

ORDINANCE NO. 14-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, RELATING TO THE ESTABLISHMENT OF A NEW CHAPTER 2.95 IN THE COVINGTON MUNICIPAL CODE, CODE OF ETHICS.

WHEREAS, the citizens and businesses of the City of Covington are entitled to have fair, ethical, and accountable local government that has earned the public's full confidence for integrity; and

WHEREAS, adopting a Code of Ethics for members of the city council and the council-appointed boards and commissions will promote public confidence in the integrity of local government and fair operation; and

WHEREAS, the Code of Ethics will provide the basis for education and training for City officials both elected and appointed to ensure that the highest standards and best practices with regard to ethics be followed;

WHEREAS, Chapter 35A.11 RCW gives the city council of each code city the power to organize and regulate its internal affairs within the provisions of Title 35A RCW; and

WHEREAS, the Covington City Council wishes to adopt a new Code of Ethics to apply to all Covington council members and appointees to official council boards and commissions;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Covington, King County, Washington, as follows:

Section 1. Chapter 2.95 CMC-Code of Ethics Adopted. The code of ethics as set forth in Exhibit A hereto and fully incorporated herein by this reference is hereby adopted and shall be established as a new Chapter 2.95, Code of Ethics, of the Covington Municipal Code.

Section 2. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Corrections. Upon the approval of the city attorney, the city clerk is authorized to make any necessary technical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect on August 1, 2016.

**PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON,
WASHINGTON**, at a regular meeting thereof on the 28th day of June, 2016, and signed in authentication of its passage.



Mayor Jeff Wagner

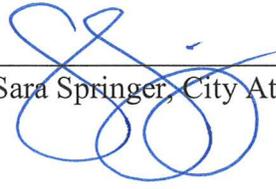
PUBLISHED: July 1, 2016

EFFECTIVE: August 1, 2016

ATTESTED:

 Joan Michaud, Sr Deputy City Clerk
Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:



Sara Springer, City Attorney

**CHAPTER 2.95
CODE OF ETHICS**

(To be Codified in Full by City Clerk and Code Publisher)

1. SECTION 1: PURPOSE

- 1.1. Purpose.** The Covington City Council has adopted this code of ethics to be complied with by members of the city council and the City of Covington's council-appointed boards and commissions to promote public confidence in the integrity of local government and its fair operation. This code of ethics will also provide the basis for the education and training of city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.
- 1.2. Intent.** The citizens and businesses of Covington are entitled to have fair, ethical, and accountable local government that has earned the public's full confidence. In keeping with the City of Covington's commitment to excellence, the effective functioning of democratic government therefore requires that:
- 1.2.1.** Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
 - 1.2.2.** Public officials be independent, impartial and fair in their judgment and actions;
 - 1.2.3.** Public office be used for the public good, not for personal gain; and
 - 1.2.4.** Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.
- 1.3.** This code of ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.
- 1.4.** The conduct of all officials shall meet the applicable requirements of both this code of ethics and Chapter 42.23 RCW. When a higher standard of conduct is established by this code of ethics than by Chapter 42.23 RCW, the standards of this code of ethics shall control; provided, this code of ethics shall not be construed to permit any act or omission that is prohibited by Chapter 42.23 RCW.
- 1.5.** This code of ethics shall take effect August 1, 2016 by Ordinance No 14-2016.

2. SECTION 2: DEFINITIONS.

For the purpose of interpreting and enforcing this code of ethics, the following definitions shall apply:

- 2.1.** “Business entity” means any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not organized for profit.
- 2.2.** “City agency” means every department, office, ethics officer, hearing examiner, commission, or committee of the city, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.
- 2.3.** “City officer or employee” means any person holding a position by election, appointment, or employment in the service of the city or city agency, whether paid or unpaid, including members of any ethics hearing officer, committee or commission.
- 2.4.** “Compensation” means anything of economic value, however designated, which is paid, loaned, advanced, granted, given or transferred for or in consideration of personal services to any person.
- 2.5.** “Beneficial interest” means any direct or indirect, pecuniary or material benefit, other than a remote interest, accruing to a city official as a result of a contract, transaction, zoning decision or other matter which is or may be the subject of an official act or act by or with the city, except for such contracts, transactions, zoning decisions or other matters which by their terms and by the substance or their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. For purposes of this code, a city official shall be deemed to have an interest in the affairs of:
 - 2.5.1.** The official’s spouse or dependent children;
 - 2.5.2.** Any person or business entity with whom a contractual relationship, whether oral or written, exists with the official;
 - 2.5.3.** Any business entity in which the official is an officer, director, member, or employee;
 - 2.5.4.** Any business entity in which the officer controls or owns, directly or indirectly, in excess of one percent (1%) of the total stock, or an interest totaling five thousand dollars (\$5,000) or more in value; and
 - 2.5.5.** Any person or business entity with whom a contractual relationship, whether oral or written, exists with the official; provided, however, that a contractual obligation of less than five hundred dollars (\$500.00), or a commercially reasonable lien made in the ordinary course of business, or a contract for a commercial retail sale, shall not be deemed to create an interest in violation of this code.
- 2.6.** “Immediate family” means any person who is:
 - 2.6.1.** A spouse or domestic partner;

- 2.6.2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or
- 2.6.3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the city official.
- 2.7. "Official" means a member of the city council or a member of council-appointed city boards and commissions and other council-appointed task groups or committees, including youth members.
- 2.8. "Official act or action" means any legislative, administrative, appointive or discretionary act of any city official or committee or commission thereof.
- 2.9. "Person" means any individual, association, corporation, or other legal entity.
- 2.10. "Remote interest" means:
 - 2.10.1. That of a non-salaried officer of a nonprofit corporation;
 - 2.10.2. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
 - 2.10.3. That of a landlord or tenant of a contracting party;
 - 2.10.4. That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.
- 2.11. "Relative" means "Immediate Family" as defined herein.

3. SECTION 3: FINANCIAL OR BENEFICIAL INTEREST IN CITY TRANSACTIONS

No official, while holding such office or position, shall:

- 3.1. Regardless of prior disclosure thereof, hold or acquire a beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is, or which may be, made by, through, or under the supervision of such official or which may be made for the benefit of his or her office/position, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein, in violation of Chapter 42.23 RCW.

3.2. Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, other than a remote interest, in any contract or transaction which may be made by, through, or under the supervision of such official, in whole or in part, or which may be made for the benefit of his or her office/position, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract or transaction from any other person beneficially interested therein, in violation of Chapter 42.23 RCW. This subsection shall not apply to the furnishing of utility services or other services of the city at the same rates and on the same terms as are available to the public generally, or to any other transaction specifically exempted by Chapter 42.23 RCW.

4. SECTION 4: DISQUALIFICATIONS FROM ACTING ON CITY BUSINESS

4.1. Generally. In order to ensure their independence and impartiality on behalf of the common good, officials shall abstain from participating in deliberations and decision-making where conflicts exist pursuant to this code.

4.2. Prohibited Conduct. No city official, while holding such office or position, shall:

4.2.1. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the official's independence of judgment or action in the performance of official duties and fail to disqualify himself or herself from official action in those instances where the conflict occurs.

4.2.2. Have a financial or other private interest, other than a remote interest as defined in this code, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any matter upon which the official is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating.

4.2.3. Fail to disqualify himself or herself from acting on any transaction which involves the city and any person who is, or at any time within the preceding twelve-month period has been, a private client of his or hers, or of his or her firm or partnership.

4.2.4. Have a financial or other private interest, other than a remote interest as defined in this code, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any contract or transaction to which the city or any city agency may be a party, and fail to disclose such interest to the appropriate city authority prior to the formation of the contract or the time the city or city agency enters into the transaction.

4.3. Appearance of Conflict. If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either a personal or business relationship not covered under the foregoing subsections, or a transaction or activity engaged in by the official, the official shall make a public, written disclosure of the facts giving rise to the appearance of a conflict before participating in the matter.

4.4. Exceptions. This section shall not apply to the following:

- 4.4.1. decisions regarding taxes or fees;
- 4.4.2. if the financial interest is shared with more than ten percent (10%) of the city's population; or
- 4.4.3. if the financial interest exists solely because of the official's ownership of less than one percent (1%) of the outstanding shares of a publicly traded corporation.

5. SECTION 5: GIFTS AND FAVORS

5.1. Definitions. For purposes of this section, the following terms have the given meaning:

- 5.1.1. "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:
 - 5.1.1.1. Items from relatives or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the city or with the recipient in connection with city matters;
 - 5.1.1.2. Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
 - 5.1.1.3. Items exchanged among officials and employees or a social event hosted or sponsored by a city officer or city employee for co-workers;
 - 5.1.1.4. Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 - 5.1.1.5. Items an official or employee is authorized by law to accept;
 - 5.1.1.6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable travel expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 - 5.1.1.7. Items returned by the recipient to the donor within thirty (30) days of receipt or donated to a charitable organization within thirty (30) days of receipt;
 - 5.1.1.8. Campaign contributions reported under Chapter 42.17 RCW;

5.1.1.9. Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;

5.1.1.10. Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

5.1.2. "Single gift" means any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under this subsection.

5.1.3. "Single source" means any person, corporation, or entity, whether acting directly or through any agent or other intermediary

5.2. Prohibited Gifts. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, received, or given or, to a reasonable person, would appear to have been solicited, received, or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.

5.3. Limitations on Gifts. Other than those specified in this section, no official may accept gifts beyond the following limitations:

5.3.1. **Single Gift.** An official shall not accept a single gift with a value in excess of fifty dollars (\$50.00) in accordance with RCW 42.52.150(1).

5.3.2. **Single Source.** An official shall not accept gifts from a single source with an aggregate value in excess of fifty dollars (\$50.00) in a calendar year.

5.3.3. The value of gifts given to an official's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

5.3.4. If the fifty dollar (\$50.00) limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount.

5.4. Exemptions. The following items are presumed not to influence the vote, action, or judgment of the official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limitations established by subsection 4.3 of this section:

5.4.1. Unsolicited flowers, plants, and floral arrangements;

- 5.4.2.** Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- 5.4.3.** Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- 5.4.4.** Unsolicited items received by an official for the purpose of evaluation or review, if the official has no personal beneficial interest in the eventual use or acquisition of the item;
- 5.4.5.** Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- 5.4.6.** Food and beverages consumed at hosted receptions where attendance is related to the official's official duties;
- 5.4.7.** Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;
- 5.4.8.** Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and
- 5.4.9.** Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the official is related to the performance of official duties.
- 5.4.10.** The presumptions of this subsection 5.4 are rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

6. SECTION 6: CAMPAIGNING

6.1. Generally. Officials may participate in the political process only on their own time, and only outside of city facilities by working on campaigns for the elections of any person to any office, or for the promotion of or the opposition to any ballot proposition, and shall not use or authorize the use of the facilities of the city for such purposes except as may be authorized by law under the provisions of Chapter 42.17.130 RCW.

6.2. Elected Officials' Campaigns.

6.2.1. As required by RCW 42.17A.565, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee.

6.2.2. Except under limited circumstances described in RCW 42.17A.555, no official may use or authorize the use of the facilities of the city for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

7. SECTION 7: PROHIBITED CONDUCT—MISCELLANEOUS

7.1. Violation of Other Laws. Officials shall comply with federal, state, and local laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures, and open processes of government; and city ordinances and policies.

7.2. Quasi-Judicial Proceedings.

7.2.1. No city official while holding such office or position shall participate in or influence any pending quasi-judicial proceeding if the city official has a financial or personal interest in the matter.

7.2.2. Ex Parte Communications. In quasi-judicial matters, officials shall publicly disclose substantive information that is relevant to a matter under consideration by the council or boards and commissions, which they may have received from sources outside of the public decision-making process.

7.3. Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the city, officials shall not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.

7.4. Representation of Third Parties. Except in the course of official duties, officials shall not appear on behalf of the financial interests of third parties before the bodies on which the officials serve or in interaction with assigned staff. However, the members of the city council shall not appear on behalf of the financial interest of third parties before the council or any commission, board, or proceeding of the city, or in interaction with staff.

- 7.5. Incompatible Service.** No elected official shall engage in or accept private employment or render services for any person or engage in any business or professional activity when such employment, service, or activity is incompatible with the proper and faithful discharge of his or her official duties as such elected official, or when it would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position.
- 7.6. Solicitations of Charitable Contributions.** No official may make direct personal solicitations for charitable contributions from city employees.
- 7.7. Confidential Information.** Officials shall not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and/or information made confidential by law.
- 7.8. False Statements** No official shall make, or induce or direct any city official or city employee to make, any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation.
- 7.9. Nepotism.** The city council will not appoint relatives of city council members to boards or commissions or other appointed positions.

8. SECTION 8: ETHICAL STANDARDS

Officials are encouraged to comply with the following standards:

- 8.1. Policy Role of Officials.** Officials shall respect and adhere to the council-manager structure of Covington city government as outlined by Chapter 35A.13 RCW. In this structure, the city council determines the policies of the city with the advice, information, and analysis provided by the public, boards and commissions, and city staff. Except as provided by state law, officials shall not interfere with the administrative functions of the city or the professional duties of city staff; nor shall they impair the ability of staff to implement council policy decisions.
- 8.2. Personal Integrity.**
- 8.2.1.** The professional and personal conduct of officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct; threats of official action; and personal accusations or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff, or public.
- 8.2.2.** Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain.

- 8.2.3.** Officials shall not directly or indirectly induce, encourage, or aid anyone to violate this code of ethics and it is incumbent upon officials to make a good faith effort to address apparent violations of this code of ethics.
- 8.3. Working for the Common Good.** Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of Covington and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims, and transactions coming before the city council, boards, and commissions. Officials need to be mindful that making special requests of staff—even when the response does not benefit the official personally—puts staff in an awkward position.
- 8.4. Respect for Process.** Officials shall perform their duties in accordance with the processes and rules of order established by the city council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the city council by city staff.
- 8.5. Commitment to Transparency.** Transparency, openness, and accountability are fundamental values of the city—and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used, or retained by any official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the city complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of “public record” and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.
- 8.6. Conduct of Public Meetings.** Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
- 8.7. Decisions Based on Merit.** Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
- 8.8. Advocacy.**

- 8.8.1. When acting in an official capacity as a city official representing the city, officials shall represent the official policies or positions of the city council, board, or commission to the best of their ability when the city council, board, or commission has taken a position or given an instruction.
- 8.8.2. When presenting their individual opinions and positions, officials shall explicitly state they do not represent their body or the city of Covington, nor will they allow the inference that they do.
- 8.8.3. Officials have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to make or display endorsements during council meetings, board/commission meetings, or other official city meetings. However, this does not preclude officials from participating in ceremonial occasions, community events, or other events sponsored by civic groups.

9. SECTION 9: ETHICS OFFICER

9.1. Ethics Officer. The city council creates the position of ethics officer. The city attorney shall serve as the ethics officer, unless the city council chooses to appoint an independent third party, in addition to any additional duties as assigned by the city council, shall provide for the following:

- 9.1.1. annual review of the code of ethics, including recommend changes or additions to this code of ethics to the city council, if deemed necessary;
- 9.1.2. input into and review the training materials and program developed for this code of ethics;
- 9.1.3. advisory opinions concerning this code of ethics; and
- 9.1.4. the prompt and fair enforcement of the provisions of this code of ethics when necessary.

9.2. Advisory Opinions.

- 9.2.1. Upon request of any official, the ethics officer shall render written advisory opinions concerning the applicability of this code to hypothetical circumstances and/or situations solely related to the persons making the request. The ethics officer will not render opinions on matters that are the purview of other government agencies or officials, e.g., the public disclosure commission, the city public records officer, etc.
- 9.2.2. Upon request of any official, the ethics officer may also render written advisory opinions concerning the applicability of the code of ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

- 9.2.3. The ethics officer will endeavor to respond to requests for advisory opinions within thirty (30) days of submission of the request, or more rapidly if the requester expresses urgency in the request.
- 9.2.4. A person's conduct based in reasonable reliance on an advisory opinion rendered by the ethics officer shall not be found to violate this code of ethics, as long as all material facts have been fully, completely, and accurately presented in a written request for an advisory opinion, the ethics officer issues an advisory opinion that the described conduct would not violate the code of ethics, and the person's conduct is consistent with the advisory opinion.
- 9.2.5. The ethics officer reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that should portions of the opinion be found to be unenforceable or not within the ethics officer's authority, the remainder of the opinion shall remain intact.

10. SECTION 10: COMPLAINTS, INVESTIGATIONS, HEARINGS, AND ENFORCEMENT.

The ethics officer shall resolve inadvertent and minor violations of this code of ethics informally and may resolve inadvertent or minor violations informally, unless the ethics officer determines that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the ethics officer may initiate an action in accordance with this section.

10.1. Time Limitation. Any complaint or action taken under this code of ethics must be commenced within three (3) years from the date of the alleged violation.

10.2. Complaint Process.

- 10.2.1. **Complaint Requirements—Service.** Any person may submit a written complaint to the ethics officer, through the city clerk's office, alleging one or more violations of this code of ethics by an official. The complaint must set forth specific facts with enough precision and detail for the ethics officer to make a determination of sufficiency. In addition, the complaint must set forth the specific sections and subsections of this code that the facts violate, and the reasons why. The complaint must be signed under penalty of perjury by the person(s) submitting it in a manner consistent with Chapter 9A.72 RCW. The fact that a complaint has been received, the contents of the complaint, and the identity of the person making the complaint shall remain confidential to the extent available under the law until such time as the ethics officer has made a determination of sufficiency.

10.2.2. Finding of Sufficiency. The ethics officer shall make a determination of sufficiency within thirty (30) days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate this code. The ethics officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the ethics officer may investigate the complaint as set forth below.

A finding by the ethics officer determining that a complaint is sufficient shall contain at the beginning the following specific language:

NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE ETHICS OFFICER. THE ETHICS OFFICER HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE HEARING EXAMINER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

10.2.3. Dismissal. The ethics officer shall dismiss the complaint if the ethics officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct.

10.2.4. Protection Against Retaliation. Neither the city nor any official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint with the ethics officer.

10.2.5. False Complaint. Any person who shall file a complaint for violation of this code knowing such charge to be false or to have been recklessly made without any reasonable attempt to determine relevant facts and circumstances shall be guilty of a misdemeanor and shall be punished as provided in Chapter 1.30 CMC.

10.3. Immediate Removal—Member of Board or Commission or Other Appointed Task Group or Committee. In the event the individual against whom the complaint was made is currently a member of a city board or commission or other task group or committee appointed by the city council, at any time after the complaint is filed pursuant to this section, the city council may, in addition to or in lieu of the public hearing process and other possible penalties as provided for in this section, and notwithstanding any other provision of the Covington Municipal Code, by a majority vote remove the individual from such board or commission effective immediately.

10.4. Notice. Notice of action by the ethics officer shall be provided as follows:

10.4.1. Notice of a finding of insufficiency or dismissal of a complaint by the ethics officer shall be sent to the person who made the complaint and the person complained against within seven (7) days of the decision by the ethics officer. A finding of insufficiency or dismissal of a complaint by the ethics officer is final and binding, and no administrative or other legal appeal is available through the ethics officer.

10.4.2. Within seven (7) days of the ethics officer rendering a finding of sufficiency, the city clerk shall send notice to the person who made the complaint and the person complained against, of the ethics officer's determination. If, after investigation, the ethics officer has reason to believe that a material violation of this code has occurred, the city clerk shall give notice of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least thirty (30) days prior to the date set for the hearing. The person complained against shall have the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

10.5. Stipulations. At any time after a complaint has been filed with the ethics officer, the ethics officer may seek and make recommendations that the city council enter into a stipulation with the person complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the ethics officer thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the person who made the complaint and the person complained against and forwarded to the city council for action.

10.6. Conduct of Hearings.

10.6.1. All hearings on complaints found to be sufficient by the ethics officer shall be conducted by the city's hearing examiner. The hearing shall be informal, meaning that the hearing examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The hearing examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the hearing examiner shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the hearing examiner. The hearing examiner may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The hearing examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the hearing examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

10.6.2. Within thirty (30) days after the conclusion of the hearing, the hearing examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be sent to the person who made the complaint and to the person complained against. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the ethics officer and city council.

10.7. City Council Action. Final city council action to decide upon stipulations and recommendations from the ethics officer and findings, conclusions, and recommendations from the hearing examiner shall be by majority vote in a public meeting. If the proceeding involves a member of the city council, deliberations by the council may be in executive session. The member of the council against whom the complaint was made will not participate in any executive session and shall not vote on any matter involving him or herself. However, upon request of the member of the council against whom the complaint was made, a public hearing or public meeting before the council will be held on the issue of penalties.

10.8. Disposition. In the event the hearing examiner finds that the person against whom the complaint was made has violated the code of ethics, then the city council may take any of the following actions by a majority vote of the council. The action of the city council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in this section.

10.8.1. Dismissal. Dismissal of the complaint without penalties.

10.8.2. Referral. A complaint may be referred to another agency with jurisdiction over the violation, such as the public disclosure commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

10.8.3. Admonition. An admonition shall be an oral non-public statement made by the mayor, or his/her designee, or if the complaint is against the mayor, the mayor pro tem or his/her designee, to the official.

10.8.4. Reprimand. A reprimand shall be administered to the official by a resolution of reprimand by the city council. The resolution shall be prepared by the city council and shall be signed by the mayor or, if the complaint is against the mayor, the mayor pro tem.

10.8.5. Censure. A resolution of censure shall be a resolution read personally to the person in public. The resolution shall be prepared by the city council and shall be signed by the mayor, or if the complaint is against the mayor, the mayor pro tem. The person shall appear at a city council meeting at a time and place directed by the city council to receive the resolution of censure. Notice shall be given at least twenty (20) calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the official appears as required.

10.8.6. Civil Penalties. The city council may assess a civil penalty of up to one thousand dollars (\$1,000.00) or three times (3x) the economic value of anything received in violation of this code of ethics or three times (3x) the economic value of any loss to the city, whichever is greater. Any monetary penalty assessed civilly shall be placed in the city's general fund.

10.8.7. Contract Void. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of ethics for municipal officers— contract interests," is void.

10.8.8. Other Penalties. The city council may impose a restriction, loss of a committee assignment, or loss of appointment as a representative of the city for any regional or multijurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the city council.

10.8.9. Review of Civil Penalties. If the city council orders an official to pay a civil penalty, the official may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within thirty (30) days of the city council's order.

10.9. Public Records. Records filed with the ethics officer and/ or hearing examiner become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. The city shall release copies of any written reports resulting from an investigation of a sustained complaint, any hearing examiner orders, and any written censures or reprimands issued by the city council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identity information may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing.