



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
www.cityofdenton.com

Meeting Agenda

Board of Ethics

Monday, June 5, 2023

5:30 PM

Council Work Session Room

After determining that a quorum is present, the Board of Ethics of the City of Denton, Texas, will convene in a Regular Meeting on Monday, June 5, 2023, at 5:30 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

1. ITEMS FOR CONSIDERATION

- A. [BOE23-024](#) Consider approval of minutes for May 1, 2023.
[Estimated Presentation/Discussion Time: 5 minutes]
Attachments: [Draft Meeting Minutes](#)
- B. [BOE23-025](#) Receive a report and hold a discussion regarding the creation of a public comment period for Board of Ethics meetings.
[Estimated Presentation/Discussion Time: 10 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- C. [BOE23-026](#) Receive a report, hold a discussion, and take necessary action regarding proposed amendments to the Ethics Ordinance and Board of Ethics' Rules of Procedure.
[Estimated Presentation/Discussion Time: 20 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - April 4, 2023 City Council Meeting Minutes](#)
[Exhibit 3 - Presentation](#)
- D. [BOE23-027](#) Receive a report, hold a discussion, and give direction regarding a redesign of the annual Ethics Ordinance training required by City of Denton Code of Ordinances Article XI Sec. 2-276 Training.
[Estimated Presentation/Discussion Time: 20 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Draft Redesigned Ethics Ordinance Training](#)
- E. [BOE23-028](#) Receive a report, hold a discussion, and take necessary action regarding the ethics complaint process detailed in Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-281 Meetings and Sec. 2-282 Disposition.
[Estimated Presentation/Discussion Time: 45 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - City of Austin Ethics Ordinance](#)
[Exhibit 3 - City of Fort Worth Ethics Ordinance](#)
- F. [BOE23-029](#) Receive a report, hold a discussion, and give staff direction regarding future meeting topics.

[Estimated Presentation/Discussion Time: 5 minutes]

Attachments:

[Exhibit 1 - Agenda Information Sheet](#)

[Exhibit 2 - Board of Ethics Tentative Meeting Topics \(June 2023\)](#)

NOTE: The Board of Ethics reserves the right to adjourn into a Closed Meeting on any item on its Open Meeting agenda consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law.

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (<https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on June 1, 2023, in advance of the 72-hour posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

OFFICE OF THE CITY SECRETARY

NOTE: THE CITY OF DENTON'S DESIGNATED PUBLIC MEETING FACILITIES ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE ACCOMMODATION, SUCH AS SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED, IF REQUESTED AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY SECRETARY'S OFFICE AT 940-349-8309 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT REASONABLE ACCOMMODATION CAN BE ARRANGED.



City of Denton

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Legislation Text

File #: BOE23-024, **Version:** 1

AGENDA CAPTION

Consider approval of minutes for May 1, 2023.

[Estimated Presentation/Discussion Time: 5 minutes]

City of Denton Board of Ethics

After determining that a quorum was present, the Board of Ethics of the City of Denton, Texas, convened in a Regular Meeting on Monday, May 1, 2023, at 5:30 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Lara Tomlin, Vice-Chair Annetta Ramsey and Members Hannah Klaassen, Andrea Eberhard, Dustin Pavelek, Tom Pryor, and Alternate Member David Zoltner.

1. ITEMS FOR CONSIDERATION

A. **BOE23-018** Consider approval of minutes for March 6 and March 13, 2023.

Vice-Chair Ramsay moved to approve the March 6, 2023 minutes as presented; motion seconded by Member Pryor. Motion carried.

AYES (7): Chair Lara Tomlin, Vice-Chair Annetta Ramsey and Members Hannah Klaassen, Andrea Eberhard, Dustin Pavelek, Tom Pryor and Alternate Member David Zoltner.

NAYS (0): None.

Member Pavelek moved to approve the March 13, 2023 minutes as presented; motion seconded by Member Klaassen. Motion carried.

AYES (7): Chair Lara Tomlin, Vice-Chair Annetta Ramsey and Members Hannah Klaassen, Andrea Eberhard, Dustin Pavelek, Tom Pryor and Alternate Member David Zoltner.

NAYS (0): None.

B. **BOE23-022** Receive a report and hold a discussion regarding the 2023 Packet of Proposed Amendments to the Ethics Ordinance and Board of Ethics' Rules of Procedure.

The item was presented, and discussion followed.

C. **BOE23-019** Receive a report, hold a discussion, and take necessary action regarding the creation of a public comment period for Board of Ethics meetings.

The item was presented, and discussion followed.

Vice-Chair Ramsey moved to amend the Board of Ethics' Rules and Procedures to allow in-person and eComment on agenda items with a three minute limit and no speaker limit and allow in-person presentations from members of the public with a three minute limit and five speaker limit at regular meetings; motion seconded by Member Klaassen.

AYES (7): Chair Lara Tomlin, Vice-Chair Annetta Ramsey and Members Hannah Klaassen, Andrea Eberhard, Dustin Pavelek, Tom Pryor and Alternate Member David Zoltner.

NAYS (0): None.

D. BOE23-020 Receive a report, hold a discussion, and take necessary action regarding the format of discussion regarding Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-281 (c) (4) Burden of Proof.

The item was presented, and discussion followed.

The Board gave direction for staff to research what the cities of Austin and Fort Worth require from a Complainant during the hearing process and compare this to the City of Denton's process.

E. BOE23-021 Receive a report, hold a discussion, and give staff direction regarding future meeting topics.

The item was presented, and discussion followed.

The Board gave direction to place the Mayor's request to consider how a Respondent may object to a Preliminary Assessment panelist on their list of potential meeting topics. The Board gave direction for staff to present an update on the creation of a public comment period during the June 2023 meeting, to add a discussion of the 2023 Amendment Proposals during the June 2023 meeting, and to increase the amount of time during the June 2023 meeting for discussing the burden of proof requirements. The Board directed staff to push the first discussion on the definition of pending matter to the August 2023 meeting.

With no further business, the meeting was adjourned at 6:47 p.m.

Lara Tomlin
Chair

Tammy Peal
Recording Secretary

MINUTES APPROVED ON: _____



City of Denton

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Legislation Text

File #: BOE23-025, **Version:** 1

AGENDA CAPTION

Receive a report and hold a discussion regarding the creation of a public comment period for Board of Ethics meetings.

[Estimated Presentation/Discussion Time: 10 minutes]



City of Denton

City Hall
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AGENDA INFORMATION SHEET

DEPARTMENT: Internal Audit

CITY AUDITOR: Madison Rorschach

DATE: June 5, 2023

SUBJECT

Receive a report and hold a discussion regarding the creation of a public comment period for Board of Ethics meetings.

BACKGROUND

During the February 6, 2023 meeting of the Board of Ethics, the Board gave staff direction to look into options to have a public comment option at future Board of Ethics meetings.

Based on review, the Board of Ethics' Rules of Procedure currently prohibit public comments from being accepted at meetings held for an Advisory Opinion and for a Preliminary Assessment. In addition, the format of a Hearing held by the Board of Ethics is specific and does not currently include a time for public comment. Public comment is currently not addressed by the Ethics Ordinance, or the Rules of Procedure for regular meetings of the Board.

During the May 1, 2023 meeting of the Board of Ethics, the Board gave staff direction to implement the following for regular meetings of the Board:

- eComment on agenda items;
- In-person comment on agenda items limited to three minutes per item; and
- In-person presentation from members of the public (i.e. allows for comment on items not listed on the agenda) limited to three minutes per speaker and five speakers per meeting.

DISCUSSION

Based on the received direction, Staff is creating a redlined version of the Board of Ethics' Rules of Procedure. It should be noted that currently, members of the public are allowed to comment on posted agenda items per Texas state law; however, the Rules of Procedure must be amended to allow for presentations from members of the public and to adopt reasonable rules, including the time and speaker limitations directed by the Board.

Staff plans to present these changes to the City Council during the July 18, 2023 regular Council meeting. If adopted, the changes should be implemented for the Board of Ethics' August 7, 2023 regular meeting.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

None.

EXHIBITS

1. Agenda Information Sheet

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



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Legislation Text

File #: BOE23-026, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and take necessary action regarding proposed amendments to the Ethics Ordinance and Board of Ethics' Rules of Procedure.

[Estimated Presentation/Discussion Time: 20 minutes]



City of Denton

City Hall
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AGENDA INFORMATION SHEET

DEPARTMENT: Internal Audit
CITY AUDITOR: Madison Rorschach
DATE: June 5, 2023

SUBJECT

Receive a report, hold a discussion, and take necessary action regarding proposed amendments to the Ethics Ordinance and Board of Ethics' Rules of Procedure.

BACKGROUND

City of Denton Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-277 (i) states that the Board of Ethics may recommend amendments to Article XI (i.e. the Ethics Ordinance) to the City Council from time to time.

DISCUSSION

On April 4, 2023, Staff and the Board of Ethics Vice Chair presented the 2023 Packet of Proposed Amendments to the City Council, which can be viewed beginning around the 25 minute mark at the following link: <https://dentontx.new.swagit.com/videos/223262>. The minutes from this meeting are included as Exhibit 2 and discussion of each proposal is summarized below:

Proposal	Summary of Discussion
1 Clarification of Gifts Prohibition	General support for expansion to City Relatives and clarification of disclosure requirements. Mixed response to specific prohibition on acceptance of cash or cash equivalents. Direction to draft language for inclusion.
4 COI: Campaign Contributions	Some confusion on the election cycle timeframe. No direction to move forward.
5 COI: Recent Offers of Employment	Clarification on if an offer to and from a City Official was included. Direction to draft language for inclusion.
6 COI: Recent Business Opportunity Negotiations	Concern about "Business Opportunity Negotiations" being undefined. No direction to move forward.
7 COI: Substantial Client Relationships	Concern about definition of client relationship not being clearly defined. No direction to move forward.
8 COI: Substantial Debtor/Creditor Relationships	Concern that this would be too restrictive. No direction to move forward.

9	Revision of Business Entity Disclosures	Some confusion about which relationships this requirement would apply. Support for it remaining a disclosure requirement and direction to create clear disclosure procedures. Direction to draft language for inclusion.
10	Specific Sanctions for Frivolous Complaints	Concern that this would disincentivize residents from filing complaints and would prohibit legitimate complaints from being heard. Gave direction to require City Auditor to provide a copy of an Accepted Complaint to the Complainant as well as the Respondent. Direction to draft language for inclusion.
11	Creation of an Order to Show Cause Process	Concern that this would disincentivize residents from filing complaints. No direction to move forward.

During the May 2023 regular meeting of the Board of Ethics, the Board gave staff direction to bring back information on the proposals that had not received direction to be included in the Ethics Ordinance for further discussion.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

May 1, 2018: Ethics Ordinance Adopted by City Council

Jun. 2, 2020: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations

Jan. 25, 2022: Ethics Ordinance Amendment by City Council

Jul. 19, 2022: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations

Mar. 6, 2023: Board of Ethics forwarded 2023 Packet of Proposed Amendments to the City Council

Apr. 4, 2023: City Council discussed 2023 Packet of Proposed Amendments in Work Session

May 1, 2023: Board of Ethics directed staff to discuss rejected proposals at next meeting

EXHIBITS

1. Agenda Information Sheet

2. April 4, 2023 City Council Meeting Minutes

3. Presentation

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor

CITY OF DENTON CITY COUNCIL MINUTES

April 4, 2023

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, April 4, 2023, at 2:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Brian Beck and Council Members Vicki Byrd, Jesse Davis, Brandon Chase McGee, and Chris Watts (Virtual)

ABSENT: None

VACANT: District 4

Also present were City Manager Sara Hensley and City Attorney Mack Reinwand.

The posted agenda noted the registration process for public participation at this meeting. However, there were no online registrations or call ins on any items on the agenda.

WORK SESSION

1. Citizen Comments on Consent Agenda Items

Citizen comments received are noted on Exhibit A.

2. Requests for clarification of agenda items listed on this agenda.

- Clarification:
 - Mayor Hudspeth: Items 4.H (23-463) and 4.L (23-728)
 - Mayor Pro Tem Beck: Item 4.F (23-722)
 - Council Member Watts: Item 4.H (23-463)
- Pulled For Individual Consideration:
 - Mayor Hudspeth: Item 4.M (23-730)
 - Council Member Davis: Item 4.G (23-462)

3. Work Session Reports

- A. ID 23-690 Receive a report, hold a discussion, and give staff direction regarding Audit Project 031 - Recreation Facility Operations. [Estimated Presentation/Discussion Time: 15 minutes]

The item was presented and discussion followed.

Following discussion, there was no direction provided as the item was for presentation/discussion purposes.

- B. ID 23-691 Receive a report, hold a discussion, and give staff direction regarding Audit Project 019 - Municipal Court Payments: Follow-Up Review. [Estimated Presentation/Discussion Time: 15 minutes]

The item was presented and discussion followed.

Following discussion, there was no direction provided as the item was for presentation/discussion purposes.

- C. ID 23-689 Receive a report, hold a discussion, and give staff direction regarding proposals from the Board of Ethics to amend the Ethics Ordinance and the Board of Ethics' Rules of Procedure. [Estimated Presentation/Discussion Time: 60 minutes]

The item was presented and discussion followed.

The work session was recessed for a short break at 3:25 p.m. and reconvened at 3:37 p.m.

Following discussion, results were as follows:

- Proposal 1 - Bring back language to expand the gifts prohibition to include City Official's relatives and require disclosure.
- Proposal 5 - Bring back language to expand the Conflicts of Interest definition to include recent offers of employment made to or by a City Official.
- Proposal 9 - Bring back language to adjust the process for filing Business Disclosures.
- Proposal 10 - Bring back language to require the City Auditor to also provide a copy of an Accepted Complaint to the Complainant
- Proposals 4, 6, 7, 8, and 11 were rejected.

- D. ID 23-212 Receive a report, hold a discussion, and give staff direction on pending City Council requests for: 1) Request for a Work Session to discuss the Southern Methodist University food insecurity project commissioned and related regional food bank information. [Estimated Presentation/Discussion Time: 30 minutes]

The item was presented and discussion followed.

Following discussion, results were as follows:

- ID 23-212 (1) Work Session to discuss the Southern Methodist University food insecurity project commissioned and related regional food bank information.
 - o No consensus for a work session.

The work session was recessed for a short break at 4:58 p.m. and reconvened at 5:21 p.m.

The work session ended at 5:35 p.m.

CLOSED MEETING

1. The City Council convened into a Closed Meeting at 4:57 p.m. consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law, as follows:

- A. ID 23-344 Consultation with Attorneys under Texas Government Code Section 551.071 and Deliberations Involving Medical or Psychiatric Records of Individuals under Texas Government Code Chapter 551.0785. Receive information from staff, discuss, and provide staff with direction related to a police officer's plan benefits related to an injury in the line of duty. Consultation with the City's attorney regarding legal issues associated with benefits where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas; to consider information in the medical or psychiatric records related to a police officer's injury in the line of duty.

DELIBERATED

- B. ID 23-707 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's attorneys on the legal status, expenses, strategy and options for resolution of the bankruptcy litigation of In re Core Scientific, Inc.; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position in pending litigation.

NOT DELIBERATED

- C. ID 23-754 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's attorneys on the legal status, expenses, strategy and options for resolution of initial litigation styled City of Denton v. Delilah Solar Energy L.L.C. and Samson Solar Energy L.L.C.; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position in pending litigation.

NOT DELIBERATED

- D. ID 23-755 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's attorneys on the legal status, expenses, strategy and options for resolution of initial litigation styled "Michael Grim and Jim Maynard v. City of Denton, Texas", currently pending merits briefing before the Supreme Court of Texas; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position in pending litigation.

NOT DELIBERATED

The closed meeting started at 5:21 p.m. and ended at 5:35 p.m. No votes or actions were taken during the closed meeting.

REGULAR MEETING

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Regular Meeting on Tuesday, April 4, 2023, at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Brian Beck and Council Members Vicki Byrd, Jesse Davis, Brandon Chase McGee, and Chris Watts (Virtual)

ABSENT: None

VACANT: District 4

Also present were City Manager Sara Hensley and City Attorney Mack Reinwand.

The posted agenda noted the registration process for public participation at this meeting. However, there were no online registrations or call ins on any items on the agenda.

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag and B. Texas Flag

2. PROCLAMATIONS/PRESENTATIONS

A. ID 23-609 Proclamation: National Community Development Week
PRESENTED

3. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

A. Review of procedures for addressing the City Council.

B. Reports from members of the public

1) Scheduled Citizen Reports from Members of the Public

a. ID 23-565 Mr. Stephen Dillenberg regarding Campaign Questions
NOT PRESENTED

b. ID 23-565 Ms. Camila Parra regarding youth, education, achievements, and plans for the future.
CANCELLED

2) Additional Citizen Reports (Open Microphone)

None

4. **CONSENT AGENDA**

The Consent Agenda consisted of Items 4.A - T. During the Work Session held earlier in the day, Item 4.G (23-462) was pulled for Individual Consideration by Council Member Davis, and Item 4.M (23-730) was pulled for Individual Consideration by Mayor Hudspeth.

Mayor Pro Tem Beck moved to adopt the Consent Agenda, now consisting of Items 4.A-F, H-L and N-T. Motion seconded by Council Member McGee Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

A. ID 23-027 Consider approval of the minutes of the March 21, 2023 Meeting.

APPROVED

B. ID 23-057 Consider nominations/appointments to the City's Boards, Commissions, and Committees: Airport Advisory Board and Community Services Advisory Committee.

APPROVED

APPOINTMENTS LISTED ON EXHIBIT B

C. ID 23-705 Consider approval of a resolution of the City of Denton providing the March 16, 2023 meeting absence of a Committee on Persons with Disabilities Member be excused; and providing an effective date.

ASSIGNED RESOLUTION NO. 23-705

D. ID 23-664 Consider approval of a resolution of the City of Denton providing the March 11, 2023 meeting absence of a Community Services Advisory Committee Member be excused; and providing an effective date.

ASSIGNED RESOLUTION NO. 23-664

E. ID 23-000 Consider approval of a resolution of the City Council of the City of Denton, approving the 2021/2022 Tax Increment Reinvestment Zone Number Two (Westpark TIRZ) annual report; and declaring an effective date. The TIRZ Number Two Board recommends approval (10-0).

ASSIGNED RESOLUTION NO. 23-000

F. ID 23-722 Consider approval of a resolution of the City of Denton adopting the Denton County Hazard Mitigation Plan; and declaring an effective date.

