

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO. 7403

AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA,
AMENDING CHAPTER 2.78 OF THE RIVERSIDE MUNICIPAL CODE,
CODE OF ETHICS AND CONDUCT

The City Council of the City of Riverside does ordain as follows:

Section 1: PURPOSE. Section 202 of The Charter of the City of Riverside mandates that the City of Riverside shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operation. The City Council adopted Ordinance No. 7328 on April 5, 2016, thereby adopting the Code of Ethics and Conduct, Riverside Municipal Code (RMC) Chapter 2.78. The City Council now desires to amend the Code of Ethics and Conduct by ordinance.

Section 2: AUTHORITY. This ordinance is adopted 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.

Section 3: RMC Chapter 2.78 is hereby amended as follows:

Section 2.78.060 is amended to read "The following conduct is prohibited and shall be subject to the complaint procedures established in this chapter. It may be unethical for any public official to engage in one or more of the following prohibited actions:"

Section 2.78.060 M is amended to read "Violations of Federal, State, or Local Law Prohibited. No public official of the City of Riverside shall intentionally or repeatedly violate the Charter of the City of Riverside, the Riverside Municipal Code, or any established policies of the City of Riverside affecting the operations of local government, or be convicted of violation of any state or federal law pertaining to the office which they hold."

Section 2.78.070 G is amended to read "Within twenty (20) 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 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) City business days of the complaint being deemed complete."

1 Section 2.78.080 F is amended to read “Only one (1) continuance of the hearing
2 shall be granted by the City Clerk to each party. If a continuance is granted, the City Clerk shall give
3 written notice to all parties of the new hearing date, time, and location within twenty (20) City business
4 days of the granting of the continuance.”

5 Section 2.78.080 H is amended to read “If a majority of the hearing panel of the
6 Board of Ethics determines that the complaint does not comply with all of the provisions of subsection
7 G above, the Chair shall state the findings of deficiency on the record and shall call for a vote of the
8 hearing panel to dismiss the complaint without a hearing. A roll call vote of the hearing panel shall
9 be taken by the City Clerk who will record the vote of each member of the hearing panel. If a majority
10 of the hearing panel determines that the complaint complies with all of the provisions of subsection G
11 above, then a hearing on the merits of the complaint shall proceed.”

12 Section 2.78.090 A is amended to read “A decision by the hearing panel finding
13 a violation of the Prohibited Conduct section of this chapter shall be automatically appealed to the
14 City Council. The City Clerk shall place the appeal on the agenda of a regular meeting of the City
15 Council within thirty (30) City business days of the hearing by the hearing panel and shall notify the
16 parties in writing of the hearing date.”

17 Section 2.78.090 B is amended to read “A decision by the hearing panel of the
18 Board of Ethics not finding a violation of the Prohibited Conduct section of this chapter may be
19 appealed to the City Council by either party. The appeal shall be taken by filing a written notice of
20 appeal with the City Clerk within ten (10) City business days following the date of the hearing by the
21 hearing panel. The notice of appeal shall be in writing on a form provided by the City Clerk. The
22 City Clerk shall place the appeal on the agenda for a regular meeting of the City Council within thirty
23 (30) City business days of the filing of the notice of appeal. The City Clerk shall notify the parties in
24 writing of the hearing date.”

25 Section 2.78.110 D is amended to read “Prior to the end of each year, the
26 Chairperson of the Governmental Affairs Committee shall present a report to the City Council which
27 shall include the recommendations of the Board of Ethics, the other boards and commissions, and the
28 Governmental Affairs Committee. The City Council shall hold a public hearing on its evening agenda

1 at a regularly scheduled meeting, and shall review the report and make an independent evaluation of
2 the effectiveness of this chapter and discuss and direct the City Attorney to make any changes to this
3 chapter it deems appropriate.”

