



Legislation Text

File #: 16-468, **Version:** 4

Ordinance No. 16-122 amending all sections of Article 3 (Code of Ethics) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended.

Presenter:

Tracy Lessig, Division Chief-Employment, City Attorney's Office
Andy Pico, City Council Member, District 6

Summary:

The Ordinance amends all sections of the Code of the Ethics, adds City Code §§ 1.3.109 through 1-3-119, and incorporates with revisions the provisions of Resolution No. 41-13 (A Resolution Approving the Payment of Legal Expenses for Ethics Complaints under the City Code of Ethics) and Resolution No. 58-13 (A Resolution Approving the Procedures for Investigation and Hearing of Ethics Complaints under the City Code of Ethics).

Previous Council Action:

The City Council passed the City Code of Ethics by Ordinance No. 07-59 on April 10, 2007. The Code of Ethics created the Independent Ethics Commission ("Commission"). The Commission approved the Independent Ethics Commission Rules of Procedure ("Rules of Procedure") on November 15, 2007, which were approved by Resolution No. 257-07 on December 11, 2007. The Code of Ethics was amended by Ordinance No. 11-18 on March 22, 2011, to increase the number of Commissioners from (3) three to (5) five. The Rules were amended by City Council on January 22, 2012 to reflect that a quorum is three (3) members instead of two (2) members. On April 9, 2013, Council passed Resolution No. 41-13 (A Resolution Approving the Payment of Legal Expenses for Ethics Complaints under the City Code of Ethics). On May 28, 2013, Council passed Resolution No. 58-13 (A Resolution Approving the Procedures for Investigation and Hearing of Ethics Complaints under the City Code of Ethics). The Code of Ethics was amended by Ordinance No. 15-62 on September 25, 2015 to change "Memorial Health System" to "MHS Enterprises."

City Council considered several of the proposed Code of the Ethics changes at its July 11, 2016 work session. At that meeting, City Council provided guidance on unresolved proposed revisions to the Code of Ethics. An overview of the proposed changes was provided to City Council at its July 25 and November 11, 2016 work sessions. Questions or concerns were raised by City Councilmembers about several of the draft revisions. The Commission met with Councilmember Pico on October 3, 2016 to discuss recommendations to resolve the open matters.

Background:

In early 2014, a committee was formed to review and suggest changes to the Code of Ethics and the Rules of Procedure. The members of the committee are Councilmembers Don Knight and Andy

Pico, Attorney Tracy Lessig, Former Independent Ethics Commissioner Brigadier General Malham Wakin, and Independent Ethics Commissioner Thomas Conter ("Committee"). The goal of the Committee was to conduct a complete review of the Code of Ethics and Rules of Procedure, recommend amendments designed to clarify the gift and conflict of interest provisions, improve the procedures for complaints and advisory opinions, and ensure consistency between the Code of Ethics and the Rules of Procedure. The Committee met regularly and eventually included the Commission in the review.

The proposed amendments to the Code of Ethics include changes to all sections and add several sections. The recommendations include, among other things, substantive changes to the legislative purpose, the addition of definitions and changes to existing definitions, clarification and changes to the Commission's jurisdiction, additional requirements for filing a complaint or an inquiry for consideration, a definition of the Commission's option to dismiss a complaint as frivolous, the addition of a City Attorney advisory opinion as a defense to an ethics complaint, inclusion (with modifications) of Resolution No. 41-13 (A Resolution Approving the Payment of Legal Expenses for Ethics Complaints under the City Code of Ethics), inclusion of (with significant modifications and additions) Resolution No. 58-13 (A Resolution Approving the Procedures for Investigation and Hearing of Ethics Complaints under the City Code of Ethics), an separate complaint process for complaints filed against five or more members of City Council, additional possible sanctions, substantive changes to the gift and conflict of interest provisions, and the addition of a section stating there is no private right of action for noncompliance with the Code of Ethics.

The attached Ordinance is the product of the hard work of the Committee and the Commission. The Ordinance promotes the City's strategic goal of excelling in City Services because the recommendations substantially improve the Code of Ethics by providing clarity to the substantive and procedural provisions of the Code of Ethics.

Financial Implications:

N/A

Board/Commission Recommendation:

The Commission recommends adoption of the proposed amendments to the Code of Ethics.

Stakeholder Process:

The Commission and the Committee held numerous meetings to discuss the proposed changes. In September of 2014, the Committee met with members of the Fire Department, the Police Department, the City Human Resources Department, Colorado Springs Utilities, International Association of Firefighters Local 5, and the Colorado Springs Police Protective Association to discuss potential changes to the gift and conflict of interest provisions. The Commission met with Councilmember Pico on October 3, 2016 to discuss recommendations to resolve the open matters discussed at the City Council's July 25, 2016 work session.

Alternatives:

N/A

Proposed Motion:

Approve the ordinance as presented

An Ordinance amending all sections of Article 3 (Code of Ethics) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended.