

**TOWN OF KEYSTONE
ORDINANCE NO. 2025-O-17**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF KEYSTONE, COLORADO,
ADOPTING A CODE OF ETHICS AND
IMPOSING PENALTIES FOR VIOLATIONS THEREOF**

WHEREAS, the Town of Keystone (the “Town”) is a Colorado home rule municipality organized pursuant to Article 20, Section 6, of the Colorado Constitution; and

WHEREAS, Article 20, Section 6 of the Colorado Constitution confers upon a home rule municipality the authority to regulate the jurisdiction, power, and duties of the municipality’s municipal court; and

WHEREAS, Article 20, Section 6 of the Colorado Constitution confers upon a home rule municipality the authority to impose, enforce, and collect fines and penalties for the violation of the municipality’s charter or adopted ordinances; and

WHEREAS, pursuant to Section 2.11 of the Home Rule Charter of the Town of Keystone (“Town”), the Town Council is authorized to adopt an ordinance governing conflicts of interest, recusals from voting, and other standards or code of conduct or ethics; and

WHEREAS, the Town Council has determined that the adoption of this ordinance is legislative in nature and will further the public health, safety, and welfare of the residents of the Town; and

WHEREAS, it is the intent of the Town that its elected officials, appointees, and employees adhere to high levels of ethical conduct, honesty, integrity, and accountability so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public; and

WHEREAS, the Code of Ethics is intended to clarify which actions are permitted and which constitute a breach of public trust, specifically relating to the use of public office for private gain, employment and supervision of family members, gifts, conflicts of interest, prior employment, outside employment, subsequent employment, improper use of confidential information or records, and other ethics matters consistent with the Charter; and

WHEREAS, the Code of Ethics is intended to establish a system that enables citizens to report possible wrongdoing and seek local enforcement so that any breach of public trust may be discovered and appropriately addressed; and

WHEREAS, the Code of Ethics is hereby deemed to be a matter exclusively within the Town’s home rule authority and a proper exercise of the Town Council’s legislative authority on behalf of the Town; and

WHEREAS, the Code of Ethics supersedes any other applicable Colorado law;
and

WHEREAS, the Code of Ethics is in compliance with, addresses all matters raised in, and therefore supersedes by its own terms, Colorado Constitution, Article XXIX; and

WHEREAS, the Town Council, through a proper exercise of its legislative authority, considered and evaluated all topics addressed in the Colorado Constitution, Article XXIX, "Ethics in Government;" and

WHEREAS, in legislatively enacting the Keystone Code of Ethics, the Town Council intended to and did address each provision addressed in the Colorado Constitution, Article XXIX, "Ethics in Government," and rendered a decision to incorporate the provision, modify the provision, or not incorporate or modify the provision.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, ORDAINS:

Section 1. The foregoing recitals are affirmed and incorporated herein.

Section 2. The Town Council adopts the following Code of Ethics.

TOWN OF KEYSTONE

Code of Ethics

Division 1 - Legislative Intent and Definitions

Sec. 1. Legislative intent.

It is the intent of the Town that its elected officials, appointees, and employees uphold the highest standards of ethical conduct, honesty, integrity, and accountability. By doing so, the Town seeks to ensure that the public has confidence that those serving in positions of public trust are acting in the best interests of the community.

All officials, appointees, and employees are expected to comply with both the letter and the spirit of this Code of Ethics and to actively avoid situations that may result in ethical conflicts or the appearance of impropriety.

Recognizing that ethical challenges may arise in the course of public service, the purpose of this Code of Ethics is to:

- (1) Define acceptable conduct and identify actions that constitute a breach of the public trust, particularly in areas such as the use of public office for private gain, employment or supervision of family members, gifts, conflicts of interest, prior and outside employment, post-employment restrictions, improper use of confidential information, and other ethical matters consistent with the Town Charter;

- (2) Establish a clear and accessible process that allows residents and stakeholders to report potential ethical violations and pursue local enforcement, ensuring that any breach of the public trust can be properly investigated and addressed.

In accordance with the Town of Keystone Home Rule Charter Section 2.11, the Town of Keystone Code of Ethics is adopted as an exercise of the Town's exclusive home rule authority and reflects a proper exercise of the Town Council's legislative power on behalf of the Town. This Code supersedes any conflicting provisions of Colorado state law, including those found in Article XXIX of the Colorado Constitution ("Ethics in Government").

The Town Council has deliberately considered and evaluated all subject areas addressed in Article XXIX. Where this Code addresses the same topics, it does so intentionally and with the purpose of governing them under local law. Where this Code omits or addresses such topics differently, the Council has likewise acted intentionally, having reviewed and determined an alternative local approach is appropriate.

Sec. 2. Applicability.

This Code of Ethics applies to Public Servants of the Town of Keystone. A "Public Servant" means:

- (1) The elected or appointed Mayor; and
- (2) Any elected or appointed council member; and
- (3) Officials appointed by the Town Council to serve such as: Town Manager and Town Attorney; and
- (4) Employees of the Town; and
- (5) Appointed officials including all members of all boards, commissions, and bodies regardless of whether such member is a regular, or alternate member.

Sec. 3. No private right of action.

Nothing in this Code of Ethics is intended to, or does, create a private right of action against the Town or against any Public Servant based upon noncompliance with its provisions. Authority to enforce compliance with this Code of Ethics is vested exclusively in the Town pursuant to the provisions of the Code.

Sec. 4. Definitions.

For purposes of this Article, the following terms have the assigned meaning:

- (a) *Business* means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or entity.
- (b) *Town* means the Town of Keystone, Colorado.

