Chapter 2.78

CODE OF ETHICS AND CONDUCT

Sections:

2.78.010 Establishment of the Code of Ethics and Conduct.
2.78.020 Purpose.
2.78.030 Scope.
2.78.040 Implementation.
2.78.050 Core Values.
2.78.060 Prohibited Conduct.
2.78.070 Complaint Procedures.
2.78.080 Hearing Procedures.
2.78.090 Appeal Procedures.
2.78.100 Enforcement and Sanctions.
2.78.110 Monitoring and Oversight.
2.78.120 Severability.

Section 2.78.010 Establishment of the Code of Ethics and Conduct.

Pursuant to Article 11, sections 5(a) and 7 of the California Constitution and Sections 200 and 202 of The Charter of the City of Riverside, there is hereby established by the City Council of the City of Riverside a Code of Ethics and Conduct for the Mayor, members of the City Council, and all members of appointed boards, commissions and committees which shall assure public confidence in the integrity of local government and its effective and fair operation. (Ord. 7328 § 3, 2016)

Section 2.78.020 Purpose.

The purpose of this Code of Ethics and Conduct is to achieve fair, ethical, and accountable local government for the City of Riverside. The people of the City of Riverside expect their public officials to comply with both the letter and the spirit of the laws of the United States of America, the State of California, the Charter of the City of Riverside, the Riverside Municipal Code, and established policies of the City of Riverside affecting the operations of local government. In addition, public officials are expected to comply with the provisions of this Code of Ethics and Conduct established pursuant to the expressed will of the people. All persons covered by this Code of Ethics and Conduct shall aspire to meet the highest ethical standards in the conduct of their responsibility as a public official of the City of Riverside.

This Code of Ethics and Conduct is divided into two areas: Core Values and Prohibited Conduct. The Core Values are intended to provide a set of principles from which public officials of the City of Riverside can draw upon to assist them in conducting the public's business. As such, the Core Values are directory in nature and not subject to the complaint procedures set forth herein. The Prohibited Conduct are actions that public officials of the City of Riverside shall not engage in, and, as such, are subject to the complaint procedures set forth herein. (Ord. 7328 § 3, 2016)

Section 2.78.030 Scope.

The provisions of this chapter shall apply to the Mayor, members of the City Council, and to all members of the boards, commissions, and committees appointed by the City Council, the Mayor, or the Mayor and City Council, including any *ad hoc* committees (collectively referred to herein as "public officials.") The provisions of this chapter shall also apply to all members of

committees appointed by individual members of the City Council, Mayor, the City Manager or by Department Heads.

Further, the provisions of this chapter shall apply to the Mayor and Members of the City Council at all times during their term of office as elected officials of the City of Riverside. However, the provisions of this chapter shall apply to all members of the boards, commissions, and committees only while they are acting in their official capacities or affecting the discharge of their duties. (Ord. 7328 § 3, 2016)

Section 2.78.040 Implementation.

To achieve the objectives of this chapter, the following mechanisms shall be followed.

A. All public officials upon election or re-election, appointment or re-appointment, shall be given a copy of this chapter and required to affirm in writing that they have received a copy of this chapter and understand its provisions.

B. Within ninety (90) days of taking office, all new public officials shall be provided a training session which shall clarify the provisions and application of this chapter. These sessions shall be coordinated by the City Clerk with assistance from the City Manager and City Attorney.

C. The City Attorney, or his or her designee, shall serve as a resource to those persons covered by this chapter to assist them in understanding and abiding by the provisions therein. Use of outside legal counsel in lieu of the City Attorney to advise the Board of Ethics and its hearing panels on specific matters shall be at the discretion of the Board of Ethics. If outside legal counsel is so desired, the City Attorney shall contract with the appropriate party(ies).

D. All bodies whose members are covered by this chapter shall adopt rules of procedure which include the provisions of this chapter.

E. The chair of each board, commission or committee covered by this chapter is responsible to provide appropriate guidance to members of their respective bodies and, if need be, communicate concerns to the Board of Ethics. (Ord. 7328 § 3, 2016)

Section 2.78.050 Core Values.

