

RESOLUTION NO. 257-07

**A RESOLUTION APPROVING THE RULES OF
PROCEDURE AS ADOPTED BY THE INDEPENDENT
ETHICS COMMISSION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The Independent Ethics Commission was created by Ordinance No. 07-59 on March 27, 2007. Paragraph J of Section 1.3.103 of the ordinance requires the Commission to promulgate Rules of Procedure to be approved by City Council.

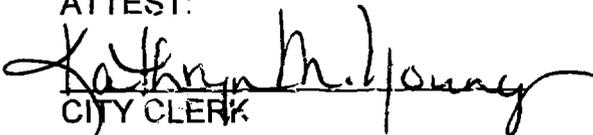
Section 2. The Independent Ethics Commission adopted its Rules of Procedure at its meeting of November 15, 2007, a copy of which is attached hereto as Exhibit A.

Section 3: The City Council finds that these Rules of Procedure as adopted by the Independent Ethics Commission are consistent with the Rules and Procedures of City Council, and properly implements the City Code of Ethics, (City Code §1.3.101 *et. seq*) and therefore does hereby approve these Rules of Procedure as presented.

Dated at Colorado Springs, Colorado, this 11th day of December, 2007.



MAYOR

ATTEST:

CITY CLERK

**Independent Ethics Commission
Rules of Procedure**

1.0 Introduction

These Rules of Procedure are promulgated pursuant to Section 1.3.103J of the Code of the City of Colorado Springs 2001, as amended. They are intended to set forth the procedures to be followed in proceedings before the Independent Ethics Commission pursuant to the City of Colorado Springs Code of Ethics, Sections 1.3.101 through 1.3.108 of the Code of the City of Colorado Springs 2001, as amended.

2.0 Definitions

- 2.1 Adoption by Reference. These Rules adopt by reference the definitions as set forth in Section 1.3.102 of the Code of Ethics.
- 2.2 City Code. The Code of the City of Colorado Springs 2001, as amended.
- 2.3 Code of Ethics. The City of Colorado Springs Code of Ethics, Sections 1.3.101 through 1.3.108 of the City Code.
- 2.4 Commission. The Independent Ethics Commission as created by Section 1.3.103 of the City Code and appointed by City Council .
- 2.5 Rules. The Rules of Procedure as promulgated by the Independent Ethics Commission and approved by the Colorado Springs City Council pursuant to Section 1.3.103J of the City Code.

3.0 Chair

- 3.1 The Commission shall choose from its own membership a Chair who shall serve at the Commission's pleasure. The Chair, subject to the direction of the Commission, shall have such general authority and responsibility in the administration of these Rules as shall not be inconsistent with the powers granted to the Commission by the Code of Ethics.
- 3.2 In the absence of the Chair the Commission member with the longest term shall act as Chair.

4.0 Secretary

Pursuant to Section 1.3.103G the City Attorney or a designee of the City Attorney, in addition to serving as the legal advisor to the Commission, is the Commission's chief liaison. In such role

the City Attorney shall provide a staff member to serve as Secretary to the Commission, to perform such duties as these Rules or the Commission may assign.

5.0 Meetings

- 5.1** All meetings of the Commission shall be held in the Office of the City Attorney unless other arrangements suitable to the Commission are made. The presence of two members of the Commission shall constitute a quorum.
- 5.2** The Commission shall meet for the purpose of either considering an inquiry for consideration or investigating a written complaint as set forth in Section 1.3.103K of the City Code. The procedures shall be as set forth in Rules 6, 7 and 8.
- 5.3** Additionally, there shall be an annual meeting of the Commission to elect a Chair and to review the Code of Ethics and these Rules to determine whether any changes should be recommended to City Council. The annual meeting shall be held in September or as soon thereafter as practicable.
- 5.4** Written minutes of Commission meetings shall be prepared and maintained by the Secretary.
- 5.5** Meetings shall be scheduled as needed either by the Chair or by majority vote of the Commission. At least five days' notice of such meetings shall be given Commission members.

6.0 General Inquiries

- 6.1** Pursuant to Section 1.3.103K of the City Code, any person may file an inquiry for consideration by the Commission regarding a matter involving an elected official, an appointee, or an independent contractor. The inquiry for consideration must be in writing and must set forth with specificity the facts underlying the inquiry. The Commission shall consider only inquiries involving matters occurring within twelve months previous to the date of the inquiry.
- 6.2** Inquiries for consideration shall be filed through the City Attorney. Upon receiving the inquiry the City Attorney shall notify each member of the Commission and shall forward to each member a copy of the inquiry. The Chair shall then schedule a meeting as soon as practicable to consider the inquiry.
- 6.3** At the meeting the Commission shall discuss the inquiry for consideration

with a view to determining a response. Should a majority of the Commission determine that the inquiry involves a matter that occurred more than twelve months prior to the date of the inquiry or that the inquiry involves an individual other than an elected official, an appointee, or an independent contractor, no further action shall be taken. Additionally, should a majority of the Commission deem the inquiry to be frivolous no further action shall be taken. The City Attorney in writing shall inform the individual submitting the inquiry of the Commission's determination.

- 6.4 The Commission by majority vote shall determine the nature of the response to be provided to the individual submitting the inquiry for consideration. The City Attorney shall draft the response for review by the Commission. Upon approval by the Commission the written response shall be provided to the person submitting the inquiry.
- 6.5 In its discretion the Commission may treat an inquiry for consideration as a formal complaint. In such case the procedures set forth in Rules 7.0 and 8.0 shall apply.