ASSIGNED RESOLUTION NO. 23-722

- H. ID 23-463 Consider adoption of an ordinance of the City of Denton granting Ashes Smoke Shop, LLC, a three-year noise exception for the Annual Ashes 420 Festivals on Thursday, April 20, 2023, Saturday, April 20, 2024, and Sunday, April 20, 2025, from 11 a.m. to 11 p.m., at 420 S. Carroll Boulevard; and providing an effective date.

ASSIGNED ORDINANCE NO. 23-463

- I. ID 23-527 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute a funding agreement between the City of Denton and Grace Like Rain, Inc. DBA Giving Grace for the payment and use of HOME Investment Partnership Grant American Rescue Plan (HOME-ARP) Entitlement funding for Tenant Based Rental Assistance; providing for the expenditure of funds in an amount not to exceed \$856,811.00; and providing an effective date.

ASSIGNED ORDINANCE NO. 23-527

- J. ID 23-259 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute a funding agreement between the City of Denton and Our Daily Bread, Inc. for the payment and use of HOME Investment Partnership Grant American Rescue Plan (HOME-ARP) Entitlement funding for Tenant Based Rental Assistance; providing for the expenditure of funds in an amount not to exceed \$856,811.00; and providing an effective date.

ASSIGNED ORDINANCE NO. 23-259

- K. ID 23-719 Consider adoption of an ordinance of the City of Denton authorizing the City Manager, or their designee, to execute a letter donation agreement and accept the gift and dedication of a fee simple interest in approximately 6.8717 acres of land located south of Jim Christal Road Lot 3, and a portion of lot 4, Block A, Westpark Addition, Phase 2; City and County of Denton, Texas; and providing for severability and an effective date.

ASSIGNED ORDINANCE NO. 23-719

- L. ID 23-728 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to an engagement between the City of Denton and Haynes and Boone, LLP, amending the engagement approved by the City Attorney on November 7, 2022, in the not-to-exceed amount of \$49,500.00; said first amendment to provide additional legal services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 8174 - providing for an additional first amendment expenditure amount not-to-exceed \$100,500.00, with the total contract amount not-to-exceed \$150,000.00).

ASSIGNED ORDINANCE NO. 23-728

- N. ID 23-730 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to an engagement between the City of Denton and King and Spalding, L.L.P., amending the engagement approved by the City Attorney on March 11, 2022, in the not-to-exceed amount of \$49,500.00; said first amendment to provide additional legal services for the City of Denton;

providing for the expenditure of funds therefor; and providing an effective date (File 8159 - providing for an additional first amendment expenditure amount not-to-exceed \$300,500.00, with the total contract amount not-to-exceed \$350,000.00).

ASSIGNED ORDINANCE NO. 23-730

- O. ID 23-626 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide regulatory permitting/approval support, process evaluation, design services, bidding assistance, and construction phase services for the Cooper Creek Lift Station Improvement Project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-025 - Professional Services Agreement for design services awarded to Kimley-Horn and Associates, Inc., in the not-to-exceed amount of \$750,000.00). The Public Utilities Board recommends approval (5 - 0).

ASSIGNED ORDINANCE NO. 23-626

- P. ID 23-627 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with McCourt Equipment, Inc, for screener maintenance and repairs for the Beneficial Reuse Department, which is the sole provider of this service, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over \$50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8116 - awarded to McCourt Equipment, Inc, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$300,000.00). The Public Utilities Board recommends approval (5 - 0).

ASSIGNED ORDINANCE NO. 23-627

- Q. ID 23-628 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute an Interlocal Cooperative Purchasing Agreement with the City of Longview, under the Texas Government Code, Section 791.001, to authorize the City of Longview and City of Denton to utilize each entities' solicited contracts for the purchasing of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 8208 - award an Interlocal Cooperative Purchasing Agreement with the City of Longview).

ASSIGNED ORDINANCE NO. 23-628

- R. ID 23-662 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of Change Order No. 3 to the contract between the City of Denton and Mart, Inc., for the additional work and extension of days necessary to complete the American Legion Hall Senior Center; providing for the expenditure of funds therefor; and providing an effective date (RFP 7103 - Change Order No. 3 in the not-to-exceed amount of \$53,506.77, for a total contract award aggregated to \$1,688,146.68).

ASSIGNED ORDINANCE NO. 23-662

- S. ID 23-665 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a contract between the City of Denton and United Healthcare Insurance Company, Inc., amending the contract approved by the City Council on October 23, 2018, in the not-to-exceed amount of \$625,600.00; amended by Amendment 1 approved by Purchasing; said second amendment to continue to provide employee voluntary vision insurance coverage; providing for the expenditure of funds therefor; and providing an effective date (RFP 6826 - providing for an additional second amendment expenditure amount not-to-exceed \$107,400.00, with the total contract amount not-to-exceed \$782,000.00).

ASSIGNED ORDINANCE NO. 23-665

- T. ID 23-706 Consider adoption of an ordinance of the City of Denton authorizing the City Manager, or designee, to execute a Contract of Sale between the City of Denton, as "Buyer", and Nelda Hackett (referred to herein as "Seller"), for the purchase of approximately 6.5 acres of land, more or less, for the purposes of the construction of a Wastewater Treatment Facility and other public uses, being located in the J. W. Withers Survey, Abstract No. 1343, and the B.B.B. & C.R.R. Company Survey, Abstract No. 196, all located in the City and County of Denton, Texas, for a purchase price of \$820,000.00; authorizing the provision of relocation advisory services and relocation financial assistance in an amount of \$155,478.84; authorizing the expenditure of funds therefor; providing for severability; and providing an effective date.

ASSIGNED ORDINANCE NO. 23-706

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

- G. ID 23-462 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Agreement between the City of Denton and Denton Independent School District for joint facility use and transportation services for Denton Parks and Recreation camp programs; authorizing the City Manager, or their designee, to perform all obligations of the City under the agreement, including the expenditure of funds; and providing an effective date.

ASSIGNED ORDINANCE NO. 23-462

There were no online registrations or call-ins on the item.

Pulled for Individual Consideration by Council Member Davis.

Council Member Davis had a conflict of interest and left the Council Chambers.

The item was presented and no discussion followed.

Mayor Pro Tem Beck moved to adopt the item as presented. Motion seconded by Council Member McGee. Motion carried.

AYES (5): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, McGee, and Watts

NAYS (0): None

ABSTAIN (1): Council Member Davis

VACANT (1): District 4

- M. ID 23-729 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the additional expenditure of \$150,000, for outside counsel expenses and other appellate expenses in the initial litigation styled "Michael Grim and Jim Maynard v. City of Denton, Texas", currently pending merits briefing before the Supreme Court of Texas; and declaring an effective date (File 6567 - providing for an additional amendment expenditure amount not-to-exceed \$150,000.00, with the total contract amount not-to-exceed \$1,491,900.00).

ASSIGNED ORDINANCE NO. 23-729

There were no online registrations or call-ins on the item.

Pulled for Individual Consideration by Council Member.

The item was presented and discussion followed.

Following discussion, Mayor Hudspeth moved to adopt the item as presented. Motion seconded by Council Member McGee. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

5. PUBLIC HEARINGS

- A. ID 23-387 THIS PUBLIC HEARING IS POSTPONED INDEFINITELY. NEW PUBLIC NOTICE WILL BE PUBLISHED IN ADVANCE OF THE FUTURE PUBLIC HEARING IN ACCORDANCE WITH LOC. GOV'T CODE CH. 395. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding the approval of the Roadway Impact Fees Study.

POSTPONED INDEFINITELY

Mayor Hudspeth reiterated the item was postponed indefinitely. There was no objection voiced by the City Council.

- B. ID 22-2556 THIS PUBLIC HEARING IS POSTPONED INDEFINITELY. NEW PUBLIC NOTICE WILL BE PUBLISHED IN ADVANCE OF THE FUTURE PUBLIC HEARING IN ACCORDANCE WITH LOC. GOV'T CODE CH. 395. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas regarding updates to the Roadway Impact Fees.

POSTPONED INDEFINITELY

Mayor Hudspeth reiterated the item was postponed indefinitely. There was no objection voiced by the City Council.

- C. PD22-0010d Hold a public hearing and consider adoption of an Ordinance of the City of Denton, Texas, regarding a change in the zoning district and use classification from a Planned Development - Mixed-Use Neighborhood (PD-MN) District to a Planned Development - Suburban Corridor (PD-SC) District on approximately 12.770 acres of land generally located at the northwest and southwest corner of Teasley Lane (F.M.2181) and Hunters Creek Road in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. STAFF IS REQUESTING TO WITHDRAW THIS ITEM (PD22-0010d, Denton West Joint Venture, Mia Hines).

WITHDRAWN

Mayor Hudspeth reiterated the item was withdrawn at the request of staff. There was no objection voiced by the City Council.

- D. Z23-0001a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas regarding a change in the zoning district and use classification on approximately 29.714 acres of land from Planned Development 120 (PD-120) District to Mixed-Use Neighborhood (MN) District. The site is generally located at the south of Loop 288, approximately 1,640 feet west of North Locust Street (F.M. 2164) in the City of Denton, Denton County, Texas; adopting an amendment to the City's Official Zoning Map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for severability and an effective date. The Planning and Zoning Commission voted [7-0] to recommend approval of the request. Motion for approval by Commissioner Smith and second by Commissioner McDade. (Z23-0001a, Loop 288 PD to MN, Mia Hines).

ASSIGNED ORDINANCE NO. Z23-0001a

There were no online registrations or call-ins on the item.

The item was presented and no discussion followed.

The public hearing was opened and citizen comments received are noted on Exhibit A.

With no other callers on queue, the public hearing was closed.

Mayor Pro Tem Beck moved to adopt the item as presented. Motion seconded by Council Member McGee. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 23-545 Consider adoption of an ordinance of the City of Denton, Texas, amending the fiscal year 2022-2023 budget and Annual Program of Services of the City of Denton to allow for adjustments to the Capital Improvement Program of \$29,223,360 for expenses related to transformers, LED conversion, Hickory GIS, and TxDOT relocations; declaring a public purpose; directing the City Secretary attach a copy to the 2022-2023 budget; requiring approval by at least five votes; providing a severability clause, an open meetings clause and an effective date. The Public Utilities Board recommends approval (6-0).

ASSIGNED ORDINANCE NO. 23-545

There were no online registrations or call-ins on the item.

The item was presented and discussion followed.

Following discussion, Council Member Beck moved to adopt the item as presented. Motion seconded by Council Member McGee. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

- B. ID 23-195 Consider adoption of an ordinance directing the publication of Notice of Intention to issue \$52,000,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing an effective date. The Public Utilities Board recommends approval (5-0).

ASSIGNED ORDINANCE NO. 23-195

There were no online registrations or call-ins on the item.

Items 6.B (23-195) and 6.C (23-196) were collectively read into the record, presented, and discussed, but voted on individually.

Following discussion, Mayor Pro Tem Beck moved to adopt the item as presented. Motion seconded by Council Member Byrd. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

- C. ID 23-196 Consider adoption of an ordinance directing the publication of Notice of Intention to issue \$167,000,000 in principal amount of Certificates of Obligation of the City of Denton for Waterworks and Wastewater System and Electric System projects; and providing an effective date. The Public Utilities Board recommends approval 5-0).

ASSIGNED ORDINANCE NO. 23-196

There were no online registrations or call-ins on the item.

Items 6.B (23-195) and 6.C (23-196) were collectively read into the record, presented, and discussed, but voted on individually.

Following discussion, Mayor Pro Tem Beck moved to adopt the item as presented. Motion seconded by Council Member McGee. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

- D. ID 23-241 Consider adoption of an ordinance of the City of Denton, Texas, amending the fiscal year 2022-2023 budget and annual program of services of the City of Denton to allow for adjustments to the Westpark Tax Increment Reinvestment Zone (TIRZ) Fund of six hundred sixty-five thousand fifty-three dollars (\$665,053) for the purpose of reimbursing the Westray Group, LP; declaring a public purpose; directing the City Secretary attach a copy to the 2022-2023 budget; requiring approval by at least five votes; and providing a severability clause, an open meetings clause, and an effective date.

ASSIGNED ORDINANCE NO. 23-241

There were no online registrations or call-ins on the item.

The item was presented and no discussion followed.

Council Member Davis moved to adopt the item as presented. Motion seconded by Mayor Pro Tem Beck. Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd, Davis, McGee, and Watts

NAYS (0): None

VACANT (1): District 4

- E. ID 23-721 Consider adoption of an ordinance of the City of Denton creating a Special Citizens Bond Advisory Committee for the proposed November 2023 Bond Election; Appointing Chair, Chair Pro Tem and members to the committee; creating rules for the meetings; establishing a charge for the committee; and providing an effective date

ASSIGNED ORDINANCE NO. 23-721

There were no online registrations or call-ins on the item.

The item was presented and discussion followed.

Citizen comments received are noted on Exhibit A.

Council Member Davis moved approval of the proposed ordinance with the following amendments:

Section 2 – the number 40 be replaced with 25

Section 3 –

- First bullet - the number 4 replaced by 3
- Second bullet - referring to District 4 be stricken
- Third bullet – the number 12 replaced with 4
- Fourth bullet – be stricken

Additional language added stating that no appointments will be made to the Committee until the May 6, 2023 election has been Canvassed

Section 4 – the number 15 be replaced with 13

Mayor Pro Tem Beck seconded the motion.

More discussion followed.

Council Member Watts made a friendly amendment to the motion that the Committee shall choose the Chair and Chair Pro Tem. Council Member Davis seconded the friendly amendment. Motion on the friendly amendment carried.

AYES (4): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Watts and Davis

NAYS (2): Council Members Byrd and McGee

VACANT (1): District 4

Mayor Hudspeth called for a vote on the original proposal as amended by Council Member Davis and seconded by Mayor Pro Tem Beck, and with the additional language passed by the Friendly amendment.

Motion failed.

AYES (2): Council Members Davis and Watts

NAYS (4): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd and McGee

VACANT (1): District 4

Council Member Byrd moved to adopt the item as presented. Motion seconded by Mayor Hudspeth.

Council Member Davis made an amendment to the proposed ordinance:

Section 2 – the number 40 be replaced with 25

Section 3 –

- First bullet - the number 4 replaced by 3

- Second bullet - referring to District 4 be stricken
- Third bullet – the number 12 replaced with 4
- Fourth bullet – Change City Council shall, to the Committee shall appoint the Committee Chair (1 position) and Chair Pro Tem (1 position)

Section 4 – the number 15 be replaced with 13

Mayor Pro Tem Beck seconded the proposed amendment.

More discussion followed.

Motion on the amendment failed.

AYES (3): Mayor Pro Tem Beck, and Council Members Davis and Watts

NAYS (3): Mayor Hudspeth, and Council Members Byrd and McGee

VACANT (1): District 4

Mayor Hudspeth called for a vote on the motion to adopt the original proposal made by Council Member Byrd and seconded by Mayor Hudspeth.

Motion carried.

AYES (4): Mayor Hudspeth, Mayor Pro Tem Beck and Council Members Byrd and McGee


NAYS (2): Council Members Watts and Davis


VACANT (1): District 4

7. CONCLUDING ITEMS

Council Members expressed items of interest.

With no further business, the meeting was adjourned at 8:53 p.m.



GERARD HUDSPETH
MAYOR
CITY OF DENTON, TEXAS

JESUS SALAZAR
INTERIM CITY SECRETARY
CITY OF DENTON, TEXAS

MINUTES APPROVED ON: _____

April 18, 2023



Proposed Amendments to the Ethics Ordinance

Board of Ethics

June 5, 2023

Direction Options

1. Allow the proposal to remain “Rejected;”
2. “Postpone the proposal and place it on the “Potential Agenda Topics” list for additional refinement; or
3. “Forward” the proposal as originally presented to the City Council.



Proposal 4: Add a Recusal Requirement for Certain Aggregate Campaign Contributions

- Creates a requirement for City Officials to recuse themselves from deliberations if a Pending Matter is brought forward by an individual, Business Entity, or other organization that contributed at least \$500 to their campaign.

(E) receipt of more than a five-hundred dollars (\$500.00) Campaign Contribution from an individual, Business Entity, or other organization during the most recent Election Cycle, as evidenced by campaign finance reports required by the Texas Ethics Commission and filed with the City Secretary;

Campaign Contribution: a contribution to a candidate for mayor or city council in any of the following forms: a monetary contribution or a non-monetary contribution (in-kind contribution).

Election Cycle: the period of time beginning on the day after the last regular election for the office of mayor or council member of a particular council place and ending on the day the results of the next regular election for that position are declared as provided for by Section 3.04 of the City Charter.



Proposal 6: Add Recusal Requirement for Recent Business Opportunity Negotiations

- Adds recusal requirement for recent business opportunity negotiations engaged in by the City Official or their Relative (i.e. family member to 3rd degree).

(I) direct or indirect engagement in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated with a person or Business Entity within the past twelve (12) months;

Proposal 7: Add Recusal Requirement for Client Relationships

- Creates a requirement for City Officials to recuse if they have a client relationship with a person or Business Entity.

(K) existence of a client relationship with a person or Business Entity including any business, financial, or professional relationship to which a duty of care, confidence, trust, or privilege applies to the City Official; and/or

Proposal 8: Add Recusal Requirement for Substantial Debtor or Creditor Relationships

- Adds recusal requirement if a City Official or their Relative (i.e. family member to 3rd degree) has a substantial debtor or creditor relationship.

~~(F)(L)~~ existence of more than a five-thousand dollars (\$5,000.00) debt with a person or Business Entity whereby the City Official is either the debtor or creditor. -----

Proposal 10: Create Specific Sanctions for Frivolous Complaints

(5) *Super-Majority Vote.* If the Board of Ethics determines at the conclusion of a frivolity hearing by a vote of two-thirds (2/3) of ~~its~~ the Members present that a Complaint was Frivolous, the Board may within ten (10) business days ~~impose a sanction as provided by Section 2-282(b)~~ prohibit the Complainant from filing another complaint alleging one or more violations of this Article for up to:

(A) Two (2) years after the date of the Board's determination that the eComplaint is Ffrivolous if the Board had not determined within the preceding five years that another Ceomplaint filed by the Ceomplainant was fFrivolous; or

~~(A)~~(B) Four (4) years after the date of the Board's determination that the Ceomplaint is Frivolous, if the Board had determined within the preceding five years that another Ceomplaint filed by the Ceomplainant was Ffrivolous.

