

RAPID CITY CODE OF CONDUCT FOR ELECTED OFFICIALS

In order to maintain excellence in government and to facilitate the efficient provision of services to the public, the City of Rapid City adopts this Code of Conduct for Elected Officials. This Code of Conduct is in addition to all other policies of the City of Rapid City.

I. CODE

- A. The City of Rapid City expects each elected official to demonstrate the highest standards of conduct, personal integrity, and honesty in all of their activities in order to inspire public confidence and trust in elected officials.
- B. The City of Rapid City expects each elected official to undertake their duties in a fair and impartial manner, refraining at all times from discrimination or the dispensation of special privileges.
- C. The City of Rapid City strives to maintain a workplace that facilitates the growth and performance of its employees. To that end, each elected official is charged with the responsibility to insure that the workplace is free from hostility or harassment in any form and that the workplace is conducive to the provision of services in an efficient and effective manner.
- D. The provision of governmental service requires elected officials to interact with the public. Given the unique relationship between the government and its citizens, each elected official is expected to treat members of the public with the respect and courtesy due to citizens from public servants. However, no elected official shall be expected to endure personal hostility or abuse, regardless of the source.

II. COMPLAINTS

Complaints against elected officials shall be made in writing on the form provided by the City Attorney's Office. All information must be completed on the form, or the City Attorney shall reject the complaint. All complaints shall be sworn upon oath or affirmation and filed with the office of the City Attorney. Complaints shall describe in detail the act or acts complained of and the specific section(s) of this Code that have allegedly been violated.

III. CONFIDENTIALITY

- A. All complaints, subsequent filings, investigative reports, and proceedings before the Common Council shall remain confidential unless or until
 - 1. the elected official accused of a violation elects, in writing, to make the complaint public; or
 - 2. the Common Council votes to make the complaint public.

- B. If the Common Council determines that the complainant has violated any confidentiality provisions under this chapter, then the Council may dismiss the complaint.

IV. INITIAL REVIEW

- A. Upon filing, the City Attorney shall review each complaint for compliance with the above requirements. Any complaint that does not meet the requirements of Part II above shall be returned to the complainant with an explanation of any deficiencies.
- B. If a complaint meets the requirements of Part II, the City Attorney shall forward the complaint to all the Aldermen.
- C. The President and Vice President of the Common Council shall review the complaint and direct the City Attorney in one of three ways:
 - 1. The complaint need not be investigated if on its face the complaint
 - a. Is frivolous or lacks a rational basis in fact or law,
 - b. Seeks to punish constitutionally protected conduct, or
 - c. Concerns conduct not related to the office of the elected official;
 - 2. The complaint should be investigated and a report provided to the entire Council pursuant to Parts V & VI ; or
 - 3. The complaint should be brought before the entire Council in executive session for further direction prior to an investigation.

If the President and Vice President cannot come to an agreement on how to proceed with the complaint, the City Attorney will bring it to the entire Council in executive session pursuant to sub-section (3).

- D. The City Attorney shall communicate the direction given by the President and Vice President to the entire City Council.
- E. If the complaint alleges a violation by the Council President or Vice President, they shall not participate in the initial review of the complaint or the decision on how to proceed with the complaint. In a situation where one or both of the Council leaders are unable to participate in the initial review of the complaint, their role shall instead be handled by the most senior committee chair. If both the President and Vice President are alleged to have violated the Code, the initial review of the complaint shall be made by the chairs of the committees. If the committee chairs are unable to participate, the initial review will be conducted by the next most senior person on the City Council who is not alleged to have violated the Code.

V. INVESTIGATION

- A. Upon direction to investigate, the City Attorney's Office, or an independent investigator engaged by the city, shall review the complaint and associated submissions of the complainant. The investigation shall undertake such inquiry as is necessary to determine the truth of the matters set forth in the complaint. It shall encompass all relevant documents, statements, and such other information as the investigator determines appropriate.
- B. The investigator shall submit an unbiased, fact-based investigative report to the Common Council. The report shall include the relevant facts, the investigator's findings related to facts in dispute, and any statutes, regulations, or other laws relevant to the complaint. This report shall remain confidential until it is released by a vote of the City Council, or is presented as part of a public hearing on a complaint.