The people of the City of Riverside share a set of core values that constitute the guiding principles for the establishment of this chapter. These core values are expressed in the following aspirations:

A. <u>To strive to create a government that is trusted by everyone</u>.

The public officials of the City of Riverside shall aspire to operate the City government and exercise their responsibilities in a manner which creates trust in their decisions and the manner of delivery of programs through the local government. The public officials shall aspire to create a transparent decision making process by providing easy access to all public information about actual or potential conflicts between their private interests and their public responsibilities. The public officials shall aspire to make themselves available to the people of the city to hear and understand their concerns. They shall aspire to make every effort to ensure that they have accurate information to guide their decisions and to share all public information with the community to ensure the community understands the basis of the officials' decisions.

B. <u>To strive to make decisions that are unbiased, fair, and honest</u>.

The public officials of the City of Riverside shall aspire to ensure that their decisions are unbiased, fair, and honest. They shall strive to avoid participation in all decisions which create a real or perceived conflict of interest and to disclose any personal interest that could be perceived to be in conflict with the fair and impartial exercise of their responsibilities.

C. <u>To strive to ensure that everyone is treated with respect and in a just and fair manner</u>.

The public officials of the City of Riverside have a responsibility to make extraordinary attempts to treat all people in a manner which would be considered just and fair. They shall strive to value and encourage input from members of the community and encourage open and

free discussion of public issues. They shall strive to have all persons treated with respect as they come before the body on which they serve. They shall aspire to create an atmosphere of genuine interest in the point of view expressed by members of the community even if it differs from their own.

D. To strive to create a community that affirms the value of diversity.

The public officials of the City of Riverside shall aspire to recognize and affirm the value of all persons, families, and communities within the City of Riverside. They will encourage full participation of all persons and groups, be aware and observe important celebrations and events which reflect the values of the City's diverse population, and provide assistance for those who find it difficult to participate due to language barriers or disabilities.

E. To strive to ensure that all public decisions are well informed, independent, and in the best interests of the City of Riverside.

The public officials of the City of Riverside will encourage and support research and information gathering from verifiable sources. They will seek to ensure that information provided by the City Government to the public is accurate and clear. They will ensure that all information utilized in the decision making process, except that which by law is confidential, will be shared with the public.

F. To strive to maintain a nonpartisan and civic minded local government.

The public officials of the City of Riverside shall affirm the value of a nonpartisan council-manager form of government.

G. To strive to ensure that all public officials are adequately prepared for the duties of their office.

The public officials of the City of Riverside shall commit to participation in all orientation and training sessions which are presented to ensure full preparation for the exercise of their public duties.

H. To strive to ensure that appointed members of boards, commissions and committees attend regularly scheduled meetings.

Appointed members of boards, commissions and committees of the City of Riverside shall make a diligent effort to attend all regularly scheduled meetings of their respective board, commission or committee. (Ord. 7328 § 3, 2016)

Section 2.78.060 Prohibited Conduct.

The following conduct is prohibited and shall be subject to the complaint procedures established in this chapter. It shall be deemed unethical for any public official to engage in one or more of the following prohibited actions:

A. Use of Official Title or Position for Personal Gain Prohibited.

Public officials of the City of Riverside shall not use their official title or position for personal gain. Personal gain includes, but is not limited to, situations wherein a public official solicits or accepts items of value in consideration of their official title or position. This does not include obtaining benefits that are otherwise permitted or authorized by law. Therefore, acceptance of gifts shall otherwise be consistent with the requirements and limitations allowable by law. Public officials shall refrain from the following: (a) accepting gifts or favors that may compromise independent judgment or give the appearance of compromised judgment; (b) using official title for matters other than the official conduct of their office; and (c) engaging in decisions which would affect the level of compensation received for service except as otherwise required or allowed by law.

B. Use or Divulgence of Confidential or Privileged Information Prohibited.

Public officials of the City of Riverside shall not use or divulge confidential or privileged information obtained in the course of their official duties for their own personal gain, financial or otherwise, or for the gain of others, in a manner contrary to the public interest or in violation of any law.

C. Use of City Resources for Non-City Purposes Prohibited.

Public officials of the City of Riverside shall not use or permit the use of City resources including, but not limited to, funds, seals or logos, time, personnel, supplies, equipment, identification cards/badges, or facilities for unapproved non-City activities, except when available to the general public, provided for by administrative rules, regulations, or policies, or approved by a majority of the City Council.

D. Advocacy of Private Interests of Third Parties in Certain Circumstances Prohibited.

No elected official of the City of Riverside shall appear on behalf of the private interests of third parties before the City Council; nor shall any appointed member of a board, commission or committee of the City of Riverside appear before their own body on behalf of the private interests of third parties, except for limited exceptions as provided for in the California Fair Political Practices Commission Regulations or otherwise by law.

E. Endorsements for Compensation Prohibited.

No public official of the City of Riverside shall endorse or recommend, for compensation, any commercial product or service in the name of the City or in their official capacity within the jurisdictional boundaries of the City without prior approval of a City Council policy.

F. Violation of Government Code Sections 87100 *et seq*., Prohibited.

No public official of the City of Riverside shall violate Government Code Sections 87100, *et seq*., or any of its related or successor statutes, from time to time amended, regulating financial interests and governmental decisions made by public officials. If an ethics complaint is filed alleging a violation of this subsection, the City recognizes that the Fair Political Practices Commission (FPPC) is the primary enforcement authority of the Political Reform Act and that its decisions should be given great weight. As such, if a complaint is pending before the FPPC raising the same or similar violations based upon the same or similar facts, then the Board of Ethics may defer action on such allegation until completion of the FPPC action. If a complaint has not been filed with the FPPC raising the same or similar violations based upon the same or similar facts, then the hearing panel of the Board of Ethics, upon a four-fifths (4/5) vote, may file a complaint with the FPPC and defer action on a complaint filed pursuant to this chapter until a final action by the FPPC. A ruling on the merits by the FPPC may be accepted by the Board of Ethics as a finding on the ethics complaint filed with the City.

G. Certain Political Activity Prohibited.

No public official of the City of Riverside shall coerce, or attempt to coerce, any of their subordinates or any other City employee to participate in an election campaign, contribute to a candidate or political committee, engage in any other political activity relating to a particular party, candidate, or issue, or to refrain from engaging in any lawful political activity. A general statement encouraging another person to vote does not violate this provision.

H. Display of Campaign Materials in or on City Vehicles Prohibited.

No public official of the City of Riverside shall display campaign materials in or on any City-owned or provided vehicle under their control or operated by that official. In addition, no public official shall transport, store, or otherwise have any campaign materials located within any City-owned or provided vehicle under their control or operated by that official. Campaign materials include, but are not limited to, bumper stickers, signs, brochures, informational documents, buttons or other similar items.

I. Knowingly Assisting Another Public Official in Violating This Code of Ethics and Conduct Prohibited.

No public official of the City of Riverside shall knowingly assist another public official in violating the Prohibited Conduct section of this chapter, nor shall they engage any other person to assist them in any conduct that would constitute a violation of the Prohibited Conduct section of this chapter.

J. Negotiation for Employment with Any Party Having a Matter Pending Prohibited.

No public official of the City of Riverside shall negotiate for employment with any third

party at the same time that third party has a matter pending before the City Council, boards, commissions, committees, or City departments and upon which the public official must act or make a recommendation.

K. Ex Parte Contact in Quasi-Judicial Matters Prohibited.

No appointed official of the City of Riverside shall contact any elected official on any matter of a quasi-judicial nature before the City Council in which the appointed official participated. A quasi-judicial matter is any proceeding which may affect the legal rights, duties or privileges of any party to the proceeding and requires the public official to objectively determine facts and draw conclusions from those facts as the basis of an official action.