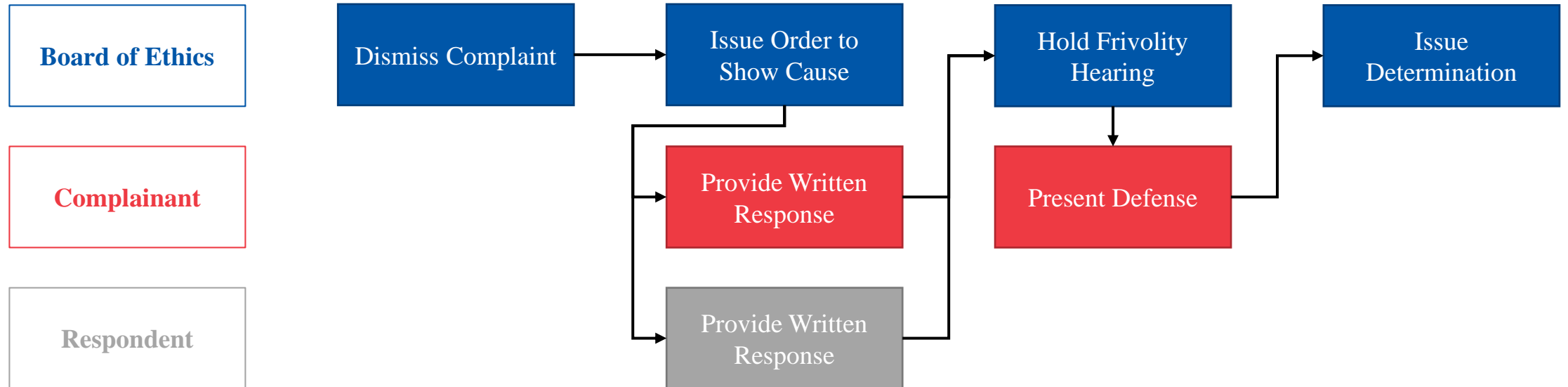
Notice of all complaint filing prohibitions imposed by the Board of Ethics shall be transmitted to the Complainant, City Auditor, City Attorney, and City Council.

~~Upon finding that a Complaint is Frivolous, the Complaint is dismissed.~~



Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

- Creates a process by which a Complainant may be ordered to show cause why their Complaint is not frivolous and requires this to occur prior to a determination.



Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

~~ED. ORDER TO SHOW CAUSE~~~~PRELIMINARY ASSESSMENTS~~

1. Issuance. If the Board or a Panel dismisses an Ethics Complaint, the Board or Panel may, by simple majority, order a Complainant to show cause why the Board should not determine that the Complaint is a Frivolous Complaint. An Order to Show Cause must be issued in order to determine if a Complaint is Frivolous.
2. Notice. The City Auditor shall send a written notification of the Order to Show Cause to the Chairperson, Complainant, the Respondent, and the City Attorney within two (2) business days.
3. Response. The Complainant and the Respondent shall each have the opportunity to submit a written sworn response, together with such other information they believe is relevant, to the Order to Show Cause. Such responses must be submitted to the City Auditor within ten (10) calendar 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 Board by the Complainant or the Respondent must be distributed to all parties to the Complaint within ten (10) calendar days after the Board receives the information.
4. Hearing. Hearings to determine frivolity shall be held within thirty (30) calendar days of the issuance of an Order to Show Cause. Frivolity Hearings shall follow procedures for Hearings laid out in Section 52-282(c), Code of Ethics
9E-23-026 Hearings



Questions?

Madison Rorschach

Board of Ethics Staff Liaison

City Auditor





City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
www.cityofdenton.com

Legislation Text

File #: BOE23-027, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give direction regarding a redesign of the annual Ethics Ordinance training required by City of Denton Code of Ordinances Article XI Sec. 2-276 Training.

[Estimated Presentation/Discussion Time: 20 minutes]



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Internal Audit
CITY AUDITOR: Madison Rorschach
DATE: June 5, 2023

SUBJECT

Receive a report, hold a discussion, and give direction regarding a redesign of the annual Ethics Ordinance training required by City of Denton Code of Ordinances Article XI Sec. 2-276 Training.

BACKGROUND

Ethics Ordinance Sec. 2-276 requires the City Auditor to approve a training program that provides an introduction and overview of the expectations, mandates, and prohibitions provided for by the Ethics Ordinance. The Ordinance requires this training to be completed within 90 days of a City Official commencing their duties and must be completed annually.

On July 16, 2018, the Board of Ethics' special counsel presented Ethics Training for City Officials after the Ethics Ordinance was first approved. This video was then approved by City Auditor Umesh Dalal as part one the required training program along with requiring City Officials to read [Local Government Ethics in a Nutshell \(PDF\)](#) as part two.

DISCUSSION

In anticipation of the City Council approving substantive changes to the Ethics Ordinance, Staff has redesigned the Ethics Ordinance Training with the following intentions:

- Create a presentation that can be easily updated as changes to the Ordinance are made;
- Shorten the content so that it can be presented in person to City Officials annually as part of their regular meetings; and
- Record content on each slide individually so a posted video can be easily updated.

The draft redesigned training is attached as Exhibit 2. Once the new ordinance is approved, Staff plans to roll out the new training to City Officials by working with the relevant Staff liaisons. Going forward, Staff plans to hold in-person Ethics Ordinance training opportunities in June and August as well as have the video available online. Local Government Ethics in a Nutshell would still be required as part of the training program. Staff believes this redesign will ease the annual training process.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

None.

EXHIBITS

1. Agenda Information Sheet
2. Draft Redesigned Ethics Ordinance Training

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



Ethics Ordinance Training

This training will take approximately 15 minutes

The following should watch this training:

- City Councilors
- Board of Ethics Members
- Planning and Zoning Commissioners
- Board of Adjustment Members
- Historic Landmark Commissioners
- Public Utilities Board Members
- City Council Appointed Employees

Welcome to the City of Denton's Ethics Ordinance Training. This training will take approximately 10 minutes.

Before we begin, the City's Ethics Ordinance only applies to certain City Board and Commission members including: the City Council, the Board of Ethics, the Planning & Zoning Commission, the Board of Adjustments, the Historic Landmark Commission, the Public Utilities Board, and the four Council Appointed employees: the City Manager, City Attorney, City Auditor, and the Municipal Judge. If you are not a part of one of these groups you are not required to watch this training.

What will you learn?

1. Ethical Expectations
2. Ordinance Mandates & Prohibitions
3. Advisory Opinions & Clarification Processes
4. Ethics Complaint Process



2

Today we will be covering:

1. The ethical expectations laid out by the City's Ethics Ordinance;
2. The ordinance's mandates and prohibitions – or what it requires;
3. How City Officials subject to the ordinance can request clarification on its application; and
4. A quick overview of what happens if an Ethics Complaint is submitted against you as a City Official.

So let's dive right in.

Ethical Expectations

- ✓ Conduct yourself in a manner that fosters public trust;
- ✓ Perform public duties in a way that projects personal & organization integrity;
- ✓ Avoid behavior that calls your motives into question and erodes public confidence;
- ✓ Place Denton resident's interests and concerns above your own;
- ✓ Value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence; and
- ✓ Balance transparency with the duty to protect personal privacy and preserve confidential information with which you have been trusted.



3

To begin, the City of Denton's Ethics Ordinance was adopted in 2018 and was most recently amended in 2023. This ethics code is intended to foster an environment of integrity for those that serve the City of Denton and its residents by ensuring that decision makers provide responsible stewardship of City resources and assets and providing behavioral guidelines and requirements. The key goal of the Ethics Ordinance is to further the public's trust in those who govern their community.

More specifically, the Ethics Ordinance outlines six aspirational expectations that are intended to guide City Officials in carrying out their duties. These include:

- Conducting yourself in a manner that fosters public trust;
- Performing your public duties with personal and organizational integrity;
- Avoiding behavior that might call your motives into question and erode public confidence;
- Placing the interests and concerns of Denton's residents above your own;
- Valuing honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence; and
- Balancing transparency with the duty to protect personal privacy and preserving any confidential information that you have been trusted with.

Ethical Expectations

**Behave Ethically both in
Fact & Appearance**

**Respect your Position of
Privilege**



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While the rest of this training will focus on specific behaviors that City Official must comply with, this is the most important section of the ethics ordinance. If you ever find yourself questioning if a specific action or inaction might be ethical, first ask yourself if it would align with these expectations. Important things to note about these expectations are that they focus not just on the way things are but also how they appear. In addition, a City Official has a position of privilege within the community that they must respect. Serving your community as a City Official is an honor that requires integrity and dedication.

Now that we've covered the basics of the City's ethical expectations, let's get into more specifics. The Ethics Ordinance includes three mandates and nine prohibitions that cover different actions or behaviors that City Official may take. We will briefly cover them over the next four slides; however, more detail is available in the Ethics Ordinance.

Ordinance Mandates & Prohibitions: Reports & Disclosures

- Disclose certain Business Relationships related to a Pending Matter;
- Comply with State law financial disclosures; and
- Report known violations of Ethics Ordinance.



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A **Pending Matter** is an application seeking approval of a permit or other required authorization; a proposal to enter a contract for things of value; or a case involving the City that is, or may be, before a civil, criminal, or administrative tribunal.

Beginning with the mandates, the Ethics Ordinance requires that City Officials disclose certain business relationships if they are relevant to a pending matter. Specifically, if a business entity with a pending matter is owned by a City Official's partner, the City Official must disclose this relationship to the City Secretary and City Auditor at least one business day prior to the meeting where the pending matter will be deliberated. All disclosures will be provided to the relevant body prior to the deliberations.

In addition, it requires that City Officials comply with any financial disclosures required by Texas State law and that a City Official report any person that they know has violated the City's Ethics Ordinance. Not reporting a known violation is itself considered to be a violation of the ordinance.

On to prohibitions - or potential City Official behaviors that are specifically considered violations of the ethics ordinance.

Ordinance Mandates & Prohibitions: Conflicts of Interest & Representation of Others

- Own 5% or more of a Business Entity's voting shares/stocks;
- Own \$600 or more of a Business Entity's fair market value;
- Own \$600 or more of the fair market value of real property;
- Receive \$600 or more in income from a Business Entity;
- Serve on a Business Entity's or Non-Profit's Board of Directors; and
- Solicited, received, or accepted an offer of employment in last 12 months from a Business Entity or person.



A Pending Matter is an application seeking approval of a permit or other required authorization; a proposal to enter a contract for things of value; or a case involving the City that is, or may be, before a civil, criminal, or administrative tribunal.

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Beginning with conflicts of interest, in general, a City Official is required to recuse from deliberating on a pending matter if they or their relative have an interest in a Business Entity or property that is not general to the public. This type of interest is specifically defined as:

- Owning 5% or more of a business entity's voting shares or stock;
- Owning \$600 or more of a business entity's fair market value;
- Owning \$600 or more of the fair market value of real property;
- Receiving \$600 or more in income from a business entity;
- Serving on the Board of Directors or as an officer of a business entity or non-profit; or
- Having solicited, received, or accepted an offer of employment from a business entity or person in the last 12 months.

If you have a conflict of interest as defined on the slide with a pending matter on an agenda, you are required to recuse yourself from the discussion and submit an affidavit of abstention to the City Auditor. A Pending Matter includes: an application seeking approval or authorization, a proposal to enter into a contract, or a case involving the City that is or may be before a civil, criminal, or administrative tribunal.

Further, it is a violation of the ordinance for a current City Official to represent a person, group, or entity before a City Board or Commission for compensation. This prohibition also applies to former City Officials for one year after termination of their official duties. Similarly, former City Officials are prohibited for performing compensated work on a City contract or arrangement if you substantially participated in the negotiation, award, or administration of the contract – unless this participation was limited to deliberation.

Ordinance Mandates & Prohibitions: Gifts



- Gift is anything worth more than \$50 or multiple items valued \$200 or more – except:
 - Campaign contributions;
 - Training/travel expenses if paid by the City or event coordinator;
 - Non-profit or community event expenses related to City Business;
 - Complimentary attendance at fund raising events or hospitality functions
 - Complimentary copies of trade publications or promotional clothing items; or
- Gift due to personal, familial, or professional relationship



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Next is gifts. The Ethics Ordinance prohibits a City Official or their relative from accepting any gift that might reasonably influence a City Official in discharging their official duties.

Specifically, this prohibits a City Official from accepting a single gift valued more than \$50 or multiple gifts with a total value more than \$200. In general, a gift is considered to be anything of monetary value such as cash, property, services, meals, entertainment, or travel-related expenses. If a gift is accepted, the City Official may remedy the violation by promptly donating it or reimbursing the gift giver the actual or fair market value of the gift. If a gift is accepted, the City Official must disclose the acceptance and the remedy by filing a disclosure with the City Auditor.

The ordinance does allow certain exceptions to the gifts prohibition including for:

- Lawful campaign contributions;
- Expenses related to a City Official's travel to a conference or other training event that is connected to the City;
- Expenses related to appearances at non-profit or community events related to City business;
- Complimentary attendance at fund-raising events or hospitality functions;
- Complimentary or promotional copies of trade publications or clothing items; or
- Gifts given due to a personal, familial, or professional relationship regardless of the City Official's City-related duties.

Any items received that fall under one of these exceptions do not need to be disclosed; however, a City Official may choose to disclose it at their discretion.

Ordinance Mandates & Prohibitions: Misuse of Influence & Information

- Improper Influence:
 - Securing or granting privileges or treatment for an individual, group, or business that is not normally available; or
 - Stating or imply that you are acting as a City representative without authorization.
- Misuse of Information:
 - Use of confidential information to advance personal or private financial interest of any person.



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Next, it is a violation of the ordinance for a City official to misuse the influence or information gained due to their official City position.

Specifically, a City Official may not use their influence to secure special privileges or treatment for a person, group, or business organization beyond what is normally available or to imply that they are able to do such things. Further a City Official may not state or imply that they are acting as a representative of the City unless they have been authorized to do so by the City Council.

It is also a violation of the ordinance for a City Official, either current or former, to use confidential information gained through their official capacity to advance the personal or private financial interest of themselves or anyone else.

Ordinance Mandates & Prohibitions: Abuse of Resources and Position

- Abuse of Resources:
 - Use of City property, equipment, or staff time for private or political purposes above what's available to all citizens.
- Abuse of Position:
 - Harassment or discrimination against a person based upon:
 - Ethnicity, race, gender, gender identity, sexual orientation, marital status, parental status, or religion.
 - Interference in an investigation including persuading or coercing others to not cooperate.



9

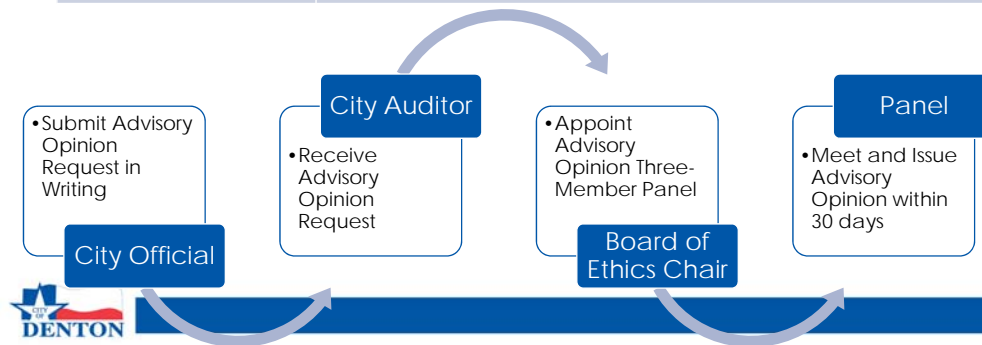
Last, it is a violation of the ordinance for a City Official to abuse the City's resources or the power or privileges granted by their official position.

Specifically, a City Official should not use, request, or allow the use of City resources such as facilities, personnel, equipment, software, or staff time for private purposes – including political – except to the extent that those are available to other residents.

Similarly, it is a violation of the ordinance for a City Official to harass or discriminate against a person based upon their ethnicity, race, gender, gender identity, sexual orientation, marital or parental status, or religion. Further, it is a violation to interfere with any City-related criminal or administrative investigation including persuading or coercing someone else to withhold their cooperation.

Advisory Opinions & Clarification Processes

Clarification Options	Guidance Provided
City Auditor	Relevant Ordinance References; Process Explanations
Personal Attorney	Interpretation of Ordinance Applicability
Board of Ethics	Answer to Question of Compliance; Can be Relied Upon



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Now that you have an understanding of the expectations, mandates, and prohibitions outline in the ordinance, if you ever come upon a situation where you need additional guidance you have a few options.

- First, if you need direction helping to find a section of the ordinance related to a particular situation or an answer about how to submit disclosures or complaints, you can reach out to the City Auditor;
- Second, if you have your own attorney, they may be able to provide you with an interpretation of the Ethics Ordinance to help you decide whether to recuse yourself or not in a given situation; and
- Finally, you can also request that the Board of Ethics issue an Advisory Opinion, which is intended to answer a question about compliance with the Ethics Ordinance in a particular situation. The biggest advantage of an Advisory Opinion is that a City Official may use it as an affirmative defense to a submitted Ethics Complaint if they relied upon it in good faith.

In order to receive an Advisory Opinion, a City Official must submit the request in writing to the City Auditor, including relevant details of the situation in question. The City Auditor will then communicate the request to the Board of Ethics Chair who assigns it to a panel of three Board of Ethics members for review. The Panel has 30 days to issue the Advisory Opinion once the request is received.

Ethics Complaint Process

	Initiation	Preliminary Assessment	Hearing	Reconsideration
Complainant	Submit Sworn Complaint Form		Must Testify: Can Present Addt'l Evidence	May Submit New Evidence for 5 days
City Auditor	Determine Form Completeness			
Respondent	Receive Copy of Complaint		May Provide Testimony & Evidence	May Submit New Evidence for 5 days
Board of Ethics	Assign Prelim. Panel	Determine if Complaint is Actionable	Determine if Ordinance Violated	Chair Decides if New Hearing Needed

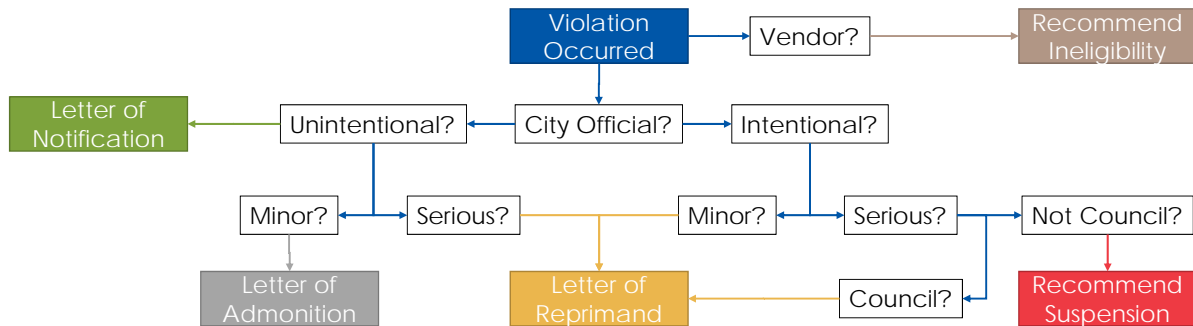


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Finally, the Board of Ethics' primary function is to process Ethics Complaints. There are four phases of the Ethics Complaint process that I will now briefly run through. Additional information about the Ethics Complaint process is available on the City's Board of Ethics Webpage or can be requested from the City Auditor.

