

Ethics

Charter Review Committee

The City Council shall adopt an ethics ordinance. At the minimum, the ethics ordinance shall incorporate the conflict of interest standards that appear in chapter 171 of the Texas Local Government Code and all state law as presently exist or may be hereafter amended or adopted.

The Council may adopt more stringent standards than those that appear in state law, but the ethics ordinance shall at a minimum include the following components:

- (1) Definition of a prohibited improper economic interest and personal gain;
- (2) Definition of recusal and improper participation when a potential conflict of interest is present;
- (3) Avoidance of appearance of conflict of interest; and
- (4) Administration and enforcement of ethics ordinance coupled with strong and meaningful remedies for infraction.

Model City Charter

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) Conflicts of Interest.

The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) Board of Ethics.

The city council shall, by ordinance, establish an independent board of ethics to administer and enforce the conflict of interest and financial disclosure ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the city council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel. The city council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it and to provide annual training and education of city officials and employees, including candidates for public office, regarding the ethics code.

Commentary.

Many states have conflict of interest and financial disclosure laws which include local officials as well as state officials. Cities in these states may wish to modify this section accordingly by either eliminating duplication with state law...Instead of providing essentially statutory language, this section mandates council passage of ordinances covering certain basic subjects and which provide for a specific mechanism to administer and enforce the law. This permits amendment as may be required without a referendum, which would be necessary if the charter covered the subject in detail. This provision shows that the charter is serious about the need for dealing with ethics problems but at the same time leaves it to the city council to adopt the formulation most appropriate for the specific situation. It makes a provision for a Board of Ethics but leaves details on the board's composition and procedure to the council. Other provisions councils could adopt, but not listed in the Model, relate to acting in an official capacity over any campaign donor who contributes \$ _____ or more to the official's campaign; the hiring of relatives; acting in an official capacity on matters affecting a prior employer within a designated time period after leaving the employer; accepting outside employment while in office; and accepting employment with an employer over whom the official or employee acted in an official capacity, within a designated time period after leaving office.