(c) *Direct official action* means any action which involves:

- (1) Approving, disapproving, administering, negotiating, enforcing, or recommending for or against an application, contract, purchase order, lease, concession, franchise, grant, vendor, concessionaire, land use, or any other matter to which the Town is a party.
- (2) Enforcing laws or regulations or issuing, enforcing, or administering permits and licenses;
- (3) Appointing, supervising, managing, and terminating employees, temporary workers, and independent contractors.

Direct official action does not include acts that are purely ministerial and mandated by law, including *pro forma* or perfunctory signing of documents on behalf of the Town and approval of documents as to form. Also, a person who abstains from a vote is not exercising direct official action.

(d) *Employee* means any person in the employ of the Town or of any of its agencies or departments but excluding the Mayor, Town Council Members, Town Manager and Town Attorney. Independent contractors and volunteers are not deemed employees.

(e) *Financial interest* means any interest equated with money or its equivalent. Financial interest shall not include the interest that a Public Servant or relative has as:

- (1) an employee of a business, or as a holder of an ownership interest in such business, in a decision of any public body, when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the officer, employee or relative;
- (2) a non-salaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal or civic organization in the holdings of such corporation, association or organization;
- (3) a recipient of public services when such services are generally provided by the Town on the same terms and conditions to all similarly situated citizens, regardless of whether such recipient is a Public Servant or relative;
- (4) a recipient of a commercially reasonable loan made in the ordinary course of business by a lawfully established financial or lending institution;
- (5) a shareholder in a mutual or common investment fund in the holdings of such fund unless the shareholder actively participates in the management of such fund;
- (6) a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder, unless the discretionary act of such person, as a Public Servant, could immediately, definitely and measurably affect the value of such policy, deposit or similar interest;

- (7) an owner of government-issued securities unless the discretionary act of such owner, as a Public Servant, could immediately, definitely and measurably affect the value of such securities; or
 - (8) the interest that a Public Servant has in the compensation received from the Town for services provided to the Town as a Public Servant.
- (f) *Gift* means a payment, subscription, advance, favor, promise of future employment, forbearance, discount, promise of future employment, or deposit of money, goods, services, or anything of value given, unless consideration of equal or greater value is received in exchange.
 - (g) *Immediate family* means a spouse, civil union partner, domestic partner, fiancé/fiancée, parents, children, brothers, sisters, aunts, uncles, nieces, nephews, grandparents, grandchildren, great grandparents, great grandchildren, first cousins, including step relatives and in-laws, and any person with whom he or she is cohabiting.
 - (h) *Personal interest* means any interest (other than a financial interest) by reason of which a Public Servant, or a relative of such Public Servant, would, in the judgment of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public. Personal interest shall not include:
 - (1) The interest that a Public Servant or relative has as a member of a board, commission, committee, or authority of another governmental entity, nonprofit corporation, association, or civic organization shall not be considered a personal interest unless the circumstances suggest that the Public Servant could realize a direct and substantial benefit or detriment distinct from that of the general public, such as holding a leadership position or when the organization is directly affected by the matter under consideration;
 - (2) the interest that a Public Servant or relative has in the receipt of public services when such services are generally provided by the Town on the same terms and conditions to all similarly situated citizens; or
 - (3) the interest that a Public Servant has in the compensation, benefits, or terms and conditions of his or her employment with the Town.

Examples of personal interest include an increase in the value of a real property interest or advancement of an employment opportunity.

- (i) *Public body* means the Town Council or any authority, board, committee, commission, department, or office of the Town.
- (j) *Relative* means the spouse, civil union partner, or minor child of the Public Servant, any person claimed by the officer or employee as a dependent for income tax purposes, or any person residing in and sharing with the Public Servant the expenses of the household.

Division 2 - Prohibited Acts

Sec. 1. Gifts.

(a) Gifts Prohibited: A Public Servant shall not accept any gift (as defined) if:

- (1) The Public Servant is in a position to take direct official action with regard to the giver of the gift; or
- (2) The Town has or is known to be likely to have a transactional, business, or regulatory relationship with the giver of the gift.

A gift made to a relative of the Public Servant shall be considered a gift made to the Public Servant notwithstanding the Public Servant's knowledge of such gift.

(b) Exceptions and Items not Considered Gifts: Provided that the gift could not be reasonably considered a bribe or a means of improper influence on a direct official action, the following shall not be considered gifts for purposes of this section:

- (1) Campaign contributions as permitted by law.
- (2) An unsolicited item or items of value less than the dollar amount established and adjusted in Colorado Constitution, article XXIX, Section 3(6), per vendor or third-party per year. As of January 1, 2023, that amount is seventy-five dollars (\$75.00) and the amount increases periodically in accordance with Colorado Constitution, article XXIX, Section 3(6). In valuing the unsolicited item or items:
 - a. The cost of the gift is the retail value of the item unless the receiver has knowledge that the giver paid more than the retail value, in which case the cost is the amount actually paid.
 - b. For a charity event, the cost of the event is the amount the event organizer reports to the Internal Revenue Service as the non-deductible portion of the event.
 - c. It is not permissible to pay part of the cost of a gift that is offered with a value exceeding the amount set forth in subsection (b)(2) of this section to reduce the value to less than the amount set forth in subsection (b)(2) of this section in order to accept the gift.
- (3) An unsolicited token or award of appreciation that is reasonable in value and purpose given the position and responsibility of the Public Servant, such as plaques and professional awards.
- (4) Items of perishable or nonpermanent value, including but not limited to meals, lodging, travel expenses, or tickets to sporting, recreational, education, or cultural events provided that the value of the item is reasonable and would be customarily

accepted when considering the Public Servant's position, responsibility, and role in the Town.

