



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: February 15, 2022

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL
CITY CLERK'S OFFICE

SUBJECT: ADOPTION OF AN ORDINANCE AMENDING THE CHAPTER 2.78 OF THE RIVERSIDE MUNICIPAL CODE TO MAKE CERTAIN CHANGES TO THE CITY'S CODE OF ETHICS AND CONDUCT

ISSUE:

The issue presented for consideration by the City Council is whether to amend Chapter 2.78 of the Riverside Municipal Code to make certain changes to the Code of Ethics related to preparation of findings of a hearing panel and the appeal procedures, as discussed by the City Council at the December 14, 2021 Code of Ethics and Conduct Annual Review.

RECOMMENDATION:

That the City Council introduce and subsequently adopt an Ordinance amending Chapter 2.78 of the Riverside Municipal Code to make certain changes to the Code of Ethics related to preparation of the findings by a hearing panel and the appeal procedures, as discussed by the City Council at the December 14, 2021 Code of Ethics and Conduct Annual Review.

BACKGROUND:

The Riverside Municipal Code (RMC) Chapters 2.78 and 2.80 provide that the Code of Ethics and Conduct be reviewed for its effectiveness on an annual basis. The RMC also requires that Boards and Commissions place an item on their agenda to discuss recommendations for revisions to the code. Board and commission chairs and staff liaisons were reminded of their obligations to review the Code of Ethics and Conduct and invited to submit written comments to the Board of Ethics and/or City Council Inclusiveness, Community Engagement, and Governmental Processes Committee.

DISCUSSION:

On December 14, 2021, the City Council conducted its annual review of the Code of Ethics and Conduct and directed the City Attorney to prepare and present an ordinance for approval containing the following changes to RMC Chapter 2.78, the Code of Ethics and Conduct:

Proposed changes for Approval of Statement of Findings:

2.78.080 - Hearing procedures.

* * *

E. The hearing panel of the Board of Ethics shall conduct a pre-hearing conference prior to a hearing date being set by the City Clerk. All parties are to attend the pre-hearing conference; however, the absence of any party at the pre-hearing conference shall not be grounds for a continuance and the pre-hearing conference shall proceed as if the absent party were present. The pre-hearing conference shall be conducted as follows:

* * *

8. If it is determined by the hearing panel that the complainant has failed to show that it is more likely than not that there may be a potential violation of the prohibited conduct section of this chapter, the Chair of the hearing panel shall instruct the City Clerk to prepare a statement of findings for the hearing panel to adopt at the next regular meeting of the Board of Ethics. **Alternatively, the Chair of the hearing panel shall prepare the findings. If the Chair prepares the findings, such findings shall be adopted at the next regular meeting of the Board of Ethics.** This statement of findings shall be considered the final decision of the hearing panel and is immediately appealable to the City Council pursuant to the appeal procedures section of this chapter.

* * *

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

N. All findings shall be **approved** by a majority vote of the hearing panel and recorded by the City Clerk. **The hearing panel may approve such findings at the conclusion of the hearing and direct the City Clerk or the Chair of the hearing panel to prepare the findings. If the Chair of the hearing panel prepares the findings, the hearing panel must consider and approve such findings within 30 days after the hearing, at a subsequent meeting of the hearing panel.**

O. Within five City business days following the hearing **and the approval of the findings**, the City Clerk shall notify all parties in writing of the decision of the hearing panel and the appeal procedures.

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 30 City business days of the **approval of the findings** 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 City business days following the **approval of the statement of findings** ~~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 30 City business days of the filing of the notice of appeal. The City Clerk shall notify the parties in writing of the hearing date.

Proposed changes for De Novo Hearing:

2.78.070- Appeal procedures.

*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. **The de novo re-hearing shall be conducted before a hearing panel convened in accord with Riverside Municipal Code section 2.80.040.B.3(a)-(j), except that a pre-hearing conference shall not be required. The hearing shall be conducted in accord with the hearing procedures set forth in Riverside Municipal Code section 2.78.080.***

STRATEGIC PLAN ALIGNMENT:

The annual review of the effectiveness of the Code of Ethics and Conduct contributes to the following City Council's Envision 2025 Strategic Plan Priorities and Goals:

Community Well-Being – Ensuring safe and inclusive neighborhoods where everyone can thrive with the following:

Goal 2.4 Support programs and innovations that enhance community safety, encourage neighborhood engagement, and build public trust: and,

High Performing Government – Providing world class public service that is efficient, accessible, and responsible to all, with the following goal:

Goal 5.3 - Enhance communication and collaboration with community members to improve transparency, build public trust, and encourage shared decision-making.

The Board of Ethics and the ICGC reviewing and bringing forth recommendations for revisions to the Code of Ethics and Conduct aligns with the Envision 2025 Cross-Cutting Threads as follows:

1. **Community Trust** – Riverside's annual review of the Code of Ethics and Conduct is transparent, the involvement of the City Boards and Commissions and public input creates sound policy, and inclusive community engagement builds community trust.
2. **Equity** – Outreach efforts were taken to encourage community input which consisted of website displays and community group flyers and posters throughout the City advising

the public members how to provide recommendations for consideration allowing for a fair and unbiased revision process.

3. **Fiscal Responsibility** – Riverside is a prudent steward of public funds and ensures responsible management of the City's financial resources while providing quality public services to all. The City Clerk's Office annual budget includes funding to support the annual code review and outreach efforts.
4. **Innovation** –. Riverside's annual review of the Code of Ethics and Conduct through collaborative partnerships. Adaptive processes bring new perspectives and ideas, helping to meet the Board of Ethics ever-changing needs for implementing the Code of Ethics and Conduct.
5. **Sustainability & Resiliency** – Riverside is committed to meeting the present needs without compromising the needs of the future and ensuring the City's capacity to persevere, adapt and grow during fluctuating times alike. It is essential to review the Code of Ethics and Conduct annually to maintain sustainable and resilient processes and monitor promoting innovation for a more sustainable future.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Phaedra A. Norton, City Attorney

Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Attachments: Proposed Ordinance

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1 hearing panel prepares the findings, the hearing panel must consider and approve such findings
2 within 30 days after the hearing, at a subsequent meeting of the hearing panel.

3 O. Within five City business days following the hearing and the approval of the findings, the
4 City Clerk shall notify all parties in writing of the decision of the hearing panel and the appeal
5 procedures.

6 ...”

7 Section 2: Section 2.78.090 of the Riverside Municipal Code is hereby amended as
8 follows:

9 “Section 2.78.090 Appeal procedures.

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

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

23 ...

24 E. The City Council shall review the record of the hearing to determine whether the hearing
25 panel committed a clear error or an abuse of discretion based upon the record. If no such finding is
26 made by a majority of the City Council, then the City Council shall adopt the decision of the
27 hearing panel as the findings of the City Council on appeal. If there is a finding by the City
28 Council of a clear error or an abuse of discretion by the hearing panel, then that finding shall be

1 clearly stated and the matter shall be referred back to the Board of Ethics for a *de novo* (new) re-
2 hearing of the matter in light of the findings on appeal. The de novo re-hearing shall be conducted
3 before a hearing panel convened in accord with Riverside Municipal Code section 2.80.040(B)(3a-
4 i), except that a pre-hearing conference shall not be required. The hearing shall be conducted in
5 accord with the hearing procedures set forth in Riverside Municipal Code section 2.78.080.

6 ...”

7 Section 3: The City Clerk shall certify to the adoption of this ordinance and cause
8 publication once in a newspaper of general circulation in accordance with Section 414 of the Charter
9 of the City of Riverside. This ordinance shall become effective on the 30th day after the date of its
10 adoption.

11 ADOPTED by the City Council this _____ day of _____, 2022.

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13 _____
14 PATRICIAL LOCK DAWSON
Mayor of the City of Riverside

15 Attest:

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17 _____
DONESIA GAUSE
City Clerk of the City of Riverside

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1 I, Donesia Gause, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the
3 _____ day of _____, 2022, and that thereafter the said ordinance was duly and
4 regularly adopted at a meeting of the City Council on the _____ day of _____, 2022,
5 by the following vote, to wit:

6 Ayes:

7 Noes:

8 Absent:

9 Abstain:

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11 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
12 City of Riverside, California, this _____ day of _____, 2022.

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15 City Clerk of the City of Riverside
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