

## ATTACHMENT NO. 2

### STATEMENT OF MAYOR PRO TEM OLLIE CANTOS

Regarding the Need for Modifications to the Proposed Code of Conduct,

Agenda Item 2

of the Regular Meeting of the City Council on

Tuesday, March 3, 2026

Dear City Council Colleagues:

Pursuant to Section 2-54 of the West Covina Municipal .Code, which grants each of us the right to have reasons for dissent from or protest against any action entered in the minutes (Code 1960, § 2123), I hereby enter this statement into the record to be included as part of the minutes from the City Council meeting on Tuesday, March 3, 2026.

**To begin, I wish to express my genuine appreciation for all the work that has gone into drafting and refining the proposed Code of Conduct, particularly given the tense environment that has consumed this body, especially over recent months. Indeed, maintaining professionalism, protecting the integrity of city governance, and ensuring respectful interactions are all worthy goals. However, our responsibility as elected officials is not only to pursue good policy goals, but also to ensure that the laws we adopt remain within the constitutional limits that govern public office.**

**After carefully reviewing the ordinance and the governing law, I must respectfully oppose Sections 2-703 ("Acknowledgment"), 2-729 ("Impeachment"), and 2-730 ("Disqualification from Future Office Following Impeachment").**

**My concerns fall into three primary areas:**

- (1) constitutional limits on qualifications for public office,**
- (2) structural limits on disciplining elected officials, and**
- (3) First Amendment protections for political speech.**

**First, Section 2-703 requires every elected official to execute a written acknowledgment confirming receipt of the Code of Conduct and agreeing to comply with it. Although this requirement is described as an "acknowledgment," it functions as an additional declaration that an elected official must sign in connection with holding office.**

## ATTACHMENT NO. 2

The problem is that the California Constitution already establishes the exclusive oath required for public office.

Article XX, Section 3 of the California Constitution provides:

**“Members of the Legislature, and all public officers and employees... shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation... and no other oath, declaration, or test, shall be required as a qualification for any public office or employment.”**

— Cal. Const., art. XX, § 3.

That language is direct and unequivocal. The Constitution prohibits government from imposing any additional oath, declaration, or test as a qualification for public office.

This principle is reinforced by California Government Code section 1360, which implements the constitutional oath requirement and does not authorize any additional declarations as a prerequisite for assuming office.

The California Supreme Court addressed this issue over a century ago in *Bradley v. Clarke*, 133 Cal. 196 (1901). In that case, the Court held that the constitutional oath provision is exclusive and prevents the government from imposing additional declarations or conditions on the right to hold public office.

Similarly, in *San Francisco Police Officers Association v. City and County of San Francisco*, 69 Cal.App.3d 1019 (1977), the court invalidated local requirements that effectively imposed additional conditions on the exercise of public office beyond those authorized by law.

Section 2-703 risks running afoul of these authorities. Even if framed as a procedural acknowledgment, it requires elected officials to sign a written declaration regarding obligations beyond the constitutional oath. The ordinance further suggests that failure to sign may affect participation in council activities. That effectively creates an additional condition tied to the exercise of public office, which the Constitution expressly forbids.

## ATTACHMENT NO. 2

**Second, Sections 2-729 and 2-730 establish escalating governance-based sanctions against elected officials.**

**While these provisions are described as “governance measures,” the practical effect is to authorize the council majority to impose restrictions on another elected official’s participation in city governance.**

**That structure raises serious concerns under California law governing elected offices.**

**In our constitutional system, elected officials are primarily accountable to the voters who elected them, not to the majority of the legislative body on which they serve. The traditional mechanisms for addressing misconduct by elected officials are well established and include:**

- **recall elections**
- **criminal prosecution**
- **civil enforcement by state authorities**
- **judicial proceedings such as "quo warranto," Latin for "by what authority," a type of legal action used to challenge whether a specific person has the legal right to hold the public office they occupy. It forces the person or entity to prove they have the proper legal authority for their position or actions.**

**These mechanisms exist precisely to prevent legislative majorities from effectively disciplining or disabling political opponents.**

**Allowing a council majority to impose operational restrictions on another elected official—even if labeled “governance-based”—risks creating a form of de facto discipline or suspension that cities are not authorized to impose.**

## ATTACHMENT NO. 2

In fact, the ordinance itself acknowledges that municipalities currently lack authority to suspend elected officials absent enabling legislation from the State of California. That acknowledgement underscores the structural limits we must respect.

Third, there are significant First Amendment implications.

Many provisions within these sections regulate conduct that may include political speech, criticism, advocacy, or statements made in connection with city governance. Yet political speech by elected officials sits at the very core of the First Amendment.

The United States Supreme Court addressed similar concerns in *Communist Party of Indiana v. Whitcomb*, 414 U.S. 441 (1974). In that case, the Court invalidated a requirement that political parties sign a loyalty-type declaration in order to participate in the electoral process. The Court explained that government may not condition participation in the political process on compelled commitments or declarations imposed by the state.

That principle applies with equal force here. When government requires elected officials to sign declarations regarding conduct or allows a legislative majority to sanction another official for political expression related to governance, it risks infringing on both the First Amendment and the representational rights of the voters who elected that official.

Beyond the legal concerns, there is also a structural concern for democratic governance.

If adopted in its current form, these provisions could allow a majority of the council to initiate investigations, impose restrictions, and escalate sanctions against another elected official. Even if that authority is exercised in good faith, the structure itself invites the possibility that political disagreements could be reframed as misconduct allegations.

## ATTACHMENT NO. 2

Courts are particularly cautious when laws allow government actors to regulate the speech or participation of elected officials because doing so can interfere with the voters' chosen representation.

To be clear, my concern is not with promoting ethical conduct. I fully support efforts to encourage professionalism, civility, and responsible governance.

However, those goals must be pursued within the constitutional framework that protects the independence of elected officials and the rights of the voters who elected them.

For these reasons, I respectfully oppose Sections 2-703, 2-729, and 2-730 of the Code of Conduct as currently drafted. If the Council as a whole does not see fit to strike out these provisions, I will have little choice but to oppose adoption of the ordinance that puts this into place.

Thank you, in advance, for taking the above into careful consideration.

--Ollie

Olegario "Ollie" D. Cantos VII, Esq.

Mayor Pro Tem