METROPOLITAN CODE OF LAWS

Chapter 2.04 – Metropolitan Council

Article II. Standards of Council Conduct, Disclosure of Interests, and Enforcement

Section 2.04.050. Declaration of Policy, Purposes, and Intent

A. Policy

1. The proper operation of democratic government requires (i) that members of the Metropolitan Council in the exercise of their official functions be independent, impartial, and responsible only to the people of Nashville and Davidson County, and as applicable, their respective council district constituents; (ii) that governmental decisions, including the decisions of the Council and the committees and boards thereof, should be made through the proper channels of Council and other governmental structures; (iii) that no Council Member should have any direct or indirect interest, financial or otherwise, or directly or indirectly engage in any business, transaction, or professional activity or incur any obligation of any nature, which is in conflict with the proper discharge of their duties in the public interest; and (iv) that public office is a position of public trust imposing the duty of a fiduciary upon Council Members who are not to use their public position for personal gain other than for salaries, reimbursements, and benefits duly adopted and as allowed by this Code or other applicable law. To implement these policies, the Metropolitan Council deems it advisable to enact these Standards of Conduct for its Members to serve not only as a guide for official conduct and performance of their duties as Members but also as a basis for discipline for those who refuse to abide by its terms.

2. These Standards of Conduct are cumulative of other ordinances, Metropolitan Charter provisions, and state statues defining prohibited conflicts of interest and regulating campaign financing and other activities related to the exercise of the public trust. However, ethical conduct is more than simply complying with state law or these Standards of Conduct; the Council strongly encourages its Members to maintain the highest possible personal values and standards consistent with their fiduciary duties to the public

B. Purposes and Intent

1. These Standards of Conduct are intended to accommodate: (i) the apparent tensions between the fiduciary duties of elected officials of government; (ii) the reality of part time service to the public necessitating non-governmental activity for personal support; and (iii) the requirements of representative government that Council members at all times be in a position to exercise their independent legislative discretion, and in

connection therewith to meet and interact with individuals and informally and formally organized groups of constituents or their representatives, recognizing that our form of government is based on representation, not direct referendum.

2. While it is impossible to establish specific and exhaustive standards for all situations, the Standards established in this Code are minimum standards of conduct applicable to maintain and improve public confidence in the integrity and independence of the Council. The intent of this enactment is:

(a) To assist in avoiding conflicts between the personal interests and the public responsibilities of Council members;

(b) To require disclosure of private interests, financial and otherwise, by Members;

(c) To require reporting of gifts and benefits received by Members;

(d) To establish a Council Board of Conduct (i) to render advisory opinions when requested by a Member of the Council, and (ii) to investigate and adjudicate complaints of alleged non-compliance with these Standards of Conduct;

(e) To provide for the processing of complaints and resolution of issues and concerns relating to possible violations of these Standards of Conduct; and

(f) To provide penalties for failure to adhere to the minimum standards set forth in this Article.

3. Compliance with this Article does not excuse or relieve any person of any obligations imposed by the Metropolitan Charter, other Metropolitan ordinances, or state or federal laws or regulations. It shall be presumed that all Members are familiar with all such Metropolitan, state and federal regulations relating to and impinging upon their duties.

4. These Standards of Conduct should be construed, interpreted, and applied liberally in favor of open government and disclosure and the avoidance of both actual and apparent material conflicts of interest while recognizing the unique demands upon legislative branch members for interaction with constituents and independent exercise of their legislative discretion.

Section 2.04.060. Definitions for Standards of Conduct

For the purposes of this Article:

(1) "Anything of value" includes any financial benefit, or other item that is pecuniary or compensatory in value to a person, including, but not limited to, any valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these items will be conferred in the future.

(2) For purposes of the foregoing definition, the following do not constitute part of "Anything of Value:"

(a) payment by a governmental entity of salaries, compensation, employee benefits, or authorized reimbursement of actual and necessary expenses; or payment by an employer or business other than a governmental entity of salaries, compensation, employee benefits, or authorized reimbursement of actual and necessary expenses, or pursuant to a contract, when the payment is unrelated to a Member's status as a public official or employee and is not made for the purpose of influencing, directly or indirectly, the vote, official action, or decision of any such Member; or

(b) fees, expenses, or income, including those resulting from outside employment, which are permitted and reported in accordance with the policies of the Metropolitan Council; or

(c) anything if received for the lawful exchange of consideration unrelated to the Member's position on the Council that is at least equal in value to the item or act conferred or performed; or

(d) campaign or political contributions that are received and reported in accordance with state law; or

(e) hospitality extended for a purpose wholly unrelated to the official business of any governmental entity, including the Council; or

(f) non-cash awards of nominal or trifling value publicly presented in recognition of public service; or

(g) gifts or other tokens of recognition presented by representatives of governmental entities or political subdivisions acting in their official capacities; or

(h) anything of value, regardless of the value, when the item of value is offered to a governmental entity, is accepted on behalf of the governmental entity, and is to remain the property of the government entity; or

(i) commercially reasonable loans made in the ordinary course of a lender's business in accordance with prevailing rates and terms, and which do not discriminate directly or indirectly against or in favor of a Member because of such individual's status as such Member; or

(j) complimentary copies of trade publications; or

(k) reasonable compensation for a published work that did not involve the use of a governmental entity's time, equipment, facilities, supplies, staff, or other resources, if the payment is arranged or paid by the publisher of the work; or reasonable compensation of a published work that did involve the use of a governmental entity's time, equipment, facilities, supplies, staff, or other resources, if the payment of the compensation to the public official or employee is lawfully authorized by a representative of the governmental entity who is empowered to authorize such compensation; or

(l) any payment, gift, or other transfer of value which is unrelated to and does not arise from the recipient's holding or having held a public position, and if the activity or occasion for which it is given does not involve the use of a governmental entity's time, equipment, facilities, supplies, staff, or other resources in any manner or degree that is not available to the general public; or

(m) anything received as a devise, bequest, or inheritance; or

(n) a gift received from an immediate relative, spouse, spouse's relative, or household member.

(3) "Belief" or "Believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(4) "Direct Interest" shall have the same meaning as defined in T.C.A. 12-4-101,et seq. and 6-54-107, et seq.

(5) "Indirect Interest" shall have the same meaning as defined in T.C.A. 12-4-101,et seq. and 6-54-107, et seq.

(6) "Material" or "Materially" means something that a reasonable person would consider important in assessing or determining how to act in a matter.

(7) "Member" or "Members" means (i) the incumbent district or at-large representatives collectively constituting the Metropolitan Council as selected and qualified pursuant to the Metropolitan Charter; and (ii) the incumbent Vice Mayor of the Metropolitan Government of Nashville and Davidson County.

(8) "Reasonable" or "Reasonably" when used in relation to conduct by a Member denotes the conduct of a reasonably prudent and competent public servant.

(9) "Source" means an individual, entity, or group of individuals or entities reasonably believed by the Member to be affiliated for purposes of contact with the Member. A registered lobbyist shall be a "Source" separately as well as deemed affiliated with each of the lobbyist's clients.

(10) "Value" means the nominal face amount of the customary charges paid or assessed for the same product, access, or service by non-Members, exclusive of sales taxes, gratuities paid to others, and (as to charitable fund raising events) the deductible portion of the nominal cost.

Section 2.04.070. Standards of Conduct

Members:

a. Shall not accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of their official duties;

b. Shall not accept or solicit bribery;

c. Shall promptly report to the Presiding Officer, the Special Legislative Counsel and, as appropriate, the district attorney or other investigative authority any attempts made to bribe the Member or any other Member;

d. Shall not accept or solicit any cash of any amount, other than in compliance with election campaign laws and fully reported pursuant to same, irrespective of the intent of the payor, if such payment or solicitation is in any way directly or indirectly related to the Member's position on the Council;

e. Shall not accept or solicit Anything of Value as herein defined, except as provided in this Section 2.04.070, subsection r;

f. Shall not accept or solicit any promise of any benefit, direct or indirect, to himself, family members, or his employer which the Member believes or should reasonably believe was intended to influence the Member's vote or other action taken in the member's official capacity;

g. Shall not receive or use for personal purposes any property, services or funds of Metropolitan Government unless authorized by law ;

h. Shall not use for personal gain, or for the gain of any family member or employer, information pertaining to Metropolitan Government which is not a matter of

common knowledge, or use his or her position to secure information about any person or entity for any purpose other than the performance of official responsibility;

i. Shall not use their Council positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others, provided, however, that this provision does not preclude Members from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

j. Shall not participate in making or influencing any Metropolitan governmental decision or action in which they know that they have any material financial interest distinguishable from that of the public generally or from that of other Metropolitan officers or employees generally;

k. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person;

l. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions.

m. Shall not violate the direct or indirect conflict of interest, consulting, lobbying, or any other requirements of state law existing or which may be adopted regulating the conduct of elected municipal or county legislative officials; Shall not provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, action, or determination from the Council or any committee thereof. This restriction does not apply to outside employment of a Member if the employment is the Member's primary source of income and if the Member or Officer discloses his or her interest and complies with this Code and state law with regard to conflicts of interest;

n. Shall not accept other employment or engage in outside activities which might impair their independent judgment in the performance of their public duty;

o. Shall not personally participate in a decision in a matter if the Member is in negotiation concerning or has an arrangement concerning prospective employment with a person or organization which has a financial interest in a matter under consideration by or within the jurisdiction of the Metropolitan Government. For purposes of this sub-section "o", the term "decision" shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term "matter" shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the Metropolitan Government. In such instance, the Member shall:

(1) Immediately notify the Presiding Officer or entire Council of the nature of the negotiation or arrangement and;

(2) Refrain from discussing the matter at any time with other Members or the Metropolitan Council if the Council will also consider the matter; and

(3) File an official statement with the Metropolitan Clerk describing the nature of the negotiation or arrangement.

p. Shall not personally represent or appear in behalf of the private interest of another before the Metropolitan Council, or any board or department of the Metropolitan Government; or, if the represented person's interest is adverse to that of the Metropolitan Government, represent any person:

(1) In any quasi judicial proceeding involving the Metropolitan Government; or

(2) In any judicial proceeding to which the Metropolitan Government is a party;

(3) Provided, that nothing in this subsection "p." shall preclude:

(i). A Member from speaking or appearing without compensation before the Council or any board or department on behalf of constituents in the course of his or her duties as an elected official;

(ii). A Member from representing his or her personal interests consistent with state law and this Code;

(iii). A Member from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding;

q. Shall not fail or refuse to file in a timely manner all Disclosure Statements and Reports required to be filed in compliance with Section 2.04.080 below, which Statements and Reports shall include all material information reasonably required to be included and shall not omit any material information reasonably necessary to make such reports complete and meaningful;

r. If related in any way, directly or indirectly, to being a Member:

(1) shall not accept promotional or hand-produced items of a Value in excess of Twenty Five Dollars ($25.00) received from a single Source in any calendar year; and

(2) shall not accept meals, beverages, food, free or discounted admissions, tickets, access to events or travel expenses from any single source of an aggregate Value in any calendar year in excess of One Hundred Dollars ($100.00), provided that a Member may accept from the sponsoring organization, on behalf of himself and a guest, free or discounted admissions, tickets or access of a face value in excess of One Hundred Dollars ($100.00) if the event is generally recognized as an annual fund raising benefit sponsored by a non-profit organization; and may accept food and beverages exempt from Member Disclosure requirements pursuant to Section 2.04.080 E.

Section 2.04.080. Disclosure

A. It is the determination of the Metropolitan Council that disclosure of interests advances the favorable opinion of the public in the integrity of government. Accordingly, the following disclosure requirements shall apply to Members:

B. **Annual Disclosures**

1. On or before thirty (30) days following adoption of this Ordinance and thereafter on or before January 30 of each year, each Member shall file with the Metropolitan Clerk an Annual Disclosure Statement setting forth the information requested therein as of and for the year ended December 31 of the preceding year, with said Disclosure Statement to be personally signed by the Member and attested as being true to the best of that Member's information and belief. In completing the Disclosure form, the Member should recognize that the purpose of the Disclosure is to alleviate reasonable concerns, justified or not, of the public concerning possible conflicts and influences upon the Member's exercise of his or her legislative discretion. In situations involving ambiguity as to the application of the requested information to the facts of a Member's situation, the Disclosure Statement should be completed in all material respects, reasonably consistent with this intent.

2. The Clerk of the Metropolitan Council shall, on or before the 10th day following the filing deadline for Annual Disclosure Statements, certify to the Vice Mayor and the Executive Committee of the Council whether or not each Member has filed an Annual Disclosure Statement and further notifying the Vice Mayor and Executive Committee of any Members who have failed to comply with this Disclosure requirement. The Clerk shall also supply a copy of the Disclosure Statements to the Special Legislative Counsel who shall be responsible for reviewing each of the Disclosure Statements as to form and substance and reporting to the Vice Mayor and Executive Committee as to the compliance with the reporting requirements of each Statement.

3. Each Member shall amend his or her current Disclosure Statement within thirty (30) days of the occurrence of any material change to the disclosures.

4. All Disclosure Statements filed pursuant to this Section, and Amendments thereto shall be maintained by the Metropolitan Clerk, readily available to the public.

5. The Annual Disclosure Statement shall require the information set forth in the following form:

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ANNUAL DISCLOSURE STATEMENT

COUNCIL MEMBER: _____ DISTRICT: _____/ N/A

This Annual Disclosure Statement is submitted in compliance with Section 2.04.080 of the Metropolitan Code for the year ended December 31, _____.

*As used herein, **family members** shall include your spouse, as well as all persons living in your household.

Use additional sheets of paper as necessary.

1. List all sources of your income for the preceding calendar year.

Gifts from family members and relatives by blood or marriage need not be disclosed. Additionally, an attorney, doctor, or other licensed professional whose source of income was his or her practice would name the practice entity, and to the extent permissible under applicable law and rules of professional conduct, would name any individual client(s) who each account for 15% (fifteen percent) or more of the individual's or practice entity's gross income. If such a professional Member relies on the foregoing protections to refrain from disclosing any client, that Member must file a certification with his or her annual disclosure statement stating: (A) the number of clients that the Member has not disclosed; (B) the laws or rules that the Member relied upon in so doing; and, (C) a statement that to the best of the Member's information and belief, those undisclosed clients do not have any matters pending before the Council within the next thirty days.

Sources: Percentage of your income:

_____

_____

_____

_____

2. **To the best of your knowledge, list all sources of income for your family members for the preceding calendar year.**

Gifts from family members and relatives by blood or marriage need not be disclosed. Additionally, an attorney, doctor, or other licensed professional whose source of income was his or her practice would name the practice entity, and to the extent permissible under applicable law and rules of professional conduct, would name any individual client(s) who each account for 15% (fifteen percent) or more of the individual's or practice entity's gross income. If such a professional Member relies on the foregoing protections to refrain from disclosing any client, that Member must file a certification with his or her annual disclosure statement stating: (A) the number of clients that the Member has not disclosed; (B) the laws or rules that the Member relied upon in so doing; and, (C) a statement that to the best of the Member's information and belief, those undisclosed clients do not have any matters pending before the Council within the next thirty days.

Family member: Source:

_____

_____

_____

_____

_____

_____

3. **Do you or a family member presently have a financial interest of at least 5% (five percent) of any business with operations, offices, or interests in the Metropolitan Nashville area?**

_____Yes _____ No

If **Yes:**

Yourself or Family member:	Business name and address:	Percent of the business represented by the interest, if known:

4. **Do you or a family member have a direct or indirect financial interest in any real property located in Davidson County, including your primary residence? Indirect interests indicate interests of greater than 5% in Real Estate Investment Trusts, other trusts in which you hold a beneficial interest in excess of 5% and other legal entities whose primary business is real estate related.**

_____Yes _____ No

If **Yes:**

Name and address of the real property: _____

_____

_____

_____

5. **Do you or a family member hold any position* with any for-profit entity, non-profit entity, labor group, or educational or other institution, which position is not disclosed above as a source of income?**

**These include positions from which no value is received.*

_____Yes _____ No

If **Yes:**

Person: Position: Entity:

_____

_____

_____

_____

_____

6. **Do you or any family member have a financial interest in, or are you or a family member a party to, any litigation involving the Metropolitan Government?**

_____Yes _____ No

If **Yes,** describe each: _____

_____

_____

7. **Do you or a family member have any* debts, guarantees, or endorsements of debts aggregating over $5,000 owed to any one creditor?**

**Excluding liabilities owed to a family member or relative by blood or marriage, and excluding loans from established financial institutions made in the ordinary course of business on usual and customary terms.*

_____Yes _____ No

If **Yes,** describe each: _____
_____
_____
_____

8. **Do you or a family member have any debts in excess of $5,000 which are secured by a guarantee or collateral of any individual other than a family member or a relative by blood or marriage?**

_____Yes _____ No

If **Yes,** describe each: _____
_____
_____
_____

The information provided herein is, to the best of my knowledge and belief, true and complete.

_____
Signature of Council Member

_____
Date

Sworn to and subscribed before me this
____ day of _____, 20__.

_____
Notary Public

My Commission Expires:
_____

****

C. **Election Commission Disclosures.** All Members shall, in addition to the Annual Disclosure Statement, file with the Metropolitan Clerk a duplicate copy of all filings with the Election Commission as are required by state and/or Metropolitan government law.

D. **Personal Interest Disclosures.** In addition to the foregoing Annual Disclosure Statements and Election Commission filings, each Member shall notify the presiding officer and the Metropolitan Clerk, preferably in writing and as far in advance of the expected time of consideration of the legislation as reasonably possible, of any direct and/or indirect personal interests which the Council person, any family member, employer and/or material client or customer of the Member may have in any legislation pending before the Council, and, as appropriate, shall comply fully with the provisions of Tennessee law in that regard.

E. **Monthly Benefits Disclosures.** In addition to the foregoing, each Member shall file a report, in form and substance as attached below, with the Metropolitan Clerk within ten days of the end of each month, a Benefits Report of the form and content set forth below, of Anything of Value received by the Council person within the preceding month, exclusive of the following:

1. All donations in connection with political campaigns made and reported in compliance with Tennessee election laws;

2. Food and/or beverages of a nominal value furnished by individuals or organizations simultaneously to all Members provided that the sponsoring organization (i) has filed notice with the Metropolitan Clerk at least ten days in advance of the event setting forth the time, place, general nature, and reasonable estimated value of the benefit not to exceed $25 to any individual attending Member, (ii) has no matter pending or scheduled to come before the next succeeding Council meeting or any associated committee meeting, and (iii) has identified the interests represented by the sponsoring individual or organization. The Clerk shall maintain a list of requested sponsors.

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COUNCIL MEMBER MONTHLY BENEFIT REPORTING STATEMENT

COUNCIL MEMBER: _____ DISTRICT: _____/ N/A
For the month of _____, _____ (year).

Use additional sheets of paper as necessary.

Instructions:

1. **List Anything of Value you have received, as defined in Article II, Chapter 2.04 of the Metropolitan Code, since your last Quarterly Reporting Form was submitted.**

   a. *Benefit type may be described by reference to the following abbreviations:*
   M = Meals, food, and beverage items
   A = Admissions, tickets to events, or other access (including parking)
   T = Travel expense
   O = Other (describe)

   b. *For purposes of this report, the Member is not required to list those items set forth in Section 2.040.080 E 1and 2.*

Source: Date: Benefit Type and Description: Value:

_____

_____

_____

2. **As to each Source, set forth in Item 1, list the aggregate Value of all benefits you have received this calendar year.**

Source: Value:

_____

_____

_____

The information provided herein is, to the best of my knowledge and belief, true and complete.

_____
Signature of Council Member

_____
Date

Sworn to and subscribed before me this
____ day of _____, 20__.

_____
Notary Public

My Commission Expires: _____

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F. By July 30 of each year, the Executive Committee of the Council shall consider and make recommendations to the Council concerning amendments or modifications to the Statements which the Executive Committee believes appropriate.

Section 2.04.090 Council Board of Conduct

A. Creation, Continuing Jurisdiction, Organization, and Membership

1. There is created the Council Board of Conduct, sometimes hereinafter referred to as the "Board." The Board shall consist of seven members, who shall have been residents of the area of the Metropolitan Government for not less than two years prior to appointment and shall continue such residency as a qualification for membership. No voting member shall be an official or employee of the Metropolitan Government or any other government. The members of the Board shall serve for terms of three years each, except of the members first appointed, who shall serve for terms as provided below. The presence of four members shall be required to constitute a quorum for the Board to conduct business. The president pro tem of the Council shall be an ex officio, non-voting, member of the Board.

2. One member each of the Board shall be selected by the following organizations:

League of Women Voters of Nashville
Nashville Area Central Labor Council
Napier-Looby Bar Association
Nashville Area Chamber of Commerce
Nashville Bar Association
Tennessee Society of Certified Public Accountants
Nashville Neighborhood Alliance

Upon the selection of the member of the Board by the above named organizations, the organization shall file with the Metropolitan Clerk evidence of the selection.

3. Any vacancy due to any cause shall be filled for the unexpired term in the same manner as the original appointment. A vacancy shall be deemed to exist upon the occurrence of any one or more of the following conditions:

(a) If a member moves their permanent residence out of Davidson County; dies or resigns or for any reason refuses to serve during the period for which they were appointed; or

(b) If the member becomes a member of the Council, an official, or employee of the Metropolitan Government or any other government or a candidate for public office; or

(c) If a member fails to attend and participate in three consecutive meetings (provided said meetings were not held in the same week) or fails to attend at least two-thirds of all meetings of the board held within a calendar year, provided that said Board meets at least three times during the calendar year.

4. The Board shall elect from its membership a chairperson and vice-chairperson who shall each be selected for one-year terms. The Metropolitan Clerk or designee shall serve as the custodian of its records and minutes and shall act as the Board Secretary. The Metropolitan attorney shall furnish legal assistance to the Board.

5. The Board, in addition to such other duties as may be assigned to it by ordinance, shall have the following duties and responsibilities:

(a) To establish and make public the procedures and rules governing its internal organization and the conduct of its affairs; and

(b) To maintain records of its investigations, inquiries and proceedings; and

(c) To render advisory opinions; and

(d) To conduct an investigation and make recommendations about any Member's conduct as provided below.

6. The Council Board of Conduct shall replace and supersede the Council Board of Ethical Conduct created pursuant to Metropolitan Ordinance O95-32, as amended, ("hereinafter the "Ethics Board");

7. The Board shall have continuing jurisdiction over all matters heretofore referred to the Ethics Board;

8. The incumbent five members of the Ethics Board, having been selected by five of the seven organizations charged with the selection of Board members, shall become the five members of the Board selected by the first five listed organizations, to hold office for the balance of their respective terms on the Ethics Board. The persons selected by the Tennessee Society of Certified Public Accountants and the Nashville Neighborhood Alliance shall be appointed to an initial term coterminous with the remaining term of the selectee of the Nashville Bar Association.

B. Advisory Opinions

1. Any Member may request, in writing, an advisory opinion of the Board regarding any matter relating to conduct or compliance of future activities with the standards set forth herein. The right to request advisory opinions shall be limited to members of the Council and the Vice Mayor of the Metropolitan Government of

Nashville and Davidson County. Said written request for an advisory opinion shall be delivered to the Metropolitan Clerk as Secretary of the Board, who will promptly deliver the same to the Chair of the Board.

2. The Board may seek from the requesting Member clarification of the request, but all such requests and clarifications shall be in writing. The advisory opinion of the Committee of the Board shall be delivered within thirty (30) days of the date of receipt of the request by the Metropolitan Clerk, unless that period is extended by the requesting Member.

3. When a Member has requested and received an advisory opinion and his or her conduct is in compliance with the conduct deemed acceptable in the advisory opinion, that advisory opinion shall thereafter be considered *prima facia* evidence that the conduct of the Member does not violate these Standards of Conduct. In making the determination of the weight to be given to the advisory opinion the Board will take into account the degree to which the request for the advisory opinion and the response accurately described the activity or conduct which subsequently formed the basis of the complaint. No such advisory opinions shall have other force of law.

C. Procedures for Evaluations and Hearing of Complaints Regarding Conduct

1. Complaint Procedures

(a) Any person may submit a complaint alleging that any one or more Members have violated the Standards of Conduct.

(b) The complaint must be signed by the complainant and notarized, and must contain the following:

(i) Complainant's legal name and current mailing address;

(ii) Names of Member or Members who committed the alleged violation;

(iii) Summary of the facts giving rise to the complaint; and,

(iv) Explanation of why those facts constitute a violation of the Standards of Conduct.

(c) The complaint must be filed with the Metropolitan Clerk. Upon receipt, the Clerk will provide a copy of the complaint to the Member or Members named therein, the Director of Law, and to the members of the Council Board of Conduct.

(d) Additionally, upon receipt of a complaint, the Clerk shall provide the complainant and the named Members with a copy of the Complaint Procedures and Hearing Procedures of this Code. As used in these sections, unless otherwise noted, to "provide" is to send by U.S. Mail or to hand-deliver.

(e) The Department of Law will evaluate the complaint, applying the law of the Standards of Conduct to the facts alleged in the complaint. Within fourteen calendar days from its receipt of the complaint, the Department of Law will issue a report concluding whether the facts alleged in the complaint, *if true*, would give rise to a

violation of the Standards of Conduct, and recommending either that the complaint be dismissed or a hearing be held on the complaint. The Department of Law shall provide its report to the Chair of the Board of Conduct, and shall file it with the Clerk.

(f) After receiving the Department of Law's report, the Chair of the Council Board of Conduct shall call a meeting of the Board, which meeting is open to and noticed to the public. The Clerk shall also provide notice of the meeting to the Director of Law, the complainant, and the Members named in the complaint.

(g) At the Board's meeting, the Board shall evaluate the Department of Law's report, and may accept or reject the Department of Law's recommendation. The Board may decide to dismiss the complaint or call for a hearing on the complaint.

(h) Whether or not the Board holds a hearing on the complaint or dismisses the complaint, it shall issue a decision in writing. Any decision shall require the affirmative vote of at least four members of the Board. If a hearing is to be held, the decision will not be issued until after the hearing is held. The decision shall be filed with the Clerk, and provided to the complainant and to the Member or Members named in the complaint.

(i) Once a complaint has been received by the members of the Board, and until a written decision has been issued by the Board, no member of the Board shall participate in any communication regarding the allegations or merits of the complaint, outside of the Board's public meetings or hearings, except as contemplated by these procedures.

2. Hearing Procedures

(a) If the Board of Conduct calls for a hearing on a complaint, the hearing shall be conducted as follows:

i. The hearing shall be noticed to and open to the public, in accordance with these procedures.

ii. Notice of hearing shall be provided to the complainant and to the Members named in the complaint (together, the "parties").

iii. The parties may, but are not required to, submit material to the Board. If a party does wish to submit such material to the Board, the party must file the material with the Clerk, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. The Clerk shall provide a copy of the same to the Board members and the Department of Law.

iv. The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Board at the hearing. Each party has the right to the assistance of legal counsel. Each party shall be allotted a reasonable amount of time to make its presentation to the Board.

v. All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses will be subject to cross-

examination. Each party must file with the clerk a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Board may permit such an unnamed witness to be called by a party if, in the Board's judgment, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

vi. Board members may ask questions of any party, counsel, or witness at any time during the hearing.

vii. The Board may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party.

viii. The Board may continue a hearing to a later date.

ix. The Director of Law or a Metropolitan Attorney shall be present during the hearing to advise the Board.

3. Action of the Board

(a) If, after a hearing, the Board decides that a Member violated the Standards of Conduct, then the Board shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:

i. Recommend to the Council that the Member be censured;

ii. Recommend to the violating Member that the Member resign his or her position as a member of Council;

iii. Refer the matter to the district attorney general for appropriate action; and/or,

iv. Refer the matter to the Director of Law with a request that appropriate civil action be instituted by the Metropolitan Government for restitution or other relief.

Section 2.04.100: Sanctions

Upon receipt of a recommendation from the Board that a Member be censured by the Council, the Chairman of the Rules-Confirmations-Public Elections Committee shall file a resolution with the Metropolitan Clerk providing for censure of the Member, which resolution shall be adopted by an affirmative vote of twenty-one members. Said resolution may also provide for the removal of the Member from any or all committees of the Council and removal as chairman of a committee of the Council, and/or provide for referral of the matter to other authority as appropriate.