- First – Initiation: During this period an individual submits an ethics complaint using the prescribed form to the City Auditor. This complaint form should be accompanied by any evidence such as images, videos, or documentation that the Complainant has to support their allegations and must be sworn to in front of a notary. The City Auditor then determines if the Ethics Complaint is administratively complete, but does not make any judgement on the Complaint's merits. If a complaint is accepted a copy is forwarded to the Complainant, Respondent, and Board of Ethics Chair who assigns it to a preliminary assessment panel.
- During the Preliminary Assessment phase, a panel of three Board of Ethics members reviews the submitted ethics complaint and determines if it is actionable or baseless. A complaint is actionable if on its face the behaviors alleged in the complaint would constitute a violation of the ordinance. The Panel may also recommend that a hearing be held to determine if a complaint is frivolous instead of determining if it is actionable or baseless. The outcome of the preliminary assessment is communicated to the Complainant and Respondent by the City Auditor. If the Complaint is determined to be Baseless the process stops, though the Complainant may submit a written appeal within 10 business days which will initiate the Hearing phase.
- During the Hearing phase, the Board of Ethics schedules an evidentiary hearing and may request additional documentary evidence or issue subpoenas to require individuals to testify. The Complainant must attend and testify at this hearing and may also present any additional evidence they have gathered. In addition, the Respondent may provide testimony and evidence for the Boards consideration. Both the Complainant and Respondent have a right to be represented by legal counsel at the evidentiary hearing. Based on this evidentiary hearing, the Board will determine if a violation of the ordinance has occurred and if so may issue a sanction.
- Once the Board has made a determination on the ethics complaint, the Complainant and Respondent both have five business days to submit any new evidence and request a reconsideration in writing with the City Auditor. The Board of Ethics Chair will review the reconsideration request and will unilaterally determine if a new hearing is warranted based on the new evidence.

Ethics Complaint Process: Sanctions



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If during the evidentiary hearing the Board of Ethics finds that a violation of the ethics ordinance has occurred they may issue one of four sanctions based on the City Official's perceived intent and the seriousness of the violation. This decision process is generally illustrated in the decision matrix on the slide. If the Board decides to impose a sanction, the City Official will be notified within 10 days by the City Auditor.

Congratulations!

You have completed the annual City of Denton Ethics Ordinance Training.

Madison Rorschach, City Auditor



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Congratulations! You have completed the annual City of Denton Ethics Ordinance training.

If you have any questions about the content of this training please reach out City Auditor Madison Rorschach.



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
www.cityofdenton.com

Legislation Text

File #: BOE23-028, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and take necessary action regarding the ethics complaint process detailed in Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-281 Meetings and Sec. 2-282 Disposition.

[Estimated Presentation/Discussion Time: 45 minutes]



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Internal Audit

CITY AUDITOR: Madison Rorschach

DATE: June 5, 2023

SUBJECT

Receive a report, hold a discussion, and take necessary action regarding the ethics complaint process detailed in Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-281 Meetings and Sec. 2-282 Disposition.

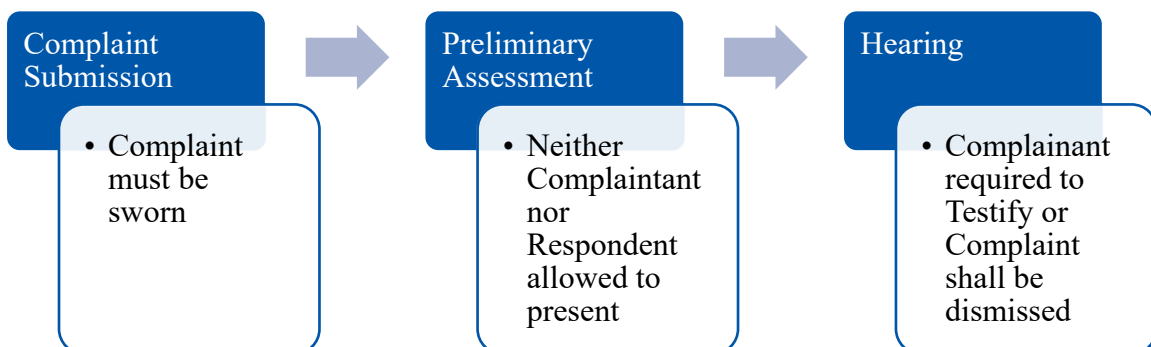
BACKGROUND

City of Denton Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-277 (i) states that the Board of Ethics may recommend amendments to Article XI (i.e. the Ethics Ordinance) to the City Council from time to time. During the November 7, 2022 meeting of the Board of Ethics, the Board gave direction to have a full discussion on the burden of proof requirements in the Ethics Ordinance. During the May 1, 2023 meeting of the Board of Ethic, the Board directed Staff to compare the evidentiary ethics complaint hearing processes of Austin and Fort Worth to the City of Denton.

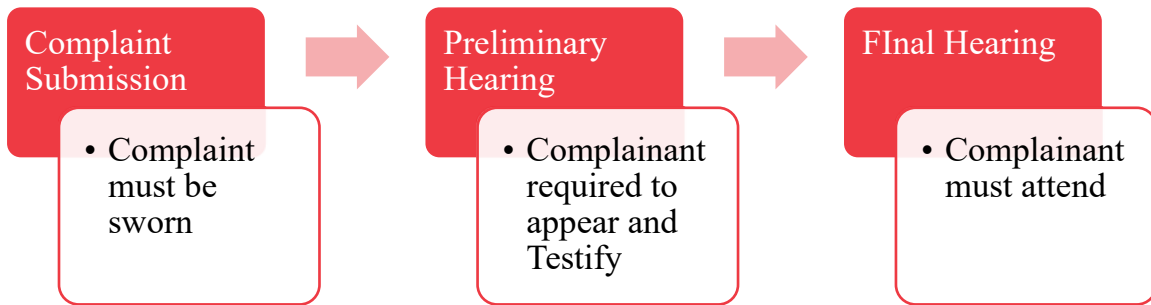
DISCUSSION

The City of Denton's Ethics Ordinance states that "the burden of showing that a violation of [the Ethics Ordinance] occurred is placed on the Complainant." As part of this burden, the Ethics Ordinance obligates the Complainant to put forward evidence, including testimony, supporting the Complaint and requires that the Complainant appear to testify at the hearing or else the Complaint may be dismissed. It should be noted that neither the City of Austin nor the City of Fort Worth have a specific section in their Ethics Ordinance that specifically places the "burden of proof" on the Complainant as done in Sec. 2-281(c)(4). That being said, there are similar requirements as outlined in the following figures:

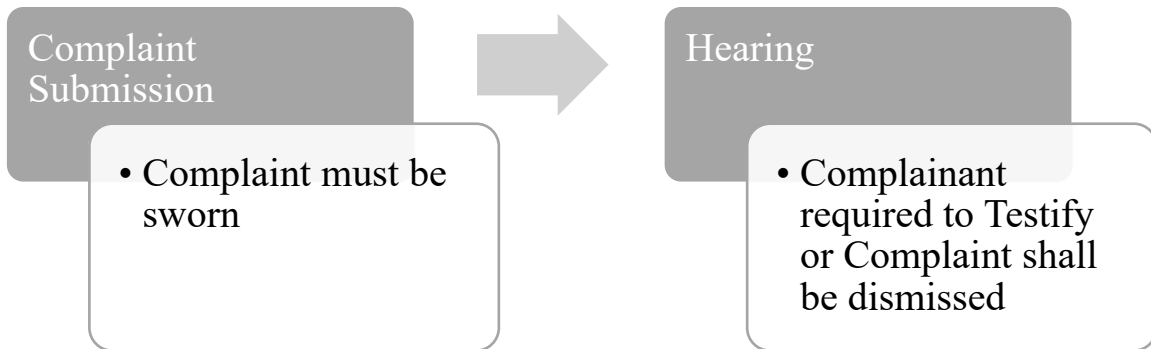
City of Denton Complainant Requirements



City of Austin Complainant Requirements



City of Fort Worth Complainant Requirements



It should be noted that for both Austin and Fort Worth, “Testify” means that the Complainant “shall state the alleged violation and describe in narrative form the testimony and other evidence” that would be presented to prove the alleged violation as stated in the complaint.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

May 1, 2018: Ethics Ordinance Adopted by City Council

Jun. 2, 2020: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations

Jan. 25, 2022: Ethics Ordinance Amendment by City Council

Jul. 19, 2022: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations

EXHIBITS

1. Agenda Information Sheet
2. City of Austin Ethics Ordinance
3. City of Fort Worth Ethics Ordinance

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor

ARTICLE 1. - GENERAL PROVISIONS.

§ 2-7-1 - DECLARATION OF POLICY.

- (A) It is the policy of the City that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all City officials and employees is adopted.
- (B) This code has the following four purposes:
 - (1) To encourage high ethical standards in official conduct by City officials and employees;
 - (2) To establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City;
 - (3) To require disclosure by such of official and employees of private financial or other interests in matters affecting the City; and
 - (4) To serve as a basis for disciplining those who refuse to abide by its terms.
- (C) The provisions of this chapter shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns or the conduct of candidates in such campaigns.

Source: 1992 Code Section 2-3-1; Ord. 031204-9; Ord. 031211-11.

§ 2-7-2 - DEFINITIONS.

In this chapter:

- (1) **AFFECTED** means in the case of a person, entity or property, means reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question. For instance, a person or entity owning real property, entering into a contract with the City, or seeking a permit or franchise is "affected" by votes or decisions such as zoning of the property, approval of the contract, or granting of the permit. Affected does not include those persons or entities who are subject to an indirect or secondary effect from official action. Creditors, independent contractors, or guarantors of a person "affected" by a vote or decision are not also deemed to be "affected" by virtue of their relationship with the affected person. The vote or decision need not be the only producing cause of the economic effect or consequence reasonably likely to result. In determining whether a person, entity or property is or was "affected by" a vote or decision, it shall not be necessary to prove the actual existence or occurrence of an economic effect or consequence if such effect or consequence would be reasonably expected to exist or occur. Additionally, a vote or decision to place a matter on a ballot is deemed to affect a person, entity or property to the same extent that the results of the election would effect the person, entity or property.
- (2) **CITY EMPLOYEE** or **EMPLOYEE** means any person employed by the City but does not include independent contractors hired by the City.
- (3) **CITY OFFICIAL** or **OFFICIAL**, unless otherwise expressly defined, means the mayor, members of the city council, municipal court judges (including substitute judges), city manager, assistant city managers, city clerk, deputy city clerks, city attorney, deputy city attorneys, all department heads or deputy department heads, whether such person is salaried, hired or elected, and all other persons holding positions designated by the

City Charter, as it may be amended from time to time. City official, unless otherwise expressly defined, includes individuals appointed by the mayor and city council to all City commissions, committees, boards, task forces, or other City bodies unless specifically exempted from this chapter by the city council.

- (4) DECISION means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other City board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body. A decision of a City employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorizations for expenditures, and other non-ministerial acts.
- (5) DISCRETIONARY AUTHORITY means the power to exercise any judgment in a decision or action.
- (6) ENTITY means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted, but does not include a governmental body.
- (7) HARM means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected has an interest.
- (8) INCIDENTAL INTEREST means an interest in a person, entity or property which is not a substantial interest and which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This chapter does not establish dollar limits on the terms "insignificant value" and "de minimis," which shall have their usual meanings and be subject to interpretation on a case by case basis.
- (9) LIMITED OR DE MINIMIS USE means use of City facilities, time, equipment or supplies that:
 - (a) does not interfere with or impede the job performance or productivity of the City official or employee;
 - (b) does not interfere with or impede the City's conduct of official business;
 - (c) is not used for a personal benefit, as defined in Section 2-3-5 (Powers and Duties);
 - (d) is too small, minor or insignificant to have an economic impact; and
 - (e) is used in accordance with the law, including the City Charter, Article XII, Section 2 prohibiting the use of City resources for election campaigning.
- (10) MINISTERIAL ACT means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.
- (11) REMOTE INTEREST means an interest of a person or entity, including a City official or employee, who would be affected in the same way as the general public. The interest of a councilmember in the property tax rate, general City fees, City utility charges, or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.
- (12) SUBSTANTIAL INTEREST means an interest in another person or an entity if: the interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000 or more of the equity or market value of the entity; or funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the person's gross income during that period, whichever is less; the person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council; or the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000 or more except that a home mortgage loan for the

person's homestead or a loan or lease of a personal automobile shall not be deemed a substantial interest in the creditor or guarantor if entered into at a market rate with a commercial lending institution before the previous 12 months.

- (13) SUBSTANTIAL INTEREST IN REAL PROPERTY means an interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

Source: 1992 Code Section 2-3-2; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047; Ord. No. 20170209-005, Pt. 5, 2-20-17; Ord. No. 20181213-014, Pt. 1, 12-24-18.

ARTICLE 2. - ETHICS REVIEW COMMISSION.

§ 2-7-26 - FUNCTIONS.

The Ethics Review Commission has jurisdiction over this chapter, Section 2-1-24 (Conflict of Interest and Recusal), Chapter 2-2 (Campaign Finance), Chapter 4-8 (Regulation of Lobbyists), and Article III, Section 8, of the City Charter (*Limits on Campaign Contributions and Expenditures*). The commission shall hear and rule on sworn complaints alleging violations of the provisions within the commission's jurisdiction. The city manager shall provide funding for all necessary and reasonable functions of the commission in fulfilling the commission's duties.

Source: 1992 Code Section 2-3-26; Ord. 031204-9; Ord. 031211-11; Ord. 20080214-012; Ord. 20120426-084; Ord. No. 20170209-005, Pt. 6, 2-20-17.

§ 2-7-27 - LIMIT ON THE COMMISSION'S JURISDICTION.

Notwithstanding any other provision of the City Code, the Ethics Review Commission may not hear or initiate a sworn complaint alleging a violation of Article 4 (*Code of Ethics*) against an employee described in Section 2-3-5(L)(2), including a member of the City's classified municipal civil service system or a member of a state civil service system.

Source: Ord. No. 20150129-021, Pt. 1, 2-9-15; Ord. No. 20190328-037, Pt. 2, 4-8-19.

§ 2-7-28 - (RESERVED)

§ 2-7-29 - REPORTS.

On an annual basis, the city manager shall provide a report to the commission of training regarding this chapter that is provided to newly appointed board and commission members and to newly employed City employees.

Source: Ord. No. 20170209-005, Pt. 7, 2-20-17.

Editor's note— Ord. No. 20170209-005, Pt. 7, adopted February 20, 2017, repealed the former § 2-7-29, and enacted a new § 2-27-29 as set out herein. The former § 2-7-29 pertained to reports; opinions. See Code Comparative Table for complete derivation.

§ 2-7-30 - DUTIES.

- (A) The Ethics Review Commission shall, in addition to its other duties:

- (1) prescribe forms for reports, statements, notices, and other documents required by the provisions within the commission's jurisdiction;

- (2) prepare and publish materials explaining the duties of individuals subject to the provisions within the commission's jurisdiction;
 - (3) accept and file any information voluntarily supplied that exceeds the requirements of the provisions within the commission's jurisdiction;
 - (4) preserve statements and reports filed with the commission for a period of five years from the date of receipt;
 - (5) review the provisions within the commission's jurisdiction and make appropriate recommendations to the city council concerning the provisions within the commission's jurisdiction, and perform an annual review and evaluation of the dollar limits established in Chapter 2-2 (Campaign Finance) and make recommendations to the city council as to those limits;
 - (6) conduct hearings in accordance with the provisions of this chapter and the commission's rules on sworn complaints alleging violations of the provisions within the commission's jurisdiction; and
 - (7) schedule and oversee the forums among candidates in City elections provided for in Chapter 2-2 (Campaign Finance).
- (B) The commission may:
- (1) prepare reports and studies to advance the purposes of the provisions within the commission's jurisdiction;
 - (2) request the city council and city manager to provide such assistance as it may require in the discharge of its duties; and
 - (3) review statements and reports filed under provisions within the commission's jurisdiction in order to obtain compliance with the provisions.

Source: 1992 Code Section 2-3-30; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20170209-005, Pt. 8, 2-20-17.

§ 2-7-31 - STAFFING.

- (A) The Ethics Review Commission shall be assigned staff by the city attorney to assist in its duties.
- (B) When complaints are filed related to the mayor, city councilmembers, city manager, city attorney, department heads and deputies, independent legal counsel shall be utilized to advise the commission and participate in hearings.
- (C)
 - (1) A City official or employee may request, and the city attorney shall thereupon promptly issue, a confidential written opinion concerning the meaning or effect of a section, word, or requirement of this chapter as it affects the official or employee, except that the city attorney will not issue a written opinion regarding a matter related to a complaint currently pending before the commission.
 - (2) If a complaint is subsequently filed with the commission about any specific action, omission, or alleged conflict of interest which has been the subject, whole or in part, of a city attorney's opinion, the independent legal counsel shall act as commission attorney on said complaints.
- (D) The city clerk shall make the reporting and complaint forms and information developed by the Commission available to the public and shall assist citizens in complying with filing procedures.

Source: 1992 Code Section 2-3-31; Ord. 031204-9; Ord. 031211-11; Ord. 20060209-003; Ord. No. 20170209-005, Pt. 9, 2-20-17.

§ 2-7-32 - RULES.

The Ethics Review Commission may adopt, amend, and rescind rules of procedure to carry out the provisions of this chapter. Such rules shall be consistent with this chapter and other applicable law.

Source: 1992 Code Section 2-3-32; Ord. 031204-9; Ord. 031211-11.

ARTICLE 3. - VIOLATIONS; COMPLAINT AND HEARING PROCEDURES.

§ 2-7-41 - COMPLAINTS.

(A) In this article:

- (1) COMPLAINANT means a person filing a sworn complaint.
- (2) RESPONDENT means a person who is alleged in a sworn complaint to have violated a provision within the jurisdiction of the Ethics Review Commission:
- (3) IDENTIFIED PERSON means a person, other than the respondent, who is identified by name in a sworn complaint as being involved in the alleged inappropriate conduct.

- (B) A complaint alleging a violation of a provision within the jurisdiction of the Ethics Review Commission shall specify each code section or charter provision alleged to have been violated. A complaint must state that the facts alleged are true and factual to the best knowledge of the person filing the complaint and be sworn to before a person authorized by law to administer an oath.
- (C) A complaint alleging a violation within the jurisdiction of the commission must be filed with the city clerk not later than the second anniversary of the date of the action alleged as a violation, and may not be filed afterward.
- (D) On the sworn complaint of any person filed with the city clerk's office or on the commission's own initiative, the commission shall consider possible violations of a provision within the jurisdiction of the commission by City officials and employees, former City officials and employees, candidates for election to City offices, and other persons subject to the provisions set forth in Section 2-7-26 (Functions). The commission may not consider complaints against its own members.
- (E) A complainant must disclose in the complaint filed with the commission evidence actually known to the complainant tending to negate guilt or mitigate the seriousness of the offense. Further, the complainant must disclose to the commission and the respondent any additional evidence discovered during the complaint process that negates guilt or mitigates the seriousness of the offense until the commission has taken final action on the complaint.
- (F) A city official or employee may not reveal information relating to the filing or processing of a complaint, except as required for the performance of the official's or employee's official duties, or as required by law. All papers and communications relating to a complaint must be treated as confidential unless required to be made public under the Public Information Act (Chapter 552 of the *Texas Government Code*) or other applicable law. Investigations conducted by the Office of the City Auditor or any other City department must be conducted in a confidential manner and records of any such investigations are confidential to the extent permitted by law.
- (G) Not later than the fifth working day after the city clerk receives a sworn complaint, the city clerk shall acknowledge the receipt of the complaint to the complainant and provide a copy of the complaint to the city attorney, the chair of the commission, and the respondent. The city clerk shall also send a copy of the complaint to any identified person whose contact information is listed on the complaint form.
- (H) Not later than the fifth working day after receipt of a complaint from the city clerk, the chair of the commission

shall make an initial determination as to whether the complaint is within the commission's jurisdiction.

- (1) If the chair determines that a complaint is within the commission's jurisdiction, the chair shall set the complaint for a preliminary hearing not later than the 60th day after the chair's initial determination, unless agreed to by the parties or by a vote of the commission. The commission may overturn the chair's initial jurisdictional determination at the preliminary hearing.
 - (a) Not later than the 10th working day prior to the meeting, the chair shall cause a written notice of the date of the preliminary hearing to be sent to the complainant, the respondent, and any identified person whose contact information is listed on the complaint form or is reasonably ascertainable.
 - (b) For good cause, the chair may postpone a scheduled preliminary hearing on the request of the complainant, the respondent, or an identified person.
- (2) If the chair determines that a complaint is not within the commission's jurisdiction, the commission shall review the chair's determination and may overturn the chair's determination.
 - (a) Not later than the fifth working day after the chair determines that a complaint is not within the commission's jurisdiction, the chair shall cause a written notification of the initial determination to be sent to the complainant, the respondent, and any identified person whose contact information is listed on the complaint form or is reasonably ascertainable.
 - (b) If the commission determines that a complaint is not within its jurisdiction, not later than the 10th working day after the commission's determination, the chair shall cause a written notification of the commission's final jurisdictional determination to be sent to the complainant, the respondent, and any identified person whose contact information is listed on the complaint form or is reasonably ascertainable.
 - (i) If the commission determines that a complaint is not within the commission's jurisdiction, the commission may refer the complaint to the city auditor for possible investigation.
 - (ii) If the commission refers a complaint to the city auditor under this subsection, the written notification required under subsection (F)(2)(b) shall state that the commission has referred the complaint to the city auditor for possible investigation.
 - (c) If the commission overturns the chair's initial determination and determines that a complaint is within the commission's jurisdiction, the chair shall set the complaint for a preliminary hearing not later than the 60th day after the commission's determination, unless agreed to by the parties or by a vote of the commission. Subsection (F)(1)(a) and (b) shall govern the sending of notices and granting of postponements.
- (l) The commission may consider a possible violation of a provision within the jurisdiction of the commission on the commission's own initiative. Not later than the 10th working day after the commission's decision to consider a possible violation, the commission shall draft a written complaint specifying each code section or charter provision alleged to have been violated, shall file a copy of the complaint with the city clerk, and shall provide a copy of the complaint to the city attorney, the respondent, and any identified person whose contact information is obtained by the commission. A complaint initiated by the commission need not be sworn.
 - (1) The chair shall set the complaint for preliminary hearing not later than the 60th day after the complaint is filed with the city clerk, unless agreed to by the respondent or by a vote of the commission.
 - (2) Not later than the 10th working day prior to the meeting, the chair shall cause a written notice of the date of the preliminary hearing to be sent to the respondent and to any identified person whose contact information has been obtained by the commission.

(3) For good cause, the chair may postpone a scheduled preliminary hearing under this subsection on the request of a respondent or an identified person.

(j) A member of the commission may not take any part in a deliberation, vote, or decision regarding a sworn complaint alleging a violation by the council member that nominated the commission member.

Source: 1992 Code Section 2-3-41; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20160922-005, Pt. 2, 6-1-17; Ord. No. 20170209-005, Pt. 10, 2-20-17; Ord. No. 20170209-005, Pt. 11, 6-1-17; Ord. No. 20180510-014, Pt. 1, 5-21-18.

§ 2-7-42 - DEFENSE OF OFFICIAL OR EMPLOYEE BY CITY ATTORNEY.

In the event a complaint is filed with the Ethics Review Commission against any official or employee of the City, alleging a violation of Article 4 (*Code of Ethics*), if the official or employee reasonably believed the conduct charged was not prohibited by Article 4 (*Code of Ethics*) and acted in reasonable reliance upon a public opinion rendered by the city attorney, the city attorney shall be authorized to represent the official or employee before the commission, or to employ and pay private counsel to represent the official or employee before the commission.

Source: 1992 Code Section 2-3-42; Ord. 031204-9; Ord. 031211-11.

§ 2-7-43 - PROHIBITION OF EX PARTE COMMUNICATIONS.

After a complaint has been filed and during the pendency of a complaint before the Ethics Review Commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission. This prohibition does not prohibit a communication by a city employee with the commission in the performance of the city employee's official duties.

Source: 1992 Code Section 2-3-43; Ord. 031204-9; Ord. 031211-11; Ord. No. 20180510-014, Pt. 2, 5-21-18.

§ 2-7-44 - PRELIMINARY HEARING.

- (A) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of a provision within the jurisdiction of the Ethics Review Commission has occurred. The complainant, or the legal counsel for the Ethics Review Commission in cases considered on the commission's own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. Members of the commission may question the complainant, legal counsel for the commission, or the respondent.
- (B) The respondent shall have the opportunity to respond but is not required to attend or make any statement. The respondent may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the respondent agrees that a violation has occurred, the respondent may so state and the commission may consider the appropriate sanction or prosecution.
- (C) The complainant and the respondent shall have the right of representation by counsel.
- (D) At the conclusion of the preliminary hearing, the commission shall decide whether a final hearing should be held. If the commission determines that there are reasonable grounds to believe that a violation within the jurisdiction of the commission has occurred, the commission shall schedule a final hearing. If the commission does not determine that there are reasonable grounds to believe that a violation has occurred, the complaint is dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.

- (E) The commission, at any time during the preliminary hearing, may also dismiss a complaint if the complaint does not conduct which would be a violation of a provision within the jurisdiction of the commission. Before a complaint is dismissed for failure to allege a violation, the complainant or the legal counsel for the commission shall be permitted opportunity, within a period to be specified, to revise and resubmit the complaint.
- (F) The complainant, legal counsel for the commission, and the respondent may ask the commission at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled.

Source: 1992 Code Section 2-3-44; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20170209-005, Pt. 12, 2-20-17.

§ 2-7-45 - FINAL HEARING.

- (A) Unless otherwise agreed to by the parties or by a vote of the commission, the final hearing shall be held not later than the 60th day after the determination by the commission that there are reasonable grounds to believe that a violation within the jurisdiction of the commission has occurred.
- (B) For good cause, the chair may postpone a scheduled final hearing on the request of the complainant, the respondent, or an identified person.
- (C) The complainant and respondent must attend a final hearing. If the respondent fails to attend, the commission may proceed with the final hearing at the commission's discretion.
- (D) The issue at a final hearing shall be whether a violation within the jurisdiction of the commission has occurred. The commission shall make its determination based on the preponderance of the credible evidence in the record. All parties and witnesses shall make their statements under oath.
- (E) If the commission determines that a violation has occurred, the commission shall state the commission's findings in writing, shall identify each code section or charter provision that has been violated, and, not later than the 10th working day after the final hearing, the chair shall cause a copy of the commission's findings to be sent to the complainant, if any, to the respondent, to any identified person whose contact information is listed on the complaint form or is reasonably ascertainable, and to the city clerk.

Source: 1992 Code Section 2-3-45; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20170209-005, Pt. 13, 2-20-17.

§ 2-7-46 - OATHS AND REQUESTS FOR INFORMATION.

- (A) Subject to the limitations in this section, if a complaint proceeds to a final hearing, the commission may subpoena or request witnesses to attend and testify, administer oaths and affirmations, take evidence, and subpoena or request the production of books, papers, records, or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation.
- (B) Before the commission may issue a subpoena, the commission shall submit a written request for a person to appear before them, for the production of documents, or for any other evidence. All city officials and employees will cooperate with the commission to assist it in carrying out its charge, and must supply requested testimony and documents if the documents are public records as set forth in the Public Information Act (Chapter 552 of the *Texas Government Code*) or other applicable law. Identifying information about any informant or witness in documents provided to the commission must be redacted.
- (C) The commission may issue a subpoena on its own or upon request of a complainant or respondent. If requested by a party to the complaint, the party must make a sworn request and state that the party in good faith believes that such item or testimony exists. The party must provide a detailed description of any requested items or

testimony sufficient to be able to identify the items or information; must state that the party has attempted to obtain such items or information otherwise; and, that the party in good faith believes that the person or entity whose name and address is specified in the sworn request does possess or control the requested item or information.

- (D) Any subpoena issued by the commission is subject to the following requirements:
- (1) the subpoena may only be served within the Austin-Round Rock Metropolitan Statistical Area defined as Travis, Williamson, Bastrop, Hays, Burnet, and Caldwell;
 - (2) may not be served on a current City employee;
 - (3) may not be served on current or former staff in the Law Department or outside legal counsel retained by the City; and,
 - (4) may not include a request for documentation which the city could withhold under the Public Information Act (Chapter 552 of the *Texas Government Code*).
- (E) Objection to subpoena. If a subpoena is issued upon the request of a party to the complaint, a person may object to a subpoena within seven working days after receiving the subpoena. Objections to subpoenas must be in writing and submitted to the city clerk. Not later than the fifth working day after the city clerk receives the objection, the city clerk shall acknowledge the receipt of the objection to the subpoena and provide a copy of the objection to the city attorney, the chair of the commission, the complainant and the respondent. If the commission issued the subpoena upon request of the complainant or respondent, the complainant or respondent shall within three working days after receipt of the objection provide a written response to the city clerk. The city clerk shall provide notice of receipt of a response to the objection in the same manner as receipt of an objection as set forth in this subsection. The commission shall rule on the objection. If a person to whom the subpoena is properly issued fails to object to a subpoena within the time specified in this section, the person waives any objection to the subpoena.
- (F) Appeal. A person that is a party to the complaint or subject of a subpoena may appeal the commission's decision on an objection to a subpoena to the Audit and Finance Committee of the City Council by filing an appeal with the City Clerk's office no later than ten days after the commission's decision. The request for an appeal must include a concise statement detailing the reasons the person believes the commission's decision should be overruled. The City Clerk will distribute the request for an appeal in the same manner described in subsection (E) above. The staff assigned to the commission will place the appeal on the next available committee agenda in accordance with the council's committee meeting procedures. The committee may vote to adopt, reject or modify the decision of the commission. A member of the Council may not take any part in a deliberation, vote, or decision regarding a subpoena issued to the council member or is issued in a complaint alleging a violation by the council member or a member of their staff.
- (G) The commission may request assistance from the city auditor with the investigation of allegations in a complaint.
- (H) The commission may consider the city auditor's investigation at a final hearing on a complaint.

Source: 1992 Code Section 2-3-46; Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 14, 2-20-17; Ord. No. 20180510-014, Pt. 3, 5-21-18.

§ 2-7-47 - PROSECUTION.

If the Ethics Review Commission determines that a violation of a provision subject to a criminal penalty has occurred, the commission shall deliver a copy of the commission's findings to the complainant, if any, the respondent, and the city attorney and may recommend prosecution or set forth requirements to be complied with in order that voluntary

compliance may be had and final determination obtained.

Source: 1992 Code Section 2-3-47; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20170209-005, Pt. 15, 2-20-17.

§ 2-7-48 - SANCTIONS.

- (A) This section applies only to violations other than violations of Chapter 2-2 (*Campaign Finance*) and Article III, Section 8, of the City Charter (*Limits on Campaign Contributions and Expenditures*).
- (B) If the Ethics Review Commission determines that a violation of Sections 2-7-62 (*Standards of Conduct*), 2-7-63 (*Prohibition on Conflict of Interest*), 2-7-64 (*Disclosure of Conflict of Interest*), and 2-7-65 (*Substantial Interest of Relative*) occurred, it shall proceed directly to determination of the appropriate sanction(s). A violation of Sections 2-7-62 (*Standards of Conduct*), 2-7-63 (*Prohibition on Conflict of Interest*), 2-7-64 (*Disclosure of Conflict of Interest*), 2-7-65 (*Substantial Interest of Relative*), 2-7-46 (*Oaths and Requests for Information*), and subsection (D) of Section 2-7-41 (*Complaints*) shall not be subject to criminal penalties under the City Code. The commission may receive additional testimony or statements before considering sanctions but is not required to do so. If the respondent acted in reliance upon a public written opinion of the city attorney, the commission shall consider that fact.
- (C) If the commission determines that a violation has occurred, the commission may impose or recommend the following sanctions:
 - (1) A letter of notification is the appropriate sanction when the violation is clearly unintentional, or when the respondent's conduct complained of was made in reliance on a public written opinion of the city attorney. A letter of notification must advise the respondent of any steps to be taken to avoid future violations. The commission may direct a letter of notification to any official or employee covered by this chapter.
 - (2) A letter of admonition is the appropriate sanction if the commission finds that the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification. The commission may admonish any official or employee covered by this chapter.
 - (3) A reprimand is the appropriate sanction when the commission finds that a violation has been committed intentionally or through disregard of this chapter. The commission may reprimand any official or employee covered by this chapter. A reprimand directed to a City official shall also be sent to the city council. A reprimand directed to an employee shall be sent to the city manager and included in said employee's personnel file.
 - (4) A recommendation of removal from office or a recommendation of suspension from office, including a recommendation for the length of a suspension, is the appropriate sanction when the commission finds that a serious or repeated violation of this chapter has been committed intentionally or through culpable disregard of this chapter. A recommendation regarding an unsalaried City official or a salaried official appointed by the city council shall be transmitted by the commission to the city council. The final authority to carry out a recommendation regarding an unsalaried City official or of a salaried official appointed by the city council is the city council. A recommendation regarding a City employee shall be directed by the commission to the city manager. The final authority to carry out a recommendation regarding a city employee is the city manager.
 - (5) A letter of censure or a recommendation of recall is the appropriate sanction when the commission finds that a serious or repeated violation of this chapter has been committed intentionally or through culpable disregard of this chapter by an elected City official. A letter of censure or a recommendation of recall directed

to an elected City official shall be transmitted by the commission to the city clerk, published by the city clerk in a local newspaper of the largest general circulation, and shall be sent by the commission to the city council.

Source: 1992 Code Section 2-3-48; Ord. 031204-9; Ord. 031211-11; Ord. 20120426-084; Ord. No. 20180510-014, Pt. 4, 5-21-18.

§ 2-7-49 - CAMPAIGN VIOLATIONS.

- (A) This section applies to violations of Chapter 2-2 (*Campaign Finance*) and Article III, Section 8, of the City Charter (*Limits on Campaign Contributions and Expenditures*).
- (B) If the Ethics Review Commission determines that a violation of a provision to which this section applies has probably occurred:
 - (1) the commission may recommend that the city attorney prosecute the violation;
 - (2) request the appointment of a special prosecutor in cases where it finds this action necessary, with funding provided by the City; or
 - (3) if the commission finds that the violation is minor, clerical, or may have been unintentional, the commission may recommend that the violation not be prosecuted or be prosecuted only if the violation is not corrected.
- (C) The commission may consider a violation's severity, frequency, or intentional nature.
- (D) If a respondent is an entity, the commission may find that an individual has violated a provision subject to the section.
- (E) This section does not require the commission to make a recommendation with respect to a complaint.
- (F) The commission may draft and publish a letter of notification, a letter of admonition, a reprimand, or a letter of censure to a respondent found to have violated a provision subject to this section. The Commission shall apply the criteria in Section 2-7-48 (*Sanctions*) to determine the appropriate sanction to impose.
- (G) This section does not limit the prosecutorial discretion of the city attorney.

Source: Ord. 20120426-084; Ord. No. 20160922-005, § 3, 6-1-17; Ord. No. 20170209-005, Pt. 16, 2-20-17.

Editor's note— Ordinance No. 20160922-005 takes effect on June 1, 2017. Ord. No. 20170209-005, Pt. 16 which amended subsection (F) takes effect February 20, 2017.

§ 2-7-50 - LOBBYING VIOLATIONS.

- (A) This section applies to violations of Chapter 4-8 (*Regulation of Lobbyists*).
- (B) For an allegation in a complaint relating to a violation of Chapter 4-8, the commission shall hold only a preliminary hearing, and shall not hold a final hearing.
- (C) The commission shall refer an allegation for which the commission finds a reasonable basis to believe that there may be a violation to the city attorney for prosecution.
- (D) This section does not limit the prosecutorial discretion of the city attorney.

Source: Ord. No. 20160922-005, Pt. 4, 6-1-17.

Editor's note— Ordinance No. 20160922-005 takes effect on June 1, 2017.

ARTICLE 4. - CODE OF ETHICS.

§ 2-7-61 - CONDUCTING BUSINESS THROUGH PARTNERSHIPS, PROFESSIONAL CORPORATIONS, AND OTHER ENTITIES.