- (5) Tickets or entry fees to an event expressly advertised for the purpose of benefiting and advancing the purpose of a non-profit organization, e.g., greens fees for a golf event benefiting a recognized local charity.
- (6) Unsolicited informational material, publications, or subscriptions related to the recipient's performance of duties within the scope of elected or appointed office or employment.
- (7) Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears in an official, representative capacity to speak or to answer questions as part of a scheduled program.
- (8) Reasonable expenses paid by a nonprofit organization or federal, state, or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities.
- (9) A gift from an individual who is an immediate family member or personal friend on a special occasion.
- (10) A component of compensation paid or other recognition given in the normal course of employment, appointment, volunteer services, or business.
- (11) Any scholarship or grant or other financial aid for education given to any Public Servant or immediate family member for any reason.
- (12) Awards or prizes given at competitions or drawings at events open to the public.
- (13) Discounts that are similarly available to all employees of the Town, or discounts that are offered to the public generally or to a large segment of the public (i.e., all uniformed personnel, all government employees, or all first responders).
- (14) Any exemption granted or exception recognized pursuant to Federal or State law.
- (15) Any other exceptions as may be specified in an Advisory Opinion as described in Section 2 of Division 4.

Sec. 2. Fraudulent activity.

- (a) A Public Servant shall not engage in any of the following activities:
 - (1) Receipt of a bribe or kickback, or willing participation in a scheme of bribery;

- (2) Misappropriation of Town funds, supplies, assets, or resources;
- (3) Falsification of Town records, including personnel records;
- (4) Forgery or alteration of any public record;
- (5) Accepting, requesting, or seeking any material item or pecuniary benefit from contractors, vendors, or parties providing services or materials to the Town where such item or benefit may be reasonably viewed as intending to improperly influence the Public Servant.

Sec. 3. Employment and supervision of immediate family members.

- (a) Unless he or she obtains a waiver pursuant to Section 2 of Division 4, a Public Servant shall not appoint or hire a member of his or her immediate family for any type of employment, including, but not limited to, full time employment, part time employment, permanent employment, and temporary employment.
- (b) A Public Servant shall not supervise or be in a direct line of supervision over a member of his or her immediate family. If a Public Servant comes into a direct line of supervision whether by employment or contractual relationship of a member of his or her immediate family, he or she shall have six (6) months to come into compliance or to obtain a waiver pursuant to Section 2 of Division 4.

Sec. 4. Conflict of interest.

- (a) *Conflicts of Interest* as defined by this Section are prohibited.
- (b) Sales to the Town. A Public Servant, or relative of such Public Servant, shall not have a financial interest in the sale to the Town of any real or personal property, equipment, material, supplies or services, except personal services provided to the Town as a Public Servant, if:
 - (1) such Public Servant is a member of Town Council;
 - (2) such Public Servant exercises, directly or indirectly, any decision-making authority on behalf of the Town concerning such sale; or
 - (3) in the case of services, such Public Servant exercises any supervisory authority in his or her role as a Town officer or employee over the services to be rendered to the Town.
- (c) Purchases from the Town. A Public Servant or relative shall not, directly or indirectly, purchase any real or personal property from the Town, except such property as is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as to all members of the general public.
- (d) Interests in other decisions. Any Public Servant who has, or whose relative has, a financial or personal interest in any decision of any public body of which he or she is a member or

to which he or she makes recommendations, shall, upon discovery thereof, disclose such interest in the manner prescribed in Section 2(a) of Division 4, and shall refrain from taking direct official action in the manner prescribed in Section 2(b) of Division 4, attempting to influence, or otherwise participating in such decision in any manner as a Public Servant.

- (e) A Public Servant who determines that his or her actions arise to a Conflict of Interest is required to disclose the conflict in the manner prescribed in Section 2(a) of Division 4, and shall refrain from taking direct official action in the manner prescribed in Section 2(b) of Division 4.

Sec. 5. Prior employment.

No person shall be disqualified from service with the Town as a Public Servant solely because of his or her prior employment. However, Public Servants shall not take any direct official action with respect to matters involving their former employers for a period of six (6) months from the date of termination of the prior employment.

Sec. 6. Outside employment or business activity.

- (a) A Public Servant's outside employment and business activities may create ethical issues addressed by this Code of Ethics and, in particular, potential conflicts of interest addressed by Section 4 of Division 2.
- (b) Disclosure of Employment and Other Business Activities: All Public Servants shall report in writing to the Town Clerk any existing or proposed outside employment or other outside business interests such as membership on volunteer, non-profit, homeowners' association (HOA), or for-profit boards or commissions that engages with or seeks to influence decisions by the Town, or that may reasonably be perceived to affect their responsibilities to the Town. After being hired, elected, or appointed, all Public Servants shall report to the Town Clerk any changes of employment or changes to outside business interests that may affect the person's responsibilities to the Town, within thirty days after accepting the same. An employee must obtain approval as required by the Town's Human Resources guideline before engaging in outside employment.
- (c) The Town Clerk shall maintain for public inspection all reporting made by Public Servants pursuant to this section.
- (d) Town resources may not be used for any outside employment or outside business activity.
- (e) Public Servants serving on governing boards of homeowners' associations (HOAs) must disclose such affiliations to the Town Clerk. If the HOA is directly affected by a matter before the Council or relevant Town board, commission, or committee, the Public Servant shall consider recusal to avoid a conflict of interest or the appearance thereof, particularly if the individual holds a leadership role (e.g., president, vice president). The decision to participate should be guided by the principles set forth in Section 4 of Division 2 on Conflict of Interest and the standard of a reasonably prudent person.

