



## POTENTIAL REVISIONS TO RIVERSIDE MUNICIPAL CODE 2.78 CODE OF ETHICS REGARDING DIGITAL CONDUCT

February 5, 2026  
Presented by City Attorney's Office

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## BACKGROUND

- The annual review of the Code of Ethics began in June 2025
- All Boards and Commissions including the Board of Ethics, reviewed and submitted **seven (7)** proposed revisions to the Governmental Processes Committee (GPC).
- The GPC met on **November 18, 2025**, to evaluate the proposals. **Six (6)** of the seven recommendations were forwarded to City Council for consideration.



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## BACKGROUND

- On December 9, 2025, the City Council held a public hearing to review the GPC recommendations.
- The City Council referred two potential revisions to RMC Chapter 2.78 regarding digital conduct back to the Board of Ethics and GPC.



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## DIGITAL CONDUCT PROPOSAL

RMC 2.78.050 - Core Values, add a new subsection "I" on digital communications:

- I. Digital communication must reflect the City's commitment to impartiality, fairness, and integrity. Online activity, messages or actions should not create, or appear to create, bias, partisanship, a conflict of interest, or predisposition on pending City matters.



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## DIGITAL CONDUCT PROPOSAL

RMC 2.78.060 - Prohibited conduct" - add new subsection "O" on digital misconduct:

O. Digital misconduct prohibited. Those subject to this code are prohibited from engaging in digital misconduct. Online activity or messages that create, or appear to create, bias, partisanship, a conflict of interest, or predisposition on pending City matters are strictly prohibited. Any violation of prohibited conduct under this code shall encompass online activity while representing your appointed or elected position.



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## CITY ATTORNEY'S OFFICE REVIEW

The GPC and the City Council requested the CAO review proposed RMC 2.78.050 and 2.78.060 additions regarding digital misconduct

CAO raised concerns that proposed language may trigger First Amendment challenges, is duplicative of other sections, and is too broad



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## OVERLAP AND OVER BROAD ISSUES

- “Conflicts of Interest”: Duplicative of Section 2.78.060.F - Prohibited conduct, “Violation of Government Code §§ 87100 et seq., prohibited”
- “Pending City matters” should be narrowed to matters within the subject matter jurisdiction of public official.
- “Bias” is covered in quasi-judicial matters, where impartiality is legally required. The proposed language would expand this to all types of proceedings not usually subject to impartiality legal requirements



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## FIRST AMENDMENT ISSUES

- First Amendment prohibits governments from retaliating against individuals for engaging in protected speech
- Public officials retain their First Amendment protections to speech in their private capacity
- Any revisions regarding digital conduct should be limited to avoid a public official's private capacity speech



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## FIRST AMENDMENT ISSUES

- Legal Analysis often involves a complex fact-specific analysis
- Appointed officials cannot be punished for their private capacity speech
- Elected officials can only be subjected to censure for their speech
- Narrowing the proposed digital conduct language to avoid private speech and limiting sanctions to censure will help avoid First Amendment issues



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## OPTION 1

1. To avoid First Amendment issues, limit digital conduct revision to Core Values only.
  - Core Values set expectations and make value statements
  - Core Values are not subject to sanctions, so First Amendment issues are avoided.



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## OPTION 2

1. Revise the language to protect private speech, remove duplicative sections, be consistent with other Code of Ethics sections, and limit sanctions to censure only
  - Private speech of the public official will not be impacted
  - Courts have found sanctions beyond censure to violate the First Amendment



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## OPTION 2 - POTENTIAL REVISION

RMC 2.78.050 - Core Values, add a new subsection "I" on digital communications:

- I. Digital communication must reflect the City's commitment to impartiality, fairness, and integrity. Online activity, messages or actions should not create, or appear to create, bias, partisanship, ~~a conflict of interest~~, or predisposition on pending City matters **that fall within the subject matter jurisdiction of the public office and are quasi-judicial proceedings.**



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## OPTION 2 - POTENTIAL REVISION

RMC 2.78.060 - Prohibited conduct - add new subsection "O" on digital misconduct:

O. Digital misconduct prohibited. Those subject to this code are prohibited from engaging in digital misconduct, **while acting in an official capacity**. Online activity or messages that create, or appear to create, bias, partisanship, ~~a conflict of interest~~, or predisposition on pending City matters **that fall within the subject matter jurisdiction of the public office and are quasi-judicial proceedings** are strictly prohibited. Any violation of prohibited conduct under this code shall ~~encompass be limited to~~ online activity while representing ~~your~~ the public official's appointed or elected position **using official City accounts. Sanctions for this paragraph shall be limited to censure only.**



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## RECOMMENDATIONS

That the Board of Ethics review and provide input on proposed revisions to Sections 2.78.050 and 2.78.060 of the Riverside Municipal Code Chapter 2.78, the Code of Ethics and Conduct, to address digital communications and misconduct, as requested by the City Council at the December 9, 2025, public hearing.



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