If a City official or employee is a member of a partnership or professional corporation, or conducts business through another entity, a substantial interest of the partnership, professional corporation, or entity shall be deemed to be a substantial interest of the City official or employee if:

- (A) the partnership or professional corporation has fewer than 20 partners or shareholders;
- (B) regardless of the number of partners or shareholders, the official or employee has an equity interest, share, or draw equal to or greater than five percent of the capital or revenues of the partnership, professional corporation, or other entity; or
- (C) with regard to the partnership, professional corporation, or other entity's substantial interest in a client, the official has personally acted within the preceding 24 months in a professional or fiduciary capacity for that client.

Source: 1992 Code Section 2-3-61; Ord. 031204-9; Ord. 031211-11.

§ 2-7-62 - STANDARDS OF CONDUCT.

- (A) No City official or employee shall transact any business in his official capacity with any entity in which he has a substantial interest.
- (B) No City official or employee shall formally appear before the body of which the official or employee is a member while acting as an advocate for himself or any other person, group, or entity.
- (C) No salaried City official or employee shall represent, for compensation, any other person, group or entity before any department, commission, board or committee of the City.
- (D) No salaried City official or employee shall represent, directly or indirectly, any other person, group or entity in any action or proceeding against the interests of the City, or in any litigation in which the City or any department, commission, or board or committee thereof is a party; provided, however, that nothing herein shall limit the authority of the city attorney and his staff to represent the City, its boards, commissions, committees and officers and particularly the Human Rights Commission in the discharge of their duties, including equal employment opportunity cases.
- (E) No salaried City official or employee shall represent, directly or indirectly, any person, group or entity in any action or proceeding in the municipal courts of the City which was instituted by a City official or employee in the course of official duties.
- (F) No City official shall represent any person, group or entity in any action or proceeding in the municipal courts of the City which was instituted by or arising from a decision of a board, commission, committee, task force or other body on which the official serves.
- (G) (1) General Rule. No City official or employee shall accept or solicit the following:
 - (a) Any gift or favor, that might reasonably tend to improperly influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to improperly influence or improperly reward official conduct; or
 - (b) Any gift or favor of which the known or apparent value exceeds \$50 or any gift of cash or a negotiable instrument.
- (2) Special Applications. The general rule does not apply to the following:
 - (a) Attendance to a convention, conference, symposium, training program or similar event, provided there is

- a City-related business purpose for the official or employee to attend or participate in an official capacity, and the attendance or participation is appropriate for the performance of that individual's official duties.
 - (b) Admission to an event or discounted admission, if there is a City-related business purpose for the official or employee to attend or participate in an official capacity, and the attendance or participation is appropriate for the performance of that individual's official duties.
 - (c) A voluntary gift or favor given by a City official or employee to another City official or employee, including food and drink to be shared among employees; except a supervisor may not accept a gift or favor from an employee under the supervisor's supervision unless the gift is given voluntarily by the employee on an occasion of personal significance, or at a time when gifts are traditionally given or exchanged, and the value of the gift is fairly appropriate for the occasion.
- (H) (1) No City official or employee shall solicit or accept other employment to be performed or compensation to be received while still a City official or employee, if the employment or compensation could reasonably be expected to impair independence in judgment or performance of City duties.
- (2) If a City official or employee accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official or employee might reasonably be expected to act, investigate, advise, or make a recommendation, the official or employee shall disclose that fact to the board or commission on which he serves or to his supervisor and shall take no further action on matters regarding the potential future employer.
- (I) A salaried City official or employee may not use the official's or the employee's official position to secure a special privilege or exemption for the official or the employee, to secure a special privilege or exemption for another person, to harm another person, or to secure confidential information for a purpose other than official responsibilities.
- (J) No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public, or to the extent that facilities, equipment or supplies are allowed to be used in a limited or de minimis manner in accordance with City policy.
- (K) No City official or employee shall accept remuneration, directly or indirectly, for campaign work relating to an item placed on the ballot if that individual served on the body which exercised discretionary authority in the development of the ballot item and participated in the discussion or voted on the item.
- (L) No salaried City official and certain City employees to include the mayor, councilmembers, the city manager, assistant city managers, the city clerk, deputy city clerks, council aides, municipal court clerk, deputy municipal court clerks, municipal judges (including substitute judges), the city auditor, assistants to the city auditor, the city attorney, deputy city attorneys, assistant city attorneys, purchasing agents and those employees with the authority to purchase or contract for the City, all department heads, deputy department heads, and the spouse of each of the above, shall solicit nor propose on a contract, enter into a contract or receive any pecuniary benefit from any contract with the City. This prohibition does not include any employment contract which may be authorized for the official, a contract of sale for real property or a contract for services which are available to all citizens.
- (M) For a period of two years after leaving office, a former mayor or councilmember may not solicit or propose on a contract with the City or enter into a contract with the City for the sale to the City of any goods or services other than real estate. This subsection does not apply to a former mayor or councilmember who had a business relationship with the City in the six months immediately preceding taking the office of mayor or councilmember if the solicitation or proposal is on behalf of the same business.

- (N) For a period of two years after leaving office, a former mayor or councilmember, members of their family, or anyone on their behalf, may not sell or lease any real estate to the City unless the city council has designated the property for acquisition and would otherwise have to acquire the property through its power of eminent domain.
- (O) A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (*City Auditor*).

Source: 1992 Code Section 2-3-62; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047; Ord. No. 20170209-005, Pts. 17, 18, 2-20-17; Ord. No. 20181213-014, Pt. 2, 12-24-18.

§ 2-7-63 - PROHIBITION ON CONFLICT OF INTEREST.

- (A) A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest; provided, however, that this provision shall not prohibit any member of the city council from participating in a discussion relating to a petition certified to the city council by the city clerk which petition seeks the recall of said member of the city council.
- (B) A City official or employee who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the City for the entity. This subsection does not apply to a City official or employee who:
 - (1) serves as a corporate officer or member of the board of directors of a nonprofit entity that is owned by the City or created by the city council; or
 - (2) as a duty of office or as a job assignment, serves as a corporate officer or member of the board of directors of a nonprofit entity as a representative of the City.
- (C) Where the interest of a City official or employee in the subject matter of a vote or decision is remote or incidental, the City official or employee may participate in the vote or decision and need not disclose the interest.
- (D) Nothing in this chapter shall prohibit the city council from participating in a vote or decision relating to salaries, terms of office or travel budgets of city councilmembers.
- (E) If a member of the city council participates in a vote or decision on a contract for the purchase by the City of any goods or services from a person or entity in which the member has a substantial interest, the contract is voidable by the City.
- (F) A document prepared by the City that solicits bids or proposals from vendors, service providers, or other persons shall provide notice of the provisions of this section.

Source: 1992 Code Section 2-3-63; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 2-7-64 - DISCLOSURE OF CONFLICT OF INTEREST.

- (A) A City official shall disclose the existence of any substantial interest he may have in a natural person, entity or property which would be affected by a vote or decision of the body of which the City official is a member or that he serves as a corporate officer or member of the board of directors of a nonprofit entity for which a vote or decision regarding funding by or through the City is being considered.
- (B) To comply with this section, a councilmember or unsalaried City official, prior to the vote or decision, either shall file an affidavit as required by Chapter 171 (*Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments*) of the Local Government Code or, if not so required, shall publicly disclose in the official records of the body the nature and extent of such interest.
- (C) To comply with this section, a City employee shall notify in writing his supervisor of any substantial interest he may have in a natural person, entity or property which would be affected by an exercise of discretionary

authority by the City employee and a supervisor shall reassign the matter.

Source: 1992 Code Section 2-3-64; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 2-7-65 - SUBSTANTIAL INTEREST OF RELATIVE.

- (A) A substantial interest of a spouse of a City official or employee shall be deemed to apply to that official or employee for the purposes of Sections 2-7-63 (*Prohibition on Conflict of Interest*) and 2-7-64 (*Disclosure of Conflict of Interest*) concerning disclosure and recusal or reassignment.
- (B) If the spouse of a City official or employee does business through a partnership or other entity, the substantial interests of that partnership or entity shall not be deemed under Section 2-7-61 (*Conducting Business Through Partnerships, Professional Corporations, and Other Entities*) to apply to the City official or employee.
- (C) A City official or a City employee may not participate in a vote or decision affecting a substantial interest of a person to whom the official or employee is related in the first or second degree of consanguinity or affinity. This subsection does not apply to a substantial interest of a relative based on the relative's employment by a governmental body.
- (D) For the purposes of Subsection (C): A relative other than a spouse has a substantial interest if:
 - (1) the person owns 10 percent or more of the voting stock or shares of the entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the entity; or
 - (2) funds received by the person from the entity exceed 10 percent of the person's gross income for the previous year; or
 - (3) the person has a substantial interest in real property if the interest is an equitable or legal ownership in real property with a fair market value of \$2,500 or more.

Source: 1992 Code Section 2-3-65; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 2-7-66 - MISUSE OF OFFICIAL INFORMATION.

No former City official or former employee shall use any confidential information to which he had access by virtue of his official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal financial interest.

Source: 1992 Code Section 2-3-66; Ord. 031204-9; Ord. 031211-11.

§ 2-7-67 - RESTRICTIONS ON PROVIDING REPRESENTATION OF OTHERS.

- (A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - (1) BEFORE THE CITY means before the city council, a board or commission, or a City official or employee.
 - (2) CASE, PROJECT OR MATTER means to refer to specific cases, projects or regulatory matters, rather than generic policies, procedures or legislation of general application. For instance, the zoning process or site plan review process is not a "case, project or matter" within the meaning of this section; however, a specific zoning case or site plan would constitute a "case, project or matter" subject to the restrictions imposed in this section. It is not the intent of this chapter, and this chapter shall not be construed, to proscribe the practice of any profession or occupation by former City officials and employees.
 - (3) REPRESENT means all communications with and appearances before the City in which the City is asked to

make a decision, as that term is defined in this chapter. The term represent does not include communications and appearances involving only ministerial action on the part of the City.

- (B) A City employee in a position which involves significant decision-making, advisory, or supervisory responsibility, or a City official who leaves the service or employment of the City shall not, within 12 months after leaving that employment or service, represent any other person or entity in any formal or informal appearance, if the City official or employee has received or shall receive remuneration from the person, entity or members of the entity being represented:
 - (1) before the City concerning a case, project or matter over which the person exercised discretionary authority as a City employee or official; or
 - (2) before any other agency on a case, project or matter over which the person exercised discretionary authority as a City employee or official.
- (C) A former City employee or official who is subject to the requirements of Subsection (B) shall, during the 24 months after leaving the service or employment of the City, disclose his previous position and responsibilities with the City and the work performed, if any, as a City employee or official regarding the matter for which he is appearing before the City whenever he represents any other person or entity in any formal or informal appearance before the City.
- (D) In any formal or informal appearance before the City, a person representing a person or entity which employs a former City official or employee who had discretionary authority over the project or matter for which the person or entity is appearing before the City shall disclose any former involvement of such former City official or employee in the project or matter. This disclosure requirement shall be in effect for 24 months after the former City official or City employee leaves City service or employment.
- (E) This section shall become effective from and after February 1, 1987. This section shall not apply to persons who left the service or employment of the City prior to February 1, 1987.

Source: 1992 Code Section 2-3-67; Ord. 031204-9; Ord. 031211-11.

ARTICLE VII: CODE OF ETHICS

Cross-reference:

Offenses and miscellaneous provisions, Ch. 23

DIVISION 1: GENERALLY

Editor's note:

Ord. 20548-12-2012, § 1, adopted December 18, 2012, amended this division in its entirety as set forth below. Prior to the passage of that ordinance, this division pertained to similar subject matter and derived from Ord. 10617, § 1(1), adopted June 26, 1990. Prior to the passage of that ordinance, this division pertained to similar subject matter and derived from 1964 Code, § 43-1(A) through (E); Ord. 7582, § 1, adopted July 26, 1977; Ord. 7704, § 1, adopted February 21, 1978; Ord. 7830, § 1, adopted October 17, 1978; Ord. 8041, § 1, adopted February 5, 1980 and Ord. 8778, § 1, adopted April 12, 1983.

§ 2-236 DECLARATION OF POLICY.

(a) It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city and that governmental decisions and policy should be made in the proper channels of the governmental structure. To implement such a policy, the city council deems it advisable to enact this Code of Ethics for all officers, employees and advisory board members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who fail to abide by its terms. This Code of Ethics is cumulative of other ordinances, City Charter provisions and state statutes defining and prohibiting conflict of interest. This § 2-236 is intended to reflect the general intent behind this Code of Ethics and shall not be deemed to be a part of the Code of Ethics or serve as a basis for a violation of this Code of Ethics.

(b) This Code of Ethics has five primary purposes:

- (1) To encourage high ethical standards in official conduct by officers, employees and advisory board members;
- (2) To establish minimum standards of conduct for officers, employees and advisory board members;
- (3) To establish an ethics review commission;
- (4) To provide a process for the filing and resolution of complaints asserting violations of this article; and
- (5) To provide sanctions for violations of this Article.

(c) This Code of Ethics is not intended to be nor shall it be used as a political weapon to intimidate or embarrass any person covered herein.

(d) Task forces, as defined in § 2-237, shall conduct their meetings in accordance with the requirements imposed on a governmental body by the Texas Open Meetings Act, Tex. Government Code Chapter 551.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-237 DEFINITIONS.

For the purposes of this Code of Ethics, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADVISORY BOARD. A board, commission or committee that is intended to function only in an advisory or study capacity on a permanent basis, whether specified or implied.

ARTICLE.Chapter 2, Article VII, Code of Ethics of the Code of the City of Fort Worth Texas (1986), as amended.

BENEFIT. Anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any person in whom the beneficiary has a substantial interest, but does not include a political contribution as defined by Tex. Election Code Title 15.

BUSINESS ENTITY. A sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law.

CITY ATTORNEY. The city attorney and any assistant city attorney appointed pursuant to Chapter VI of the Charter of the City of Fort Worth, Texas.

CITY SECRETARY. The city secretary and any assistant city secretary appointed pursuant to Chapter III of the Charter of the City of Fort Worth, Texas.

DOMESTIC PARTNER. An individual of the same or opposite gender as the person referred to in this Article, who has lived in the same household as that person for at least six months and shares resources of life in a close, personal intimate relationship with that person, neither of whom is married or related by blood, if, under Texas law, the individual would not be prevented from marrying the person referred to in this Article on account of consanguinity or prior undissolved marriage to another.

EMPLOYEE. Any person employed by the city whether under civil service or not (except firefighters and police officers who are covered by state civil service laws), including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

HEARING OFFICER. A resident attorney appointed by the city council pursuant to Division 3 of this article to hear appeals of determinations made by the ethics review commission.

INTENT or INTENTIONALLY. A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

KNOWINGLY. A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that his or her conduct is reasonably certain to cause the result.

OFFICER. Any member of the city council and any person appointed by the mayor or city council to a board, commission or committee established by ordinance, Charter or state law, including hearing officers appointed pursuant to Division 3; provided, no member of an advisory board, task force or any other committee that functions only in an advisory or study capacity shall be deemed an officer.

RESIDENT. A person whose home and fixed place of habitation to which that person intends to return after any temporary absence is located within the corporate limits of the City of Fort Worth, as determined in accordance with Tex. Election Code § 1.015.

SUBSTANTIAL INTEREST.

(1) A person has a **SUBSTANTIAL INTEREST** in a business entity if:

a. The interest is ownership of 10% or more of the voting stock or shares of the business entity or ownership of either 10% or more or \$15,000 or more of the fair market value of the business entity; provided, however, that if any ownership interests specified in Tex. Local Government Code § 171.002(a)(1), or a successor statute conflict with any ownership interests specified herein, Tex. Local Government Code § 171.002(a)(1), or the successor statute shall control;

b. Funds received by the person from the business entity exceed 10% of the person's gross income for the previous year; provided, however, that if any ownership interests specified in Tex. Local Government Code §

171.002(a)(2), or a successor statute conflict with any ownership interests specified herein, Tex. Local Government Code § 171.002(a)(2), or the successor statute shall control;

- c. The person holds a position as a member of the board of directors or other governing board of the business entity;
- d. The person serves as an elected officer of the business entity;
- e. The person is an employee of the business entity;
- f. The person is a creditor, debtor or guarantor of any person, group or business entity in the amount of \$5,000 or more; or
- g. Property of the person has been pledged to a person, group or business entity or is subject to a lien in favor of the person, group or business entity in the amount of \$5,000 or more.

(2) A person does not have a ***SUBSTANTIAL INTEREST*** in a business entity if:

- a. The person holds a position as a member of the board of directors or other governing board of a business entity;
- b. The person has been designated by the city council to serve on such board;
- c. The person receives no remuneration, either directly or indirectly, for his or her service on such board; and
- d. The primary nature of the business entity is either charitable, nonprofit or governmental.

(3) A person has a ***SUBSTANTIAL INTEREST*** in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500 or more; provided, however, that if the ownership interest specified in Tex. Local Government Code § 171.002(b), or a successor statute conflict with the ownership interest specified herein, Tex. Local Government Code § 171.002(b), or the successor statute shall control.

(4) A person has a ***SUBSTANTIAL INTEREST*** in a business entity or in real property if a person related to the person in the first degree by consanguinity or affinity or if the person's domestic partner has a substantial interest in a business entity or in real property under this article. A person is related in the first degree by consanguinity to his or her father, mother, son and daughter. A person is related in the first degree by affinity to his or her spouse, stepchild, father-in-law, mother-in-law, son-in-law and daughter-in-law.

TASK FORCE. A board, commission or committee that functions only in a study capacity in order to assist the city council in addressing a specific issue or issues on a temporary or short-term basis and to conclude its business within a limited amount of time, whether specified or implied, and that is not empowered to take any final action other than the delivery of written or verbal reports and recommendations to the city council, the city manager or another party designated by the city council.

WRITTEN OPINION OF THE CITY ATTORNEY. Any written or recorded communication of the city attorney, including, but not limited to, a formal written opinion, memorandum, report, handwritten notice, electronic mail communication, facsimile communication or a communication preserved by audio or video recording.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-238 STANDARDS OF CONDUCT.

(a) No officer, employee or advisory board member shall knowingly:

(1) Accept or solicit, or knowingly allow his or her spouse or domestic partner to accept or solicit, any benefit from any person, group or business entity that might reasonably tend to influence the officer, employee or advisory board member in the discharge of his or her official duties;

(2) Grant in the discharge of his or her official duties any improper benefit to any person, group or business entity;

(3) Accept or solicit, or knowingly allow his or her spouse or domestic partner to accept or solicit, any benefit, including a promise of future employment, of sufficient economic value that it might reasonably tend to influence the officer, employee or advisory board member in the discharge of his or her official duties, from any person, group or business entity:

a. That is licensed or has a substantial interest in any business entity that is licensed by any city department, agency, commission or board on which the officer, employee or advisory board member serves; or

b. That has a financial interest in any proposed ordinance or decision upon which the officer, employee or advisory board member may or must act or make a recommendation; provided, however, that any officer, employee or advisory board member, and any spouse or domestic partner thereof, may accept travel and related expenses and attend ceremonial functions, provided that such acceptance and attendance have been approved by the city council prior to the occurrence of the ceremonial function.

(4) a. Disclose any confidential information gained by reason of the position of the officer, employee or advisory board member concerning the property, operations, policies or affairs of the city, or use such confidential information to advance any personal interest, financial or otherwise, of such officer, employee or advisory board member, or others.

b. This subsection (a)(4) shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this article.

(5) Use one's position or office of employment, or city facilities, personnel, equipment or supplies for the private gain of the officer, employee or advisory board member, or for the private gain of his or her spouse or domestic partner.

(6) Engage or knowingly allow his or her spouse or domestic partner to engage in any exchange, purchase or sale of property, goods or services with the city, except:

a. Rendering services to the city as an officer, employee or advisory board member;

b. The paying of taxes, fines, utility service or filing fees;

c. Subject to restrictions contained in the City Charter, executing and performing any community facilities contract or plat in compliance with laws and regulations applicable to any person; provided, however, that if any city ordinance, rule or regulation allows any discretion by the appropriate officers or employees in the interpretation or enforcement of such ordinance, rule or regulation any such discretion shall be exercised in favor of the city in connection with any such community facilities contract or plat; and

d. Members of advisory boards who are not otherwise officers or employees of the city, may engage in any exchange, purchase or sale of property, goods or services with the city, or enter into a contract with the city, provided, however, that the board of which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.

(b) No salaried officer or employee shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the city council or any department agency, board or commission of the city;

(2) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission thereof is a party; or

(3) In any action or proceeding in the municipal courts of the city which was instituted by an officer or employee in the course of official duties, or a criminal proceeding in which any officer or employee is a material

witness for the prosecution.

(c) No member of a city board or commission, other than a task force, shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the board or commission of which he or she is a member;

(2) Before a board or commission which has appellate jurisdiction over the board or commission of which he or she is a member;

(3) Before the city council in a matter over which the board or commission of which he or she is a member has authority or an advisory function, direct or indirect, present or prospective, provided that a member of an advisory board who has been elected or appointed to serve as chair or acting chair may present a recommendation to the city council on a matter over which the advisory board has authority if a majority of the members of the advisory board have voted in favor of such recommendation;

(4) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission thereof is a party; or

(5) In any action or proceeding in the municipal courts of the city which was instituted by an officer or employee in the course of official duties, or a criminal proceeding in which any officer or employee is a material witness for the prosecution.

(d) No member of a task force shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before a board or commission which has appellate jurisdiction over the task force of which he or she is a member; or

(2) Before the city council in a matter over which the task force of which he or she is a member has an advisory function, provided that a member of task force who has been elected or appointed to serve as chair or acting chair may present a recommendation to the city council on a matter over which the task force has authority if a majority of the members of the task force have voted in favor of such recommendation.

(e) The restrictions in this section do not prohibit the following:

(1) An employee or member of a city board or commission (other than city council), or his or her spouse or domestic partner, appearing before the city council or a city department, agency, board or commission to represent himself or herself in a matter affecting his or her property: provided, however, that no such person, or his or her spouse, shall appear before the board or commission of which he or she is a member;

(2) An employee or officer of an employee organization appearing before the city council or a city department, agency, board or commission to address employment matters;

(3) Otherwise eligible employees or their spouses or domestic partners from participating in federal or state-funded programs administered through the City of Fort Worth where the benefits of such programs are available to members of the general public and where the employee has no administrative, evaluative or decision-making authority concerning the program in which he or she wishes to participate;

(4) A partner, associate or relative of a member of the city council, or of a salaried officer or employee, from representing a person, group or business entity in an action or proceeding in the municipal courts of the city which was instituted by an officer or employee in the course of official duties, or in a criminal proceeding in which an officer or employee is a material witness for the prosecution; or

(5) A member of a task force from participating in or voting on any matter before the task force to which the member has been appointed, notwithstanding any other provision of this section.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-239 DISCLOSURE OF INTEREST.

(a) If any officer, employee or advisory board member has a substantial interest in any business entity or real property directly and particularly involved in any decision pending before such officer, employee, or advisory board member, or the body of which he or she is a member, such officer, employee or advisory board member shall disclose such interest as provided in subsection (c) below and shall not, except as provided in subsection (b) below, vote or otherwise participate in the consideration of the matter.

(b) If any of the following interests are directly and particularly involved in any decision pending before any officer, employee or advisory board member, or the body of which he or she is a member, such officer, employee or advisory board member must disclose such interest as provided in subsection (c) below, but he or she shall be permitted to vote on and participate in the consideration of such matter:

(1) A decision concerning a bank or other financial institution from which the officer, employee or advisory board member has a home mortgage, automobile loan or other installment loan, if the loan is not currently in default, was originally for a term of more than two years and cannot be accelerated except for failure to make payments according to the terms thereof;

(2) A decision concerning a bank or other financial institution in which the officer, employee or advisory board member holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S. government or an agency thereof;

(3) A decision concerning a business entity with which the officer, employee or advisory board member has a retail or credit card account;

(4) A decision concerning the approval of substitution of collateral by a city depository bank;

(5) A decision concerning real property in which the officer, employee or advisory board member has a substantial interest if it is not reasonably foreseeable that such decision would have a special economic effect on the value of the property, distinguishable from the effect on the public (see Tex. Local Government Code § 171.004);

(6) A decision concerning the refund of property taxes to a business entity in which the officer, employee or advisory board member has a substantial interest, if such refund is required because of a double payment of taxes or a judicially or administratively determined reduction in the valuation of the taxed property;

(7) A decision concerning a business entity with which the officer, employee or advisory board member has a stock brokerage or securities account; and

(8) A decision concerning whether the city should accept a gift from a business entity in which the officer, employee or advisory board member has a substantial interest.

(c) A officer, employee or advisory board member shall disclose the existence of any substantial interest in any person, business entity or real property involved in any decision pending before such officer, employee or advisory board member, or the body of which he or she is a member. To comply with this subsection (c), an officer or advisory board member shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Tex. Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the body or of the city secretary the nature of the interest. To comply with this subsection (c), an employee shall notify his or her superior in writing of the nature of any substantial interest he or she may have in a person, business entity or real property which would be affected by an exercise of discretionary authority by the employee and such superior shall assign the matter to another employee.

(d) The provisions of subsections (a), (b) and (c) above shall not apply in the following circumstances:

(1) When an officer, employee or advisory board member, or the body of which he or she is a member, is involved in a decision concerning the levy of a special improvement district assessment against real property which is owned by a person, group or business entity in which the officer, employee or advisory board member has a substantial interest if:

a. Assessments are levied at a uniform rate throughout the district; and

b. Such rate is applied to the value of the real property as shown on current Tarrant appraisal district appraisal rolls.

(2) When a task force member is involved in any matter or decision before the task force to which the member has been appointed.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-239.1 EFFECT OF WRITTEN OPINION OF CITY ATTORNEY.

Notwithstanding anything to the contrary in this article, a person does not violate any provision of this division for conduct undertaken in reasonable reliance, either directly or indirectly, upon a written opinion of the city attorney that was either provided prior to the conduct complained against or requested prior to the conduct complained against and provided not later than 15 business days following the date of such request.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

DIVISION 2: ETHICS REVIEW COMMISSION

Editor's note:

Ord. 20548-12-2012, § 1, adopted December 18, 2012, amended this division in its entirety as set forth below. Prior to the passage of that ordinance, this division pertained to the Ethics Review Committee and derived from Ord. 10617, § 1(3), adopted June 26, 1990.

§ 2-240 CREATION AND ORGANIZATION.

(a) *Creation.* There is hereby created an Ethics Review Commission ("ERC"). The ERC shall be composed of five persons, one of whom shall be an attorney appointed in accordance with subsection (b). The remaining four persons shall be selected by random draw method from certain existing city boards and commissions in accordance with subsection (c).

(b) *Attorney appointee to the ERC.* The city council shall appoint by majority vote an attorney who is in good standing with the State Bar of Texas and has been licensed to practice law in the State of Texas for at least five consecutive years. The attorney shall not be appointed for a definite fixed time and may be removed by the city council at any time and for any reason by majority vote. The attorney appointed pursuant to this subsection (b) may not be a member of another city board, commission or committee if the ERC has jurisdiction under this article to review the conduct of that person as a member of such other board, commission or committee. This provision does not prohibit other persons selected pursuant to subsection (c) and who are also licensed attorneys from serving on the ERC.

(c) *Other appointees to the ERC.*

(1) The remaining four persons shall be selected to serve on the ERC in accordance with the process outlined in this subsection (c) in the following circumstances:

a. A sworn complaint is filed with the city secretary's office alleging that a violation of Division I of this article has occurred, and the city secretary acknowledges in accordance with § 2-247(c) that the complaint substantially complies with the requirements of § 2-247; or

b. The city council by majority vote or the city manager of his or her own volition requests the city secretary to convene the ERC for purposes of exercising any other of its delegated powers under § 2-241.

(2) Upon the occurrence of one of the qualifying events set forth in subsection (c)(1), the city secretary shall compile the names of all then-current members of the zoning commission, the plan commission, and the boards of adjustment and then use a random draw method to select four persons on those boards to serve as members of the ERC. Each of the four persons selected must be Residents of different city council districts. If the city secretary draws the name of a person who resides in the same city council district as a person whose

name already has been drawn, the city secretary shall discard that name and proceed to draw another name until four persons who are residents of different city council districts have been selected. The city secretary promptly shall notify in writing the four persons selected to serve on the ERC for that complaint and shall also provide written notice of those selections to the city council, the city manager, and the city attorney.

(3) If the ERC is being convened to hear an ethics complaint, the four persons selected to serve on the ERC pursuant to this subsection (c) shall serve until that complaint has been fully adjudicated by the ERC pursuant to and in accordance with § 2-251 and, if applicable, § 2-252. If the ERC is being convened to exercise any other of its delegated powers under § 2-241, the four persons selected to serve on the ERC pursuant to this subsection (c) shall serve until the ERC has fulfilled the stated purpose for its assembly. There is no limit to the number of times a person may serve on the ERC pursuant to the selection process outlined in this subsection (c).

(4) If the ERC is being convened to hear an ethics complaint, and the person who filed the complaint or the person complained against is a member of the zoning commission, the plan commission, or the boards of adjustment, the persons selected to serve on the ERC pursuant to this subsection (c) may not be members of those boards.

(5) If the ERC is being convened to hear an ethics complaint, and the person who filed the complaint or the person complained against is a member of the city council, the persons selected to serve on the ERC pursuant to this subsection (c) may not be residents of the city council district represented by the city council member who is involved in the complaint.

(6) If a person selected to serve on the ERC pursuant to this subsection (c) cannot fulfill his or her duties as a member of the ERC due to illness, travel, or another bona fide reason, or otherwise refuses to serve on the ERC, that person shall be requested to confirm that fact with the city secretary in writing within 15 calendar days of receipt of the service notification. In this event, the city secretary shall repeat the process outlined in subsection (c)(2) until a substitute has been selected.

(d) *Qualifications.* All members shall be residents of the city who are at least 18 years of age. Additionally, no member of the ERC may be:

- (1) A member of the city council or the spouse or domestic partner of a member of the city council;
- (2) An employee or the spouse or domestic partner of an employee;
- (3) An elected public official; or
- (4) A candidate for elected public office.

(e) Chairperson; quorum; number of members necessary to act. Once the ERC is convened, it shall at its first meeting thereafter elect a chairperson and a vice-chairperson to serve in that capacity until the ERC has concluded its business. The vice-chairperson shall act as chairperson in the absence of the chairperson. Three or more members of the ERC shall constitute a quorum. No action of the ERC shall be of any force or effect unless it is adopted by the favorable votes of three or more of the members.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012; Ord. 23992-12-2019, § 1, passed 12-17-2019)

§ 2-241 JURISDICTION AND POWERS; MEETINGS.

(a) *Jurisdiction.* The ERC shall have jurisdiction to review and make findings and conclusions concerning an alleged violation of Division 1 of this article and, if a violation of Division 1 of this article is determined to have occurred pursuant to the process outlined herein, to levy sanctions in accordance with Division 4.

(b) *Powers.* Once the ERC is convened in accordance with and subject to the purposes set forth in § 2-240(c), the ERC shall have the following powers:

- (1) To establish rules and procedures governing its own internal organization and operations, consistent with this article and the city's Charter and ordinances;

(2) To prescribe forms for reports, statements, notices and other documents required by this article;

(3) To cause sufficient copies of this ordinance, and other ordinances, City Charter provisions and state statutes defining and prohibiting conflicts of interest, to be prepared and published and see that the same are made available to officers, employees, advisory board members, elected officials and the general public;

(4) To provide or assist in providing orientations to officers, employees and advisory board members concerning the provisions of this article;

(5) To review all statements and reports filed with the ERC in order to obtain compliance with this article;

(6) To direct the city secretary to preserve statements and reports filed with the ERC for a period of five years from the date of receipt;

(7) To review this article when deemed necessary and make appropriate recommendations to the city council;

(8) To request the city attorney's interpretation of or opinion on any provision of this article except in cases involving a complaint filed in accordance with this article, in which case § 2-248 shall apply;

(9) In accordance with this article, to review, conduct hearings and make determinations regarding all sworn complaints alleging violations of Division 1 of this article by persons other than members of the city council;

(10) In any hearing conducted pursuant to this article, to administer oaths and affirmations, take evidence, request and issue subpoenas for witnesses to attend and testify, and request and, subject to § 2-255, issue subpoenas for the production of books, papers, records, or other evidence needed for the performance of the ERC's duties or the exercise of its powers;

(11) To request the city council and city manager to provide such assistance as the ERC may require in the discharge of its duties;

(12) On the ERC's own motion or at the request of the city council, to report to the city council when deemed necessary concerning the activities of the ERC; and

(13) To exercise such other powers and duties as may be established by this article.

(c) *Meetings.* The ERC shall meet as necessary to fulfill its responsibilities. The city secretary, the chairperson, or any three members of the ERC may call a meeting provided that notice is given to each member and written notice is posted in accordance with provisions of the Texas Open Meetings Act, Tex. Government Code Chapter 551.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012; Ord. 23992-12-2019, § 2, passed 12-17-2019)

§ 2-242 STAFFING.

The city attorney shall provide such assistance to the ERC as the ERC shall request except in cases involving a complaint filed in accordance with this article.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-243 RESERVED.

DIVISION 3: HEARING OFFICERS

Editor's note:

Ord. 20548-12-2012, § 1, adopted December 18, 2012, enacted this division and amended and renumbered former Division 3, "Disposition of Alleged Violations; Hearings," as current Division 4, as set forth below.

§ 2-244 APPOINTMENTS.

(a) *Purpose.* The city council will appoint one or more hearing officers each year to hear appeals of determinations made by the ERC in the disposition of complaints alleging a violation of Division 1 of this article and to make recommendations to the city council regarding those appeals.

(b) *Qualifications.* A hearing officer shall be a resident who is an attorney in good standing with the state bar of Texas and has been licensed to practice in the State of Texas for at least ten consecutive years. No hearing officer may be:

- (1) A member of the city council or the spouse or domestic partner of a member of the city council;
- (2) An employee or the spouse or domestic partner of an employee;
- (3) An elected public official;
- (4) A candidate for elected public office; or

(5) A member of another city board, commission or committee if the ERC has jurisdiction under this article to review the conduct of that person as a member of such other board, commission or committee.

(c) *Terms.* The city council will appoint hearing officers each at its first meeting in January of each year or as soon thereafter as practicable. The city council shall set the prescribed compensation, if any, that hearing officers are to receive during their terms of service. A hearing officer shall serve a term of one year or until his or her successor is duly appointed, and may be reappointed at the pleasure of the city council. A hearing officer may be removed at any time and for any reason by majority vote of the city council, except that a hearing officer that has initiated the hearing of an appeal of a determination made by the ERC in the disposition of a complaint shall continue to serve until final disposition of the matter before him or her.

(d) *Selection of hearing officer to hear complaint or appeal.* If the city council appoints more than one hearing officer to serve during a particular year, the city secretary shall maintain a list of such hearing officers in order of appointment. In the event that the service of a hearing officer is required under this article to hear the appeal of a determination made by the ERC in the disposition of a complaint, the city secretary shall designate a hearing officer from such list on a rotation basis.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-245 JURISDICTION AND POWERS.

(a) *Jurisdiction.* Hearing officers shall have jurisdiction to review and make findings and recommendations to the city council concerning an alleged violation of Division 1 of this article.

(b) *Powers.* Hearing officers shall have the following powers:

(1) In accordance with this article, to hear appeals of determinations made by the ERC complaints alleging violations of Division 1 of this article, to hear arguments from and pose questions to the person filing the appeal as well as the person responding to the appeal if those persons have elected to make a statement at the hearing, and to make findings, determinations and recommendations to the city council as to the disposition of such appeals in accordance with the standards of review set forth herein;

(2) In any de novo hearing conducted pursuant to § 2-253, to administer oaths and affirmations, take evidence, request and issue subpoenas for witnesses to attend and testify, and request and, subject to § 2-255, issue subpoenas for the production of books, papers, records or other evidence needed for the performance of the ERC's duties or the exercise of its powers; and

(3) To exercise such other powers and duties as may be established by this article.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-246 RESERVED.

DIVISION 4: DISPOSITION OF ALLEGED VIOLATIONS; HEARINGS

Editor's note:

This division was formerly codified as Division 3 of this article and derived from Ord. 10617, § 1(3). It was renumbered as this Division 4 and amended in its entirety by Ord. 20548-12-2012, § 1, adopted December 18, 2012. That ordinance also renumbered former Division 4, "Financial Disclosure by Officers and Candidates," as current Division 5 of this article.

§ 2-247 COMPLAINTS.

(a) *Filing.* Any resident or nonresident owner of taxable real property within the corporate limits of the city who believes that there has been a violation of Division 1 of this article may file a sworn complaint with the city secretary's office. The complaint must be filed within two years after the alleged violation occurred. For purposes of this provision, a complaint shall be considered filed when it has been accepted by the city secretary as complete as to form in accordance with subsection (c) below. If a complaint is dismissed by the ERC but permitted to be re-filed in accordance with this Division, the re-filed complaint shall be deemed to have been filed on the date that the initial complaint was accepted by the city secretary. A complaint must be in writing and contain the following information:

(1) The name, street or mailing address and telephone number of the complainant;

(2) The name and position or title of the person complained about;

(3) The date and nature of the alleged violation and the specific provision of Division 1 of this article alleged to have been violated;

(4) A statement of the facts on which the complaint is based and the date(s) on which the violation occurred;

(5) The sources of evidence or information that are relevant to the complaint, including, if possible, copies of all relevant documents or materials that are available to the complainant.