Sec. 7. Discrimination and harassment prohibited.

- (a) General Rule. Town affairs must be conducted without bias or prejudice. A Public Servant shall not, in the performance of official duties, manifest by words or conduct any bias, prejudice, or discrimination toward any person, group, or entity. This includes, but is not limited to, bias or prejudice based on race, color, ethnicity, national origin, ancestry, religion or creed, sex, gender, gender identity or expression, sexual orientation, marital or familial status, age, disability, genetic information, military or veteran status, socioeconomic status, or any other characteristic protected by law. A Public Servant shall also not permit others under their direction or control to engage in such conduct.
- (b) Exceptions. A Public Servant is not liable under subsection (a) for:
 - (1) conduct undertaken in good faith
 - (i) to implement an existing Town policy, or
 - (ii) to carry out the direction of a superior; or
 - (2) conduct involving the legitimate advocacy of a position relating to race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status
 - (i) in litigation or similar proceedings, or
 - (ii) incidental to the formation of Town policy.
- (c) Definitions. For purposes of this section:
 - (1) “Words or conduct” manifesting “bias or prejudice” includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.
 - (2) “Good faith” means that the Town official or employee has a reasonable basis for believing, and does believe, that the conduct in question is lawful and not discriminatory.
 - (3) “Legitimate advocacy” means that the position espoused is not frivolous.

Sec. 8. Criminal offenses.

All Public Servants are expected to comply with the law. It is a violation of the Code of Ethics to be convicted (including a plea of *nolo contendere* or no contest) of a crime that reasonably demonstrates an unfitness for public service or intentional disregard for the public trust or public property. Such offenses include, but are not limited to, crimes against fellow Public Servants or their property, theft or vandalism of public property, offenses involving fraud (see Article 5, Title 18, C.R.S.), offenses relating to morals (see Article 7, Title 18, C.R.S.), or offenses involving governmental operations (see Article 8, Title 18, C.R.S.). It is not the intent of this section to

recognize as an ethical violation traffic offenses or misdemeanors which are unrelated to the Public Servant's official duties or employment.

Sec. 9. Special consideration.

A Public Servant shall not request or provide any special treatment, favors, or advantages to any individual that are not equally available to others in similar situations or with similar needs. All actions and decisions must be based on fairness, consistency, and impartial application of rules and policies.

Sec. 10. Use of public property.

A Public Servant shall not use or authorize the use of Town time, facilities, equipment or supplies for personal or private benefit. It is not a violation of the section to communicate or correspond with a Public Servant's constituents, family members, or co-workers.

Sec. 11. Use of public office for private gain.

A Public Servant shall not use their official position or confidential information to seek or secure personal benefit for themselves, their immediate family, any business with which they are associated, or any person or organization with whom they are negotiating or have an agreement for future employment.

Sec. 12. Use of confidential records.

A Public Servant shall not disclose or use any non-public information or records obtained through their official duties, except when required to do so in the performance of those duties or as mandated by law or court order.

Sec. 13. Aiding others.

A Public Servant shall not knowingly aid or assist any Public Servant in the violation of any provision of this Code of Ethics.

Division 3 - Discouraged Acts

Sec. 1. Subsequent employment or appointment.

- (a) For a period of six (6) months after leaving Town office or employment—whether by expiration of term, resignation, or termination—a former Public Servant should not accept any appointment or employment that:
 - (1) Was not available to others through a competitive process, and
 - (2) Involves acting on the same matters over which the individual exercised direct official action during their service with the Town.
- (b) For the purposes of this section, “unavailable to others” refers to positions obtained through a non-competitive process. Positions filled by public election or appointment by elected officials are not considered “unavailable to others.”

Sec. 2. Appearances of impropriety discouraged.

- (a) An appearance of impropriety arises when a Public Servant is expected to take, or may take, direct official action that—while not amounting to a formal Conflict of Interest—could reasonably be perceived as compromising the Public Servant’s integrity, impartiality, or competence. Examples of situations that may create such an appearance include, but are not limited to:
 - (1) Taking official action involving a close personal friend.
 - (2) Receiving an official notice of a quasi-judicial hearing due to the Public Servant’s ownership or lease of property affected by the matter.
 - (3) Participating in a quasi-judicial decision after having publicly expressed a personal opinion, position, or bias on the issue.
- (b) If a Public Servant believes that their involvement may create an appearance of impropriety, they are strongly encouraged—but not required—to disclose the situation under Section 1 of Division 4. They may also choose to recuse themselves from participation if they believe it is appropriate.
- (c) A violation of this section does not constitute a violation of the Code of Ethics. However, compliance with this section does not excuse or defend a violation of any other provision of the Code.

Division 4 - Disclosure and Recusal Procedure

Sec. 1. Disclosure and recusal procedure and challenges.

- (a) Disclosure.
 - (1) A Public Servant shall disclose any potential or actual Conflict of Interest, and may voluntarily disclose any appearance of impropriety, as soon as the issue becomes reasonably known to them.
 - (i) For Town Council members, disclosure shall be made either orally at a public meeting or in writing to all other Council members.
 - (ii) For the Town Manager or Town Attorney, disclosure shall be made either orally at a public meeting or in writing to the Town Council.
 - (iii) For appointed officials, disclosure shall be made either orally at a meeting or in writing to all other members of the relevant board or commission.
 - (iv) For employees, disclosure shall be made in writing to their immediate supervisor.
 - (2) A disclosure must state whether it concerns a Conflict of Interest or an appearance of impropriety, describe the general nature of the interest involved, indicate

whether the matter may result in an economic or financial benefit or detriment, and include the estimated value of any such benefit or detriment.