VI. COUNCIL REVIEW

- A. Once the investigative report is completed, a copy of the report shall be provided to the members of the Common Council. Pursuant to SDCL § 1-25-2(1), the complaint shall be heard initially in executive session. All laws pertaining to executive session shall apply and the Common Council shall not take any action regarding any alleged violation of this Code in executive session.
- B. The Common Council will utilize the executive session to:
 - 1. Become fully informed of the allegations and relevant facts;
 - 2. Discuss whether a violation of this Code occurred;
 - 3. Seek resolution without further action, if appropriate;
 - 4. Discuss the need for, and schedule of, a public hearing for final determination, if necessary; and
 - 5. Discuss appropriate sanctions, if necessary.

VII. COUNCIL ACTION

- A. Under SDCL § 9-8-5, the Common Council is the judge of the qualification of its own members. Any sanction available under state law shall be available to the Common Council in judging its members. The Council, without limiting any other potential sanctions, reserves to itself the following three options:
 - 1. Public reprimand: a public declaration made by resolution of the Common Council announcing that an elected official's conduct was improper and describing the impropriety under this Code.

2. Public censure: an official public condemnation made by resolution of the Common Council denouncing an elected official's conduct as a violation of this Code and the reasons therefore.
 3. Expulsion: the removal of the elected official from office by resolution of the Common Council following a finding that the elected official's conduct in violation of this Code is significant and/or egregious.
- B. Official action by a concurrence of two-thirds of the elected aldermen shall be required for a determination that a violation of this Code has occurred, and likewise, a concurrence of two-thirds of the elected aldermen shall be required in order to impose any sanction against an elected official.
- C. Neither an alleged nor confirmed violation of this Code by itself provides a basis for challenging the validity of any final action, enactment, ordinance, resolution, decision, determination, or recommendation of the Common Council.
- D. The purpose of this Code is to exercise the Common Council's right to govern its members under SDCL § 9-8-5, and not to create rights in any other person or confer upon any other person any benefits, rights, or remedies. Nothing in this Code shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation hereunder.

VIII. RIGHTS OF ACCUSED OFFICIALS

- A. Any elected official accused of a violation of the Code shall be entitled to notice of the complaint at least ten days prior to the scheduled executive session. The elected official shall be notified in writing of the complaint and the scheduled date of the executive session discussion, and shall be provided copies of the materials reviewed by the investigator, along with the investigative report.
1. This provision of notice shall be required, except in cases in which the affected elected official has been accused of criminal wrong doing, or in cases in which notice to the affected elected official would jeopardize an on-going criminal investigation by any local, state, or federal law enforcement agency.
 2. The City Attorney shall make the determination as to whether the above-enumerated notice exception applies, and shall document the file as to the reasons therefore.
 3. In cases of alleged criminal wrong doing or on-going criminal investigation, the subject complaint of violation of this Code shall be suspended until such time as the City Attorney deems the criminal allegation and/or criminal investigation has been resolved, either by prosecution, or a determination that no criminal charges are warranted against the affected elected official.

- B. Any elected official accused of a violation of the Code may be represented by counsel, and his or her counsel shall be allowed in the scheduled executive session. Counsel present under this section is allowed to attend only that portion of executive session where the complaint at issue under this Code is discussed. Counsel under this section means an attorney at law licensed to practice in the State of South Dakota.

- C. Any elected official accused of a violation of the Code may at any time during the process choose to have the matter heard at a public hearing. Election of a public hearing must be made in writing to the City Attorney. The City Attorney will work with the subject of the complaint and Council leadership to schedule the hearing within a reasonable time from the completion of the investigative report and its distribution to the City Council.