

violation of this chapter and the interests of the city require voiding of the prior action.

(7) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(8) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution. (Ord. 30391, eff. 7/1/17)

SEC. 12A-38. PROSECUTION FOR PERJURY.

Any person who knowingly files or makes a false sworn statement under this chapter is subject to criminal prosecution for perjury under the laws of the State of Texas. (Ord. Nos. 24316; 29660)

SEC. 12A-38.1. INTERFERENCE WITH AN INVESTIGATION.

A person commits an offense if the person interferes with any investigation of an alleged violation of this chapter in any manner, including seeking to persuade or coerce others to withhold their cooperation. (Ord. 30391, eff. 7/1/17)

SEC. 12A-39. DISQUALIFICATION FROM CONTRACTING.

(a) Any person who has been found by the ethics advisory commission to have intentionally or knowingly violated any provision of this chapter may be prohibited by the city council from entering into any contract with the city for a period of two years.

(b) It is a violation of this chapter:

(1) for a person debarred from entering into a contract with the city to enter or attempt to enter into

a contract with the city during the period of disqualification from contracting; or

(2) for a city official or employee to knowingly assist in a violation of Subsection (b)(1) of this section.

(c) Nothing in this section prohibits any person from receiving a city service or benefit, or from using a city facility, according to the same terms generally available to the public.

(d) A business entity may be disqualified from contracting with the city based on the conduct of the entity's employee or agent, if the conduct occurred within the scope of employment or agency with the entity. (Ord. 24316)

SEC. 12A-40. CITY ATTORNEY ACTION.

If the city council determines that a person has violated this chapter, the city council may direct the city attorney to initiate whatever legal action is necessary, including but not limited to injunctive relief. (Ord. 24316)

SEC. 12A-40.1. FRIVOLOUS COMPLAINT.

(a) Definition. A frivolous complaint is a complaint that is groundless and brought either in bad faith or for the purpose of harassment. "Groundless" means no basis in law or fact.

(b) Order to show cause. If the ethics advisory commission or a preliminary panel has unanimously dismissed a complaint, the commission or panel may, by the affirmative vote of at least two-thirds of those present, order a complainant to show cause why the commission should not determine that the complaint is a frivolous complaint.

(c) Effect of order to show cause. Once the ethics advisory commission or a preliminary panel has

issued an order to show cause to a complainant, the city secretary shall not accept or process another complaint from the complainant until the commission has determined whether the complaint is frivolous or the person charged in the complaint has notified the city secretary's office in writing that he or she does not want the commission to determine whether the complaint is frivolous.

(d) Confidentiality. No city official or employee shall reveal information relating to the processing of an order to show cause, except as required for the performance of official duties or as required by law. All papers and communications relating to an order to show cause must be treated as confidential unless required to be made public under the Public Information Act (Chapter 552, Texas Government Code) or other applicable law.

(e) Notification. The city secretary shall promptly forward a copy of an order to show cause to the complainant and the person charged in the complaint.

(f) Response. The complainant and the person charged in the complaint shall each have the opportunity to submit a sworn response, together with such other information he or she believes is relevant. The response must be submitted to the city secretary's office within 10 days after the date that the complainant was given written notice of the order to show cause. Copies of all information provided to the ethics advisory commission by the complainant or the person charged in the complaint must be distributed to all parties to the complaint within 10 days after the commission receives the information.

(g) Format of evidence. If a complainant or a person charged in a complaint submits evidence in an electronic, mechanical, or other format that the city secretary's office cannot duplicate or display, that office shall request that person to provide the evidence in a format that the office can duplicate or display. If that person fails to provide the evidence to the city secretary's office in a format that the office can duplicate or display within seven days after the office has made a request, then the evidence may not be

presented to or considered by the ethics advisory commission or a panel of the commission when considering that complaint.

(h) Notice of termination of proceedings. Instead of submitting a sworn response, the person charged in the complaint may notify the city secretary's office in writing that he or she does not want the ethics advisory commission to determine whether the complaint is frivolous. The notice must be submitted to the city secretary's office within 10 days after the date that the complainant was given written notice of the order to show cause. A copy of the notice provided to the city secretary's office must be distributed to all parties to the complaint within 10 days after the commission receives the information. If the person charged in the complaint submits a timely notice to the city secretary's office, the commission shall take no further action to determine whether the complaint is frivolous.

(i) Evidentiary hearing. Unless notice of termination is provided under Subsection (h), the ethics advisory commission shall hold a hearing to determine whether the complaint is a frivolous complaint. Not less than 10 days before the hearing, the city secretary shall, by certified mail or personal service, give written notice to the complainant and the person charged in the complaint of the date, time, and place of the hearing. If a person entitled to notice under this subsection consents in writing, the city secretary may give written notice by facsimile, email, or first class U.S. mail.

(j) Ex Parte communications. It is a violation of this section for:

(1) the complainant, the person charged in the complaint, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in any *ex parte* communication about the subject matter of an order to show cause with any member of the ethics advisory commission; or

(2) a member of the ethics advisory commission to:

(A) knowingly entertain an *ex parte* communication prohibited by Subsection (j)(1); or

(B) knowingly communicate, directly or indirectly, with any person, other than a member of the commission, its staff, or its legal counsel, about any issue of fact or law relating to an order to show cause.

(k) Hearing rules. Unless otherwise provided in this section, the rules for hearings in Section 12A-28 apply to hearings conducted in accordance with this section.

(l) Rights of the complainant and person charged in the complaint. The complainant and the person charged in the complaint have the right to attend the hearing, the right to make a statement, the right to present and cross-examine witnesses, and the right to be represented by legal counsel or another advisor.

(m) In determining whether a complaint is frivolous, the ethics advisory commission may consider evidence of:

(1) the timing of the complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant;

(2) the nature and type of any publicity surrounding the filing of the complaint;

(3) the existence and nature of any relationship between the person charged in the complaint and the complainant before the complaint was filed;

(4) whether the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and

(5) the complainant's motives in filing the complaint.

(n) Determination. A determination that a complaint is a frivolous complaint may be made only upon an affirmative vote of three-fifths of all commission members present and voting. Otherwise, the complaint is not deemed frivolous. A finding that a complaint is frivolous must be supported by clear and convincing evidence. "Clear and convincing evidence" means that measure or degree of proof that produces in a person's mind a firm belief or conviction as to the truth of the allegations sought to be established. The commission's determination of whether a complaint is frivolous does not affect the prior decision of the commission or preliminary panel on the merits of the complaint.

(o) Sanction for filing a frivolous complaint.

(1) If the ethics advisory commission determines that a complaint is a frivolous complaint, it may prohibit the complainant from filing another complaint alleging one or more violations of this chapter for up to:

(A) two years after the date of the commission's determination that the complaint is frivolous, if the commission had not determined within the preceding five years that another complaint filed by the complainant was frivolous; or

(B) four years after the date of the commission's determination that the complaint is frivolous, if the commission had determined within the preceding five years that another complaint filed by the complainant was frivolous.

(2) When determining whether and for how long to prohibit a complainant who files a frivolous complaint from filing another complaint under this chapter, the ethics advisory commission shall consider the following factors:

(A) The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation.

(B) The sanction necessary to deter future violations, including whether the violation was an isolated incident or part of a pattern and whether there are any mitigating circumstances.

(C) Any other matters that justice may require.

(3) If the ethics advisory commission prohibits the complainant from filing another complaint for a specific amount of time under Subsection (o)(1), the city secretary shall not accept or process another complaint alleging one or more violations of this chapter from the complainant during the time that the complainant is prohibited from filing a complaint.

(4) The ethics advisory commission may notify the appropriate regulatory or supervisory agency of its findings and determination, including referring its findings and determination to a criminal investigation agency or prosecution entity for investigation of a violation of a state or federal law.

(p) Written decision. If the ethics advisory commission determines that a complaint is frivolous and imposes a sanction, it shall make all reasonable efforts to issue a written decision within 15 days after the hearing. The commission shall state its findings in the written decision.

(q) Notification. Within 10 days after issuing a written decision, the ethics advisory commission shall forward copies of the findings and decision to the complainant, the person charged in the complaint, the city attorney, the city secretary, the city council, and any member of the commission who did not participate in the disposition of the matter. The city secretary shall make copies of the findings and decision available to the public as authorized by law. (Ord. 29660)

ARTICLE IX.

ADMINISTRATIVE PROVISIONS.

SEC. 12A-41. OTHER ETHICAL OBLIGATIONS.

(a) This chapter is cumulative of and supplemental to all applicable provisions of the city charter, other city ordinances, and state and federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by the city charter, other city ordinances, or state or federal laws or regulations.

(b) Even if a city official or employee is not prohibited from taking official action by this chapter, action may be prohibited by duly promulgated personnel rules.

(c) The imposition of sanctions under Section 12A-37.1 does not preclude criminal prosecution for the act under city ordinance or state or federal law. A violation of this chapter shall not be prosecuted in municipal court if the violation can be prosecuted by the district attorney under state law or by the United States attorney under federal law. (Ord. Nos. 24316; 30391, eff. 7/1/17)

SEC. 12A-42. DISSEMINATION OF CODE OF ETHICS.

(a) Within 30 days after entering upon the duties of their position, every new city official or employee must be furnished with a copy of this chapter. The city secretary shall provide a copy of this chapter to every city official. The city manager, city attorney, city secretary, city auditor, park and recreation director, civil service director, and employees' retirement fund administrator shall provide a copy of this chapter to every city employee under their supervision. Each city official and employee shall acknowledge, in writing, the receipt of a copy of this chapter. Copies of this chapter must be made readily available to the public.