

Ethics Ordinance: Crafting a Code



Module #5

Alan Bojorquez
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Fostering Integrity at City Hall

Leadership

Administration

Regulation

Instruction

Accountability

Transparency



Item for Discussion

1. Draft Ethics Ordinance

EDITOR'S NOTES:

1. Draft Document:
2. Training:
3. Broad Sampling:
4. Consensus:
5. Best Practices:
6. Applicability:
7. Codification:

§ 3-106. Purpose

The purpose of this Article is to foster an environment of integrity for those that serve the City of Denton and our citizenry. The City Council enacted this Article in order to increase public confidence in our municipal government.

§3-107. Applicability

This Article applies to the following persons:

- (a)** City Officials;
- (b)** Former City Officials whose separation from city service occurred less than two (2) years ago;
- (c)** Vendors; and
- (d)** Complainant(s).

§3-109. Cumulative & Non-Exclusive

This Article is cumulative of and supplemental to all applicable provisions of the City Charter, other City Ordinances, and State/Federal laws and regulations. Compliance with this Article does not excuse or relieve any person from any obligation imposed by any other Rule.

DIVISION 2. RULES OF CONDUCT

§3-110. Expectations

- (a)** City Officials are expected to conduct themselves in a manner that fosters public trust.

- (b)** City Officials are charged with performing their public duties in a way that projects their own personal integrity and upholds the integrity of the organization.

§3-111. Mandates

- (a) Duty to Report.** City Officials shall immediately report any conduct that the person knows to be a violation of this Article.
- (b) Financial Disclosures.** All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law. All prospective Vendors and City Officials shall file disclosure forms...

§3-112. Prohibitions

(a) Conflicts of Interest.

- (1) Deliberation Prohibited.**
- (2) Disclosure Required.**
- (3) Definitions.**

§3-112. Prohibitions Cont'd

- (A) *Business Entity:*** a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.
- (B) *Conflicting Interest:*** a stake, share, or involvement in an undertaking in the form of any one (1) or more of the following:

§3-112. Prohibitions Cont'd

- (1)** ownership of five percent (5%) or more voting shares or stock in a business entity;
- (2)** receipt of more than six-hundred dollars (\$600.00) in gross annual income from a business entity;
- (3)** ownership of more than six-hundred dollars (\$600.00) of the fair market value of a business entity;

§3-112. Prohibitions Cont'd

- (4)** ownership of an interest in real property with a fair market value of more than six-hundred dollars (\$600.00);
- (5)** serves on the Board of Directors or as an Officer of a Business Entity; and/or
- (6)** serves on the Board of Directors or as an Officer of a nonprofit corporation.

§3-112. Prohibitions Cont'd

A City Official is considered to have a conflicting interest if the City Official's Relative has a Conflicting Interest.

The term Conflicting Interest does not include ownership of an interest in a mutual or common investment fund that holds securities or assets unless the City Official participates in the management of the fund.

§3-112. Prohibitions Cont'd

- (C) *Deliberations:*** discussions at the dais, voting as a Member of the Board or Commission, presentations as a member of the audience before any City Board or Commission, conversing to corresponding with other City Officials.
- (D) *Relative:*** a family member related to a City Official within one (1) degree of affinity (marriage) or consanguinity (blood or adoption).

§3-112. Prohibitions Cont'd

(E) *Pending Matter:* an application seeking approval of a permit or other form of authorization required by the City, State or Federal law; a proposal to enter into a contract or arrangement with the City for the provision of goods, services, real property or other things of value; a case involving the City that is (or is anticipated to be) before a civil, criminal or administrative tribunal.

§3-112. Prohibitions Cont'd

(b) Gifts.

(1) *General.* It shall be a violation of this Article for a City Official to accept any gift that might reasonably tend to influence such Officer in the discharge of official duties.

§3-112. Prohibitions Cont'd

(2) *Specific.* It shall be a violation of this Article for a City Official to accept any gift for which the fair market value is fifty dollars (\$50.00) or greater. It shall be a violation of this Article for a City Official to accept multiple gifts from a single source for which the cumulative fair market value exceeds two-hundred dollars (\$200.00) in a single fiscal year.

§3-112. Prohibitions Cont'd

(3) It shall be a violation of this Article for a Vendor to offer or give a Gift to a City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two-hundred dollars (\$200.00) per a single fiscal year.

§3-112. Prohibitions Cont'd

(4) *Definition of Gift.* Anything of monetary value, such as personal property, real property, services, meals, entertainments, and travel expenses.

This definition shall not apply to:

(A) a lawful campaign contribution;

§3-112. Prohibitions Cont'd

- (B)** meals, lodging, transportation and related travel expenses paid for (or reimbursed by) the City in connection with the City Official's attendance at a conference, seminar or similar event;
- (C)** meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public events;

§3-112. Prohibitions Cont'd

- (D) complimentary copies of trade publications and other related materials;
- (E) attendance at hospitality functions at local, regional, state or national association meetings and/ or conferences;
- (F) any gift which would have been offered or given to the City Official because of a personal, familial professional relationship regardless of the City Official's capacity with the City;

§3-112. Prohibitions Cont'd

- (G)** tee shirts, caps and other similar promotional material;
- (H)** complimentary attendance at political or charitable fund raising events.

§3-112. Prohibitions Cont'd

(c) Outside Employment.

(1) *Applicability of Section.* This subsection applies to the following City Officials: City Manager, City Secretary, City Attorney, Chief of Police, and Department Heads.

§3-112. Prohibitions Cont'd

(2) *Prohibition.* It is a violation of this Article for a City Official covered by this subsection to solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties.

(3) *Disclosure and Consent.*

§3-112. Prohibitions Cont'd

(d) Representation of Others.

- (1) ***Current City Officials.*** It shall be a violation of this Article for a City Official to represent for compensation any person,...
- (2) ***Former City Officials.*** It shall be a violation of this Article for a City Official to represent for compensation any person, group, or entity before the City for a period of two (2) years after termination of official duties.

§3-112. Prohibitions Cont'd

(e) Improper Influence. It shall be a violation of this Article for a City Official to use such person's official title/position to:

- (1)** Secure special privileges or benefits for such person or others;

§3-112. Prohibitions Cont'd

(f) Misuse of Information.

(1) ***Personal Gain.*** It shall be a violation of this Article for a former City Official or former Employee to use any confidential information to which he had access by virtue of his official capacity and which has not been made public...

§3-112. Prohibitions Cont'd

(2) Confidential Information. It shall be a violation of this Article for a City Official to intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said Official's or Employee's position...

§3-112. Prohibitions Cont'd

(g) Abuse of Resources. It shall be a violation of this Article for a City Official to use, request, or permit the use of City facilities, personnel, equipment, software, supplies, or staff time for private purposes (including political purposes), except to the extent and according to the terms that those resources are generally available to the City Council for official City purposes.

§3-112. Prohibitions Cont'd

(h) Abuse of Position. It shall be a violation of this Article for any City Official to:

(1) *Harassment & Discrimination.* Use the official's position to harass or discriminate against any person...

(2) *Interference.* Interfere with any criminal or administrative investigation alleging the violation of any provision of this Article, the City Charter, administrative policy or executive order...

§3-112. Prohibitions Cont'd

- (i) Subsequent Work on Prior Projects.** It shall be a violation of this Article for any former City Official, within two (2) years of the cessation of official duties for the City, to perform work on a compensated basis relating to a City contract...

DIVISION 3. IMPLEMENTATION

§3-113. Staffing

The City Auditor's Office shall be responsible to provide staff support to the Board of Ethics to assist in the implementation and enforcement of this Article. The degree of support required shall be at the discretion of the City Auditor.

§3-114. Legal Counsel

- (a) City Attorney.** The City Attorney shall provide legal support to the Board of Ethics.
- (b) Special Counsel.** Independent, outside legal services shall be engaged by the City Attorney on the City's behalf...

