

**ORDINANCE 19-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES REPEALING AND READOPTING ARTICLE 8 OF CHAPTER 2 OF THE CASTLE PINES MUNICIPAL CODE REGARDING THE CODE OF ETHICS**

**WHEREAS**, on May 14, 2019, electors of the City of Castle Pines (“City”) voted to approve the City Home Rule Charter (“Charter”); and

**WHEREAS**, the City previously adopted a code of ethics for its elected and appointed officials and employees, as codified in Article 8, titled “Code of Ethics”, Chapter 2 of the Castle Pines Municipal Code; and

**WHEREAS**, in furtherance of the public health, safety and welfare of the inhabitants of the City, the City Council desires to amend the Code of Ethics to clarify ethical standards and to affirmatively state and assert its home rule authority over ethical matters of purely local concern.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Castle Pines, Colorado:

**Section 1.** Article 8, titled “Code of Ethics”, of Chapter 2 of the Castle Pines Municipal Code is hereby repealed in its entirety and readopted as follows:

**Sec. 2-8-10. Intent and Purposes.**

(a) **Intent.** The intent of this Article codifying the City’s Code of Ethics is to assure that the public has confidence in the integrity of all aspects of City government and the public servants who exercise discretionary powers. The matters set forth herein are deemed to be exclusively within the City’s home rule authority and a proper exercise of the City Council’s legislative authority on behalf of the City. This Code of Ethics supersedes any other applicable Colorado law including Article XXIX, “Ethics in Government”, of the Colorado constitution. The City Council expressly considered all matters addressed in Article XXIX of the Colorado constitution and has determined it has covered the matters addressed in Article XXIX such that this Article supersedes Article XXIX of the Colorado constitution.

(b) **Purposes.** The purposes of this Code of Ethics are to:

- (1) State principles of conduct and ethics that are to be applied in public service;
- (2) Help motivate public servants to pursue productive conduct and ethical ideals that exceed minimum standards;
- (3) Provide a process by which public servants may identify and resolve conduct and ethical issues;
- (4) Identify minimum standards of ethical conduct for public servants;
- (5) Inform the public of the minimum standards to which their public servants are expected to adhere;

- (6) Promote public confidence in the integrity of public servants; and
- (7) Establish penalties, when appropriate, for public servants who violate the public trust.

**Sec. 2-8-20. Definitions.**

As used in this Article, the following terms shall have the following meanings:

*Board* or *Commission* means any appointive board, commission, committee or other appointed body established pursuant to City ordinance or resolution.

*Business entity* means any of the following entities, whether or not carried on for purposes of profit: business, sole proprietorship, firm, partnership, unincorporated association, venture, trust or corporation.

*Contract* means any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred. For purposes of considering violations of this Article, *contract* does not include:

- a. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures.
- b. Merchandise sold to the highest bidder at public auctions.
- c. Investments or deposits in financial institutions that are in the business of loaning or receiving moneys.
- d. Contracts with a public servant or with a business entity in which a public servant has an interest if, because of its geographic restrictions, the City could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that the City could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the City is greater than ten percent (10%) or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
- e. Contracts in which a public servant who has an interest has disclosed a personal interest and has not taken official action thereon, or contracts with respect to which any member of the City Council who has an interest has voted thereon in accordance with Section 24-18-109(3)(b) or 31-4-404(3), C.R.S. Any such disclosure shall be made to the City Council and to the Secretary of State.
- f. Contracts with a corporation in which the public servant exercising an official action holds less than a ten percent (10%) interest.

*Ethics Officer* means the City Attorney or their designee except where a Verified Complaint is filed against or involves the City Attorney in which case the Ethics Officer shall be a person appointed by the City Council.

*Gift of substantial value* or *gift of substantial economic benefit tantamount to gifts of substantial value* includes, without limitation, a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans, compensation received for private services rendered at a rate substantially exceeding the fair market value of such services and any pecuniary gift of any value associated in any way with a contract over which the public servant has or may perform an official action.

*Hearing Officer* means a person appointed by the City Council to hear and decide Verified Complaints filed under this Article.

*Interest* means a substantial interest held by an individual that is:

- a. An ownership interest in a business;
- b. A creditor interest in an insolvent business;
- c. An employment or a prospective employment for which negotiations have begun;
- d. An ownership interest in real or personal property;
- e. A loan or any other debtor interest; or
- f. A directorship or officership in a business.

The term *interest* is intended to reflect a pecuniary, property or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include any matter in which a similar benefit is conferred to all persons or property similarly situated. An interest of the following persons and entities shall be deemed to constitute an interest of a public servant:

- a. Any relative of the public servant;
- b. Any business entity in which the public servant is an officer, director, employee, partner or owner; or
- c. Any business entity in which the public servant owns or controls shares of stock, the aggregate amount of which constitutes more than ten percent (10%) of the shares of stock of the business entity then outstanding. Participation in a stock mutual fund shall not be considered an Interest in a business entity of which the mutual fund owns or controls shares of stock.

*Officer* means all elected or appointed officers, including but not limited to:

- a. Mayor;
- b. Council Members;
- c. City Attorney;
- d. City Manager;
- e. Members of Boards or Commissions.

*Official action* means any vote, decision, recommendation, approval, disapproval or other action, including inaction, which includes use of discretionary authority of any public servant.

*Public servant* means an officer or employee of the City.

*Relative* means any person related to a public servant by blood or marriage in any of the following degrees: parents, spouse, children, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.

*Verified complaint* means a written complaint containing a statement signed by a person indicating that he or she has personal knowledge of the allegations of the complaint and knows or believes them to be true.

**Sec. 2-8-30. Mandatory standards of ethical conduct.** It is a violation of the Code of Ethics for any public servant to:

- (1) Confidential information. Disclose or use confidential information acquired in the course of official duties that is not generally available to the public to further the public servant's personal financial interests; disclose any confidential information, including any information obtained in a City Council executive session, unless approved by majority vote of City Council members in office; or waive any confidence or privilege of the City Council or any Board or Commission without approval of the City Council or such Board or Commission.
- (2) Gifts of substantial value. Accept a gift of substantial value or of substantial economic benefit tantamount to a gift of substantial value which would tend to improperly influence a reasonable person in a public position to depart from the faithful and impartial discharge of the public servant's public duties, of which the public servant knows or which a reasonable person should know, is primarily for the purpose of rewarding an official action the public servant has taken or could take. The following shall not be considered *gifts of substantial value* or *gifts of substantial economic benefit tantamount to gifts of substantial value* unless they involve a pecuniary gift associated with a contract over which a public servant performs an official action:
  - a. Campaign contributions and contributions in kind reported as required by law;
  - b. An unsolicited, nonpecuniary gift having a market value of four hundred dollars (\$400.00) or less;
  - c. A nonpecuniary award publicly presented in recognition of public service;
  - d. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting;
  - e. Reimbursement for or acceptance of an opportunity to participate in a social function or meeting that is offered to the public servant, which is not extraordinary when viewed in light of the position held by the public servant;
  - f. Items of perishable or nonpermanent value, including but not limited to meals, lodging, travel expenses or tickets to sporting, recreational, educational or cultural events;
  - g. Payment for speeches, appearances or publications;
  - h. Payment of salary from employment, including other government employment, in addition to that earned by reason of service as a public servant; and
  - i. Pecuniary or nonpecuniary gifts or contributions to programs or events sponsored by the City in which multiple public servants may participate.

- (3) Engaging in financial transactions. Engage in a substantial financial transaction for the public servant's private business purposes with a person the public servant inspects or supervises in the course of the public servant's official duties.
- (4) Benefiting business interests. Perform an official act directly and substantially affecting, to its economic benefit, a business or other undertaking in which the public servant either has an interest or is engaged as counsel, consultant, representative or agent.
- (5) Personal interest. Vote on or attempt to influence the other members of the City Council, a Board or Commission on which the public servant sits regarding any proposed or pending matter in which the public servant has an interest. A member of the City Council or a Board or Commission may vote on such matter notwithstanding this prohibition if his or her participation is necessary to obtain a quorum
- (6) Discrimination. Be found guilty of violating or plead guilty to any federal, state or City laws prohibiting discrimination.
- (7) Sexual harassment. Be found guilty of violating or plead guilty to any federal, state or City laws prohibiting sexual harassment.
- (8) Retaliation. Be found guilty of violating or plead guilty to any federal, state or City laws prohibiting retaliation, including retaliation against whistleblowers or those filing claims against the City.
- (9) Outside employment or service. Engage in or accept any employment or service, other than employment by the City, if such employment or service reasonably would tend to impair the public servant's independence of judgment in the performance of his or her duties. This restriction is in addition to any other restrictions on outside employment applicable to a public servant and is not intended to authorize outside employment by any public servant if otherwise prohibited.
- (10) Personal benefit. Use his or her own time or efforts or request or direct the use of another public servant's time or efforts for personal or private purposes while such time is being compensated by the City or intended for general public benefit.
- (11) Special consideration. Request or grant to any person any special consideration, treatment or advantage beyond that which is available to every other person in similar circumstances or need.
- (12) Vote trading. Offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration or upon condition that any other public servant will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.
- (13) Similar conduct. Other similar conduct which threatens the public confidence in the integrity of government, including but not limited to illegal conduct, conduct which puts self-interest before public interest, willful or persistent failure to perform his or her duties or any other conduct involving dereliction of duties.

**Sec. 2-8-40. Enforcement.**

- (a) Ethics Complaints. An ethics complaint may be initiated pursuant to one of the following procedures.