4 Section 4: Redline version of Chapter 2.78 showing the above changes:

5 **“Chapter 2.78**

6 **CODE OF ETHICS AND CONDUCT**

7 **Sections:**

8 **2.78.010 Establishment of the Code of Ethics and Conduct.**

9 **2.78.020 Purpose.**

10 **2.78.030 Scope.**

11 **2.78.040 Implementation.**

12 **2.78.050 Core Values.**

13 **2.78.060 Prohibited Conduct.**

14 **2.78.070 Complaint Procedures.**

15 **2.78.080 Hearing Procedures.**

16 **2.78.090 Appeal Procedures.**

17 **2.78.100 Enforcement and Sanctions.**

18 **2.78.110 Monitoring and Oversight.**

19 **2.78.120 Severability.**

20 **Section 2.78.010 Establishment of the Code of Ethics and Conduct.**

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

27 **Section 2.78.020 Purpose.**

28 The purpose of this Code of Ethics and Conduct is to achieve fair, ethical, and

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

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

17 **Section 2.78.030 Scope.**

18 The provisions of this chapter shall apply to the Mayor, members of the City
19 Council, and to all members of the boards, commissions, and committees appointed by
20 the City Council, the Mayor, or the Mayor and City Council, including any *ad hoc*
21 committees (collectively referred to herein as "public officials.") The provisions of
22 this chapter shall also apply to all members of committees appointed by individual
23 members of the City Council, Mayor, the City Manager or by Department Heads.

24 Further, the provisions of this chapter shall apply to the Mayor and Members
25 of the City Council at all times during their term of office as elected officials of the
26 City of Riverside. However, the provisions of this chapter shall apply to all members
27 of the boards, commissions, and committees only while they are acting in their official
28 capacities or affecting the discharge of their duties.

Section 2.78.040 Implementation.

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

1 followed.

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

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

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

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

17 E. The chair of each board, commission or committee covered by this
18 chapter is responsible to provide appropriate guidance to members of their respective
19 bodies and, if need be, communicate concerns to the Board of Ethics.

20 **Section 2.78.050 Core Values.**

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

24 A. To strive to create a government that is trusted by everyone.

25 The public officials of the City of Riverside shall aspire to operate the City
26 government and exercise their responsibilities in a manner which creates trust in their
27 decisions and the manner of delivery of programs through the local government. The
28 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

1 shall aspire to make themselves available to the people of the city to hear and
2 understand their concerns. They shall aspire to make every effort to ensure that they
3 have accurate information to guide their decisions and to share all public information
4 with the community to ensure the community understands the basis of the officials'
5 decisions.

6 B. To strive to make decisions that are unbiased, fair, and honest.

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

12 C. To strive to ensure that everyone is treated with respect and in a just and fair
13 manner.

14 The public officials of the City of Riverside have a responsibility to make
15 extraordinary attempts to treat all people in a manner which would be considered just
16 and fair. They shall strive to value and encourage input from members of the
17 community and encourage open and free discussion of public issues. They shall strive
18 to have all persons treated with respect as they come before the body on which they
19 serve. They shall aspire to create an atmosphere of genuine interest in the point of view
20 expressed by members of the community even if it differs from their own.

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

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

28 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

1 and information gathering from verifiable sources. They will seek to ensure that
2 information provided by the City Government to the public is accurate and clear. They
3 will ensure that all information utilized in the decision making process, except that
4 which by law is confidential, will be shared with the public.

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

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

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

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

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

15 Appointed members of boards, commissions and committees of the City of
16 Riverside shall make a diligent effort to attend all regularly scheduled meetings of their
17 respective board, commission or committee.

18 **Section 2.78.060 Prohibited Conduct.**

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

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

23 Public officials of the City of Riverside shall not use their official title or
24 position for personal gain. Personal gain includes, but is not limited to, situations
25 wherein a public official solicits or accepts items of value in consideration of their
26 official title or position. This does not include obtaining benefits that are otherwise
27 permitted or authorized by law. Therefore, acceptance of gifts shall otherwise be
28 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

1 official title for matters other than the official conduct of their office; and (c) engaging
2 in decisions which would affect the level of compensation received for service except
3 as otherwise required or allowed by law.