(b) Recusal. When recusal is required due to a Conflict of Interest, or voluntarily undertaken due to an appearance of impropriety, the Public Servant shall:

- (1) Avoid any communication with other Public Servants regarding the matter and not attempt to influence their decisions.
- (2) Abstain from voting on or taking any official action related to the matter.
- (3) Physically leave the room or premises during discussion, deliberation, or decision-making on the matter.

The Town Council may, by majority vote, require the recusal of a Council member in accordance with subsection (c)(1). The Town Manager may require the recusal of an employee in accordance with subsection (c)(2). Failure to comply with a required recusal shall be considered a violation of this Code of Ethics.

Exception: A Town Council member may participate and vote on a matter involving a Conflict of Interest if necessary to achieve a quorum or allow Council action, and if the member complies with the disclosure requirements set forth in Section 24-18-110, C.R.S.

(c) Challenges for Conflict of Interest

(1) Challenge of Town Council Member:

Any person may challenge a Council member's failure to disclose a Conflict of Interest or failure to recuse. The challenge must be submitted in writing to the Town Council or stated orally during a public meeting and must include the supporting facts. The Council shall promptly investigate the challenge, may request an opinion from the Town Attorney, and may determine by majority vote (excluding the challenged member) whether a Conflict exists and whether recusal is required. This determination is final and not subject to appeal.

(2) Challenge of Employee:

Any person may submit a written challenge regarding an employee's failure to disclose or recuse, addressed to the Town Manager and copied to the Mayor. The Town Manager shall promptly investigate and determine whether a Conflict exists and whether recusal is required. This determination is final and not subject to appeal.

(3) Challenge of Other Public Servants:

Challenges concerning any other Public Servant must be submitted either in writing or orally during a public meeting to the person's appointing authority or board/commission chair, and must include facts supporting the challenge. The

appointing authority or the relevant board/commission shall investigate and determine whether a Conflict exists and whether recusal is required. This determination is final and not subject to appeal.

Sec. 2. Advisory opinions and waivers.

- (a) Any Public Servant may submit a written request to the Town Attorney for an advisory opinion on whether a specific action would violate the Code of Ethics. If the Town Attorney's opinion is based on full and accurate disclosure of all relevant facts, it shall serve as a specific defense against enforcement for failure to disclose a Conflict or to recuse, under this Code.
- (b) Noncompliance with advisory opinions. If the Town Attorney believes an advisory opinion has not been followed, they shall notify the individual and their appointing authority. The appointing authority shall, after consulting with the Town Attorney, take appropriate action to ensure compliance.
- (c) Waivers. Any current, former, or prospective Public Servant may submit a written request for a waiver of any provision of the Code of Ethics before taking the action in question.
 - (1) For elected or appointed officials, the Town Council may grant a waiver upon finding that it serves the best interests of the Town. The Council shall provide appropriate public notice, and the waiver request shall be heard in an open public meeting.
 - (2) For employees, the Town Manager may grant a waiver if they find that the benefit to the Town outweighs any potential harm.

Division 5 - Enforcement Process for Code of Ethics

Sec. 1. Flexibility in enforcement process intended.

The enforcement provisions of this Code of Ethics are intended to strike a balance between several important considerations: the seriousness of the alleged violation, the need for a fair and timely resolution, the equitable treatment of all parties involved, and the responsible use of public resources. To achieve this balance, the Code allows the Town Council, acting as the Board of Ethics, the flexibility to determine the most appropriate method of enforcement based on the circumstances of each case.

These enforcement procedures apply to ethics allegations involving all Public Servants, excluding employees. Alleged ethical violations by employees are addressed separately in Section 11 of Division 5.

Sec. 2. Definitions for enforcement process.

For purposes of the enforcement process under this Code of Ethics, the following terms are defined as follows:

- (a) *Business day* means a calendar day that is not a Saturday, Sunday, or official Town holiday on which Town offices are closed to the public.
- (b) *Complainant* means the individual who files a Verified Complaint with the Town pursuant to Section 4 of Division 5.
- (c) *Respondent* means the individual alleged in a Verified Complaint to have violated the Code of Ethics.
- (d) *Verified Complaint* means a written complaint that meets the content requirements of Section 4(c) of Division 5.

Sec. 3. General provisions related to enforcement.

- (a) The Complainant shall not participate in the enforcement process beyond serving as a witness, unless otherwise permitted by the Code of Ethics.
- (b) Disqualification. If the Mayor or a Town Council member is named as the Respondent in a Verified Complaint, that individual must disqualify themselves from participating in any proceedings related to the complaint.
- (c) No Ex Parte Communications. Neither the Respondent nor the Complainant—or their representatives—may engage in ex parte communications with the Town Council, Board of Ethics, Hearing Body, or Hearing Officer regarding any aspect of the Verified Complaint, except as expressly authorized by the Code of Ethics. All communications or inquiries must be directed to the Town Attorney.
- (d) The Town Attorney shall serve as legal advisor to the Board of Ethics. If the Town Attorney is named as the Respondent in a Verified Complaint, has a Conflict of Interest, or declares an appearance of impropriety, the Board of Ethics shall appoint an alternative advisor.
- (e) Members of the Board of Ethics must remain unbiased and neutral in processing all Verified Complaints. A prior professional relationship between a Board member and the Respondent does not, by itself, create an appearance of impropriety. However, any Board member who cannot remain impartial or who has a Conflict of Interest shall recuse themselves in accordance with Section 1 of Division 4.
- (f) Administrative meetings of the Board of Ethics shall be held during regular or special meetings of the Town Council. However, Informal Administrative Reviews and Formal Hearings may be scheduled separately at dates and times set by the Board of Ethics. A quorum of the Board shall consist of three (3) or more members, and unless otherwise specified in the Code of Ethics, a majority vote of a quorum present is required for any decision.