L. Attempts to Coerce Official Duties Prohibited.

No elected official of the City of Riverside shall coerce, or attempt to coerce, any other public official in the performance of their official duties.

M. Violations of Federal, State, or Local Law Prohibited.

No public official of the City of Riverside shall violate the Charter of the City of Riverside, the Riverside Municipal Code, and any established policies of the City of Riverside affecting the operations of local government, or any state or federal law pertaining to the office which they hold. (Ord. 7328 § 3, 2016)

Section 2.78.070 Complaint Procedures.

A. Only alleged violations of the Prohibited Conduct section of this chapter shall be grounds for a complaint against any public official pursuant to this chapter.

B. Complaints shall be submitted on forms available from the City Clerk.

C. Complaints and all required information and tangible evidence shall be filed with the City Clerk.

D. Complaints shall include, but not be limited to, all of the following:

1. Name, address, telephone number and email address, if available, of the complainant;
2. Name and position of the public official against whom the complaint is made;
3. Date of the alleged violation;
4. The date the complainant became aware of the alleged violation;
5. The specific provision of the Prohibited Conduct section of this chapter alleged to be violated;
6. Description of the specific facts of the alleged violation;
7. The names, addresses, telephone numbers and email addresses, if known, of each person the complainant intends to call as a witness at the hearing;
8. Copies of any and all documents, photographs, recordings or other tangible materials to be introduced and considered at the hearing; and
9. Signed under penalty of perjury of the laws of the State of California.

E. Complaints shall be filed with the City Clerk within 180 calendar days of discovery of an alleged violation of this chapter, but in no event shall the complaint be filed later than three (3) years from the date of the alleged violation. Discovery is defined as when the complainant knew or reasonably should have known of the alleged violation through the exercise of reasonable diligence.

F. Upon filing of the complaint the City Clerk shall review the complaint for completeness only. If the complaint is deemed incomplete the City Clerk shall notify the complainant in writing within ten (10) City business days as to the deficiencies. A complaint shall not be deemed filed until the City Clerk accepts it as complete.

G. Within ten (10) City business days of the City Clerk deeming the complaint complete, the City Clerk shall set the matter for hearing before a hearing panel of the Board of Ethics and notify in writing the complainant and the public official against whom the complaint is filed of the date, time, and location of the hearing. The hearing date shall be within forty-five (45) calendar

days of the complaint being deemed complete.

H. The City Clerk shall provide a copy of the complaint and all required information and tangible evidence, without charge, to the public official against whom the complaint is made within ten (10) City business days after the complaint is deemed complete.

I. The public official against whom the complaint is made shall file the following with the City Clerk no later than twenty (20) calendar days prior to the date set for the hearing:

1. A written reply to the complaint;
2. Copies of any and all documents, photographs, recordings or other tangible materials to be introduced and considered at the hearing; and
3. The names, addresses, telephone numbers and email addresses, if known, of any person the public official intends to call as a witness at the hearing.

J. The City Clerk shall provide a copy of the written reply and all required information and tangible evidence, without charge, to the complainant no later than ten (10) City business days after receipt of the foregoing from the public official against whom the complaint is made. (Ord. 7328 § 3, 2016)

Section 2.78.080 Hearing Procedures.

A. The Board of Ethics shall have the authority to adopt hearing procedures not in conflict with this chapter. In addition to any hearing procedures adopted by the Board of Ethics, the following hearing procedures shall also apply.

B. The preliminary review and hearing on the merits are not formal judicial proceedings. The technical rules of evidence do not apply.

C. The Chair of the hearing panel of the Board of Ethics shall preside over the hearing.

D. No witnesses, documents, photographs, recordings or other tangible materials, other than those submitted with the complaint or reply, shall be introduced at the hearing or considered by the hearing panel. However, witnesses, documents, photographs, recordings and other tangible evidence may be introduced and considered upon a finding by a majority of the hearing panel that the discovery of such evidence came to the awareness of the proponent after the filing of the complaint or reply and that the proponent disclosed such information to the City Clerk as soon as practicable after becoming aware of its existence. Any witnesses, documents, photographs, recordings and other tangible evidence subpoenaed by the hearing panel shall also be introduced and considered.

