

## REQUEST FOR COUNCIL ACTION

**SUBJECT:** Ordinance (second of two parts) to adopt filing and processing requirements for ethics complaints regarding the elected officials.

**SUMMARY:** Approval of the Ordinance will allow for: (1) clear guidelines and additional flexibility to appropriately respond to ethics complaints involving the elected officials (City Council) in the future; and (2) the creation of an independent body (City Ethics Commission) to investigate and act upon such ethics complaints.

**FISCAL AND/OR  
ASSET IMPACT:**

There is minimal potential fiscal impact associated with the approval of this Ordinance, since existing City staff will be utilized, and there will only be *de minimus* reimbursement to Commission members.

**STAFF RECOMMENDATION:**

Staff recommends approval of the Ordinance, with or without changes.

**MOTION RECOMMENDED:**

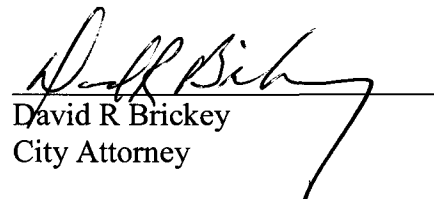
"I move to approve Ordinance 16- 47 (Ethics Commission)."

*[Roll Call vote required]*

**Prepared by:**

  
Duncan T Murray  
Deputy City Attorney

**Reviewed by:**

  
David R Brickey  
City Attorney

**Recommended by:**

  
Mark R Palesh  
City Manager

**BACKGROUND DISCUSSION:**

The purpose of this Ordinance is to prevent improper influence, avoid the appearance of impropriety, and prohibit elected officials from receiving unjust financial gain from public service. This Ordinance also establishes a City of West Jordan Ethics Commission, as allowed by state law, and seeks to increase public confidence by assuring that governmental actions are taken ethically.

City staff recommends approval of the Ordinance, which was recommended by some of the members of the City Council. This Ordinance is the second of two such ordinances to accomplish the referenced purposes.

**THE CITY OF WEST JORDAN, UTAH**  
A Municipal Corporation

ORDINANCE NO. 16- 47  
[ETHICS COMMISSION]

AN ORDINANCE AMENDING TITLE 1, "ADMINISTRATION."

**WHEREAS**, as required by § 10-3-606, Utah Code Ann., the City Council of the City of West Jordan has adopted Council Rules, Policies, and Procedures in order to assist with the governing body's decision-making and operational activities; and

**WHEREAS**, Sub-§ A.2(a)(4) of the Council Rules, Policies, and Procedures cites that one of the goals of responsible government is ". . . acting and requiring the highest standards of ethical conduct, at all levels of City government; . . ." and

**WHEREAS**, under the provisions of § 10-3-827, Utah Code Ann., and Sub-§ 1-7C-3(B), City Code of West Jordan, each Council Member swears to uphold the constitutional oath of office, which states that he or she will "support, obey and defend the constitution of the United States and the constitution of this State and the laws and ordinances of the city of West Jordan . . .," which includes the Council Rules, Policies, and Procedures and the City Code; and

**WHEREAS**, one of the governing constitutional principles upon which the United States of America is founded is the "Rule of Law," which means that the law is uniformly applied to all citizens, and that no individual citizen has a status "above the law"; and

**WHEREAS**, the City Council desires to add to the City Code, to encourage and to commit to "the highest standards of ethical conduct" at the "highest level" of City government (the Mayor and Council); and

**WHEREAS**, the City of West Jordan adopted a City Code in 2009, for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the city and its officers, employees and inhabitants, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the city and its inhabitants, and to protect property in the city; and

**WHEREAS**, the West Jordan City Council finds and determines that the purpose of the 2009 City Code, and the public health and welfare, will best be reached by the adoption of the following amendments to Title 1, Chapter 7 of the 2009 City Code.

NOW THEREFORE, IT IS ORDAINED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH:

**Section 1.** Title 1, Chapter 7, Article E, Sections 4 and 5 of the 2009 City Code shall hereafter read as follows:

**1-7E-4: Ethics Acts (including State Statutes).**

- A. Compliance with Ethics Acts. The elected officials of the City of West Jordan are required to comply with the Ethics Acts, which are incorporated herein by reference.
- B. Avoid Using Position for Personal Advantage; and Public Disclosure. Included in the “state statute portions of the Ethics Acts” (among others, §§ 10-3-1301, *et seq.* and §§ 67-16-1, *et seq.*, Utah Code Ann.) is the obligation of elected officials to:
1. **Not** disclose or improperly use private, controlled, or protected information acquired by them by reason of their position or in the course of their duties; and
  2. **Not** use (or attempt to use) their position for the economic benefit of self or others; or secure (or attempt to secure) special privileges or exemptions for self or others; which are not allowed by City ordinances and rules and state statutes; and
  3. **Not** knowingly receive, accept, take, seek, or solicit, before or after the term of office, directly or indirectly, for the elected official or for another, a gift of value or economic benefit tantamount to a gift, as defined by state statute (and §§ 1-11-1 to 1-11-22 inclusive of the City Code of West Jordan):
    - a. That would tend improperly to influence a reasonable person in the elected official’s position to depart from the faithful and impartial discharge of the person’s public duty; or
    - b. That the elected official knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the elected official for official action taken; and
  4. **Make** public disclosures and filings, including where an elected official receives compensation for assisting any person or business entity in any transaction involving the City; or where an elected official has a business ownership interest, personal interest, or investment which creates a conflict between the elected official’s personal interests and the elected official’s public duties. (Ord. 16-38, 09-07-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-5: Remedies for Violations of Ethics Acts.**

If there is an allegation that an elected official has committed a violation(s), then, in addition to any other remedies allowed by law, the following remedies are available:

- A. **Criminal allegations** may be submitted to the appropriate agency, such as the City Attorney, District Attorney, Utah Attorney General (including the Special Investigations and Public Corruption Unit), or United States Attorney, or corresponding police department or law enforcement agency, for investigation and possible prosecution; and/or

