

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2012

COUNCIL BILL NO. CB11-0744
COMMITTEE OF REFERENCE:
GOVERNMENT AND FINANCE

6 **A B I L L**

7 **For an ordinance amending various subsections of the Code of Ethics, Chapter 2,**
8 **Sections 2-51 through 2-65 of the Revised Municipal Code, to allow the Board of Ethics to**
9 **contact agencies for information on discipline related to ethical violations and to clarify**
10 **certain other provisions.**

11
12
13 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
14 **DENVER:**

15 **Section 1.** Section 2-51 of Chapter 2, Article VII of the Revised Municipal Code, is hereby
16 amended by adding the language underlined, as follows:

17
18 **Sec. 2-51. Legislative Intent.**

19
20 It is the intent of the city that its officers, officials, and employees adhere to high levels of
21 ethical conduct so that the public will have confidence that persons in positions of public
22 responsibility are acting for the benefit of the public. Officers, officials, and employees should
23 comply with both the letter and spirit of this ethics code and strive to avoid situations, which
24 create impropriety or the appearance of impropriety.

25
26 The council and mayor recognize that ethical issues will arise in the course of public
27 service. It is the intent of the code of ethics:

- 28
29 (1) To clarify which actions are allowed and which constitute a breach of the public
30 trust and specifically relating to the use of public office for private gain, employment
31 and supervision of family members, gifts, conflicts of interest, prior employment,
32 outside employment, subsequent employment, **improper use of confidential**
33 **information or records**, and other ethics matters not inconsistent with the Charter;
34
35 (2) To establish a board of ethics empowered to issue advisory opinions so that
36 officers, officials, and employees may seek guidance about ethical issues
37 connected with their service; and
38
39 (3) To establish a system that enables citizens to report possible wrongdoing and seek
40 enforcement so that any breach of the public trust may be discovered and dealt
41 with appropriately.
42

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

1 practical guidance.

2
3 Agencies may adopt a stricter code of ethics for their own use through published rules or
4 policies. Those agencies which wish to adopt a stricter code of ethics are encouraged to consult
5 with the board of ethics, shall provide information and training to employees of the agency and
6 shall provide a copy to the board of ethics.
7

8 **Section 2.** Section 2-53 of Chapter 2, Article VII of the Revised Municipal Code, is hereby
9 amended by adding the language underlined, as follows:

10 **Sec. 2-53. Board of Ethics.**

11
12 (a) *Creation and appointment.* There is hereby created a board of ethics to
13 consist of five members. The purpose of the board shall be to issue advisory opinions and
14 waivers on ethical issues arising under this article and to hear inquiries **or complaints** and issue
15 findings and recommendations regarding alleged violations of this article.
16

17 (b) *Qualifications.*

18
19 (1) One and only one member of the board of ethics shall be an officer or
20 employee of the city.
21

22 (2) At least one member of the board of ethics shall be a former judicial
23 officer.
24

25 (3) At least one member of the board of ethics shall have expertise in ethics
26 acquired through education or experience.
27

28 (c) *Method of appointment.*

29
30 (1) The member of the board of ethics who is an officer or employee of the
31 city shall be nominated by the mayor and appointed by council acting by ordinance.
32

33 (2) The mayor shall appoint two of the remaining members.
34

35 (3) The council shall appoint the other two members by ordinance.
36

37 (d) *Terms of appointment.*

38
39 (1) Members shall be appointed to terms of four years; however, the first
40 member appointed by the mayor and the first member appointed by the council
41 shall initially serve two year terms to achieve staggered ending dates.
42

43 (2) If a member is appointed to fill an unexpired term, that member's term
44 shall end at the same time as the term of the person being replaced.
45

46 (3) Each member shall continue to serve until a successor has been
47 appointed, unless the member is removed or resigns.
48

1 (e) *Removal.*

2
3 (1) The unexcused absence of any member of the board from three (3)
4 consecutive meetings, unless the board has excused the absence for good and
5 sufficient reasons as determined by the board, shall constitute a resignation from
6 the board.

7
8 (2) The appointing authority may remove a member for inappropriate conduct
9 before the expiration of the member's term. Before removing a member, the
10 appointing authority shall specify the cause for removal and shall give the member
11 the opportunity to make a personal explanation. Before removing the member who
12 is jointly appointed, either the mayor or the council shall specify the cause for
13 removal and the mayor and council shall give the member the opportunity to make
14 a personal explanation. Members appointed by the council and the member who is
15 nominated by the mayor and appointed by council may only be removed by
16 ordinance.

17
18 (f) *Compensation.* Members of the board of ethics shall serve without
19 compensation. The member who is an officer or employee of the city shall not receive any
20 additional compensation for serving on the board of ethics. Members may be reimbursed for
21 reasonable expenses pursuant to the rules of the city.

22
23 (g) *Consultation with city attorney.* The board of ethics may consult with the city
24 attorney or a designee of the city attorney regarding legal issues which may arise in connection
25 with this article and may request advisory assistance from the city attorney in conducting
26 hearings on inquiries during any stage of the process.

27
28 (h) *Disqualification.* Any member or employee of the board of ethics shall
29 disqualify himself or herself from participating in any matter before the board in which his or her
30 impartiality might reasonably be questioned, including, but not limited to, instances where he or
31 she has a personal bias or prejudice concerning a party or personal knowledge of or involvement
32 in disputed evidentiary facts concerning the matter. In the event that an employee of the board of
33 ethics receives a request for an advisory opinion, a request for a waiver or an inquiry from which
34 the employee is disqualified, and the employee has recused himself or herself, the board shall
35 request a designee of the city attorney or a member of the board to perform all functions the
36 employee would otherwise perform.

37
38 **Section 3.** Section 2-60 of Chapter 2, Article VII of the Revised Municipal Code, is hereby
39 amended by adding the language underlined, as follows:

40
41 **Sec. 2-60. Gifts to officers, officials, and employees.**

42
43 The purpose of this section is to avoid special influence by those who give gifts to city officers,
44 employees or officials.

45
46 (a) Except when acceptance is permitted by paragraph (b) below, it shall be a violation
47 of this code of ethics for any officers, officials, or employees, any member of their immediate
48 families to solicit or to accept any of the following items if (1) the officer, official, or employee is in
49 a position to take direct official action with regard to the donor; and (2) the city has an existing,

1 ongoing, or pending contract, business, or regulatory relationship with the donor:

- 2
- 3 (1) Any money, property, service, or thing of value that is given to a person without
- 4 adequate and lawful compensation;
- 5
- 6 (2) Any honoraria or payment for participation in an event;
- 7
- 8 (3) Any loan of goods, equipment, or other items that is not available to the general
- 9 public on the same terms and conditions;
- 10
- 11 (4) Any loan of money that is not available to the general public at the same interest
- 12 rate and the same conditions;
- 13
- 14 (5) Any meal at or ticket to a sporting, recreational, or cultural event except as
- 15 provided for in subsection (b)(4) of this section;
- 16
- 17 (6) Travel expenses and lodging;
- 18
- 19 (7) Any reduction in price or any discount that is not similarly available to all city
- 20 officers, officials, and employees on the same terms; and
- 21
- 22 (8) Parking passes except as provided for in subsection (b)(4) of this section.
- 23

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

28

29 (b) Officers, officials, and employees and the members of their immediate family may
30 accept the following even if the officer, official, or employee is in a position to take direct official
31 action with regard to the donor, or, if the donor is a lobbyist or representative, the donor's client:

- 32
- 33 (1) Gifts from other officers, officials, or employees and their family members on
- 34 appropriate occasions;
- 35
- 36 (2) Campaign contributions as permitted by law;
- 37
- 38 (3) Nonpecuniary awards that are publicly presented by an organization in recognition
- 39 of public service if the award is not extraordinary when viewed in light of the
- 40 position held by the recipient;
- 41
- 42 (4) The donation of meals, tickets to events for which admission is charged, or free or
- 43 reduced price admission to events for which a fee is charged, but only under the
- 44 following conditions:
- 45
- 46 a. No more than a total of four meals, tickets, or free or reduced price
- 47 admissions may be accepted from the same donor in any calendar year,
- 48 regardless of the value;
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- 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 **or accept** donations to the city or to solicit, **accept**, 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.

1
2 (d) It shall not be a violation of this article for a member of an officer's, official's or
3 employee's immediate family to accept a gift which arises from an independent relationship of an
4 adult member, if:

5
6 (1) The officer, official or employee does not use the gift; and

7
8 (2) It cannot reasonably be inferred that the gift was intended to influence the officer,
9 official, or employee in the performance of his or her duties.
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11 **Section 4.** Section 2-65 of Chapter 2, Article VII of the Revised Municipal Code, is hereby
12 amended by adding the language underlined, as follows:

13
14 **Sec. 2-65. Employee training.**

15
16 (a) The board of ethics shall prepare, distribute **and periodically update** an employee
17 handbook on this code of ethics, after obtaining the city attorney's review. In addition to the
18 updates, the board may disseminate any change in policy that results from a finding of the board
19 if it applies to other city employees.
20

21 (b) Every appointing authority shall give a copy or electronic version **of the handbook**
22 **and any updates** to each employee and shall provide training to employees regarding the code
23 of ethics.
24

25 **Section 5.** Section 2-66 of Chapter 2, Article VII of the Revised Municipal Code, is hereby
26 amended by adding the language underlined, as follows:

27 **Sec. 2-66. Annual reporting.**

28
29 (a) By February 15 of each year, the board of ethics shall submit an annual report to
30 the mayor and council summarizing its activities during the previous calendar year. The report
31 shall include any recommendations for modifying the code of ethics.
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33
34 (b) **In order to prepare its annual report and develop training, the board of ethics**
35 **may contact other City departments and officials to obtain follow up information on any**
36 **discipline imposed as a result of ethics violations, including discipline imposed as a**
37 **result of opinions or recommendations issued by the board of ethics. Disciplinary actions**
38 **which are not a matter of public record shall be kept confidential and shall be used only**
39 **for internal purposes, such as for education and training of city personnel.**
40

41 (c) **Other City departments and officials shall cooperate with and provide**
42 **necessary information to the board of ethics in the preparation of its annual report.**
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1 COMMITTEE APPROVAL DATE: _____, 2012

2 MAYOR-COUNCIL DATE: _____, 2012

3 PASSED BY THE COUNCIL _____ 2012

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2012

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2012 _____ 2012

10 PREPARED BY: Helen Eckardt Berkman, Assistant City Attorney, October 2, 2012

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance.

14

15 Douglas J. Friednash, City Attorney

16

17 BY: _____, Assistant City Attorney DATE: _____, 2012