(1) **Verified Complaint.** Any person may file a complaint with the Ethics Officer, which states the name of the public servant alleged to have committed a violation of the Code of Ethics and specific allegations constituting an alleged violation.

(2) **By Motion of City Council.** The City Council may initiate an ethics investigation upon information and reasonable belief that a violation of this Article VIII has occurred.

- (b) **Preliminary Ethics Investigation.** Following the receipt of a Verified Complaint, or upon the receipt of a motion by City Council that provides a reasonable basis to believe that a violation of the Code of Ethics has been committed, the Ethics Officer shall cause a preliminary investigation to be made to determine if the circumstances concerning the possible violation are sufficient to constitute a claim for a violation under this Article or if the complaint should be dismissed.
- (c) **Grounds for Dismissal.** Upon completion of the investigation, the Ethics Officer shall dismiss the complaint if it finds one or more of the following circumstances exists:
- (1) The complaint or allegation is frivolous or groundless, or brought for purposes of harassment.
  - (2) The alleged violation occurred more than twelve months preceding the date of the complaint or motion.
  - (3) The subject of the complaint has admitted wrongdoing and is no longer a public servant, rendering the claim moot.
  - (4) The allegations could not be proven by a preponderance of the evidence standard.
- (d) **Administrative Hearing.** If the Ethics Officer does not dismiss the complaint, following the preliminary investigation, they shall refer the matter to the hearing officer who shall then set a date, time and place at which an administrative hearing shall be held to hear and determine the complaint. The investigative report and notice of the hearing shall be served on the accused not less than thirty days prior to the hearing. The hearing officer shall preside over the hearing on the ethics complaint and shall determine all procedural issues. The City prosecutor or their designee shall serve as the ethics prosecutor, unless the prosecutor has a conflict of interest, in which case the City Council shall appoint an attorney licensed to practice law in Colorado to serve as the ethics prosecutor. The public servant who is the subject of the complaint may be represented pro se, or by any person of their choice. The hearing shall be conducted so as to provide fundamental fairness, and strict rules of procedure and evidence need not be followed. All witnesses shall be subject to cross-examination. Documentary evidence that can be reasonably authenticated shall be admitted for consideration.
- (e) **Service.** Service of any notice or other document pursuant to the Code of Ethics is complete upon mailing by certified mail to the person's last known address, or upon personal service.
- (f) **Burden of Proof.** An ethics violation must be proven by a preponderance of the evidence standard.
- (g) **Findings.** At the conclusion of the hearing regarding the alleged Code of Ethics violation, the hearing officer shall dismiss the charges or find that the public servant violated specific

provisions of this Code of Ethics. The hearing officer shall serve on the public servant written findings and an order within thirty (30) days of conclusion of the hearing, including appropriate penalties.

- (h) **Penalties.** Upon finding that a public servant has violated any provision of the Code of Ethics, the hearing officer shall order oral or written reprimand, a public censure, suspension from particular assignments or committees designated pursuant to the public servant's duties, or such penalty as deemed just and appropriate, depending on the seriousness of the violation and any mitigating circumstances. The hearing officer may impose a financial penalty in an amount no less than double the amount of the financial benefit obtained by the public servant in violating the Code of Ethics.

**Sec. 2-8-50. Enforcement - employees.**

The City Manager shall handle all ethical complaints involving city employees pursuant to applicable personnel policies and procedures, and the procedures set forth in Section 2-8-40(b) through (h) shall not apply.

**Section 2. Severability.** Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

**Section 3. Repeal of Previous Ordinances.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 4. Codification Amendments.** The codifier of the City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 1 of this Ordinance within the Castle Pines Municipal Code.

**Section 5. Effective Date.** Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

**Section 6. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Castle Pines, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**INTRODUCED, READ, AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 25th day of JUNE, 2019.**

**READ, PASSED, AND ADOPTED ON SECOND READING WITH AMENDMENTS, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 9th day of JULY, 2019.**

**CITY OF CASTLE PINES:**

DocuSigned by:  
*Tera Stave Radloff*  
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Tera Stave Radloff, Mayor



ATTEST:

Approved as to form:

DocuSigned by:  
*Tobi Basile*  
AD03A3B02032498...  
Tobi Basile, City Clerk

DocuSigned by:  
*Linda C. Michow*  
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Linda C. Michow, City Attorney

**CERTIFICATION OF PUBLICATION**

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a noticed public meeting of the Castle Pines City Council on June 25, 2019; published by title only in the *Douglas County News-Press*, together with the statement that “[t]he complete text of all ordinances is available through the City Offices and on the City’s official website”; and finally passed and adopted by the City Council on July 9, 2019 following a duly noticed public hearing and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on July 18, 2019.

ATTEST:

DocuSigned by:  
*Tobi Basile*  
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Tobi Basile, City Clerk