



**BACKCOUNTRY SEARCH AND RESCUE
COUNCIL BYLAWS**

(Draft)

Preamble: The primary goal of the Backcountry Search and Rescue Council (“Council”) is to faithfully serve the citizens of Colorado by providing expert opinions and advice to the Colorado Parks and Wildlife as to how to provide systemic enhancements and how disperse the funds contained in the Backcountry Search and Rescue Fund. The Council has adopted these Bylaws which provide mutually agreed upon rules and processes that the Council, CPW Director, and CPW Staff will follow when managing the Council.

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ARTICLE I. NAME

The name of this Council shall be the Backcountry Search and Rescue Council (“Council”).

ARTICLE II. AUTHORIZATION

This Council is authorized and organized pursuant to C.R.S. § 33-1-112.5, Rule XX C.C.R. XXXXX, and Standard Operating Procedures.

ARTICLE III. PURPOSE

The purposes of the Council are to:

- Assist Colorado Parks and Wildlife (“CPW”) by making recommendations regarding allocation of monies from the Backcountry Search and Rescue Fund (“BSAR Fund”);
- Review and make recommendations to modify the Backcountry Search and Rescue Fund Standard Operating Guidelines; that are approved by the CPW Director (“Director”);
- Provide recommendations to the Director to fill service gaps in Backcountry Search and Rescue support for counties.

ARTICLE IV. COUNCILORS

A. Members

The CPW Director shall appoint, and may remove, the members of the Council (“Councilors”). Councilors will be individuals knowledgeable and interested in search and rescue in the State of Colorado. The intent is to maintain broad and balanced representation from county sheriffs, Colorado Search and Rescue Association, Colorado Parks and Wildlife, and from the general public. The Council shall be comprised of between 7 to 9 Councilors that are expected to represent interests from across the state and must contain:

- At least three members representing the County Sheriffs of Colorado,
- At least two members appointed by the Colorado Search and Rescue Association,
- At least two members from Colorado Parks and Wildlife.

The Director is expected to appoint the remaining one or two Councilors with a goal of ensuring diversity on the Council. This diversity may be geographic, political, economic, gender,



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cultural, or based on an individual's experience; or to balance the views of the Council as the Director sees fit.

B. Councilors' Terms

The Councilors, other than the Director and the two Councilors from Colorado Parks and Wildlife, shall serve on the Council for one, two-year term. Councilors may be appointed to multiple terms at the discretion of the Director. Councilors may resign at any time by notifying the Director in writing. The two Councilors from the Colorado Parks and Wildlife shall serve until resignation or removal.

C. Expectations of Councilors

Councilors are expected to provide their opinions and expertise to the discussions of the Council at council meetings. Councilors are expected to avoid dilatory dialog and debate. It is expected that every Councilor will attend every council meeting conference calls and all in person meetings. Additionally, it is expected Councilors will have prepared for each meeting by reviewing information provided by CPW Staff.

D. Council Representation

The Council shall act as a body in all matters and only the Director, or his/her designee, shall officially communicate with third parties on behalf of the Council.

E. Non-Meeting Communication By Councilors

Councilors communicating public business outside of Council Meetings must include the Director, or his/her designee from the CPW Staff.

F. Reimbursement To Councilors

Councilors shall be entitled to reimbursement for actual and necessary expenses. Reimbursement requests should be submitted electronically to CPW Staff within 30 days of expenses being incurred.

ARTICLE V. CHAIRPERSON

The Director or the Director's designee shall serve as chairperson and will run Council Meetings.

A. Duties of Chairperson

The chairperson is the presiding officer of the Council and shall perform the following duties:

- Conduct meetings in compliance with the current version of Robert's Rules of Order.
- Manage the agenda.
- Protect the Council from obvious frivolous or dilatory dialogue and debate in order to maintain decorum within the meeting.
- Expedite business.
- Authenticate by his or her signature, when necessary, on all acts, orders, and proceedings of the Council.
- Perform other duties as assigned by the Council.



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ARTICLE VI. SUB-COMMITTEES

- The Council may designate Councilors to serve on sub-committees.
- The appointments shall be for no longer than the individual Counselor's current remaining term.
- All sub-committees shall comply with the applicable portions of Article VII. Council Meetings, of these Bylaws.
- Sub-committees are only authorized to provide advice.

ARTICLE VII. COUNCIL MEETINGS

A. Open Meetings Law

All Council Meetings must comply with C.R.S. §§ 24-6-401. *et seq.* ("Colorado Open Meetings Law"). Council Meetings are open to the public and are when two or more Councilors are present and discussing any public business of the Council or at such a meeting when any formal action may be taken are declared to be public meetings open to the public. Chance meetings or social gatherings between two or more Councilors at which discussion of public business is not the central purpose are not Council Meetings.

B. Regular Meetings

The Director shall schedule at least two regular meetings of the Council each year. Typically a winter meeting will be held to provide updates and discuss the management of the Council and the SAR Fund. Typically a summer meeting will be held to discuss the funding of Tier I – III requests and year end applications for equipment and training.

C. Special Meetings

A special meeting may be called by the Director, his or her designee, or by at least three Councilors submitting a written request to the Director for such a meeting.

D. Notice

- Notice for every Council Meeting must comply with the Colorado Open Meeting Law.
- Full and timely public notice shall be provided for each Council Meeting and shall be sent electronically to all Councilors.
- At a minimum, the notice must be posted no less than 24 hours prior to the meeting, at the Department of Local Affairs' offices, 1313 Sherman Street, Denver, Colorado, Room 521, and at the location of the meeting.
- Electronic regular meetings type meetings will be noticed to include the virtual location and call in telephone numbers or electronic access as applicable.

E. Regular Meeting Agendas

- The Director or his or her designee shall be responsible for the meeting agenda.
- The proposed agenda shall be provided to all Councilors prior to the Council Meeting.
- The proposed agenda shall be subject to revision by the Council at the meeting and becomes official upon approval at the beginning of each meeting.



- Every regular meeting should provide time for citizens to address the Council and the timeframe should be made public through public notice.
- Annually, program information and analysis shall be provided to the Council to inform funding recommendations and budgeting proposals.

F. Quorum And Majority Vote

- No official business of the Council can be conducted without a quorum of Councilors present, whether in person or electronically. A quorum at regular meetings shall be a majority of the Councilors then serving.
- A quorum is not lost if a Councilor abstains from voting on a matter but remains at the meeting. Likewise, the determination of a majority for a vote will be based only on those Councilors not abstaining.

G. Voting

The acts of the Council will be determined by a majority vote of the Councilors present. Councilors shall be entitled to one vote on all matters which come before the Council. Members may cast votes via electronic methods provided that full compliance is had with the provisions of the Open Meetings Law.

H. Record of Meetings

The official record of each Council Meeting is a written document of the minutes of that meeting and shall be available for review by the public through CPW. Meeting minutes shall contain: (1) a list of names of any members present at the meeting; (2) a brief description of any discussion had about agenda items; (3) a description of any motion made during the meeting, whether the motion was seconded, and whether the motion passed or failed; and (4) a description of any public testimony offered at the meeting.

- Minutes of a previous meeting shall be reviewed and considered for approval at the following council meeting, or via electronic approval when appropriate.
- All official Council records are prepared, archived, and disseminated under the supervision of the Director.

I. Electronic Regular Meetings

Councilors may attend Council regular meetings by telephone or electronic methods. Councilors may vote by telephone or electronic methods, provided that the member attends the relevant portion of the meeting before voting.

J. Actions Without a Meeting

The Council may conduct business without a meeting so long as any motion put forth is done so at the direction of the Director. Such motions will succeed so long as no more than 1 Councilor abstains or votes against it. These actions will be recorded in the minutes of the subsequent Council Meeting.



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ARTICLE VIII. CPW STAFF SUPPORT

Limited to annual appropriation and funding availability, CPW, Division of Local Government shall provide the CPW Staff necessary to perform the administrative and secretarial duties of the Council. These duties may include: timely notice of meetings and council meetings to the affected members; recording and maintaining a file of the minutes of the council; receipt, preparation, and transmittal of incoming and outgoing correspondence of the Council and maintenance of a file of such correspondence; and performing other such duties as may be requested by the Council.

ARTICLE IX. AMENDMENTS

These bylaws may be amended, repealed, or suspended at any meeting of the Council by a two-thirds vote of the voting members of the Council present at that meeting, provided that written notice of such amendment, repeal, or suspension shall have been sent to each member at least one week prior to said meeting. The Director may suspend or amend these Bylaws at any time if (s)he feels it is in the best interest of the Council.

ARTICLE X. EXCULPATION

Nothing herein is intended to create an ownership interest, a legal duty, or civil or criminal liability for the Director, CPW Staff, or any Councilors. All local, state, and federal laws remain in full force and effect and may create liabilities for those mentioned herein. The sole remedy for an unresolvable dispute, related to these Bylaws, involving a Counselor is left to the discretion of the Director.

ARTICLE XI. CONFLICTS OF INTEREST

A. Code of Ethics

The Colorado General Assembly has adopted a code of ethics for state officials and individuals who officially assist or make recommendations to state officials. C.R.S. §§ 24-18-101. *et seq.* Essentially, the code of ethics provides that state and local government employees and local government officials shall not perform an official act that directly or substantially affects a business or other undertaking in which he/she has a substantial financial interest or is engaged as a representative or agent. Additionally, a member of a council shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

B. Compliance with Code of Ethics

Annually each Councilor will disclose all relevant financial interests that may affect that Councilor's acts. Each Councilor can choose one of the below methods to comply with the code of ethics. See definitions below.

1. Refrain from officially acting.



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The expectation is that all Councilors will avoid all situations where there is, or could be, the appearance of a conflict of interest. Thus a Councilor will:

- a. Disclose relevant financial interests to CPW.
 - b. Abstain from performing an Official Act (voting on a motion or providing advice to the Director) related to his/her financial interests, as determined by that Councilor.
2. Disclose to the Secretary of State and then officially act.
- This method follows a statutorily allowed specific defense to a conflict of interest and allows a Councilor to take an official action so long as appropriate notice is given of the conflict of interest. Thus a Councilor will:
- a. Disclose 1) the nature and amount of his or her private interests, 2) the purpose and duration of his or her services rendered, 3) the compensation received for the services, and 4) any other relevant information to CPW Staff and the Colorado Secretary of State are required in C.R.S § 24-18-110. As Amended. Pursuant to 8 C.C.R. 1505-14. *Et seq.* All disclosures filed with the Secretary of State shall be filed electronically on the Secretary of State's internet system. An electronic copy of the disclosure with the Secretary of State must be provided to CPW Staff prior to a Council Meeting or prior to included with a Official Act pursuant to action without a meeting.
 - b. At the time of an Official Act where there is or could be a conflict of interest state for the record the fact and summary nature of the interest disclosed. That is, when the Councilor determines that there is, or could be, a conflict of interest, and before the Councilor Officially Acts (votes on a motion or provides advice to the Director) the Councilor will provide an appropriate statement for the record.

Selected statutory language from C.R.S. §§ 24-18-101. *et seq.* (2017)

§ 24-18-102. Definitions

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.



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- (4) "Financial interest" means a substantial interest held by an individual which is:
- (a) An ownership interest in a business;
 - (b) A creditor interest in an insolvent business;
 - (c) An employment or a prospective employment for which negotiations have begun;
 - (d) An ownership interest in real or personal property;
 - (e) A loan or any other debtor interest; or
 - (f) A directorship or officership in a business.
- (5) "Local government" means the government of any county, city and county, city, town, special district, or school district.
- (6) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.
- (7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority. *(Note: participating in a discussion or answering questions likely does not constitute an Official Act.)*
- (8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

§ 24-18-103. Public trust - breach of fiduciary duty

- (1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.
- (2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people...

§ 24-18-105. Ethical principles for public officers, local government officials, and employees

- (1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.
- (2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and



substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority...

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking...

§ 24-18-108. Rules of conduct for public officers and state employees

(2) A public officer or a state employee shall not:

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

§ 24-18-108.5. Rules of conduct for members of boards and commissions

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

§ 24-18-109. Rules of conduct for local government officials and employees

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties;

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

§ 24-18-110. Voluntary disclosure

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and



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duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he 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.