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

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

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

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

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

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

23 E. Endorsements for Compensation Prohibited.

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

28 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

1 amended, regulating financial interests and governmental decisions made by public
2 officials. If an ethics complaint is filed alleging a violation of this subsection, the City
3 recognizes that the Fair Political Practices Commission (FPPC) is the primary
4 enforcement authority of the Political Reform Act and that its decisions should be given
5 great weight. As such, if a complaint is pending before the FPPC raising the same or
6 similar violations based upon the same or similar facts, then the Board of Ethics may
7 defer action on such allegation until completion of the FPPC action. If a complaint has
8 not been filed with the FPPC raising the same or similar violations based upon the same
9 or similar facts, then the hearing panel of the Board of Ethics, upon a four-fifths (4/5)
10 vote, may file a complaint with the FPPC and defer action on a complaint filed pursuant
11 to this chapter until a final action by the FPPC. A ruling on the merits by the FPPC
12 may be accepted by the Board of Ethics as a finding on the ethics complaint filed with
13 the City.

14 G. Certain Political Activity Prohibited.

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

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

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

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

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

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

7 No public official of the City of Riverside shall negotiate for employment with
8 any third party at the same time that third party has a matter pending before the City
9 Council, boards, commissions, committees, or City departments and upon which the
10 public official must act or make a recommendation.

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

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

18 L. Attempts to Coerce Official Duties Prohibited.

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

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

22 No public official of the City of Riverside shall intentionally or repeatedly
23 violate the Charter of the City of Riverside, the Riverside Municipal Code, or any
24 established policies of the City of Riverside affecting the operations of local
25 government, or be convicted of violation of any state or federal law pertaining to the
26 office which they hold.

27 **Section 2.78.070 Complaint Procedures.**

28 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.

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

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

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

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

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

28 G. Within twenty (20) 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

1 whom the complaint is filed of the date, time, and location of the hearing. The hearing
2 date shall be within forty-five (45) City business days of the complaint being deemed
3 complete.

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

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

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

17 I. The City Clerk shall provide a copy of the written reply and all required
18 information and tangible evidence, without charge, to the complainant no later than ten
19 (10) City business days after receipt of the foregoing from the public official against
20 whom the complaint is made.

Section 2.78.080 Hearing Procedures.

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

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

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

28 D. No witnesses, documents, photographs, recordings or other tangible materials,
other than those submitted with the complaint or reply, shall be introduced at the

1 hearing or considered by the hearing panel. However, witnesses, documents,
2 photographs, recordings and other tangible evidence may be introduced and considered
3 upon a finding by a majority of the hearing panel that the discovery of such evidence
4 came to the awareness of the proponent after the filing of the complaint or reply and
5 that the proponent disclosed such information to the City Clerk as soon as practicable
6 after becoming aware of its existence. Any witnesses, documents, photographs,
7 recordings and other tangible evidence subpoenaed by the hearing panel shall also be
8 introduced and considered.

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

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

14 F. Only one (1) continuance of the hearing shall be granted by the City Clerk to
15 each party. If a continuance is granted, the City Clerk shall give written notice to all
16 parties of the new hearing date, time, and location within twenty (20) City business
17 days of the granting of the continuance.

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

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

28 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 G above, the Chair
shall state the findings of deficiency on the record and shall call for a vote of the hearing

1 panel to dismiss the complaint without a hearing. A roll call vote of the hearing panel
2 shall be taken by the City Clerk who will record the vote of each member of the hearing
3 panel. If a majority of the hearing panel determines that the complaint complies with
4 all of the provisions of subsection G above, then a hearing on the merits of the
5 complaint shall proceed.

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

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

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

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

27 M. All findings shall be by a majority vote of the hearing panel and recorded by
28 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

1 procedures.

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

6 P. Neither the complainant, nor the public official against whom a complaint is
7 filed pursuant to this chapter, shall be represented at the hearing by an attorney.
8 Although an attorney may be present and consulted at the hearing, the attorney shall
9 not address the hearing panel or participate in any aspect of the hearing.

10 **Section 2.78.090 Appeal Procedures.**

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

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

24 C. If there is no appeal of the decision by the hearing panel, then the decision of
25 the hearing panel shall become final and there shall be no further right to appeal.

