

CITY OF KENNEWICK
ORDINANCE NO. 6019

AN ORDINANCE RELATING TO ADMINISTRATION AND PERSONNEL
AND AMENDING CHAPTER 2.06 OF THE KENNEWICK MUNICIPAL
CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Chapter 2.06 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

CHAPTER 2.06 – COUNCIL CODE OF ETHICS

2.06.010: Policy:

- (1) Purpose. The Kennewick City Council has adopted a Code of Ethics for members of the City Council to promote public confidence in the integrity of local government and its fair operation.
- 2) Intent. The citizens and businesses of Kennewick are entitled to have fair, ethical and accountable local government that has earned the public's full confidence.

The City Council is committed to upholding the City of Kennewick Core Values which state:

We will provide excellent public service and ensure the safety and wellbeing of our community and one another through the empowerment of each employee. We value integrity, inclusiveness, stewardship and communication.

We are accountable to our community for innovation and collaborative efforts that anticipate needs, leverage resources and deliver solutions.

Integrity: We hold ourselves to the highest standard of professionalism and ethical conduct.

Inclusiveness: We embrace diversity and value different perspectives as we work together for the common good.

Stewardship: We ensure the public's resources are used responsibly to provide the greatest benefit.

Communication: We will listen and engage in an open, honest and timely exchange of information.

- (3) In keeping with the City of Kennewick's commitment to excellence, the effective functioning of democratic government therefore requires that:
 - (a) Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;

- (b) Public officials be independent, impartial and fair in their judgment and actions;
- (c) Public office be used for the public good, not for personal gain; and
- (d) Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019)

2.06.020: Definitions.

- (1) "Official" means a member of the City Council elected or appointed.
- (2) "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019)

2.06.030: Prohibited Conduct.

(1) Conflicts of Interest. In order to ensure their independence and impartiality on behalf of the common good, officials shall not participate in government decisions in which any of the following has a financial interest:

- (a) The official;
- (b) A relative;
- (c) An individual with whom the official resides; or
- (d) An entity that the official serves as an officer, director, trustee, partner or employee.

Officials shall abstain from participating in deliberations and decision-making where conflicts exist.

- (2) 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.
- (3) Representation of Third Parties. The members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.
- (4) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.

(5) Gifts and Favors. 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, or 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.

(6) 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:

(a) Specific information, rather than generalized knowledge, that are not available to a person who files a public records request; and

(b) Information made confidential by law.

(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019)

2.06.040: Ethical Standards.

In addition to Section 2.06.030 of the Code of Ethics, officials are also required to comply with the following standards:

(1) Compliance with Other Laws. Officials shall comply with federal, state and city 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. See Appendix A. As required by RCW 42.17A.565, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee. 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.

(2) 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 Kennewick 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.

- (3) Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by city staff. 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. Questions for city staff members shall be submitted to the City Manager who will then coordinate with staff to provide a response.
- (4) 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, text messages and other electronic records, are subject to requirements for retention, protection, and disclosure. 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.
- (5) 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.
- (6) Attendance. Attendance at regular council meetings by Council Members is required absent being excused per KMC 2.04.050(2). As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council.
- (7) Nepotism. A Council Member may not vote or participate in the interview or appointment of a relative to boards or commissions or other appointed positions.
- (8) Advocacy. 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, to the best of their ability when the City Council, has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kennewick, nor will they allow the inference that they do. 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.

(9) Policy Role of Officials. Officials shall respect and adhere to the council-manager structure of Kennewick 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.

APPENDIX A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance
Ch. 35A.13 RCW	Council-Manager plan of government
	Common Law Incompatible offices
Ch. 40.14 RCW	Preservation and destruction of public records
RCW 42.17A.555	Use of public office or agency facilities in Campaigns - Prohibition - Exceptions
RCW 42.17A.565	Solicitation of contributions by public officials or Employees
Ch. 42.23 RCW	Code of Ethics for municipal officers - Contract Interests
Ch. 42.36 RCW	Appearance of Fairness Doctrine - Limitations
Ch. 42.56 RCW	Public Records Act

(Ord. 6019 Sec. 1, 2023; Ord. 5888 Sec. 1, 2020 ; Ord. 5812 Sec. 1(part), 2019)

2.06.050: Complaints, Investigations, Hearings and Enforcement:

- (1) Complaint Process.
 - (a) Ethics complaints must be initiated within 45days of the complainant becoming aware of a potential ethics violation by a sitting elected official.
 - (b) The council member desiring to initiate a complaint shall first have a one on one discussion with the individual who is the subject of the complaint, if this solves the issue then the process ends.
 - (c) If the issue remains unresolved the council member desiring to initiate a complaint shall request and Executive Session pursuant to RCW 42.30.110(1)(f) where the rationale for bringing the complaint may be discussed with council.
 - (d) The council member desiring to initiate a complaint following the Executive Session is required to wait 14 days (a cooling off period) before filing a formal complaint.
 - (e) A formal complaint requires the signature of two council members only; the councilmember pursuing the complaint shall refrain from discussing

the complaint with the other councilmembers outside of a public meeting.