7.0 Formal Complaints; Initial Review

- 7.1 Pursuant to Section 1.3.103K of the City Code any person may file a written complaint for consideration by the Commission regarding a matter involving an elected official, an appointee, or an independent contractor. The written complaint must set forth with specificity the facts underlying the complaint. The Commission shall consider only complaints involving matters occurring within twelve months previous to the date of the complaint.
- 7.2 Written complaints shall be filed confidentially through the City Attorney. Upon receiving the complaint the City Attorney shall notify each member of the Commission and shall forward to each member a copy of the complaint. The Chair shall then schedule a meeting as soon as practicable to conduct an initial review of the complaint. Additionally, the City Attorney shall notify the individual who is the subject of the complaint and shall forward a copy of the complaint to that individual.
- 7.3 The Commission shall conduct an initial review of the complaint. Should a majority of the Commission determine that the complaint involves a matter that occurred more than twelve months prior to the date of the complaint or that it involves an individual other than an elected official, an appointee, or an independent contractor, the Commission shall take no further action on the complaint. Additionally, should a majority of the Commission deem the complaint to be frivolous no further action shall be taken. The City Attorney

in writing shall inform the individual submitting the complaint as well as the individual who is the subject of the complaint of the Commission's determination.

8.0 Formal Complaints; Investigation Procedure

- 8.1** If a majority of the Commission determines it has jurisdiction over the complaint and that the complaint is non-frivolous, the Commission shall determine the procedure to be used in the investigation of the complaint and shall provide the parties with written notice of the procedure to be followed. The Commission shall then conduct its investigation according to that procedure.
- 8.2** The Commission on its own motion or upon the request of any party to the complaint may issue subpoenas for the production of documents or the attendance of witnesses for presentation to the Commission. The City Attorney shall prepare all such subpoenas and shall ensure that the subpoenas are properly served. All requests for subpoenas shall be submitted to the Commission through the City Attorney. Failure to honor a subpoena shall be punishable as provided by law.
- 8.3** Formal rules of evidence shall not apply to the investigation. A record of the investigation shall be made and maintained in the Office of the City Attorney for a reasonable period of time but in no event less than 60 days after the conclusion of the investigation. Any documentary evidence received in the investigation shall also be maintained in the Office of the City Attorney for a minimum of 60 days.
- 8.4** No later than ten days after the conclusion of the investigation the Commission shall deliberate to review the evidence and to determine whether the evidence presented establishes by a preponderance of the evidence a violation of the Code of Ethics. Only members of the Commission who participated in the investigation shall participate in the deliberations. Any determination by the Commission must be by a majority of its members who participated in the investigation.
- 8.5** Within ten days of its deliberations the Commission shall issue a confidential written recommendation to the City Council containing findings of fact and conclusions of law. Such confidential recommendation shall contain the Commission's determination as to whether the evidence produced during the investigation supported a finding that a violation of the Code of Ethics occurred. The City Attorney shall promptly forward the Commission's recommendation to the City Council.



CITY OF COLORADO SPRINGS

OFFICE OF THE CITY ATTORNEY

3-B-5
257-07

MEMORANDUM

TO: City Council
FROM: City Attorney/Chief Legal Officer *PAK*
SUBJECT: Independent Ethics Commission Rules of Procedure
DATE: November 28, 2007

SUMMARY

The Independent Ethics Commission (IEC) was created pursuant to the City of Colorado Springs Code of Ethics enacted by City Council in March 2007. The stated purpose of the IEC is to render recommendations and advisory opinions on ethical issues. Additionally, the IEC is charged with responding to inquiries for consideration and investigating written complaints concerning matters that involve an elected official, an appointee including members of boards, committees and commissions appointed by City Council or the Mayor, or independent contractors. Pursuant to the Code of Ethics the IEC is required to promulgate its Rules of Procedure to be approved by City Council.

PREVIOUS COUNCIL ACTION

City Council on March 27, 2007 approved on first reading the City of Colorado Springs Code of Ethics, Ordinance No. 07-59. The Code of Ethics was approved by City Council on second reading on April 10, 2007. City Council appointed three members to the IEC on July 24, 2007.

BACKGROUND

Paragraph J of Section 1.3.103 of the City of Colorado Springs Code of Ethics requires the IEC to promulgate its own Rules of Procedure to be approved by City Council. The proposed IEC Rules of Procedure are intended to set forth the procedures to be followed by the IEC in responding to inquiries for consideration and in investigating written complaints for consideration.

FINANCIAL IMPLICATIONS

None.

STAKEHOLDERS PROCESS

The Independent Ethics Commission and the City Attorney have worked together in drafting the Rules of Procedure. The final draft of the Rules of Procedure were approved by the IEC at a meeting conducted on November 15, 2007. Prior public notice of that meeting was given.

BOARD/COMMISSION RECOMMENDATION

The Independent Ethics Commission and the City Attorney recommend adoption of the Resolution approving the Rules of Procedure.

ALTERNATIVES

City Council may choose to request amendments to the IEC's Rules of Procedure before approving the Resolution.

PROPOSED MOTION

Move to approve the Independent Ethics Commission Rules of Procedure.

Attachments: Resolution and Exhibit A (IEC Rules of Procedure)