26 D. The record on appeal shall consist of a transcript of the hearing before the
27 hearing panel, as well as all tangible evidence and testimony considered at the hearing.
28 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

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

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

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

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

17 I. No elected official who is either the complainant, or the subject of a complaint,
18 filed pursuant to this chapter shall participate in the appeal of a decision of the hearing
19 panel considering such complaint and must recuse himself or herself from participation.

20 **Section 2.78.100 Enforcement and Sanctions.**

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

24 A. Elected Officials.

25 1. Public censure.

26 B. Appointed Officials of Boards, Commissions and Committees.

- 27 1. Referral to the Board, Commission or Committee of which the
28 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.

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

4 **Section 2.78.110 Monitoring and Oversight.**

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

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

12 C. Prior to the end of September of each year, the Governmental Affairs
13 Committee shall agendaize and discuss at a regular meeting the effectiveness of this
14 Code of Ethics and Conduct and the recommendations of the Board of Ethics and other
15 boards and commissions, and instruct the City Manager to present a report to the City
16 Council for its discussion and consideration.

17 D. Prior to the end of each year, the City Manager shall present a report to the City
18 Council which shall include the recommendations of the Board of Ethics, the other
19 boards and commissions, and the Governmental Affairs Committee. The City Council
20 shall hold a public hearing on its evening agenda at a regularly scheduled meeting, and
21 shall review the report and make an independent evaluation of the effectiveness of this
22 chapter and discuss and direct the City Attorney to make any changes to this chapter it
23 deems appropriate.

24 **Section 2.78.120 Severability.**

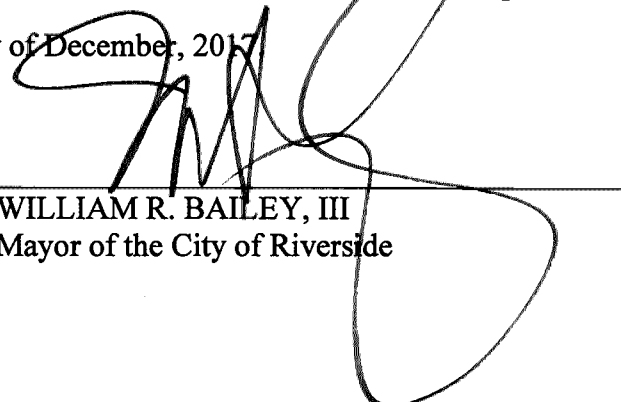
25 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase
26 in this chapter or any part thereof is for any reason held to be unconstitutional or
27 invalid or ineffective by any court of competent jurisdiction, such decision shall not
28 affect the validity or effectiveness 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

1 the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences,
2 clauses, or phrases be declared unconstitutional, or invalid, or ineffective.”

3 Section 5: The City Council has reviewed the matter and, based upon the facts and
4 information contained in the staff reports, administrative record, and written and oral testimony,
5 hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3)
6 and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter
7 3, in that it will not result in a direct or reasonably foreseeable indirect physical change in the
8 environment nor have a significant impact on the environment.

9 Section 6: The City Clerk shall certify to the adoption of this ordinance and cause publication
10 once in a newspaper of general circulation in accordance with Section 414 of the Charter of the City
11 of Riverside. This ordinance shall become effective on the 30th day after the date of its adoption.

12 ADOPTED by the City Council this 19th day of December, 2017

13
14 
15 _____
16 WILLIAM R. BAILEY, III
17 Mayor of the City of Riverside

16 Attest:

17 
18 _____
19 COLLEEN J. NICOL
20 City Clerk of the City of Riverside

21 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
22 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 5th day
23 of December, 2017, and that thereafter the said ordinance was duly and regularly adopted at a meeting
24 of the City Council on the 19th day of December, 2017, by the following vote, to wit:

25 Ayes: Councilmembers Gardner, Melendrez, Soubirous, Conder, Mac Arthur,
26 Perry, and Adams

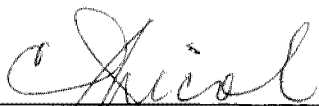
27 Noes: None

28 Absent: None

Abstained: None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
City of Riverside, California, this 20th day of December, 2017.



COLLEEN J. NICOL
City Clerk of the City of Riverside