Sec. 4. Filing a complaint.

(a) Verified Ethics Complaint.

- (1) An ethics action is initiated by submitting a formal written ethics complaint ("Verified Complaint") with the Town.
- (2) Any person, either individually or on behalf of an organization, may file a Complaint with the Town.

(b) Contents of the Verified Complaint. A Verified Complaint must set forth the following:

- (1) The name of the individual submitting the Verified Complaint, either personally or on behalf of an organization, along with their mailing address, telephone number, and, if available, email address. Anonymous submissions will not be accepted.
- (2) The name of the person(s) alleged to have violated the Code of Ethics.
- (3) A detailed description of the facts supporting the alleged violation, along with a specific citation to the provision(s) of the Code of Ethics alleged to have been violated.
- (4) The names of any witnesses with knowledge of the relevant facts, along with sufficient contact information for each witness.
- (5) The signature of the person submitting the complaint, accompanied by the following verification statement:

"The undersigned hereby certifies or affirms that the information contained within this Verified Complaint is true to the best of my knowledge, information, and belief formed after reasonable reflection. I have not filed this Verified Complaint for the purpose of harassment or to falsely disparage the individual(s) claimed to have committed violations of the Keystone Code of Ethics."

(c) Filing of the Verified Complaint. A Verified Complaint must be submitted by mail or hand delivery to any one of the following:

- (1) The Mayor (or, if the Complaint concerns the Mayor, the Mayor Pro Tem);
- (2) The Town Clerk (or, if the Complaint concerns the Town Clerk, the Town Manager); or
- (3) The Town Attorney (or, if the Complaint concerns the Town Attorney, the Town Manager).

The Complaint shall be considered filed on the date it is received by any of the persons listed above.

(d) Processing of the Verified Complaint

- (1) Within five (5) business days of the filing date, the Town Attorney shall deliver a copy of the Verified Complaint to the Respondent, along with a dated cover letter and a copy of the Code of Ethics.
- (2) The Respondent may submit a written response ("Answer") to the allegations within twenty-one (21) calendar days from the date shown on the cover letter.
- (3) Within five (5) business days of the filing date, the Town Attorney shall also distribute a copy of the Verified Complaint to:
 - (i) All members of the Board of Ethics, and
 - (ii) The Town Manager.

The Town Attorney shall also deliver the Respondent's Answer (if submitted) to both the Board of Ethics and the Complainant.

Sec. 6. Initial administrative review.

No sooner than thirty (30) calendar days after the Verified Complaint is filed, the Board of Ethics shall convene during a regular or special public meeting to review the Verified Complaint and any Answer received. This review may occur in executive session as permitted under Section 24-6-402, C.R.S.

Based on the Verified Complaint and the Respondent's Answer (if any), the Board of Ethics may make one or more of the following determinations:

- (a) Proceed with Review. That the Verified Complaint alleges facts that may constitute a violation of the Code of Ethics and warrants further review.
- (b) Dismiss the Complaint. That one or more claims in the Verified Complaint should be dismissed without further action for any of the following reasons:
 - (1) The Board lacks jurisdiction over the individual(s) named;
 - (2) Even if true, the alleged conduct would not constitute a violation of the Code of Ethics;
 - (3) The allegations were previously raised in another Verified Complaint and are already under consideration or were resolved;
 - (4) The alleged violation is minor in nature and does not justify use of public resources;
 - (5) The conduct occurred more than one year before the complaint was filed, and due to the passage of time, evidence, witnesses, or recollections are likely unavailable, making prosecution impractical;

- (6) The Complaint is frivolous, groundless, or brought for purposes of harassment;
- (7) The alleged violation is unlikely to be proven by a preponderance of the evidence due to reliance on conflicting oral testimony or unverifiable statements;
- (8) The Respondent has admitted wrongdoing and made or committed to make sufficient redress or corrective action acceptable to the Board of Ethics;
- (9) The matter is moot or will become moot because the Respondent is no longer (or will soon no longer be) a Public Servant before the conclusion of the process;
- (10) The Respondent previously received an advisory opinion under Section 2 of Division 4 indicating that the conduct did not violate the Code of Ethics;
- (11) The Board has referred the matter to a more appropriate agency with jurisdiction, such as law enforcement, the District Attorney, the State Attorney General, or another public body better positioned to address the complaint;
- (12) Any other reason based on legal principles applicable to civil cases.

A decision to dismiss any claim, along with the written reason for dismissal, shall be made publicly available. The Board of Ethics retains the authority to dismiss allegations at any time during the enforcement process.

Sec. 7. Prosecution of allegations.

Following the Initial Administrative Review, if the Board of Ethics determines that the Verified Complaint alleges facts that may be sufficient to constitute a violation of the Code of Ethics, the Board may initiate one or more of the following enforcement processes:

- (a) **Assignment to Investigation.** An investigation may be initiated when the allegations involve serious and disputed factual issues that could be resolved through the independent review of evidence and interviews with witnesses. This process is appropriate when additional fact-finding is necessary to determine whether a violation occurred.
- (b) **Informal Administrative Review.** An Informal Administrative Review may be used to address significant ethical concerns while ensuring the efficient and reasonable use of public resources. This process is intended to serve as the primary and more common method for resolving ethical allegations. It allows for resolution without the formality of a hearing when the issues can be fairly addressed through a streamlined process.
- (c) **Formal Hearing.** A Formal Hearing is reserved for cases involving serious and contested allegations of unethical conduct that may require a public proceeding to fully address the facts and to restore public confidence in the Town's governance and the integrity of its Public Servants. This process typically involves greater procedural formality and use of public resources.