§3-115. Training

- (a) Curriculum;**
- (b) Orientation;**
- (c) Annual; and**
- (d) Exiting Officials.**

§3-116. Board of Ethics

- (b) Appointment.** ...by majority vote of the City Council.
- (c) Number.** ... (7) regular members.
- (d) Terms.** ... (2) year, staggered terms.
- (e) Eligibility.** ...residents of the City of Denton. Preference in appointments shall be given to professionals such as attorneys, doctors, teachers, pastors, mediators, retired jurists, licensed professional counselors, and those with licenses...

§3-116. Board of Ethics

(f) Ineligibility.

- (1)** current service as a City Official;
- (2)** separation from city service as a City Official within two (20 years of the appointment;
- (3)** familial relations within the first (1st) degree of affinity (marriage, or the first (1st) degree of consanguinity (blood or adoption);

§3-116. Board of Ethics

- (4) current service as an elected official in Denton County; and /or
- (5) conviction of a felony, or of moral turpitude.
- (g) Alternates....**a replacement for a regular member who is absent or abstaining.
- (h) Scope of Authority.** ... this Article.

§3-117. Advisory Opinions

(a) Requests. Any City Official...

(b) Issuance. A Panel...

(c) Reliance. It shall be an affirmative defense to a Complaint that the Accused reasonably relied in good faith...

§3-118. Complaints

- (a) **Complainants.** Any person who has first-hand knowledge...
- (b) **Form....**promulgated by the City Auditor.
- (c) **Contents....**simple, concise, direct statements...
- (d) **Violation Alleged....** must state on its face...
- (e) **Affidavit....** accompanied by an affidavit...

§3-118. Complaints

- (f) Limitations Period.** ... within six (6) months of the Complainant becoming aware of the act or omission will not be accepted more than two (2) years after...
- (g) Filing.** ... submitted to the City Auditor.

§3-118. Complaints

(h) Acceptance of Complaints.

(1) Administratively Complete.

(2) Timely.

(j) Confidentiality.

(k) Ex Parte Communications.

§3-119. Preliminary Assessment

(b) Assignment of Panel.

(c) Panel Determination.

(1) Actionable:

(2) Baseless:

(d) Appeals.

§3-120. Meetings

- (a) Calling Meetings.** ... upon request of the Chairperson, three (3) members, or the City Auditor.
- (b) Quorum.** (4)
- (c) Hearings:**
 - (1)** ...scheduled by the City Auditor ...
 - (A)** a Panel determination that a Complaint is Actionable; or
 - (B)** an Appeal challenging ...dismissal of a Complaint...

§3-120. Meetings Con'd

(2) Purpose: ...determine whether:

(A) a violation, and if so...sanction;

(B) Accepted Complaints was erroneously dismissed as Baseless ...

(C) Accepted Complaint is Frivolous.

(3) Rules of Procedure: The Board of Ethics shall adopt...

§3-120. Meetings Cont'd

(4) Sworn Testimony: All witness testimony Shall be under oath.

(5) *Burden of Proof:...*
on the Complainant,

(d) Open Meetings. All meetings and hearings... shall be conducted pursuant to the Texas Open Meetings Act.

(e) Postponement...until after the criminal investigation or criminal proceedings are terminated.

§3-121. Disposition

(a) Dismissal.

- (1)** the Complaint is Baseless;
- (2)** the alleged violation did not occur;
- (3)** The Accused reasonable relied in good faith upon an Advisory Opinion, as provided in this Article; and
- (4)** The Complainant failed to testify at the hearing.

§3-121. Disposition

(b) Sanctions.

- (1) Letter of Notification.**
- (2) Letter of Admonition.**
- (3) A Reprimand.**
- (4) Recommendation of Suspension.**
- (5) Ineligibility.**

§3-121. Disposition

(c) Frivolous.

- (1) *Prohibition.***
- (2) *Super-Majority Vote.***
- (3) *Factors.***

§3-122. Reconsideration

Complainant or Accused may request...
Chairperson's sole discretion, ... new
evidence.