- B. **Non-criminal allegations** may be submitted for review to the **City of West Jordan Ethics Commission** (“Commission”), as per § 10-3-1311, Utah Code Ann., and § 1-7E-7 herein; otherwise, the allegations may be submitted to the Political Subdivisions Ethics Review Commission, as per §§ 11-49-101, *et seq.*, Utah Code Ann.; and/or
- C. A **censure resolution** may be recommended by the Commission for consideration by the Council; with a copy of the resolution to be made available at least seven (7) calendar days in advance to the accused elected official (so that the accused elected official may have due process and respond to the allegations); and/or
- D. A **sworn, written accusation to initiate “removal by judicial proceedings”** may be presented to the District Court by an elected official or an appropriate individual(s), as set forth in §§ 77-6-1, *et seq.*, Utah Code Ann., if there are allegations of “high crimes and misdemeanors or malfeasance in office”; with the accusation to state, in ordinary and concise language, the **criminal and/or non-criminal grounds** for removal (so that the accused elected official may have due process and respond to the allegations); and with the accusation to be timely brought, as per § 78B-2-310, Utah Code Ann.; and/or
- E. **The Council reserves the option to pursue other remedies**, including but not limited to censure (without a recommendation from the Commission), allowed by City ordinances and rules and state statutes. (Ord. 16-38, 09-07-2016; amd. Ord. 16-\_\_, 10-12-2016)

**Section 2.** Title 1, Chapter 7, Article E, Sections 7, 8, 9, 10, 11, 12, 13, 14 and 17 of the 2009 City Code shall hereafter read as follows:

- 1-7E-7: City of West Jordan Ethics Commission.**
- 1-7E-8: Filing of Ethics Complaints with Commission.**
- 1-7E-9: Privacy.**
- 1-7E-10: Initial Review of Complaint.**
- 1-7E-11: Consideration of Complaint after Acceptance.**
- 1-7E-12: Contempt Powers.**
- 1-7E-13: Request by Elected Official for Legal Representation.**
- 1-7E-14: Determination by Commission.**
- 1-7E-17: Annual Commission Report.**

**1-7E-7: City of West Jordan Ethics Commission.**

- A. General Qualifications of Members. The City hereby establishes a City of West Jordan Ethics Commission (“Commission”) pursuant to § 10-3-1311, Utah Code Ann. The Commission shall consist of five (5) regular members and one (1) alternate member, each of whom, unless otherwise indicated:
  1. May or may *not* be a resident of the City; and
  2. Is *not* currently an official, officer, or employee of the City; and
  3. Is eighteen (18) years of age or older; and
  4. Has high ethical and moral character.

- B. Special Qualifications of Individual Members, Including the Chair. Each individual member shall have additional qualifications, as follows:
1. One of the regular members, who shall serve as the Chair, shall have previously served as (but shall *not* currently be serving as) an appellate judge, district court judge, justice court judge, or administrative law judge in the state of Utah; and
  2. One of the regular members shall be currently serving as, or shall have previously served as, a prosecuting attorney or criminal defense attorney in the state of Utah; and
  3. One of the regular members shall be currently serving as, or shall have previously served as, a detective, a private investigator, or another type of professional investigator; and
  4. One of the regular members shall have previously served as (but shall *not* currently be serving as) a Municipal Mayor or Council member in the state of Utah; and
  5. One of the regular members shall be a current resident of the City, who has been a resident for at least one (1) year; and
  6. The alternate member may be a substitute for any of the regular members, and shall be a current resident of the City, who has been a resident for at least one (1) year.
- C. Appointment Process and Length of Terms. The City Manager shall, with the advice and consent of the City Council, and as set forth herein, appoint the members of the Commission. Each member shall be appointed for a two (2) calendar year term or for the unexpired portion of such a term, with no term limits.
- D. Staggering and Expiration of Terms. The terms of members 1, 2 and 3 shall expire on December 31, 2018 and on December 31<sup>st</sup> of every even-numbered year thereafter. The terms of members 4, 5 and 6 shall expire on December 31<sup>st</sup>, 2017 and on December 31<sup>st</sup> of every odd-numbered year thereafter.
- E. Removal (and “Pending” Complaints). Members may be removed by the City Manager, with the advice and consent of the City Council, for just cause, if there is no pending complaint. A complaint (see § 1-7E-8 herein) is “pending” until it is returned for non-compliance, dismissed, referred to the City Council, or other final action is taken by the Commission or Review Committee (see § 1-7E-10 herein) regarding it. A complaint is *not* “pending” if it is “temporarily suspended,” as per Sub-§ 1-7E-10(F).
- F. Chair Pro Tem. The Commission may elect, among themselves, a Chair Pro Tem, to serve in the absence of the Chair.
- G. Quorum and Required Consensus. A quorum to conduct business shall consist of at least three (3) regular members, or two (2) regular members and the alternate member; and as many as five (5) regular members, or four (4) regular members and the alternate member. The alternate member may participate in the same manner as any other member. A majority consensus of the quorum present shall be required to take any action. All six (6) members may be present at training sessions.

- H. Staff Director. The Staff Director shall be the Fire Chief, unless the City Manager, at any time, unilaterally (without independent approval), designates a different city employee to fulfill this responsibility. The name, position, and contact information of the Staff Director shall be accessible on the City Manager's Office page of the City's website. Furthermore, the Staff Director shall:
1. Be eighteen (18) years of age or older; and
  2. Have high ethical and moral character; and
  3. *Not* be in a position which requires close or frequent interaction with a member(s) of the City Council (to avoid any potential conflict of interest); and
  4. Be free from any other conflicts of interest.
- I. Staff and Other Support; Compensation. The Staff Director, subject to the direction of the City Manager, shall work with the Chair to provide the Commission with a meeting location, administrative staff, equipment, training, and other support. This support shall include notice of and information for meetings, as well as at least one (1) training session every two (2) years. Each member of the Commission shall receive \$100.00, as well as mileage according to City policy, for each meeting, hearing, or training session in which the member participates.
- J. Rules of Procedure. The Commission may adopt policies and procedures for its own organization, the transaction of business, and for conducting its meetings, which are consistent with this article. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-8: Filing of Ethics Complaints with Commission.**

- A. Conditions Required to File Complaint. An ethics complaint ("complaint") may only be filed with the Commission under the following conditions:
1. The complaint must be against an elected official who is currently serving in his/her elected position and allege a violation(s); and
  2. The complaint must be filed with the Staff Director on behalf of the Commission; and
  3. The complaint must be made by:
    - a. Two (2) or more members of the City Council; or
    - b. Three (3) or more registered voters who reside within the boundaries of the City of West Jordan and/or who pay a fee or tax to the City; and
  4. The complaint must be based upon direct evidence, sworn statements, and/or the legal doctrine of "chances," by one or more people with actual knowledge of the facts and circumstances supporting the alleged violation(s); and

5. The complaint may *not* be filed during a “municipal election season,” which is defined as June 8<sup>th</sup> through and including November 8<sup>th</sup> in any year with a municipal election in which the accused elected official is a candidate, unless the accused elected official is unopposed in the municipal election; and

6. The complaint must be in writing and contain:

a. The name and position of the elected official alleged to be in violation (“named elected official”); and

b. The name, address, and telephone number of each individual who is filing the complaint (“complainant”); and

c. A description of each alleged violation, including a reference to the section(s) of the Ethics Acts (or the other duties) alleged to have been violated; and

d. With reasonable specificity, evidence supporting each allegation, which shall be provided by copies of official records, documentary evidence, or affidavits that include the required information; and

e. A list of witnesses that a complainant wishes to have called or interviewed, including for each witness:

(1) The name, address, and, if available, one or more telephone numbers of the witness; and

(2) A brief summary of the testimony anticipated to be provided by the witness; and

(3) A specific description of any documents or evidence a complainant desires the witness to produce; and

f. A statement that each complainant:

(1) Has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint; and

(2) Believes that the complaint is submitted in good faith and *not* for any improper purpose such as harassing the named elected official, causing unwarranted harm to the named elected official’s reputation, or causing unnecessary expenditure of public funds; and

(3) Believes the allegations contained in the complaint to be true and accurate; and

(4) Understands and will comply with the privacy requirements of this article, including § 1-7E-9 herein; and

(5) Understands that the complaint may be dismissed if the allegations in the complaint, if assumed to be true, do *not* state a violation, as per Sub-§ 1-7E-10(G)(3) herein; and



g. The signature of each complainant; and

7. A registered voter may *not* be a complainant in more than one (1) complaint in a given calendar year, except as per Sub-§ 1-7E-10(C) herein; and

8. A complaint may *not* include any alleged violation(s) which occurred before September 7, 2016.

B. Procedure after Receipt of Complaint. Upon receipt of a complaint, the Staff Director shall immediately refer the complaint to the Review Committee, by contacting the Chair and the City Attorney and scheduling a Review Committee meeting. The Staff Director shall *not* notify or inform any other person of the filing of the complaint.

C. Attorney Fees and Costs. A complainant under this article is *not* entitled to reimbursement for attorney fees or costs incurred, regardless of the outcome of the proceedings. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

#### **1-7E-9: Privacy.**

A. General Duty of Non-Disclosure. Unless otherwise provided in this article, once a complaint has been filed with the Staff Director, a person (including but *not* limited to each of the complainants, the named elected official, each of the members of the Commission and Review Committee, and each City official, officer, and employee) may *not* disclose, either directly or indirectly:

1. The existence of the complaint; or

2. Any answer or other response to the complaint; or

3. Any information concerning the alleged violation(s) that is/are the subject of the complaint; except

4. Exception: in response to a specific request, question, or concern by the public, a member of the Council may disclose that he/she has filed, is in the process of filing, or will be filing a complaint (but shall *not* disclose any specific facts or details regarding the complaint).

B. Permissible Actions. Nothing in this article may be construed to hinder or prevent:

1. The named elected official from being afforded all due process rights and from preparing a defense to a complaint, including contacting witnesses or taking other actions in preparation for review by the Commission; or

2. The City Attorney or another person from disclosing the facts or allegations about a potential criminal violation(s) to a law enforcement authority; or

3. The City Council from holding a closed meeting, pursuant to Sub-§ 52-4-205(1)(a), Utah Code Ann., to fulfill the requirements of this article; or

4. Any person from disclosing public records.

- C. Penalty for Disclosure by Complainant. If a complainant publicly discloses or disseminates, either directly or indirectly, any “private information” (private records or information obtained from private records, or during the complaint process), the Commission may summarily dismiss the complaint, with or without prejudice, and may determine that a complainant should be investigated by a law enforcement agency.
- D. Penalty for Disclosure by City Official. If any City official, officer, or employee publicly discloses or disseminates, either directly or indirectly, any private information, appropriate disciplinary action may be taken against such individual.
- E. General Criminal Penalty. It is a Class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate, either directly or indirectly, any private information.
- F. Private Records. As per § 63G-1-302, Utah Code Ann. (“GRAMA”), all records received or generated by the Commission, the Review Committee, or the Council, pursuant to this article, are private and *not* subject to disclosure or release, except for:
1. The Commission’s summary findings and recommendation for the Council (see Sub-§ 1-7E-14(C) herein); or
  2. The minutes and recordings of the open meeting portion of the City Council meeting in which the Council received and acted upon the recommendation from the Commission (see § 1-7E-15 herein); or
  3. The Annual Commission report (see § 1-7E-17 herein); or
  4. Any document that is classified as public in accordance with Title 11, Chapter 49, Utah Code Ann.
- G. Closed Meetings. All Commission, Review Committee, and City Council meetings, held pursuant to this article, are closed meetings, except:
1. As specifically set forth in this article; and
  2. For training sessions, which are open to the public, but the public may only listen; the public may *not* participate. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-10: Initial Review of Complaint.**

- A. Review Committee (Members, Quorum, and Consensus). The Review Committee shall consist of: (1) the Staff Director; (2) the Chair (or Chair Pro Tem); and (3) the City Attorney (or a Deputy City Attorney designated by the City Attorney). The Chair (or Chair Pro Tem) shall conduct Review Committee meetings. A quorum to conduct business shall consist of at least two (2) of the three (3) members. A consensus of at least two (2) members shall be required to take any action.

- B. Time for Review Committee to Act. Within fourteen (14) calendar days after receipt of a complaint, the Review Committee shall:
1. Determine whether the subject matter of the complaint was previously the subject of a filing, public disclosure, or a City Attorney ethics advisory opinion; and
  2. Examine the complaint to determine if it is in compliance with the filing requirements of this article (in particular, § 1-7E-8 herein).
- C. Non-Compliance (Return Complaint). If the Review Committee determines that the complaint does *not* comply with the filing requirements of this article, the Review Committee shall:
1. Return the complaint to the “first complainant” (first one named on the complaint), with a statement detailing the reason(s) for non-compliance; and the complainants may file one (1) more complaint, within sixty (60) days of the return, with the Review Committee to determine if the new complaint independently meets the filing requirements of this article; and
  2. Notify the City Manager and the members of the Commission and City Council that a complaint filed against an unidentified named elected official has been returned for non-compliance with this article; and the fact that a complaint was filed and returned shall be kept confidential until the Commission (or Review Committee) submits its annual summary report to the City Manager and City Council.
- D. Compliance (Accept Complaint and Forward to Commission). If the Review Committee determines that the complaint complies with the filing requirements of this article, the Review Committee shall:
1. Accept the complaint; and
  2. Promptly forward the complaint to the named elected official, together with directions for providing an answer to the Commission; and
  3. If appropriate, request assistance from the office of the City Attorney; and
  4. Notify the complainants, the named elected official, the members of the Commission, and the employees in the office of the City Attorney of the privacy requirements of this article, including § 1-7E-9 herein; and
  5. Schedule a meeting for the Commission.
- E. Right to Present an Answer. The named elected official shall have the right to present an answer to the complaint. The answer may contain statements, arguments, and evidence. The answer must be filed within fourteen (14) calendar days from when the complaint was forwarded to and received by the named elected official.
- F. Criminal Investigation; Temporary Suspension of Review (Procedural Basis). At its discretion, and at any time, the Commission (or Review Committee) may:

1. Determine whether the named elected official should be investigated by a law enforcement agency; and/or
2. Suspend its review of the complaint pending the resolution of a criminal investigation or charges if the named elected official is under criminal investigation or charges for facts and allegations substantially similar to those presented in the complaint; and/or
3. Suspend its review of the complaint pending the resolution of any exigent or emergency circumstances, as determined by the Commission (or Review Committee).

G. Dismiss Complaint (Procedural Basis). The Commission (or Review Committee) shall dismiss a complaint if, at any time:

1. The named elected official irrevocably resigns in writing, with the City Clerk attesting to the named elected official's signature; or
2. The named elected official is removed from office by a District Court Judge, as per Sub-§ 1-7E-14(D) herein; or
3. The allegations in the complaint, if assumed to be true, do *not* state a violation. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-11: Consideration of Complaint after Acceptance.**

A. Types of Commission Actions. After acceptance of a complaint, the Commission has the discretion to:

1. Conduct a confidential, independent administrative investigation of the complaint; or
2. Refer the matter to an independent non-criminal investigator for fact finding and investigation and consider the confidential report of the investigator; or
3. Conduct a hearing in accordance with Sub-§ B; or
4. Any combination of the above.

B. Commission Hearing. If the Commission uses a hearing to review the complaint, the Commission shall:

1. Provide a notice to the first complainant and the named elected official at least seven (7) calendar days prior to the hearing; and
2. Assure that the hearing includes opening arguments, presentation of evidence, witnesses and rebuttal, consideration of motions, and closing arguments; and
3. Close the hearing to the public; and

4. Allow the complainants and the named elected official to retain legal representation, at their discretion; and

5. Provide administrative subpoenas pursuant to its subpoena powers, as provided in §§ 1-14C-1, *et seq.* of this Code.

C. Prior Actions and Advisory Opinions. The Commission shall:

1. Determine whether the subject matter of the complaint was previously the subject of a filing, public disclosure, or a City Attorney ethics advisory opinion; and

2. Take into consideration efforts by the named elected official to seek legal direction regarding the subject matter of the complaint and any good faith efforts by the named elected official in response to legal advice received.

D. Record of Commission Meeting or Hearing. The Commission shall ensure that a record of any Commission meeting or hearing is made, which shall include:

1. Audio recordings, if any; and

2. Official summaries or minutes taken during the meeting or hearing; and

3. Copies of all documents or other items admitted into evidence or considered by the Commission; and

4. Copies of a document or written order or ruling issued by the Commission; and

5. Any other information the Commission deems relevant to the findings and recommendation. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-12: Contempt Powers.**

A. Basis for Contempt. The Commission may hold a person in contempt if the person:

1. Refuses to answer a question, without legal justification, after being directed by the Commission to answer; or

2. Fails to comply with a subpoena issued by the Commission.

B. District Court to Enforce. Upon finding a person in contempt, the Commission shall report the person to the Third District Court and request a warrant of attachment or order to show cause, as provided in § 78B-6-313, Utah Code Ann. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-13: Request by Elected Official for Legal Representation.**

- A. Basis for Request. If the complaint arises from an act or omission during the performance of official duties, within the scope of employment, or under the color of authority, then the named elected official may request that the City provide a legal defense; otherwise, the City shall *not* provide a legal defense.
- B. Duty of the City Attorney. The City Attorney may arrange for such legal defense, where appropriate. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-14: Determination by Commission.**

- A. Determine Alleged Violation(s). After review of the complaint, the Commission shall determine whether there is clear and convincing evidence supporting a violation of the Ethics Acts (or of another duty) by the named elected official. If there are multiple alleged violations, the Commission shall separately determine whether clear and convincing evidence supports each violation.
- B. Dismiss Complaint on the Merits. If the Commission determines that none of the allegations in the complaint were proved, the Commission shall:
  - 1. Issue an order that the complaint is dismissed because no allegations in the complaint were found to have been proven; and
  - 2. Provide notice of the determination of an unidentified named elected official at a regular public meeting of the City Council; and
  - 3. Provide written notice of the determination to the named elected official and the first complainant.
- C. Refer to City Council. If the Commission determines that one or more of the allegations in the complaint were proved, the Commission shall:
  - 1. Prepare written summary findings and a recommendation for the City Council:
    - a. Listing the name of the named elected official and the name of each complainant; and
    - b. For each allegation that was proven:
      - (1) Provide the reference to the Ethics Acts (or other duty); and
      - (2) Summarize the evidence supporting a violation by clear and convincing evidence; and
      - (3) Make factual findings; and
    - c. Recommend appropriate action and remedies to the City Council, including but *not* limited to censure, reprimand, additional ethics training, or removal from office (as per Sub-§ D herein); and

2. Notify the named elected official and the first complainant of the written summary findings and recommendation to the City Council; and

3. Orally report the summary findings and recommendation to the City Council in a regular meeting of the City Council.

D. Removal from Office (by a Judge). Removal from office may be initiated by “removal by judicial proceedings,” as per Sub-§ 1-7E-5(D) herein. The Commission’s recommendation may depend on the severity of the violation(s), the named elected official’s intent, any history or pattern of abuse by the named elected official, and any economic or other benefit received by the named elected official. As per § 10-3-826, Utah Code Ann., if a named elected official is removed from office, then said named elected official is *not* eligible to run for any municipal office again. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-17: Annual Commission Report.**

A. Content. The Commission shall prepare, as soon as possible after the end of each calendar year, an annual summary report that contains:

1. A general description of the Commission’s activities during the past year; and
2. The number of complaints filed with the Commission; and
3. The number of complaints accepted and considered; and
4. The number of complaints dismissed; and
5. An executive summary of each complaint where the Commission found a violation(s); and
6. The number of complaints temporarily suspended (Sub-§ 1-7E-10(F) herein) or still pending (Sub-§ 1-7E-7(E) herein) at the end of the calendar year.

B. Procedure. The annual report of the Commission:

1. Shall be filed with the City Manager and City Council; and
2. Shall be a public record; and
3. May be filed by the Review Committee if no complaints were accepted and considered by the Commission. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**Section 3.** Additions or amendments to the 2009 City Code when passed in such form as to indicate the intention of the city council to make the same a part of the 2009 City Code shall be deemed to be incorporated in the 2009 City Code, so that reference to the 2009 City Code hereafter includes the additions and amendments.

**Section 4.** This Ordinance shall become immediately effective, with no retroactive application.

Passed and adopted by the City Council of the City of West Jordan, Utah this 12<sup>th</sup> day of October, 2016.

CITY OF WEST JORDAN

By: \_\_\_\_\_  
KIM V. ROLFE  
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC  
City Clerk

**Voting by the City Council**

**“AYE”**                      **“NAY”**

<b>Council Member Dirk Burton</b>	_____	_____
<b>Council Member Jeff Haaga</b>	_____	_____
<b>Council Member Zach Jacob</b>	_____	_____
<b>Council Member Chris McConnehey</b>	_____	_____
<b>Council Member Chad Nichols</b>	_____	_____
<b>Council Member Sophie Rice</b>	_____	_____
<b>Mayor Kim V. Rolfe</b>	_____	_____

**CITY CLERK/RECORDER'S CERTIFICATE OF PUBLICATION**

I, Melanie S. Briggs, certify that I am the City Clerk/Recorder of the City of West Jordan, Utah, and that the foregoing ordinance was published in the Legal Section, of the Salt Lake Tribune, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, pursuant to Utah Code Annotated, 10-3-711.

MELANIE S. BRIGGS, MMC  
City Clerk/Recorder  
[SEAL]



# Legislative

## 1-7E-4: Ethics Acts (including State Statutes).

- A. Compliance with Ethics Acts. The elected officials of the City of West Jordan are required to comply with the Ethics Acts, which are incorporated herein by reference.
- B. Avoid Using Position for Personal Advantage; and Public Disclosure. Included in the “state statute portions of the Ethics Acts” (among others, §§ 10-3-1301, *et seq.* and §§ 67-16-1, *et seq.*, Utah Code Ann.) is the obligation of elected officials to:
1. *Not* disclose or improperly use private, controlled, or protected information acquired by them by reason of their position or in the course of their duties; and
  2. *Not* use (or attempt to use) their position for the economic benefit of self or others; or secure (or attempt to secure) special privileges or exemptions for self or others; which are not allowed by City ordinances and rules and state statutes; and
  3. *Not* knowingly receive, accept, take, seek, or solicit, before or after the term of office, directly or indirectly, for the elected official or for another, a gift of value or economic benefit tantamount to a gift, as defined by state statute (and §§ 1-11-1 to 1-11-22 inclusive of the City Code of West Jordan):
    - a. That would tend improperly to influence a reasonable person in the elected official’s position to depart from the faithful and impartial discharge of the person’s public duty; or
    - b. That the elected official knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the elected official for official action taken; and
  4. *Make* public disclosures and filings ~~as set forth in section “B” above,~~ including where an elected official receives compensation for assisting any person or business entity in any transaction involving the City; or where an elected official has a business ownership interest, personal interest, or investment which creates a conflict between the elected official’s personal interests and the elected official’s public duties. (Ord. 16-38, 09-07-2016; amd. Ord. 16-\_\_\_, 10-12-2016)

## 1-7E-5: Remedies for Violations of Ethics Acts.

If there is an allegation that an elected official has committed a violation(s) ~~of the Ethics Acts,~~ then, in addition to any other remedies allowed by law, the following remedies are available:

- A. **Criminal allegations** may be submitted **to the appropriate agency**, such as the City Attorney, District Attorney, Utah Attorney General (including the Special Investigations and Public Corruption Unit), or United States Attorney, or corresponding police department or law enforcement agency, for investigation and possible prosecution; and/or

- B. **Non-criminal allegations** may be submitted for review to the **City of West Jordan Ethics Commission** (“Commission”), as per § 10-3-1311, Utah Code Ann., and § 1-7E-7 herein; otherwise, the allegations may be submitted to the Political Subdivisions Ethics Review Commission, as per §§ 11-49-101, *et seq.*, Utah Code Ann.; and/or
- C. A **censure resolution** may be recommended by the Commission for consideration by the Council; with a copy of the resolution to be made available at least seven (7) calendar days in advance to the accused elected official (so that the accused elected official may have due process and respond to the allegations); and/or
- D. A **sworn, written accusation to initiate “removal by judicial proceedings”** may be presented to the District Court by an elected official or an appropriate individual(s), as set forth in §§ 77-6-1, *et seq.*, Utah Code Ann., if there are allegations of “high crimes and misdemeanors or malfeasance in office”; with the accusation to state, in ordinary and concise language, the **criminal and/or non-criminal grounds** for removal (so that the accused elected official may have due process and respond to the allegations); and with the accusation to be timely brought, as per § 78B-2-310, Utah Code Ann.; and/or
- E. **The Council reserves the option to pursue other remedies**, including but not limited to censure (without a recommendation from the Commission), allowed by City ordinances and rules and state statutes. (Ord. 16-38, 09-07-2016; amd. Ord. 16-\_\_, 10-12-2016)

- 1-7E-7: ~~Reserved for City of West Jordan Ethics Commission.~~
- 1-7E-8: ~~Reserved for Filing of Ethics Complaints with Commission.~~
- 1-7E-9: ~~Reserved for Privacy.~~
- 1-7E-10: ~~Reserved for Initial Review of Complaint.~~
- 1-7E-11: ~~Reserved for Consideration of Complaint after Acceptance.~~
- 1-7E-12: ~~Reserved for Contempt Powers.~~
- 1-7E-13: ~~Reserved for Request by Elected Official for Legal Representation.~~
- 1-7E-14: ~~Reserved for Determination by Commission.~~
- 1-7E-17: ~~Reserved for Annual Commission Report.~~

1-7E-7: ~~Reserved for City of West Jordan Ethics Commission.~~

A. General Qualifications of Members. The City hereby establishes a City of West Jordan Ethics Commission (“Commission”) pursuant to § 10-3-1311, Utah Code Ann. The Commission shall consist of five (5) regular members and one (1) alternate member, each of whom, unless otherwise indicated:

1. May or may *not* be a resident of the City; and
2. Is *not* currently an official, officer, or employee of the City; and
3. Is eighteen (18) years of age or older; and
4. Has high ethical and moral character.

- B. Special Qualifications of Individual Members, Including the Chair. Each individual member shall have additional qualifications, as follows:
1. One of the regular members, who shall serve as the Chair, shall have previously served as (but shall *not* currently be serving as) an appellate judge, district court judge, justice court judge, or administrative law judge in the state of Utah; and
  2. One of the regular members shall be currently serving as, or shall have previously served as, a prosecuting attorney or criminal defense attorney in the state of Utah; and
  3. One of the regular members shall be currently serving as, or shall have previously served as, a detective, a private investigator, or another type of professional investigator; and
  4. One of the regular members shall have previously served as (but shall *not* currently be serving as) a Municipal Mayor or Council member in the state of Utah; and
  5. One of the regular members shall be a current resident of the City, who has been a resident for at least one (1) year; and
  6. The alternate member may be a substitute for any of the regular members, and shall be a current resident of the City, who has been a resident for at least one (1) year.
- C. Appointment Process and Length of Terms. The City Manager shall, with the advice and consent of the City Council, and as set forth herein, appoint the members of the Commission. Each member shall be appointed for a two (2) calendar year term or for the unexpired portion of such a term, with no term limits.
- D. Staggering and Expiration of Terms. The terms of members 1, 2 and 3 shall expire on December 31, 2018 and on December 31<sup>st</sup> of every even-numbered year thereafter. The terms of members 4, 5 and 6 shall expire on December 31<sup>st</sup>, 2017 and on December 31<sup>st</sup> of every odd-numbered year thereafter.
- E. Removal (and "Pending" Complaints). Members may be removed by the City Manager, with the advice and consent of the City Council, for just cause, if there is no pending complaint. A complaint (see § 1-7E-8 herein) is "pending" until it is returned for non-compliance, dismissed, referred to the City Council, or other final action is taken by the Commission or Review Committee (see § 1-7E-10 herein) regarding it. A complaint is *not* "pending" if it is "temporarily suspended," as per Sub-§ 1-7E-10(F).
- F. Chair Pro Tem. The Commission may elect, among themselves, a Chair Pro Tem, to serve in the absence of the Chair.
- G. Quorum and Required Consensus. A quorum to conduct business shall consist of at least three (3) regular members, or two (2) regular members and the alternate member; and as many as five (5) regular members, or four (4) regular members and the alternate member. The alternate member may participate in the same manner as any other member. A majority consensus of the quorum present shall be required to take any action. All six (6) members may be present at training sessions.

H. Staff Director. The Staff Director shall be the Fire Chief, unless the City Manager, at any time, unilaterally (without independent approval), designates a different city employee to fulfill this responsibility. The name, position, and contact information of the Staff Director shall be accessible on the City Manager's Office page of the City's website. Furthermore, the Staff Director shall:

1. Be eighteen (18) years of age or older; and
2. Have high ethical and moral character; and
3. Not be in a position which requires close or frequent interaction with a member(s) of the City Council (to avoid any potential conflict of interest); and
4. Be free from any other conflicts of interest.

I. Staff and Other Support; Compensation. The Staff Director, subject to the direction of the City Manager, shall work with the Chair to provide the Commission with a meeting location, administrative staff, equipment, training, and other support. This support shall include notice of and information for meetings, as well as at least one (1) training session every two (2) years. Each member of the Commission shall receive \$100.00, as well as mileage according to City policy, for each meeting, hearing, or training session in which the member participates.

J. Rules of Procedure. The Commission may adopt policies and procedures for its own organization, the transaction of business, and for conducting its meetings, which are consistent with this article. (Ord. 16-38, 09-06-2016; amd. Ord. 16- , 10-12-2016)

**1-7E-8: ~~Reserved for Filing of Ethics Complaints with Commission.~~**

A. Conditions Required to File Complaint. An ethics complaint ("complaint") may only be filed with the Commission under the following conditions:

1. The complaint must be against an elected official who is currently serving in his/her elected position and allege a violation(s); and
2. The complaint must be filed with the Staff Director on behalf of the Commission; and
3. The complaint must be made by:
  - a. Two (2) or more members of the City Council; or
  - b. Three (3) or more registered voters who reside within the boundaries of the City of West Jordan and/or who pay a fee or tax to the City; and
4. The complaint must be based upon direct evidence, sworn statements, and/or the legal doctrine of "chances," by one or more people with actual knowledge of the facts and circumstances supporting the alleged violation(s); and
5. The complaint may *not* be filed during a "municipal election season," which is defined as June 8<sup>th</sup> through and including November 8<sup>th</sup> in any year with a municipal

election in which the accused elected official is a candidate, unless the accused elected official is unopposed in the municipal election; and

6. The complaint must be in writing and contain:

a. The name and position of the elected official alleged to be in violation (“named elected official”); and

b. The name, address, and telephone number of each individual who is filing the complaint (“complainant”); and

c. A description of each alleged violation, including a reference to the section(s) of the Ethics Acts (or the other duties) alleged to have been violated; and

d. With reasonable specificity, evidence supporting each allegation, which shall be provided by copies of official records, documentary evidence, or affidavits that include the required information; and

e. A list of witnesses that a complainant wishes to have called or interviewed, including for each witness:

(1) The name, address, and, if available, one or more telephone numbers of the witness; and

(2) A brief summary of the testimony anticipated to be provided by the witness; and

(3) A specific description of any documents or evidence a complainant desires the witness to produce; and

f. A statement that each complainant:

(1) Has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint; and

(2) Believes that the complaint is submitted in good faith and *not* for any improper purpose such as harassing the named elected official, causing unwarranted harm to the named elected official’s reputation, or causing unnecessary expenditure of public funds; and

(3) Believes the allegations contained in the complaint to be true and accurate; and

(4) Understands and will comply with the privacy requirements of this article, including § 1-7E-9 herein; and

(5) Understands that the complaint may be dismissed if the allegations in the complaint, if assumed to be true, do *not* state a violation, as per Sub-§ 1-7E-10(G)(3) herein; and

g. The signature of each complainant; and

7. A registered voter may *not* be a complainant in more than one (1) complaint in a given calendar year, except as per Sub-§ 1-7E-10(C) herein; and

8. A complaint may *not* include any alleged violation(s) which occurred before September 7, 2016.

B. Procedure after Receipt of Complaint. Upon receipt of a complaint, the Staff Director shall immediately refer the complaint to the Review Committee, by contacting the Chair and the City Attorney and scheduling a Review Committee meeting. The Staff Director shall *not* notify or inform any other person of the filing of the complaint.

C. Attorney Fees and Costs. A complainant under this article is *not* entitled to reimbursement for attorney fees or costs incurred, regardless of the outcome of the proceedings. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-9: ~~Reserved for Privacy.~~**

A. General Duty of Non-Disclosure. Unless otherwise provided in this article, once a complaint has been filed with the Staff Director, a person (including but *not* limited to each of the complainants, the named elected official, each of the members of the Commission and Review Committee, and each City official, officer, and employee) may *not* disclose, either directly or indirectly:

1. The existence of the complaint; or

2. Any answer or other response to the complaint; or

3. Any information concerning the alleged violation(s) that is/are the subject of the complaint; except

4. Exception: in response to a specific request, question, or concern by the public, a member of the Council may disclose that he/she has filed, is in the process of filing, or will be filing a complaint (but shall *not* disclose any specific facts or details regarding the complaint).

B. Permissible Actions. Nothing in this article may be construed to hinder or prevent:

1. The named elected official from being afforded all due process rights and from preparing a defense to a complaint, including contacting witnesses or taking other actions in preparation for review by the Commission; or

2. The City Attorney or another person from disclosing the facts or allegations about a potential criminal violation(s) to a law enforcement authority; or

3. The City Council from holding a closed meeting, pursuant to Sub-§ 52-4-205(1)(a), Utah Code Ann., to fulfill the requirements of this article; or

4. Any person from disclosing public records.

- C. Penalty for Disclosure by Complainant. If a complainant publicly discloses or disseminates, either directly or indirectly, any "private information" (private records or information obtained from private records, or during the complaint process), the Commission may summarily dismiss the complaint, with or without prejudice, and may determine that a complainant should be investigated by a law enforcement agency.
- D. Penalty for Disclosure by City Official. If any City official, officer, or employee publicly discloses or disseminates, either directly or indirectly, any private information, appropriate disciplinary action may be taken against such individual.
- E. General Criminal Penalty. It is a Class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate, either directly or indirectly, any private information.
- F. Private Records. As per § 63G-1-302, Utah Code Ann. ("GRAMA"), all records received or generated by the Commission, the Review Committee, or the Council, pursuant to this article, are private and *not* subject to disclosure or release, except for:
1. The Commission's summary findings and recommendation for the Council (see Sub-§ 1-7E-14(C) herein); or
  2. The minutes and recordings of the open meeting portion of the City Council meeting in which the Council received and acted upon the recommendation from the Commission (see § 1-7E-15 herein); or
  3. The Annual Commission report (see § 1-7E-17 herein); or
  4. Any document that is classified as public in accordance with Title 11, Chapter 49, Utah Code Ann.
- G. Closed Meetings. All Commission, Review Committee, and City Council meetings, held pursuant to this article, are closed meetings, except:
1. As specifically set forth in this article; and
  2. For training sessions, which are open to the public, but the public may only listen; the public may *not* participate. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-10: ~~Reserved for Initial Review of Complaint.~~**

- A. Review Committee (Members, Quorum, and Consensus). The Review Committee shall consist of: (1) the Staff Director; (2) the Chair (or Chair Pro Tem); and (3) the City Attorney (or a Deputy City Attorney designated by the City Attorney). The Chair (or Chair Pro Tem) shall conduct Review Committee meetings. A quorum to conduct business shall consist of at least two (2) of the three (3) members. A consensus of at least two (2) members shall be required to take any action.

- B. Time for Review Committee to Act. Within fourteen (14) calendar days after receipt of a complaint, the Review Committee shall:
1. Determine whether the subject matter of the complaint was previously the subject of a filing, public disclosure, or a City Attorney ethics advisory opinion; and
  2. Examine the complaint to determine if it is in compliance with the filing requirements of this article (in particular, § 1-7E-8 herein).
- C. Non-Compliance (Return Complaint). If the Review Committee determines that the complaint does *not* comply with the filing requirements of this article, the Review Committee shall:
1. Return the complaint to the “first complainant” (first one named on the complaint), with a statement detailing the reason(s) for non-compliance; and the complainants may file one (1) more complaint, within sixty (60) days of the return, with the Review Committee to determine if the new complaint independently meets the filing requirements of this article; and
  2. Notify the City Manager and the members of the Commission and City Council that a complaint filed against an unidentified named elected official has been returned for non-compliance with this article; and the fact that a complaint was filed and returned shall be kept confidential until the Commission (or Review Committee) submits its annual summary report to the City Manager and City Council.
- D. Compliance (Accept Complaint and Forward to Commission). If the Review Committee determines that the complaint complies with the filing requirements of this article, the Review Committee shall:
1. Accept the complaint; and
  2. Promptly forward the complaint to the named elected official, together with directions for providing an answer to the Commission; and
  3. If appropriate, request assistance from the office of the City Attorney; and
  4. Notify the complainants, the named elected official, the members of the Commission, and the employees in the office of the City Attorney of the privacy requirements of this article, including § 1-7E-9 herein; and
  5. Schedule a meeting for the Commission.
- E. Right to Present an Answer. The named elected official shall have the right to present an answer to the complaint. The answer may contain statements, arguments, and evidence. The answer must be filed within fourteen (14) calendar days from when the complaint was forwarded to and received by the named elected official.



F. Criminal Investigation; Temporary Suspension of Review (Procedural Basis). At its discretion, and at any time, the Commission (or Review Committee) may:

1. Determine whether the named elected official should be investigated by a law enforcement agency; and/or

2. Suspend its review of the complaint pending the resolution of a criminal investigation or charges if the named elected official is under criminal investigation or charges for facts and allegations substantially similar to those presented in the complaint; and/or

3. Suspend its review of the complaint pending the resolution of any exigent or emergency circumstances, as determined by the Commission (or Review Committee).

G. Dismiss Complaint (Procedural Basis). The Commission (or Review Committee) shall dismiss a complaint if, at any time:

1. The named elected official irrevocably resigns in writing, with the City Clerk attesting to the named elected official's signature; or

2. The named elected official is removed from office by a District Court Judge, as per Sub-§ 1-7E-14(D) herein; or

3. The allegations in the complaint, if assumed to be true, do *not* state a violation. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-11: ~~Reserved for Consideration of Complaint after Acceptance.~~**

A. Types of Commission Actions. After acceptance of a complaint, the Commission has the discretion to:

1. Conduct a confidential, independent administrative investigation of the complaint; or

2. Refer the matter to an independent non-criminal investigator for fact finding and investigation and consider the confidential report of the investigator; or

3. Conduct a hearing in accordance with Sub-§ B; or

4. Any combination of the above.

B. Commission Hearing. If the Commission uses a hearing to review the complaint, the Commission shall:

1. Provide a notice to the first complainant and the named elected official at least seven (7) calendar days prior to the hearing; and

2. Assure that the hearing includes opening arguments, presentation of evidence, witnesses and rebuttal, consideration of motions, and closing arguments; and

3. Close the hearing to the public; and

4. Allow the complainants and the named elected official to retain legal representation, at their discretion; and

5. Provide administrative subpoenas pursuant to its subpoena powers, as provided in §§ 1-14C-1, *et seq.* of this Code.

C. Prior Actions and Advisory Opinions. The Commission shall:

1. Determine whether the subject matter of the complaint was previously the subject of a filing, public disclosure, or a City Attorney ethics advisory opinion; and

2. Take into consideration efforts by the named elected official to seek legal direction regarding the subject matter of the complaint and any good faith efforts by the named elected official in response to legal advice received.

D. Record of Commission Meeting or Hearing. The Commission shall ensure that a record of any Commission meeting or hearing is made, which shall include:

1. Audio recordings, if any; and

2. Official summaries or minutes taken during the meeting or hearing; and

3. Copies of all documents or other items admitted into evidence or considered by the Commission; and

4. Copies of a document or written order or ruling issued by the Commission; and

5. Any other information the Commission deems relevant to the findings and recommendation. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-12: ~~Reserved for Contempt Powers.~~**

A. Basis for Contempt. The Commission may hold a person in contempt if the person:

1. Refuses to answer a question, without legal justification, after being directed by the Commission to answer; or

2. Fails to comply with a subpoena issued by the Commission.

B. District Court to Enforce. Upon finding a person in contempt, the Commission shall report the person to the Third District Court and request a warrant of attachment or order to show cause, as provided in § 78B-6-313, Utah Code Ann. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-13: ~~Reserved for Request by Elected Official for Legal Representation.~~**

- A. Basis for Request. If the complaint arises from an act or omission during the performance of official duties, within the scope of employment, or under the color of authority, then the named elected official may request that the City provide a legal defense; otherwise, the City shall *not* provide a legal defense.
- B. Duty of the City Attorney. The City Attorney may arrange for such legal defense, where appropriate. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-14: ~~Reserved for Determination by Commission.~~**

- A. Determine Alleged Violation(s). After review of the complaint, the Commission shall determine whether there is clear and convincing evidence supporting a violation of the Ethics Acts (or of another duty) by the named elected official. If there are multiple alleged violations, the Commission shall separately determine whether clear and convincing evidence supports each violation.
- B. Dismiss Complaint on the Merits. If the Commission determines that none of the allegations in the complaint were proved, the Commission shall:
1. Issue an order that the complaint is dismissed because no allegations in the complaint were found to have been proven; and
  2. Provide notice of the determination of an unidentified named elected official at a regular public meeting of the City Council; and
  3. Provide written notice of the determination to the named elected official and the first complainant.
- C. Refer to City Council. If the Commission determines that one or more of the allegations in the complaint were proved, the Commission shall:
1. Prepare written summary findings and a recommendation for the City Council:
    - a. Listing the name of the named elected official and the name of each complainant; and
    - b. For each allegation that was proven:
      - (1) Provide the reference to the Ethics Acts (or other duty); and
      - (2) Summarize the evidence supporting a violation by clear and convincing evidence; and
      - (3) Make factual findings; and
    - c. Recommend appropriate action and remedies to the City Council, including but *not* limited to censure, reprimand, additional ethics training, or removal from office (as per Sub-§ D herein); and

2. Notify the named elected official and the first complainant of the written summary findings and recommendation to the City Council; and

3. Orally report the summary findings and recommendation to the City Council in a regular meeting of the City Council.

D. Removal from Office (by a Judge). Removal from office may be initiated by “removal by judicial proceedings,” as per Sub-§ 1-7E-5(D) herein. The Commission’s recommendation may depend on the severity of the violation(s), the named elected official’s intent, any history or pattern of abuse by the named elected official, and any economic or other benefit received by the named elected official. As per § 10-3-826, Utah Code Ann., if a named elected official is removed from office, then said named elected official is *not* eligible to run for any municipal office again. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)

**1-7E-17: ~~Reserved for Annual Commission Report.~~**

A. Content. The Commission shall prepare, as soon as possible after the end of each calendar year, an annual summary report that contains:

1. A general description of the Commission’s activities during the past year; and

2. The number of complaints filed with the Commission; and

3. The number of complaints accepted and considered; and

4. The number of complaints dismissed; and

5. An executive summary of each complaint where the Commission found a violation(s); and

6. The number of complaints temporarily suspended (Sub-§ 1-7E-10(F) herein) or still pending (Sub-§ 1-7E-7(E) herein) at the end of the calendar year.

B. Procedure. The annual report of the Commission:

1. Shall be filed with the City Manager and City Council; and

2. Shall be a public record; and

3. May be filed by the Review Committee if no complaints were accepted and considered by the Commission. (Ord. 16-38, 09-06-2016; amd. Ord. 16-\_\_, 10-12-2016)