Sec. 8. Investigation.

- (a) Scope of Investigation. When the Board of Ethics refers a Verified Complaint for investigation, the referral must include the following elements:
 - (1) The individual, firm, or agency assigned to conduct the investigation;
 - (2) A clear statement of the scope and purpose of the investigation, including the specific issues the Board seeks to have addressed;
 - (3) A budget for the investigation;
 - (4) A timeline for completion, including delivery of the investigator's report or work products. The investigation must be completed within forty-five (45) days, unless the Board of Ethics approves an extension;
 - (5) The name of the Town staff member or contractor responsible for administering and overseeing the investigation;
 - (6) Authorization for the Board of Ethics to enter into contracts necessary to carry out the investigation.
- (b) Confidential work product investigation report. If requested by the Board of Ethics, the appointed investigator shall prepare a written report. This report is considered a confidential work product and is not subject to public disclosure, as it is an inter-agency advisory or deliberative document prepared for the benefit of the Town Council to assist in decision-making. See Section 24-72-202(6.5), C.R.S.
- (c) Subpoena power. The investigator is authorized to issue and serve administrative subpoenas, in a form approved by the Town Attorney, to compel the production of documents or the appearance of witnesses for interviews. A party's failure to comply with a subpoena shall be noted in the investigator's report, and the Board of Ethics may draw reasonable inferences from such failure as it deems appropriate.
- (d) After submitting the investigation report, the investigator shall have no further role in the complaint process except to serve as a witness, if called upon.

Sec. 9. Informal administrative review.

- (a) Purpose. The Informal Administrative Review process allows the Board of Ethics to consider allegations from a Verified Complaint using an expedited and cost-effective procedure. The process may be modified at the discretion of the Board based on the nature and complexity of the allegations, without formal amendment to this Code of Ethics.
- (b) Notice of Hearing. Notice of the Informal Administrative Review hearing shall be provided to both the Respondent and Complainant at least twenty-one (21) days before the scheduled date. The notice will include the date, time, location, and purpose of the hearing.

The Town may also post notice on its official website to inform the public of the upcoming proceeding.

- (c) **Submission of Materials.** The notice will specify the deadline for submission of any supporting documentation, affidavits, or witness statements. Materials submitted after the deadline will not be accepted. The notice shall also inform parties that they may have individuals present at the hearing to respond to questions posed by the Board of Ethics; however, no formal testimony will be scheduled.
- (d) **Hearing Procedure.** At the designated hearing, the Board of Ethics may consider all documentation submitted before the deadline. Board members may ask questions of individuals in attendance. However:
 - (1) Formal testimony is not required or scheduled;
 - (2) Oral presentations are not expected;
 - (3) Cross-examination is not permitted.
- (e) **Deliberation and Decision.** After reviewing the materials and any informal responses, the Board of Ethics shall deliberate and determine whether the allegations in the Verified Complaint have been proven by a preponderance of the evidence. A majority vote of the quorum present is required for any decision.

If the Board finds a violation, it may impose one or more of the following penalties, by majority vote of all Board members:

- (1) Oral or written reprimand delivered to the Respondent;
- (2) Public reprimand announced or read during a Town Council meeting;
- (3) Suspension or removal from a Town-appointed committee, board, liaison role, or representative position;
- (4) Restitution or reimbursement of damages to the Town or a harmed party, not to exceed the Respondent's remaining salary or compensation for their term in office;
- (5) A financial penalty equal to twice the amount of any benefit gained through unethical conduct;
- (6) Any other penalty deemed just and appropriate, based on the severity of the violation and any mitigating factors.

Important Limitation: The Board of Ethics may not impose suspension or removal from elected office through the Informal Administrative Review process.

Sec. 10. Formal hearing.

- (a) Referral to Formal Hearing. If one or more allegations are not dismissed following the initial review, the Board of Ethics may direct that the matter proceed to a Formal Hearing as outlined in this section.
- (b) Appointment of Ethics Prosecutor. Subject to Town Council contract approval, the Board of Ethics may appoint an Ethics Prosecutor, who must be a licensed attorney. The Ethics Prosecutor is authorized to perform all duties under this section and their contract. Once appointed, the Prosecutor's name shall be provided to the Respondent via hand delivery or mail.
- (c) Notice of Formal Hearing. A Notice of Formal Hearing will be mailed to the Respondent and the Ethics Prosecutor. The notice shall include:
 - (1) A summary of the alleged violations;
 - (2) Notification that the Respondent may be represented by legal counsel or another representative at their own expense;
 - (3) An invitation for the Respondent to submit a new or updated Answer to the Verified Complaint within 21 calendar days of receiving the Notice. The updated Answer shall be promptly delivered to the Ethics Prosecutor.
- (d) Appointment of Hearing Officer or Hearing Body. The Board of Ethics shall appoint one of the following to preside over the Formal Hearing:
 - (1) A Hearing Officer, or
 - (2) A Hearing Body, which may consist of:
 - (i) A three-member panel of the Board of Ethics;
 - (ii) The full Board of Ethics; or
 - (iii) An odd-numbered panel of Town residents (not to exceed seven), selected randomly from volunteers. Alternate members may be selected in case of unavailability.

