

COLORADO WILDLIFE COUNCIL POLICY

Title: Identifying and managing conflicts of interest

Effective Date: TBD after Council Approval

I. PURPOSE

The purpose of this policy is to assist voting members of the Council in identifying and managing conflicts of interest as required by the Colorado Code of Ethics, §§ 24-18- 101–113, CRS (Code).

II. AUTHORITY

CRS § 24-3.7-102 (Best practices for state boards and commissions) (18-HB-1198); CRS §§ 24-18-101–113 (Colorado Code of Ethics).

III. DEFINITIONS

- A. “Conflict of interest” means a situation where a Council member’s personal interest is incompatible with a Council member’s public duty. Voting members of the Council shall not perform an official act which may have a direct economic benefit on any business, including nonprofits, in which such member has a direct or substantial financial interest. CRS § 24-18-108.5(2).
- B. “Financial interest” means 1) an ownership interest in any business; 2) a creditor interest in an insolvent business; 3) an employment or a prospective employment for which negotiations have begun; 4) an ownership interest in real or personal property; 5) a loan or any other debtor interest; or 6) a directorship or officership in any business. CRS § 24-18-102(4).
- C. “Official act” or “official action” means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority. § 24-18-102(5), CRS.
- D. “Appearance of impropriety” means an official act that would lead a reasonable person to conclude the Council member has engaged in conduct that reflects adversely on the Council member’s honesty, impartiality, temperament, or fitness to serve the public trust. An appearance of impropriety may exist even though the facts and circumstances of the matter do not constitute an actual conflict of interest as defined by CRS § 24-18-108.5(2) above.

IV. POLICY STATEMENT

Serving on the Council is a public trust, created by the confidence which the public reposes in the integrity of public officials. Council members shall perform their duties for the benefit of the people of the state, act in a fair and impartial manner, and avoid the appearance of impropriety.

V. IMPLEMENTATION

A. Self-Recusal

Council members must recuse themselves if they believe they have an actual conflict of interest as defined by CRS § 24-18-108.5(2) above.

Council members may also recuse themselves if they believe their participation would give rise to an appearance of impropriety.

Self-recusal should occur prior to any substantive discussion on an action item or as soon thereafter as the Council member perceives an actual conflict of interest or appearance of impropriety. The Council member need not disclose the legal or factual bases for their recusal. After recusing themselves, the Council member must not participate in the proceeding in any way, including deliberations.

B. Disclosure to Council

If a Council member has an ethical concern, the Council member may disclose the basis for such concern to the Council before any substantive discussion in the proceeding occurs, or as soon thereafter as possible. Provided an actual conflict of interest as defined by CRS § 24-18-108.5(2) above is not at issue, the Council may continue to participate in the proceeding after such disclosure.

An official act that affects a group of industries or businesses does not, in and of itself, constitute an actual conflict of interest even though the Council member may work for or otherwise have an interest in one of the industries or businesses impacted by the official act.

C. Disqualification

If a Council member discloses a perceived conflict of interest of any sort, but does not recuse themselves, any other voting Council members may make a motion to disqualify such Council member. The motion to disqualify, if approved, is binding and such Council member shall not participate in the proceeding in any way, including deliberations.

D. Rule of Necessity

Notwithstanding the foregoing, if recusal of the Council member(s) in question would result in the loss of a quorum of five voting Council members, the Council member(s) may participate, in spite of a conflict of interest, if they have complied with the disclosure requirements set forth in Section E below.

E. Disclosure to Secretary of State

Prior to acting in a manner which may impinge on the Council member's fiduciary duty and the public trust, any Council member may disclose the nature of their private interest to the Secretary of State.

Such disclosure must be in writing, list the amount of the Council member's financial interest, if any, the purpose and duration of their services rendered, if any, and the compensation received for the services or such other information as is necessary to describe their interest. If the Council member then performs the official act involved, the Council member shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an

affirmative defense to any civil or criminal action or any other sanction. § 24-18- 110, CRS (Colorado Code of Ethics; Voluntary disclosure).