E. Prior to the commencement of the hearing, either party may ask the City Clerk for a continuance of the hearing on either of the following grounds:

1. The unavailability of the party at the hearing due to illness or other reason acceptable to the City Clerk; or
2. The unavailability of a witness identified in the complaint or reply;

F. Only one (1) continuance of the hearing shall be granted by the City Clerk to each party. If a continuance is granted, the City Clerk shall give written notice to all parties of the new hearing date, time, and location within ten (10) City business days of the granting of the continuance.

G. The hearing panel of the Board of Ethics shall conduct a preliminary review of the complaint to determine if it complies with all of the following to establish jurisdiction of the Board of Ethics:

1. The Complaint Procedures section of this chapter have been followed;
2. The complaint is against a public official set forth in the Scope section of this chapter;
3. The complaint alleges a violation of one or more of the provisions of the Prohibited Conduct section of this chapter; and
4. The complaint does not restate allegations of violations that were the subject of a previous complaint.

H. If a majority of the hearing panel of the Board of Ethics determines that the complaint does not comply with all of the provisions of subsection E above, the Chair shall state the findings of deficiency on the record and shall call for a vote of the hearing panel to dismiss the complaint without a hearing. A roll call vote of the hearing panel shall be taken by the City Clerk who will record the vote of each member of the hearing panel. If a majority of the hearing panel determines that the complaint complies with all of the provisions of subsection E above, then a hearing on the merits of the complaint shall proceed.

I. The complainant shall have the burden of proof by a preponderance of the evidence to establish a violation of the Prohibited Conduct section of this chapter. Preponderance of evidence means evidence that is more convincing and, therefore, more probable in truth and accuracy. The complainant shall proceed first. The complainant may, but is not required to, make an opening and closing statement, examine and cross-examine witnesses, reference particular tangible evidence submitted with the complaint or reply, and introduce rebuttal evidence. The complainant shall have a maximum of fifteen (15) minutes to make both an opening and closing statement, if desired. The apportionment of the maximum total time of fifteen (15) minutes shall be at the sole discretion of the complainant.

J. The public official shall proceed second. The public official may, but is not required to make an opening and closing statement, examine and cross-examine witnesses, reference particular tangible evidence submitted with the complaint or reply, and introduce rebuttal evidence. The public official shall have a maximum of fifteen (15) minutes to make both an opening and closing statement, if desired. The apportionment of the maximum total time of fifteen (15) minutes shall be at the sole discretion of the public official.

K. During the hearing, any member of the hearing panel of the Board of Ethics may ask questions of the parties or witnesses.

L. Upon the conclusion of evidence presented by the parties, the Chair shall facilitate verbal deliberations by the hearing panel.

M. All findings shall be by a majority vote of the hearing panel and recorded by the City Clerk.

N. Within five (5) City business days following the hearing, the City Clerk shall notify all parties in writing of the decision of the hearing panel and the appeal procedures.

O. No member of the Board of Ethics who is either the complainant, or the subject of a complaint filed pursuant to this chapter, shall sit as a member of the hearing panel considering such complaint and must recuse himself or herself as a member of that panel.

P. Neither the complainant, nor the public official against whom a complaint is filed pursuant to this chapter, shall be represented at the hearing by an attorney. Although an attorney may be present and consulted at the hearing, the attorney shall not address the hearing panel or participate in any aspect of the hearing. (Ord. 7328 § 3, 2016)

Section 2.78.090 Appeal Procedures.

A. A decision by the hearing panel finding a violation of the Prohibited Conduct section of this chapter shall be automatically appealed to the City Council. The City Clerk shall place the appeal on the agenda of a regular meeting of the City Council within thirty (30) calendar days of the hearing by the hearing panel and shall notify the parties in writing of the hearing date.

B. A decision by the hearing panel of the Board of Ethics not finding a violation of the Prohibited Conduct section of this chapter may be appealed to the City Council by either party. The appeal shall be taken by filing a written notice of appeal with the City Clerk within ten (10) City business days following the date of the hearing by the hearing panel. The notice of appeal shall be in writing on a form provided by the City Clerk. The City Clerk shall place the appeal on the agenda for a regular meeting of the City Council within thirty (30) calendar days of the filing of the notice of appeal. The City Clerk shall notify the parties in writing of the hearing date.

C. If there is no appeal of the decision by the hearing panel, then the decision of the

hearing panel shall become final and there shall be no further right to appeal.

D. The record on appeal shall consist of a transcript of the hearing before the hearing panel, as well as all tangible evidence and testimony considered at the hearing. No new evidence will be received or considered by the City Council at the hearing on the appeal.

E. The City Council shall review the record of the hearing to determine whether the hearing panel committed a clear error or an abuse of discretion based upon the record. If no such finding is made by a majority of the City Council, then the City Council shall adopt the decision of the hearing panel as the findings of the City Council on appeal. If there is a finding by the City Council of a clear error or an abuse of discretion by the hearing panel, then that finding shall be clearly stated and the matter shall be referred back to the Board of Ethics for a *de novo* (new) re-hearing of the matter in light of the findings on appeal.

F. If the City Council finds there is a violation of the Prohibited Conduct section of this chapter, then the City Council may determine sanctions in accordance with the Enforcement and Sanctions section of this chapter.

G. The City Clerk shall notify both parties in writing of the findings and determination of the City Council on the appeal. The findings and determination of the City Council is final and there is no further right to appeal.

H. Complaints, replies, supporting documentation, transcripts of hearings, notices of appeal, and all decisions thereon shall be public records and retained by the City Clerk for a period of at least two (2) years.

I. No elected official who is either the complainant, or the subject of a complaint, filed pursuant to this chapter shall participate in the appeal of a decision of the hearing panel considering such complaint and must recuse himself or herself from participation. (Ord. 7328 § 3, 2016)

Section 2.78.100 Enforcement and Sanctions.

Upon a finding by a majority of the City Council that any public official violated any provision of the Prohibited Conduct section of this chapter, the City Council may impose any of the following sanctions:

A. <u>Elected Officials</u>.

1. Public censure.

B. <u>Appointed Officials of Boards, Commissions and Committees</u>.

1. Referral to the Board, Commission or Committee of which the appointed official is a member for public censure;
2. Public censure by the Mayor and City Council; or
3. Removal from office by a majority of the Mayor and City Council.

C. No public official who is either the complainant, or the subject of a complaint, filed pursuant to this chapter shall participate in any deliberations or decision concerning any sanctions to be imposed pursuant to such complaint. (Ord. 7328 § 3, 2016)

Section 2.78.110 Monitoring and Oversight.

A. Prior to the end of July of each year, the boards and commissions shall agendize and discuss at a regular meeting this Code of Ethics and Conduct and submit to the Board of Ethics any recommendations for the Board's consideration.

B. Prior to the end of August of each year, the Board of Ethics shall agendize and discuss at a regular meeting the effectiveness of this Code of Ethics and Conduct, recommendations of the other boards and commissions, and submit to the Governmental Affairs Committee its recommendations.

C. Prior to the end of September of each year, the Governmental Affairs Committee shall agendize and discuss at a regular meeting the effectiveness of this Code of Ethics and Conduct and the recommendations of the Board of Ethics and other boards and commissions, and

instruct the City Manager to present a report to the City Council for its discussion and consideration.

D. Prior to the end of each year, the City Manager shall present a report to the City Council which shall include the recommendations of the Board of Ethics, the other boards and commissions, and the Governmental Affairs Committee. The City Council shall hold a public hearing on its evening agenda at a regularly scheduled meeting, and shall review the report and make an independent evaluation of the effectiveness of this chapter and discuss and direct the City Manager to make any changes to this chapter it deems appropriate. (Ord. 7328 § 3, 2016)

Section 2.78.120 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective. (Ord. 7328 § 3, 2016)