of Denver and also to citizens who wish to report possible violations of the Code of Ethics. These Rules of Procedure are intended to set forth the procedures to implement the requirements of Chapter 2, Article IV of the Denver Revised Municipal Code (Code of Ethics) enacted by the Denver City Council on January 29, 2001, signed by the Mayor of Denver on January 31, 2001 and effective upon February 2, 2001, and any amendments thereto.

ARTICLE II - DEFINITIONS

Board of Ethics (or Board) - The Board appointed by the Mayor and the City Council of the City and County of Denver, State of Colorado, pursuant to Article IV of Chapter 2 of the Denver Revised Municipal Code.

Code of Ethics (or code) - Article IV of Chapter 2 of the Denver Revised Municipal Code, as it may be amended from time to time.

Employee - any person in the employ of the city or of any of its agencies or departments.

Officer - any of the following: the Mayor, the Auditor, the members of City Council, the Clerk and Recorder, the Manager of Public Works, the Manager of Parks and Recreation, the Manager of Finance, the Manager of Environmental Health, the Manager of General Services, the Manager of Safety, the City Attorney, the Manager of Human Services, the Manager of Aviation and the Manager of Community Planning and Development.

Official - a member of a City board or commission.

ARTICLE III - THE BOARD

1. There shall be a Chair and a Vice-Chair elected by the Board each year at the last meeting prior to June 1 or at a meeting as close to that date as practicable.

2. The Chair, and in the absence of the Chair, the Vice Chair, shall:
 - a) Preside at all meetings.
 - b) Administer oaths to or accept affirmations from all persons who wish to testify at hearings.
 - c) Decide all points of order, procedure and evidence unless overruled by a majority vote of the board.
 - d) Issue subpoenas, if authorized by the Board.
3. In the absence of both the Chair and the Vice-Chair, a Chair Pro Tem shall be elected by a majority of the members present.

ARTICLE IV - MEETINGS

1. All meetings shall be open to the public except for deliberations on inquiries and advisory opinions and except for those exceptions set forth in the Open Meetings ordinance of the City and County of Denver (2-31, et seq. DRMC). Board meetings shall be scheduled as needed either by a ruling of the Chair or by a majority vote of the Board.
2. Written minutes of Board meetings which are open to the public shall be taken either by a designated Board member or a designated staff member.
3. A quorum shall consist of three (3) members.
4. If any member of the Board desires to abstain from participating in a particular case, he/she shall announce that fact on the record, stating the reason for such abstention.
5. At least five days' written notice of all meetings shall be given to all Board members, except that a quorum may waive the five day requirement provided any applicable notice requirements of Denver's open meetings law (DRMC Sec. 2-35) are met.

ARTICLE V - REQUESTS FOR ADVISORY OPINIONS

1. Any current or former or prospective officer, official or employee or the appointing authority of a non-elected officer, official or employee may submit a written request to the Board for an advisory opinion on whether any conduct by the officer, official or employee would constitute a violation of the Code of Ethics.
2. The Board or its designee may request any additional information deemed necessary to render an advisory opinion.
3. The Board shall render an advisory opinion in writing to the person who requested the opinion no later than six weeks from the time it received the request, unless the person who requested the opinion has withdrawn the request in writing, or unless requested additional information has not

been received by the Board, or unless the Board has given written notice to the person requesting the opinion explaining the reason for the delay and stating an expected issuance date.

4. The Board may publish advisory opinions with such deletions as may be lawful and necessary to prevent disclosure of the identity of the individual involved. The Board may also publish guidelines based on an advisory opinion if the subject of the opinion may be of general interest and guidance.
5. If the Board has a belief, based in fact, that an advisory opinion has not been complied with it shall inform the person, the person's appointing authority and the City Attorney in writing and shall request the appointing authority to take appropriate action after consulting with the City Attorney.

ARTICLE VI - REQUESTS FOR WAIVERS

1. Any current, former or prospective officer, official or employee may submit a written request for a waiver of any provision of the Code of Ethics to the Board.
2. The Board or its designee may request any additional information deemed necessary to determine whether a waiver should be granted.
3. The Board shall place all requests for waivers on its agenda and shall conduct its consideration of any requested waiver at a meeting open to the public.
4. The Board shall render a decision in writing to the person who requested the waiver no later than six weeks from the time it received the request, unless the person who requested the waiver has withdrawn the request in writing, or unless requested additional information has not been received by the Board, or unless the Board has given written notice to the person requesting the waiver explaining the reason for the delay and stating an expected issuance date.
5. The Board may grant a waiver for conduct that constitutes or may constitute a literal violation of the Code of Ethics, but where the Board determines that a waiver will serve the best interests of the City.

ARTICLE VII - INQUIRIES OR COMPLAINTS FROM CITIZENS

1. Any person may file an inquiry or complaint with the Board asking whether a current officer, official, or employee has failed to comply with the Code of Ethics.
2. An inquiry or complaint (hereinafter "inquiry") must be in writing on a form approved by the Board, be signed, and show the home address of the person who submitted it. The form shall contain a statement that must be

signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the inquiry is true. The inquiry must describe the facts that constitute the violation of the Code of Ethics in sufficient detail so that the Board and the person who is the subject of the inquiry can reasonably be expected to understand the nature of any offense that is being alleged. The Board or its designee may request any additional information deemed necessary to screen the inquiry or to render a decision.

3. No inquiries shall be accepted or considered which relate to actions that took place more than two years prior to the date of filing.
4. The Board or its designee must notify the person who is the subject of the inquiry that an inquiry has been filed no more than five days from the day the inquiry was filed, provided that the Board shall notify the person who is the subject of the inquiry immediately if he or she so requests. The notice shall include a copy of the full inquiry; a copy of any portion of the Code of Ethics that is alleged to have been or that may be violated; and the Board's Rules of Procedure.
5. The Board shall provide the subject of the inquiry with a copy of the inquiry before it provides copies to any other parties. The Board recognizes that distribution to the public of an inquiry prior to screening by the Board as required below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the inquiry is prohibited until the screening process below has been completed.
6. The Board or a committee of the Board shall consult in confidence to screen the inquiry within fourteen days of receiving an inquiry. The Board may immediately dismiss an inquiry if:
 - a) It has no jurisdiction; or
 - b) The alleged violation, if true, would not constitute a violation of the Code of Ethics; or
 - c) The alleged violation is a minor or de minimis violation; or
 - d) The inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment; or
 - e) The matter has become moot because the person who is the subject of the inquiry is no longer an officer, official or employee; or
 - f) The person who is the subject of the inquiry had obtained a waiver or an advisory opinion under Section 2-54, DRMC permitting the conduct; or

- g) The appointing authority of the person who is the subject of the inquiry has already taken action as a result of finding a violation and the Board believes the action was appropriate.
7. If the inquiry is not dismissed pursuant to paragraph (6), the Board may direct a staff member to investigate the inquiry in order to determine if a hearing is warranted. The investigation typically should not exceed 30 days. The investigation may include obtaining further detail or clarification from the complainant consistent with DRMC Section 2-56(2) or obtaining additional information from the person who is the subject of the inquiry, that person's supervisor if any, public records, or other reasonable and readily available sources. The Board shall review the additional information and determine whether the investigation is complete or whether additional information is needed. Once the Board finds that the investigation is complete, the Board shall either: (1) dismiss the inquiry, (2) request written arguments and make a finding pursuant to DRMC Sec. 2-56(7), or (3) proceed under paragraph 8 below. If information received is confidential or privileged, the Board shall maintain the confidentiality or privilege.
8. If the inquiry is not dismissed or otherwise resolved pursuant to paragraphs (6) or (7) above, the Board shall issue a Notice of Hearing, which shall set forth in reasonable detail the alleged violations of the Code of Ethics and the facts supporting the allegations. The Notice of Hearing shall be mailed to the person filing the inquiry (hereinafter the complainant) and to the subject of the inquiry within 10 days of its adoption. The notice shall inform the parties that they may consult with or be represented by an attorney or other representative of their own choosing. The Notice shall require an Answer to the Notice of Hearing to be filed by the subject of the inquiry within 20 days, unless an extension is granted for good cause. When received by the Board, the Answer shall be mailed promptly to the complainant.
9. Within fourteen days of the receipt of the Answer, the Board shall issue to the parties a notice to set a date and place for the hearing, which shall be open to the public. The Board will attempt to accommodate the parties in selecting a date that is mutually agreeable. If no Answer is received, the hearing shall proceed nonetheless.
10. The Board shall assign one of its members to act as a Hearing Officer, with the responsibility to determine pre-hearing matters and to act as chair at the hearing.
11. At least 20 days before the hearing, the parties or their representatives, or in appropriate cases, the Board's staff director, shall exchange and submit to the Hearing Officer a proposed list of witnesses and possible documentary evidence to be introduced at the hearing, and an estimate of

the length of time needed to present the testimony and evidence. The Hearing Officer may choose to set a pre-hearing conference, at which time a schedule and hearing order may be adopted. Such order shall include the exchange of proposed exhibits and witness lists. The Hearing Officer may determine any outstanding procedural or evidentiary issues at the pre-hearing conference.

12. The Hearing Officer may authorize the issuance of subpoenas for documents and witnesses, but only after a written request to appear or provide records has not been complied with and after consultation with the City Attorney. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or the production of documents on the grounds that such information is privileged under Colorado law.
13. After the inquiry has been filed, none of the parties or their representatives may communicate on an ex parte basis with the Hearing Officer or any other Board member on any manner pertaining to the inquiry. All communications pertaining to the inquiry shall be sent to the staff director of the Board.
14. Any time after the issuance of the Notice of Hearing, the Board, at its discretion, may make a finding solely on the basis of written arguments without holding a public hearing if it determines that there is no significant discrepancy in the facts. However, the subject of the inquiry shall have the right to request a hearing, which shall be open to the public.
15. At any time after the issuance of the Notice of Hearing, the Board may dismiss an inquiry without a finding for or against the subject of the inquiry if it finds that the person committed the violation due to oversight and the person comes into voluntary compliance.
16. The Board may dismiss an inquiry if the complainant does not appear at the hearing and if, in the opinion of the Board, it would be unfair to the subject of the inquiry not to have the opportunity to examine the complainant.
17. At the hearing, the complainant, or the complainant's representative, may make an opening statement and present the evidence in support of the allegations set forth in the Notice of Hearing. In the alternative, at the request of the Board, the staff director may summarize the allegations and other documents for consideration. The subject of the inquiry, or the representative of the subject of the inquiry, shall be entitled to cross-examine witnesses and make objections to any documents offered for consideration.
18. At the conclusion of the evidence offered by the complainant or pursuant to paragraph 17, the subject of the inquiry, or his or her representative, shall have the opportunity to make an opening statement and present

evidence. The complainant, or his or her representative, shall have the opportunity to cross-examine witnesses called by the subject of the inquiry. At the conclusion of the evidence, the parties may make closing statements or, with the consent of the Board, submit briefs or written summaries of their respective positions.

19. Either party shall be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing. The Hearing Officer or the Board may continue or recess the hearing to allow sufficient time for response, or may exclude or strike the evidence if unfairness would result that cannot be remedied.
20. The Hearing Officer shall preside at the hearing, administer oaths or accept affirmations from witnesses and decide all points of order, procedure and evidence unless overruled by the majority vote of the Board. The hearing need not be conducted according to technical rules of evidence, and the Hearing Officer may admit any relevant evidence of probative value, including hearsay. The Hearing Officer may exclude or strike incompetent, immaterial or unduly repetitious evidence.
21. An electronic or stenographic record of the hearing shall be made and kept in the Board office for two years after the case is concluded.
22. Within 20 days of the conclusion of the hearing, the Board shall meet in executive session to review the evidence and determine if the allegations in the Notice of Hearing have been proven by clear and convincing evidence. Only members who have been present for the hearing may participate in the deliberations, and any findings and recommendations must be adopted by a majority of the Board. The Board may consider, when making findings and recommendations, the severity of the offense, 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.
23. Within 45 days of the conclusion of deliberations, the Board shall issue an Order setting forth its findings and recommendations. In the alternative, the Board where it deems it appropriate, may issue an advisory opinion in lieu of making findings and recommendations.
24. If the subject of the inquiry is an employee, non-elected officer or appointed official, the Board may, if it determines corrective action is necessary, notify the persons' appointing authority and recommend that the appointing authority take action, including discipline. If the subject of the inquiry is an elected officer, the Board may propose actions appropriate to the finding, ranging from a recommendation that the person abstain from further action in the matter or seek a waiver, to adopting a resolution reprimanding the person.

25. The Board or its designee shall send a written copy of the Board's findings and recommendations to the subject of the inquiry and the person who submitted the inquiry and, unless provided otherwise in these Rules or in the Code of Ethics, shall make the findings and recommendations public.
26. Time. In computing any deadline required by these rules, calendar days shall be used, unless the period of time is less than seven days, in which case business days shall be used.

ARTICLE VIII - CASE NUMBERS

Case numbers shall be assigned chronologically for each written request for advisory opinion, request for waiver and inquiry, with a new sequence to commence on the first day of each calendar year. The calendar year shall be the first two digits of the case number followed by a hyphen (for example, 01-1 designates the first case filed in 2001).

ARTICLE IX - POSTING OF AGENDA

A copy of the Board's meeting agenda shall be posted at the location of the meeting and at any other appropriate locations and on the Board's website.

ARTICLE X - PARLIAMENTARY AUTHORITY

The parliamentary rules contained in Robert's Rules of Order, latest revision, shall govern in all cases to which they are applicable, except as modified by these Rules of Procedure.

ARTICLE XI - DISQUALIFICATION

Any member or employee of the board of ethics shall disqualify himself or herself from participating in any matter before the board in which his or her impartiality might reasonably be questioned, including, but not limited to, instances where he or she has a personal bias or prejudice concerning a party or personal knowledge of or involvement in disputed evidentiary facts concerning the matter. In the event that an employee of the board of ethics receives a request for an advisory opinion, a request for a waiver or an inquiry from which the employee is disqualified, and the employee has recused himself or herself, the board shall request a designee of the city attorney or a member of the board to perform all functions the employee would otherwise perform.

ARTICLE XII - REIMBURSEMENT OF REASONABLE LEGAL EXPENSES

A person who is the subject of an inquiry who is subsequently exonerated may apply to the City Attorney for reimbursement of reasonable legal expenses from

the “Liability Claims” appropriations. The City Attorney shall promptly provide reimbursement subject to the limitations of this section. As used in this section, the term “legal expenses” shall include reasonable attorney fees, witness fees, stenographer fees, investigator fees, and other direct costs in connection with the answer to an inquiry. The person applying for reimbursement shall submit his or her application for reimbursement to the City Attorney within fourteen days of the Board's decision. The City Attorney, or in the case of a conflict, a designee of the City Attorney, shall determine, in his or her sole discretion, the reasonableness of the legal expenses. The exonerated person may not appeal or challenge the City Attorney's determination with the Board or any other entity. The maximum reimbursement from the City shall not exceed the sum of seven thousand five hundred dollars (\$7500.00).

APPENDIX E
COMPLAINT FORM

I believe that, to the best of my knowledge, information and belief found after reasonable reflection, the information given in this inquiry is true. I request the Denver Board of Ethics to evaluate the information given here and to take appropriate measures in accordance with the procedures outlined in the Denver Revised Municipal Code, Section 2-56

(Type, or print please)

My name - printed

My home address

My home telephone

City, state, zip code

My work telephone

Denver officer, official or employee that I wish the Denver Board of Ethics to review:

Name

Position or job title, if known

Department or Agency

Work address, if known

Work telephone, if known

Please note: If you wish to file an inquiry about more than one person, you must file a separate inquiry form (and any attachments) for each person.

(over)

CITY AND COUNTY OF DENVER

Please describe the facts that you believe constitute a violation of the Denver Code of Ethics in sufficient detail so that the Board of Ethics and the person who is the subject of the inquiry can understand the nature of the alleged violation. Give as much detail as possible, including approximate dates, names, etc. Add extra sheets if needed and attach copies of any pertinent documents.:

My signature

Date

Please Note: A copy of the inquiry will be sent to the person who is the subject of the inquiry and may be made available to the public.