- (f) The complaint will be filed with the City Clerk and must set forth specific facts with enough precision and detail for City Council to make a determination.
 - (g) Within 7 days of the filing of the complaint, the City Clerk shall send notice to the official complained against that a complaint has been filed.
 - (h) The complaint will be placed on the next regular city council meeting agenda for consideration by the whole council.
 - i. If at any point, a recall petition, Public Disclosure Commission (PDC) complaint, or any other filing with any regulatory or judicial agency is made based on substantially the same charges, the process may be stayed until the responsible agency provides resolution of that complaint. If the regulating agency finds that there is no such breach of regulations and/or law, the ethics complaint will be summarily dismissed.
- (2) Conduct of Hearings. Unless the official who is the subject of the complaint requests a hearing, City Council may consider the complaint at a regular meeting without conducting a full public hearing. If requested by the official, City Council will schedule a public hearing. The public hearing may be held during a regular city council meeting. All hearings on complaints are open to the public. The official who is the subject of the complaint may appear at the hearing with or without counsel and may call witnesses and cross examine witnesses. The hearing shall be informal, meaning that City Council is not bound by the strict rules of evidence prevailing in courts of law or equity.
- (3) City Council Action. Final City Council action to decide the complaint shall be by a majority vote of City Council in a public meeting. Deliberations by the Council may be in executive session. The member of the Council against whom the complaint was made may participate in any executive session but may not vote on any matter involving him or herself.
- (4) Disposition. 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 subsection (5) of this section.
- (a) Dismissal. Dismissal of the complaint without penalties.
 - (b) 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.

- (c) 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.
 - (d) Reprimand. A reprimand shall be administered to the official by a motion of reprimand by the majority of the City Council.
 - (e) Censure. A resolution of censure shall be a resolution read 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 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.
 - (f) Civil Penalties. The City Council may assess a civil penalty of up to one thousand dollars or three times the economic value of anything received in violation of this Code of Ethics or three times 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. The City Council may also suspend a portion of a civil penalty imposed on condition the Council Member have no other violations of the Council Code of Ethics for one year.
 - (g) 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.
 - (h) 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.
- (5) 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 30 days of the City Council's order.
- (6) 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 council member because that council member files an ethics complaint.

(7) Public Records. Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. 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. 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 ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE ETHICS' OFFICER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Ethics' Officer 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.

(8) Liberal Construction. 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.

(Ord. 6019 Sec. 1, 2023; Ord. 5888 Sec. 2, 2020 ; Ord. 5812 Sec. 1(part), 2019)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of April, 2023, and signed in authentication of its passage this 18th day of April, 2023.

Attest:

W.D. McKay, Mayor

KRYSTAL TOWNSEND, Deputy City Clerk

ORDINANCE NO. 6019 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 19th day of April 2023.

Approved as to Form:

LISA BEATON, City Attorney

KRYSTAL TOWNSEND, Deputy City Clerk

DATE OF PUBLICATION _____

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ORDINANCE NO. 6019

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AND AMENDING CHAPTER 2.06 OF THE KENNEWICK MUNICIPAL
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FOLLOWS:

Section 1. Chapter 2.06 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

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2.06.010: Policy:

(1) Purpose. The Kennewick City Council has adopted a Code of Ethics for members of the City Council to promote public confidence in the integrity of local government and its fair operation. ~~This Code of Ethics will provide the basis for education and training for Council Members; both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.~~

(2) Intent. The citizens and businesses of Kennewick are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. The City Council is committed to upholding the City of Kennewick Core Values which state:

We will provide excellent public service and ensure the safety and wellbeing of our community and one another through the empowerment of each employee. We value integrity, inclusiveness, stewardship and communication.

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(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019)

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(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019)

2.06.030: Prohibited Conduct.

- (1) Conflicts of Interest. In order to ensure their independence and impartiality on behalf of the common good, officials shall not participate in government decisions in which any of the following has a financial interest:
 - (a) The official;
 - (b) A relative;
 - (c) An individual with whom the official resides; or
 - (d) An entity that the official serves as an officer, director, trustee, partner or employee.