The chairperson of the Hearing Body or the Hearing Officer shall manage pre-hearing matters and preside at the hearing. Their names shall be mailed to the Respondent and the Ethics Prosecutor.
- (e) Challenges for Bias or Prejudice. Within seven (7) days of receiving notice of appointments, the Respondent or Complainant may submit a written challenge to any Hearing Officer, Hearing Body member, or the Ethics Prosecutor for alleged bias or prejudice. The Board of Ethics will rule on such challenges and, if warranted, appoint a replacement. Late challenges will not be considered.
- (f) Pre-Hearing Procedures

- (1) Setting the Hearing Date: The Town Attorney or Board-appointed representative shall coordinate with the parties to schedule a hearing. Notice of the hearing will be mailed to all involved parties. Any rescheduling must be approved by the Hearing Officer or Hearing Body.
 - (2) Pre-Hearing Statements: At least 21 days before the hearing, each party shall submit a pre-hearing statement including:
 - (i) Final witness list with a summary of testimony and estimated time for direct examination;
 - (ii) Final exhibits; and
 - (iii) Any stipulations agreed upon. Evidence not disclosed by the deadline shall be inadmissible unless good cause is shown.
 - (3) Pre-Hearing Conference: The chairperson or Hearing Officer may schedule a conference to issue a hearing order and resolve procedural or evidentiary issues.
 - (4) Subpoenas: The Hearing Officer or Hearing Body may issue subpoenas to compel witness attendance or evidence production, upon motion with an offer of proof.
 - (i) Subpoenas must follow Colorado Rule of Civil Procedure 45 and be served at least 48 hours before the hearing. Proof of service must be shared with all parties.
 - (ii) Non-parties may move to quash or modify a subpoena; decisions will be made in consultation with the Town Attorney or assigned legal representative.
 - (iii) Subpoenas may be enforced as authorized by law.
 - (iv) Witnesses unable to appear may be required to respond to written interrogatories, participate in a deposition, or testify remotely. Costs for remote or alternative testimony shall be paid by the requesting party.
- (g) Conduct of Hearing
- (1) The Hearing shall be conducted in an informal but fair manner.
 - (i) The Hearing Officer or Chairperson may administer oaths, rule on evidence, and maintain order.
 - (ii) Use of the Colorado Rules of Evidence is at their discretion.
 - (2) Hearing Procedure:
 - (i) Stipulated evidence is admitted at the beginning.

- (ii) The party with the burden of proof presents first, followed by the opposing party.
 - (iii) Rebuttal evidence is allowed.
 - (iv) Witnesses may be cross-examined, and all testimony shall be under oath or affirmation.
 - (v) The Hearing Officer may limit or direct testimony to ensure relevance and professionalism.
 - (vi) Parties may make closing arguments or submit written briefs with the chairperson's consent.
- (h) Record of Hearing. An official electronic or stenographic record will be made and retained by the Town Clerk for two (2) years. No unofficial recordings shall be recognized.
- (i) Deliberation and Decision. After the hearing, the Hearing Officer or Body will deliberate and determine whether the alleged violations were proven by a preponderance of the evidence.
 - (1) A written decision will be issued, including findings of fact and conclusions based on the Code of Ethics.
 - (2) Only members who were present for the full hearing may participate.
 - (3) Any findings and recommendations must be adopted by a two-thirds majority of the quorum present.
 - (4) The written decision shall be delivered to the Board of Ethics, which will schedule formal acceptance and approval at a public meeting, also by two-thirds vote of a quorum.

Once accepted, a copy of the final findings, conclusions, and order shall be mailed to the Respondent, Complainant, and Ethics Prosecutor.

- (j) Available Penalties. If a violation is found, the Hearing Officer or Body may recommend one or more of the following:
 - (1) Oral or written reprimand (private or public);
 - (2) Removal or suspension from any Town-appointed role;
 - (3) Ineligibility for future Town appointments;
 - (4) Restitution for damages caused by the ethical violation;
 - (5) A penalty equal to double the financial benefit obtained;

- (6) Any other just and appropriate penalty based on the seriousness of the violation and mitigating factors.
- (k) Suspension or Removal from Office. If suspension or removal from elected or appointed office is recommended, the Board of Ethics must consider the recommendation at a public meeting.
 - (1) The Respondent shall be recused if they are a member of the Town Council.
 - (2) A decision to suspend or remove requires a two-thirds (2/3) vote of all Council members in office at the time of such vote.
- (l) Appeal. Any party may appeal the final decision through Colorado Rule of Civil Procedure 106(a)(4). The date of the final decision is the date it is hand-delivered or mailed by certified mail to the parties.

Sec. 11. Enforcement of ethical violations committed by employees.

The method and manner of enforcing this Code of Ethics for allegations made against Employees shall be at the discretion of the Town Manager, who, under Keystone Charter Section 7.4, holds authority over the supervision, suspension, transfer, and termination of Employees.

In addressing ethical allegations involving Employees, the Town Manager may be guided by the purpose and intent of the enforcement provisions of this Code of Ethics, including its principles, processes, and procedures, to ensure a fair, effective, and transparent outcome that promotes employee accountability and public confidence.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Minor Revision or Correction Authorized. The Town Manager, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, numerical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 5. Codification. This ordinance may be codified and numbered for purposes of codification without the need for further approval by the Town Council.

Section 6. Effective Date. This ordinance shall take effect and be enforced thirty (30) days after final publication.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AND SCHEDULED FOR PUBLIC HEARING ON _____, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS _____ DAY OF _____, 2025.

Kenneth D. Riley, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney