CHAPTER 1 ADMINISTRATION, PERSONNEL AND FINANCE

ARTICLE 3 CODE OF ETHICS[1]

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1.3.101: LEGISLATIVE PURPOSE:

A. There is hereby adopted by the City Council "The City of Colorado Springs[2] Code of Ethics" which shall apply to the Mayor and Council Members, all their appointed boards, committees and commissions, the Utilities Chief Executive Officer, Memorial Health System Chief Executive Officer, City Attorney, City Clerk, City Auditor, Municipal Court Judges, department, division, office and agency heads appointed by the Mayor and all employees of the City's municipal government and its enterprises, including Colorado Springs Utilities and Memorial Health System.

B. The City of Colorado Springs shall conduct its businesses, operations and services in accord with the law and the highest standards of business practices and ethics. The City of Colorado Springs is committed to complete honesty, utmost integrity, fair dealing and ethical behavior as the basis of its businesses, operations and services to the community.

C. Public service and public employment is a public trust. The Mayor and Council Members, all their appointed boards, committees and commissions, the Utilities Chief Executive Officer, Memorial Health System Chief Executive Officer, City Attorney, City Clerk, City Auditor, Municipal Court Judges, department, division, office and agency heads appointed by the Mayor and all employees of the City's municipal government and its enterprises, including Colorado Springs Utilities and Memorial Health System should employ independent objective judgment in performing their duties and should assure that businesses, operations and services are conducted openly to safeguard public confidence in the integrity of the City by avoiding any conduct creating the appearance of impropriety.

D. The City of Colorado Springs, through its municipal government and all its enterprises including Colorado Springs Utilities and Memorial Health System, exists for the purpose of serving the community through its businesses, operations and services.

E. The City of Colorado Springs Code of Ethics is hereby deemed to be a matter of City Council's exclusive home rule authority and supersedes any other applicable Colorado statutes. Moreover, this Code of Ethics is in compliance with, and therefore supersedes by its own terms, Colorado Constitution, article XXIX, "Ethics In Government". (Ord. 11-18)

1.3.102: **DEFINITIONS:** The following definitions are applicable to the City Code of Ethics:

ADMINISTRATIVE OFFICERS[3]: All heads of departments appointed by the Mayor.

APPOINTEES: Are "administrative officers"[3] and shall mean and include all persons appointed by the Mayor and/or members of City Council pursuant to the City Charter and this City Code, to include the City Attorney, City Auditor, City Clerk, Municipal Court Judges and Utilities Chief Executive Officer and all members of boards, committees and commissions appointed by the Mayor and/or City Council. For purposes of this Code, the term "appointee" shall also include the Memorial Health System Chief Executive Officer.

CITY: The municipal government and all its enterprises as defined by the Colorado Constitution, article X, section 20 and City Charter article VII, section 7-90, including, but not limited to, Colorado Springs Utilities and Memorial Health System. The City's municipal government and the municipal enterprises are subject

1. Prior ordinance history: Ord. 94-160; Ord. 98-185; Ord. 01-42; Ord. 07-59; Ord. 10-30.
2. The "City" is the sole legal entity pursuant to City Charter, article I, sections 1-10, 1-20, and owns all its enterprises as defined by Colorado Constitution, art. X, §20 and City Charter, article VII, section 7-90.
3. See City Charter, article XIII, section 13-10.

to the management and control of the Mayor. The City's Colorado Springs Utilities enterprise is subject to the management and control of City Council's appointed Chief Executive Officer. The City's Memorial Health System enterprise is subject to the general supervision and control of City Council and is subject to the daily management and control of City Council's appointed Board of Trustees, who appoints a Chief Executive Officer.

COVERED PERSONS: Elected officials, appointees, administrative officers, employees, independent contractors and volunteers in connection with their work for the City.

DIRECT OFFICIAL ACTION: Any action that involves:

A. Negotiating, approving, disapproving, administering, enforcing or recommending for or against a contract, purchase order, lease, concession, franchise, grant, vendor, concessionaire, land use or any other matter to which the City is a party. "Recommending" shall mean someone in the formal line of decision making for the matter.

B. Enforcing laws or regulations or issuing, enforcing or regulating permits and licenses.

C. Appointing and terminating employees, temporary workers, volunteers and independent contractors as defined by the Internal Revenue Code.

D. Doing research for, representing, or scheduling appointments for an officer, official, or employee, provided that these activities are conducted in connection with that person's job performance.

E. "Direct official action" does not include acts that are purely ministerial. It also does not include signatures by the Mayor, City Council, City Auditor, City Attorney, City Clerk, Utilities Chief Executive Officer or Memorial Health System Chief Executive Officer unless these individuals initiate the contract or are involved in the selection of the contractor or the negotiation or administration of the contract. A person who abstains from a vote is not exercising direct official action.

ELECTED OFFICIALS: The Mayor and Council Members.

EMPLOYEE: Any person in the employ of the City or any of its enterprises, agencies, departments, or organizations.

GIFT: A payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given, to include food, lodging, transportation, golf or other recreation or entertainment, and reimbursement for other than necessary expenses for official business on behalf of the City, unless consideration of equal or greater value is received.

IMMEDIATE FAMILY: The employee's spouse and his or her dependents.

INDEPENDENT CONTRACTORS: Those persons as defined by the Internal Revenue Code in their work for the City.

VOLUNTEERS: Those persons who contribute their services to the City without compensation. (Ord. 11-18)

1.3.103: INDEPENDENT ETHICS COMMISSION:

A. Creation And Purpose: There is hereby created an Independent Ethics Commission. The purpose of this Commission shall be to render recommendations and advisory opinions on ethical issues.

B. Members: City Council shall appoint five (5) members to the Independent Ethics Commission to serve staggered terms, who shall have expertise in ethical matters, acquired through education or experience. An alternate may be appointed pursuant to this City Code. Each member of the Initial Independent Ethics Commission shall serve at least one term and those initial terms shall be one, two (2) and three (3) years.

C. Term Of Appointment: The term of a Commission member following the initial terms shall be three (3) years.

D. Compensation: Members of the Independent Ethics Commission shall be "volunteers" as defined by this Code and serve without compensation. Members may be reimbursed for reasonable expenses.

E. At Will: Each member of the Independent Ethics Commission shall serve at the pleasure of City Council and shall be subject to City Charter,

particularly City Charter subsection 3-60(d) and section 9-10, this City Code and the rules and procedures of City Council.

F. Majority Vote: The Independent Ethics Commission shall make recommendations based upon a majority vote.

G. City Attorney: The City Attorney, or a designee of the City Attorney, shall be the chief liaison and legal advisor to the Independent Ethics Commission, but shall have no vote.

H. Disqualification: Any member of the Independent Ethics Commission shall disqualify himself or herself from participating in any matter before the Commission 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 that case, the alternate may sit in place of the disqualified member.

I. Subpoena And Recommendations: The Independent Ethics Commission shall have the power to subpoena documents and witnesses. The determination of a recommendation by the Independent Ethics Commission shall be made based upon the preponderance of evidence before it.

J. Rules Of Procedure: The Independent Ethics Commission shall promulgate its own rules of procedure to be approved by City Council.

K. Complaints; Inquiries: Any person may file a written complaint or an inquiry for consideration by the Independent Ethics Commission through the City Attorney regarding a matter involving an elected official, an appointee including members of boards, committees and commissions appointed by City Council, the President of Council or the Mayor, or an independent contractor. Any written complaint or inquiry shall be filed confidentially and processed in accord with the Independent Ethics Commission Rules of Procedure. The written complaint or inquiry may only be considered for matters occurring within the last twelve (12) months. Any person may file a written complaint or inquiry for consideration directly with the Mayor, Utilities Chief Executive Officer, Memorial Health System Chief Executive Officer, City Attorney, City Auditor, City Clerk or Presiding Municipal Judge for covered persons within those organizations or for covered persons who work for the City in a volunteer capacity, not including members of boards, committees and commissions appointed by City Council or the Mayor.

L. Frivolous Complaints; Inquiries: The Independent Ethics Commission may dismiss frivolous complaints or inquiries without further action. A record of dismissal as deemed frivolous shall be maintained as confidential by the Independent Ethics Commission.

M. Nonfrivolous, Formal Complaints; Inquiries: The Independent Ethics Commission shall take such steps as necessary pursuant to its rules to investigate nonfrivolous, formal complaints. Within ten (10) days of the conclusion of its investigation and deliberations, the Commission shall issue a confidential written recommendation to City Council containing findings of fact and conclusions of law.

N. Penalty: Any individual who is found to have breached the public trust and has been found to have done so for private gain, and any person or entity inducing such breach, shall be liable to the City for double the amount of financial equivalent of any benefits obtained by such actions. The manner of recovery and any additional penalties may be as provided by law.

O. Final Action: Any decision of the City Council made upon confidential written recommendation of the Independent Ethics Commission may be deemed to be a final action, subject to any appeal to a court with proper jurisdiction. (Ord. 11-18)

1.3.104: **GIFTS:**

A. Hospitality And Gifts: No covered person shall solicit for, accept or give any gift or thing of value related solely to the covered person's duties and responsibilities on behalf of the City.

B. Exceptions: Providing that a gift could not be considered a bribe or a means of improper influence on a direct official action, no violation of this Code of Ethics shall be found to apply to the following:

1. A campaign contribution as defined by law.

2. An unsolicited item or items of value less than fifty dollars ($50.00) per vendor or third party

per year (adjusted for inflation using the U.S. Bureau of Labor Statistics Consumer Price Index for Denver-Boulder-Greeley).

a. The item or items shall not be cash or cash equivalent such as gift cards, checks or money orders.

b. The cost of the gift is the retail value of the item unless the receiver has knowledge that the giver paid more than the retail value, in which case the cost is the amount actually paid.

c. For a charity event, the cost of the event is the fair market value of the activity received as opposed to the full amount of the ticket.

d. It is not permissible to pay part of the cost of a gift that is offered with a value exceeding fifty dollars ($50.00) (as adjusted) to reduce the value to less than fifty dollars ($50.00) (as adjusted) and then accept the gift.

3. An unsolicited token or award of appreciation that is reasonable in value and purpose, such as plaques and professional awards.

4. A component of compensation paid or other recognition given in the normal course of employment, appointment or volunteer services or business.

5. Any scholarship or grant or other financial aid for education given to any covered person or immediate family member for any reason so long as the award is not based upon the influence of the covered person.

6. Any charity event benefiting the City and any of its affiliated organizations.

7. Any gift solicitation for a charitable purpose as determined appropriate by the City or its affiliated organization.

8. Any gift, whether solicited or not, to benefit a public safety or community purpose. However, covered persons must not solicit or receive gifts that will directly or indirectly benefit themselves.

9. Any gift provided as a result of the recipient's outside business or employment activities that do not pertain to the City.

10. Awards or prizes given at competitions or drawings at events open to the public, so long as there is not an appearance of impropriety.

11. Reasonable cost and frequency of vendor sponsored or other professional educational conferences, seminars or meetings, so long as the conferences, seminars or meetings are documented.

12. Reasonable cost and frequency of City sponsored educational events, so long as the events are documented.

13. Reasonable cost and frequency of business meals for covered persons, so long as the meals are documented.

14. Perishable or consumable gifts given to a City department or group.

15. Gifts accepted in a covered person's official capacity that will become property of the City.

16. For elected officials, reasonable cost and frequency of meals and event tickets pertaining to their official duties as Mayor or members of Council so long as the gift is documented and is not intended, and does not affect, a direct official action.

17. Any exemption granted or exception recognized pursuant to Federal or State law.

18. Any other exceptions as may be approved by the City Council.

C. Inappropriate Hospitality And Gifts: Inappropriate hospitality or gifts involves offering or receiving accommodations, tours, event tickets, recreation, entertainment, meals or other similar personal benefits when a personal or financial relationship exists that could influence or be perceived to influence objectivity when interacting with, representing, or conducting business for or on behalf of the City. (Ord. 11-18)

1.3.105: **LOBBYING ACTIVITIES:** Any covered person who performs lobbying services for the City, and any paid lobbyist who acts on behalf of the City shall abide by all applicable State and Federal laws. (Ord. 11-18)

1.3.106: **CONFLICTS OF INTEREST:** Every covered person owes a duty of loyalty to the City. A conflict of interest exists when there is any personal or financial relationship that could influence or be perceived to influence the representation or conduct of business for, or on behalf of, the City. A conflict of interest also exists when any improper and undue influence can be exercised, or be perceived to be exercised, concerning a direct action involving the City. A conflict of interest may exist when there is an appearance of impropriety. No conflict of interest is allowed.

A. No covered person shall hold financial interests that conflict with the conscientious performance of duty.

B. No covered person shall engage in business activities including financial transactions using nonpublic government or enterprise private information, or allow the improper use of that information to further any private interest or gain.

C. No covered person shall knowingly make unauthorized commitments or promises of any kind purporting to bind the City.

D. No covered person shall give preferential treatment to any private organization or individual.

E. No covered person shall directly or indirectly participate in any matter involving the City where they or a member of their family has a direct or indirect substantial financial interest. If a direct or indirect substantial financial interest exists, the covered person shall make known that interest to the appropriate persons and shall refrain from participating in the matter as it is dealt with by the City.

F. No covered person shall engage in outside employment or activities, including seeking or negotiating for employment that conflicts with their official duties and responsibilities.

G. No covered person shall tolerate waste, fraud, abuse and corruption in government or any of its businesses, operations or services.

H. No covered person shall engage in any actions that may create, or do create, the appearance that they are violating the law or ethical standards.

I. No covered persons shall engage in any activity that may create, or does create, the appearance of impropriety. (Ord. 11-18)

1.3.107: **ETHICS EDUCATION:** Ethics education using this Ethics Code and other ethics training shall be given annually to every covered person. (Ord. 11-18)

1.3.108: **FURTHER ETHICS RULES AND REGULATIONS:** Nothing in this Code of Ethics shall prohibit the Mayor, City Attorney, City Auditor, City Clerk, Utilities Chief Executive Officer or Memorial Health System Board of Trustees or Chief Executive Officer, or Presiding Judge of the Municipal Court from enacting further ethics rules and regulations pertaining to those who report to them that may be as strict or more strict than this Code of Ethics. (Ord. 11-18)