Officials shall abstain from participating in deliberations and decision-making where conflicts exist.

- (2) ~~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) A personal or business relationship not covered under the foregoing subsection; or~~

~~(b) A transaction or activity engaged in by the official; the official shall disclose the facts giving rise to the appearance of a conflict before participating in the matter.~~

- ~~(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.
- (43) Representation of Third Parties. The members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.
- (54) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.
- (65) Gifts and Favors. 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, or 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.
- (76) 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:
- (a) Specific information, rather than generalized knowledge, that are not available to a person who files a public records request; and
 - (b) Information made confidential by law.

~~(Ord. 6019 Sec. 1, 2023; Ord. 5812 Sec. 1(part), 2019-)~~

2.06.040: Ethical Standards.

In addition to Section 2.06.030 of the Code of Ethics, ~~which shall be administered by the Ethics' Officer,~~ officials are also required to comply with the following standards:

- (1) Compliance with Other Laws. Officials shall comply with federal, state and city 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. See Appendix A. As required by RCW 42.17A.565, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee. 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.

- (2) 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 Kennewick 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. ~~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. Questions for city staff members shall be submitted to the City Manager who will then coordinate with staff to provide a response.~~
- (3) Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by city staff. 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. Questions for city staff members shall be submitted to the City Manager who will then coordinate with staff to provide a response.
- (4) 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, text messages 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.~~

- (5) ~~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.~~
- ~~(6) Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.~~
- ~~(7) 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.~~
- (86) Attendance. Attendance at regular council meetings by Council Members is required absent being excused per KMC 2.04.050(2). As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council.
- (97) Nepotism. A Council Member may not vote or participate in the interview or appointment of a relative to boards or commissions or other appointed positions.
- (108) Advocacy. 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, to the best of their ability when the City Council, has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kennewick, nor will they allow the inference that they do. 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.
- (119) Policy Role of Officials. Officials shall respect and adhere to the council-manager structure of Kennewick 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.

APPENDIX A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
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Ch. 42.56 RCW	Public Records Act

(Ord. 6019 Sec. 1, 2023; -Ord. 5888 Sec. 1, 2020 ; Ord. 5812 Sec. 1(part), 2019)

2.06.050: ~~Ethics Officer.~~

~~(1) — The City Council creates the office of the Ethics' Officer. The Ethics' Officer will interpret and apply the council code of ethics to complaints submitted to the Officer. The Ethics Officer will be appointed solely with regard to their qualifications for the duties of the office which shall include, but not be limited to, appropriate educational and legal experience. The Ethics' Officer, in addition to other duties, may recommend changes or additions to this Council Code of Ethics to the City Council.~~

~~(2) — The Council Interview Committee, City Manager and City Attorney will interview applicants who respond to the City's Request for Proposals for the Ethics Officer. The Committee will forward two candidates to the full City Council for review and appointment by a majority vote of the Council.~~

~~(Ord. 5812 Sec. 1(part), 2019)~~

2.06.060: Complaints, Investigations, Hearings and Enforcement:

~~The Ethics Officer may resolve inadvertent and minor violations of the Code of Ethics 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 shall initiate an action in accordance with this section.~~

- (1) Complaint Process.
 - (a) Ethics complaints must be initiated within 45 days of the complainant becoming aware of a potential ethics violation by a sitting elected official.
 - (b) The council member desiring to initiate a complaint shall first have a one on one discussion with the individual who is the subject of the complaint, if this solves the issue then the process ends.
 - (c) If the issue remains unresolved the council member desiring to initiate a complaint shall request and Executive Session pursuant to RCW 42.30.110(1)(f) where the rationale for bringing the complaint may be

discussed with council.

- (d) The council member desiring to initiate a complaint following the Executive Session is required to wait 14 days (a cooling off period) before filing a formal complaint.
- (e) A formal complaint requires the signature of two council members only; the councilmember pursuing the complaint shall refrain from discussing the complaint with the other councilmembers outside of a public meeting.
- (f) The complaint will be filed with the City Clerk and must set forth specific facts with enough precision and detail for City Council to make a determination.
- (g) Within 7 days of the filing of the complaint, the City Clerk shall send notice to the official complained against that a complaint has been filed.
- (h) The complaint will be placed on the next regular city council meeting agenda for consideration by the whole council.
 - i. If at any point, a recall petition, Public Disclosure Commission (PDC) complaint, or any other filing with any regulatory or judicial agency is made based on substantially the same charges, the process may be stayed until the responsible agency provides resolution of that complaint. If the regulating agency finds that there is no such breach of regulations and/or law, the ethics complaint will be summarily dismissed.

~~Complaint Requirements—Service. Two officials are required to sign off on a written complaint before it can be filed with the Ethics Officer 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. It must be signed under penalty of perjury by the officials submitting it in a manner consistent with Chapter 9A.72 RCW. The complaint shall be filed with the city clerk who will date stamp it as received and forward it to the Ethics Officer.~~

~~(b) — Finding of Sufficiency. The Ethics Officer shall make a determination of sufficiency within 30 days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 2.06.030 or 2.06.040 of this Code. The Ethics Officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint as set forth below.~~

~~(c) — 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. A decision for dismissal as noted above is final and not~~

reviewable.

- ~~(d) — Notice. Notice of action by the Ethics Officer shall be provided as follows:~~
 - ~~(i) — Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sent to the officials who made the complaint and the official complained against within seven 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.~~
 - ~~(ii) — Within seven days of the Ethics Officer rendering a finding of sufficiency, the city clerk shall send notice to the officials who made the complaint and the official complained against, of the Ethics Officer's determination. If, after investigation, the Ethics Officer has reason to believe that a material violation of Section 2.06.030 or 2.06.040 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 30 days prior to the date set for the hearing. The following must be submitted to the Ethics Officer via the City Clerk at least fifteen days prior to the scheduled hearing:
 - ~~A. — Written response to the assertions in the complaint by the accused;~~
 - ~~B. — Any motions by the accused asserting Procedural or Technical challenges to the complaint;~~
 - ~~C. — Witness list including contact information (Name, Address, and Telephone number).~~~~
 - ~~(iii) — If at any point in the process, a recall petition is filed based on substantially the same charges as the ethics complaint as determined by the Ethics Officer, the process will be stayed until final resolution of the recall petition.~~
- ~~(e) — 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 official 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 official complained against, a promise by the official complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the officials who made the complaint and the official complained against and forwarded to the City Council for action.~~

(2) Conduct of Hearings.

~~(a) — Unless the official who is the subject of the complaint requests a hearing, City Council may consider the complaint at a regular meeting without conducting a full public hearing. If requested by the official, City Council will schedule a public hearing. The public hearing may be held during a regular city council meeting. All hearings on complaints found to be sufficient shall be conducted by the Ethics Officer and are open to the public. The official who is the subject of the complaint may appear at the hearing with or without counsel and may call witnesses and cross examine witnesses. The hearing shall be informal, meaning that the Ethics Officer shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer 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 Ethics Officer shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the Ethics Officer shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.~~

~~(b) — Within 30 days after the conclusion of the hearing, the Ethics Officer 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 officials who made the complaint and to the official complained against. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the City Council.~~

(3) City Council Action. Final City Council action to decide the complaint upon stipulations and recommendations from the Ethics Officer or findings, conclusions, and recommendations from the Ethics Officer shall be by a majority vote of City Council in a public meeting. Deliberations by the Council may be in executive session. The member of the Council against whom the complaint was made ~~will not~~ may participate in any executive session ~~but may not 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 meeting before the Council will be held on the issue of penalties.~~

(4) Disposition. ~~In the event the Ethics Officer 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 subsection (5) of this section.

- (a) Dismissal. Dismissal of the complaint without penalties.
- (b) 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.
- (c) 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.
- (d) Reprimand. A reprimand shall be administered to the official by a motion of reprimand by the majority of the City Council.
- (e) Censure. A resolution of censure shall be a resolution read 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 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.
- (f) Civil Penalties. The City Council may assess a civil penalty of up to one thousand dollars or three times the economic value of anything received in violation of this Code of Ethics or three times 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. The City Council may also suspend a portion of a civil penalty imposed on condition the Council Member have no other violations of the Council Code of Ethics for one year.
- (g) 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.
- (h) 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.

- (5) 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 30 days of the City Council's order.
- (6) 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 council member because that council member files an ethics complaint. ~~with the Ethics Officer.~~
- (7) Public Records. Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. 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. 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 ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE ETHICS' OFFICER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Ethics' Officer 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.

- (8) Liberal Construction. ~~Limitation Period Effective Date.~~
 - (a) ~~T~~ 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.
 - (b) ~~Any action taken under this Code of Ethics must be commenced within two years from the date of violation.~~

(Ord. 6019 Sec. 1, 2023; -Ord. 5888 Sec. 2, 2020 ; Ord. 5812 Sec. 1(part), 2019)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 18th day of April, 2023, and signed in authentication of its passage this 18th day of April, 2023.

Attest:

W.D. McKay, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 6019 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 19th day of April 2023.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____