(b) *Sworn nature.* A complaint must be accompanied by an affidavit stating that the complaint is true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of Division 1 of this article. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(c) *Acceptance by the city secretary.* If a complaint does not substantially comply with the filing requirements set forth in subsection (a) above or does not comply with the requirements of subsection (b) above, the city secretary shall by certified mail, return receipt requested, return the complaint to the complainant with a letter stating the defects in the complaint. If a complaint substantially complies with the filing requirements set forth in subsection (a) above and complies with the requirements of subsection (b) above, the city secretary shall acknowledge to the complainant that the complaint is complete as to form and provide a copy of the complaint to the city attorney, ERC and the person complained against.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-248 LEGAL COUNSEL.

(a) *Counsel for the person complained against.* If requested by the person complained against, the city council shall provide legal counsel selected by the person complained against to represent the person complained against, provided that fee arrangements with any such independent outside legal counsel must first be approved by the city council.

(b) *Counsel for the ERC.* If requested by the ERC, the city council shall provide outside legal counsel selected by the ERC to represent the ERC, provided that fee arrangements with any such independent outside legal counsel must be first be approved by the city council.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-249 RESERVED.

§ 2-250 STANDARDS OF CONDUCT.

(a) *Objectivity.* Members of the ERC are subject to this article. Members of the ERC shall maintain objectivity in discharging their duties. If any member of the ERC has any reason to believe that he or she cannot be impartial and intellectually honest in the discharge of the duties of the ERC, such member shall disclose the facts and circumstances of that belief and shall not vote or otherwise participate in consideration of the matter.

(b) *Prohibition of ex parte communications.* After a complaint has been filed and during the pendency of a complaint before the ERC, a member of the ERC may not communicate directly or indirectly with any party or person about any issue of law or fact regarding the complaint except at a meeting of the ERC. However, nothing in this section shall prohibit communications between members of the ERC and the ERC's attorney, or between members of the ERC concerning whether to call a hearing.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-251 HEARINGS.

(a) *Scheduling.* Not later than 15 business days after both acceptance of a complaint and assembly of the ERC selected to hear the complaint, the city secretary shall notify in writing the ERC, the complainant and the person complained against of the date, time and location of a hearing on the complaint. Such written notice shall be sent to the complainant and the person complained against by certified mail, return receipt requested. If the hearing is not held within 45 business days after receipt of the complaint, the city secretary shall notify both the complainant and the person complained against of the reasons for the delay.

(b) *Hearing rules.* All hearings shall be conducted in accordance with the Texas Open Meetings Act, Tex. Government Code Chapter 551. The ERC shall have the right to establish time limits and other rules of procedure for a hearing and relating to the participation of any person in the hearing, subject to subsections (c) and (d) below. All proceedings of the hearing shall be reduced to writing by a court reporter, who shall file the transcript of the hearing with the city secretary within such time as is specified by the ERC.

(c) *Rights of the person complained against.* The person complained against has the right to attend the hearing, the right to make a statement, the right to present witnesses and the right to be represented by legal counsel or another advisor.

(d) *Rights of the complainant.* The complainant has the right to attend the hearing, the right to make a statement, the right to present witnesses and the right to be represented by legal counsel or another advisor.

(e) *Order of business.*

(1) Once a quorum of the ERC convenes the hearing, the order of business shall be as follows:

- a. To ascertain whether the complainant and the person complained against are present;
- b. To determine whether the complaint alleges conduct which, based on substantially the same facts asserted in the complaint, the ERC has already determined is not a violation of Division 1 of this article;
- c. To determine whether the conduct complained against occurred within two years of the date on which the complaint was filed;
- d. To determine whether the complaint alleges conduct which would be a violation of Division 1 of this article;

e. To determine whether conduct complained against was in reasonable reliance upon an opinion of the city attorney, whether verbal or written;

f. To hear evidence and statements as to whether the person complained against violated a provision of Division 1 of this article as alleged in the complaint;

g. To deliberate and determine whether the person complained against violated Division 1 of this article as alleged in the complaint; and

h. To deliberate and determine a sanction to be imposed.

(2) In the ERC's sole discretion and as permitted by the Texas Open Meetings Act, Tex. Government Code Chapter 551, the ERC shall have the right to recess and continue the hearing one or more times. However, any member of the ERC who is not present at a hearing or continued hearing on a particular complaint may not participate in any discussion, voting or disposition of that complaint in any further continued hearing on that complaint.

(f) *Ascertaining presence of the parties.*

(1) If the complainant fails to appear at the hearing, the ERC shall dismiss the complaint and adjourn the hearing. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's dismissal. The ERC's dismissal of a complaint for failure to appear at the hearing is final and may not be appealed. If the ERC dismisses a complaint for failure of the complainant to appear at the hearing, the complainant may not file another complaint alleging a violation of Division 1 of this article for substantially the same conduct unless the complainant files a written request for a rehearing within 30 calendar days of the date of the hearing explaining why the complainant did not appear at the hearing and the ERC determines, on the basis of such written request, that there was good cause for the complainant not to appear at the hearing.

(2) If the complainant appears at the hearing but the person complained against does not, the ERC may proceed with the hearing in that person's absence, provided that the city secretary has a certified mail receipt that the person complained against received notice of the date, time and location of the hearing.

(g) *Preliminary testimony by the complainant.* In order to address the preliminary procedures set forth in subsections (h), (i), (j) and (k) below, the ERC shall hear preliminary testimony of the complainant, who shall state the alleged violation and describe in narrative form the testimony and other evidence that he or she is prepared to present to prove the alleged violation as stated in the complaint. Such testimony shall be under oath.

(h) *Determining whether the complaint alleges conduct which, based on substantially the same facts asserted in the complaint, the ERC has already determined is not a violation of Division 1 of this article.* If the ERC finds that the complaint alleges conduct which, based on substantially the same facts asserted in the complaint, the ERC has already determined is not a violation of Division 1 of this article and such previous determination was not reversed on appeal pursuant to this article, the ERC shall dismiss the complaint and adjourn the hearing. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination, which shall include the reasons for such decision. The ERC's dismissal of a complaint on such grounds is final and may not be appealed.

(i) *Determining whether the conduct occurred within two years of the complaint.* If the ERC determines that the conduct which the complainant alleges to be a violation of Division 1 of this article occurred more than two years prior to the date on which the complaint was filed, the ERC shall dismiss the complaint. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination, which shall include the reasons for such decision. The ERC's dismissal of a complaint on such grounds is final and may not be appealed.

(j) *Determining whether a complaint is insufficient.*

(1) In order to determine whether a complaint sufficiently alleges conduct which would be a violation of Division 1 of this article, the ERC shall hear the testimony of the complainant, who shall state the alleged

violation and describe in narrative form the testimony and other evidence that the complainant is prepared to present. Such testimony shall be under oath, but the ERC shall not permit testimony by other witnesses, cross-examination or any findings of fact. Members of the ERC may question the complainant. The person complained against shall have the opportunity, but is not required, to describe in narrative form the testimony and other evidence that he or she is prepared to present in order to dispute or rebut the alleged violation.

(2) If the ERC determines that there are no reasonable grounds to believe that a violation of Division 1 of this article has occurred, the ERC shall dismiss the complaint and adjourn the hearing. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination, which shall include the reasons for such decision. The ERC's dismissal of a complaint on such grounds shall be final unless appealed in accordance with § 2-253.

(k) *To consider whether conduct complained against was in reasonable reliance on a city attorney opinion.* The ERC shall give the person complained against the opportunity to testify if the person complained against asserts that the conduct alleged in the complaint was undertaken in reasonable reliance upon an opinion of the city attorney, provided that the person complained against first waives the attorney-client privilege with respect to the opinion. Such testimony shall be under oath, and any such testimony shall constitute a waiver of the attorney-client privilege with respect to the opinion. Any testimony that the conduct of the person complained against was undertaken in reasonable reliance upon a written opinion of the city attorney, or upon a verbal opinion of the city attorney that was followed by a written opinion of the city attorney within 15 business days following the date such written opinion was requested, shall constitute prima facie evidence that the conduct of the person complained against did not violate a provision of Division 1 of this article. The ERC shall then determine the extent to which the conduct of the person complained against was undertaken in reasonable reliance upon an opinion of the city attorney.

(1) If the ERC determines that all of the conduct of the person complained against was undertaken in reasonable reliance, either directly or indirectly, upon a written opinion of the city attorney that was either provided prior to the conduct complained against or requested prior to the conduct complained against and provided not later than 15 business days following the date of such request, the ERC shall dismiss the complaint and adjourn the hearing. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination, which shall include the reasons for such decision. The ERC's dismissal of a complaint on such grounds shall be final unless appealed in accordance with § 2-253. Notwithstanding the foregoing, if the ERC believes that the city attorney's opinion may be incorrect or no longer valid, the ERC may include in such written notice of dismissal a request that the city attorney reconsider the opinion, but the ERC shall not have the right to overrule the opinion or substitute its own opinion.

(2) If the ERC determines that some, but not all, of the conduct of the person complained against was undertaken in reasonable reliance, either directly or indirectly, upon a written opinion of the city attorney that was either provided prior to the conduct complained against or requested prior to the conduct complained against and provided not later than 15 business days following the date of such request, the ERC shall dismiss complaint and adjourn the hearing. Within ten business days, the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination, which shall include the reasons for such decision. In this event, the complainant shall be permitted one opportunity to amend and resubmit the complaint within ten calendar days citing only that portion of the conduct that the person complained against undertook without reasonable reliance upon a written opinion of the city attorney that was either provided prior to the conduct complained against or requested prior to the conduct complained against and provided not later than 15 business days following the date of such request. Otherwise, the ERC's dismissal of a complaint on such grounds shall be final unless appealed in accordance with § 2-253. Notwithstanding the foregoing, if the ERC believes that the city attorney's opinion may be incorrect or no longer valid, the ERC may include in such written notice of dismissal a request that the city attorney reconsider the opinion, but the ERC shall not have the right to overrule the opinion or substitute its own opinion.

(3) If the ERC determines that some or all of the conduct of the person complained against was undertaken in reasonable reliance upon a verbal opinion of the city attorney but that the person complained against requested that the city attorney supplement that opinion with a written opinion, and such request was made 15 or

fewer business days prior to the date of the hearing, the ERC shall recess the hearing and reconvene on a date after the expiration of at least 15 business days following the date the written opinion was requested.

(4) If the ERC determines that none of the conduct of the person complained against was undertaken in reasonable reliance upon an opinion of the city attorney, or that some or all of the conduct complained against was undertaken in reasonable reliance only upon a verbal opinion of the city attorney that was not followed by a written opinion provided in accordance with § 2-239.1, the ERC shall proceed with the hearing.

(l) *Evidentiary proceeding.* Unless the ERC dismisses the complaint in accordance with § 2-251 (f), (h), (i), (j) or (k), the ERC shall determine whether a violation of Division 1 of this Article, as alleged in the complaint, has occurred. All statements and testimony of the complainant, the person complained against, and any witnesses shall be under oath. After hearing any statements of the complainants and the person complained against and any other evidence presented in accordance with this Article, the ERC shall make its determination based on the preponderance of the evidence (the greater weight and degree of the credible evidence and testimony). At the conclusion of the hearing, the ERC shall announce its determination and, if the ERC determines that a violation of Division 1 of this Article has occurred, identify the particular provision or provisions that were violated and announce any sanction to be imposed or recommended in accordance with § 2-252. Within ten business days the ERC shall deliver to the complainant, the person complained against and the city secretary a written notice of the ERC's determination. The ERC's determination and sanction (if applicable) shall be final unless appealed in accordance with § 2-253. In lieu of such evidentiary proceeding, the person complained against may acknowledge that he or she has committed a violation of Division 1 of this article, in which case the ERC shall consider the sanction to be imposed or recommended in accordance with § 2-252.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012; Ord. 23992-12-2019, § 3, passed 12-17-2019)

§ 2-252 SANCTIONS TO BE IMPOSED OR RECOMMENDED.

If the ERC determines that a violation of Division 1 of this article has occurred, it shall proceed directly to determination of the appropriate sanctions. The ERC may receive additional testimony or statements before considering sanctions but is not required to do so.

(a) *Sanctions.* If the ERC determines that a violation of Division 1 of this article has occurred, it may impose the following sanctions:

(1) a. A letter of notification shall be the appropriate sanction when:

1. The violation is clearly unintentional;

2. The conduct of the person complained against was done in reliance upon an opinion of the city attorney that was not in writing; or

3. The violation may have been unintentional but the ERC does not consider the level of offense to be severe.

b. A letter of notification shall advise the person to whom it is directed of any steps to be taken to avoid future violations.

(2) A letter of admonition shall be the appropriate sanction in those cases in which the ERC finds that the violation:

a. May have been unintentional; or

b. The violation was clearly unintentional but the ERC considers the level of offense to be severe.

(3) A letter of reprimand shall be the appropriate sanction when the ERC finds that a violation has been committed intentionally or through reckless disregard of Division 1 of this article. A letter of reprimand directed to an employee shall also be sent to the city manager and included in the employee's personnel file.

(b) *Recommendations.* In addition to the sanctions that may be imposed pursuant to subsection (a) above, the ERC may make the following recommendations:

(1) *Disciplinary action against persons other than the mayor or members of the city council.* If the ERC finds that the person complained against (other than the mayor or a member of the city council) committed a serious or repeated violation of Division 1 of this article intentionally or through culpable disregard of Division 1 of this article, the ERC may issue a written recommendation for disciplinary action. If the person who committed the violation is an employee (other than an employee appointed by the city council), the ERC may issue a recommendation to the city manager that the city manager suspend or terminate the employee. If the person who committed the violation is an employee appointed by the city council, the ERC may issue a recommendation to the city council that the city council suspend or terminate the employee. If the person who committed the violation is an officer (other than a member of the city council) or member of an advisory board or task force, the ERC may issue a recommendation to the city council that the officer, advisory board or task force member be removed from his or her position.

(2) *Censure of mayor or members of the city council.* If the person complained against is the mayor or a member of the city council, and the ERC finds that such person committed a serious or repeated violation of Division 1 of this article intentionally or through culpable disregard of Division 1 of this article, the ERC may issue a letter of censure. The letter of censure may include a recommendation of recall or a recommendation to institute proceedings for removal from office. A letter of censure, and any recommendation of recall or to institute proceedings for removal from office, shall be transmitted to the city secretary and to the mayor and city council. Any recall proceedings shall be subject to the procedures specified in the City Charter. Any proceedings for removal from office shall be in compliance with provisions of the City Charter and state law.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-253 APPEAL OF CERTAIN DETERMINATIONS.

(a) *Determinations that may be appealed.* The following determinations of the ERC may be appealed in accordance with this § 2-253:

(1) The dismissal of a complaint for failure to allege conduct which would be a violation of Division 1 of this article, pursuant to § 2-251(j);

(2) The dismissal of all or any portion of a complaint on grounds that the conduct alleged was undertaken in reasonable reliance upon a written opinion of the city attorney, pursuant to § 2-251(k); or

(3) The determination as to whether a violation of Division 1 of this article occurred, as alleged in a complaint heard by the ERC, pursuant to § 2-251(l).

(b) *Eligibility requirements and filing deadline.* Only a party against whom a determination of the ERC described in § 2-253(a) was made may file an appeal. The appeal must be in writing and filed with the city secretary within ten calendar days after the ERC's determination.

(c) *Filing requirement.* The appeal must state sufficient facts to show that the ERC committed a material error in its deliberations.

(d) *Sworn nature.* An appeal must be accompanied by an affidavit stating that the person filing the appeal has good reason to believe and does believe that the facts alleged in the appeal are true and correct. The appellant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(e) *Acceptance by the city secretary.* If an appeal does not comply with all of the eligibility requirements and filing deadline requirements of subsection (b) above or the requirements of subsection (d) above, or does not substantially comply with the requirements of subsection (c) above, the city secretary shall, by certified mail, return receipt requested, return the appeal to the person filing the appeal with a letter stating the defects in the appeal. If an appeal complies with all of the eligibility requirements and filing deadline requirements of subsections (b) and (d) above and substantially complies with the requirements of subsection (c) above, the city

secretary shall acknowledge to the person filing the appeal that the appeal is complete as to form and provide a copy of the appeal to the city council, the city attorney and the person complained against.

(f) *Designation of hearing officer and scheduling of evidentiary hearing.* Not later than 15 business days after acceptance of an appeal, the city secretary shall designate the hearing officer in accordance with § 2-244(d) and notify in writing the hearing officer, the person filing the appeal and the person responding to the appeal of the hearing's date, time and location. Such written notice shall be sent to the person filing the appeal and the person responding to the appeal by certified mail, return receipt requested. If the hearing is not held within 30 business days after designation of the hearing officer, the city secretary shall notify both the person filing the appeal and the person responding to the appeal of the reasons for the delay.

(g) *Hearing rules.* The hearing shall be based solely on the record of the ERC's hearing. The hearing shall be conducted in accordance with the Texas Open Meetings Act, Tex. Government Code Chapter 551. The hearing officer shall have the right to establish time limits and other rules of procedure for the hearing and relating to the participation of any person in the hearing, subject to subsections (h) and (i) below. All proceedings of the hearing shall be reduced to writing by a court reporter, who shall file the transcript of the hearing with the city secretary within such time as is specified by the hearing officer. All costs of preparing and filing such transcript shall be borne by the appellant.

(h) *Rights of appellee.* The person responding to the appeal has the right to attend the hearing, the right to make a statement, the right to present witnesses, and the right to be represented by legal counsel or another advisor.

(i) *Rights of appellant.* The person filing the appeal has the right to attend the hearing, the right to make a statement, the right to present witnesses and the right to be represented by legal counsel or another advisor.

(j) *Order of business.* The order of business before the hearing officer shall be as follows:

- (1) To ascertain whether the person filing the appeal and the person responding to the appeal are present;
- (2) To determine whether the appeal is based on a determination of the ERC described in § 2-253(a);

(3) To review the record, hear statements from both the person filing the appeal and the person responding to the appeal as to whether the record shows that the ERC materially erred in its determination as to the issue on appeal, and, based on the particular standard of review set forth below, to determine whether the ERC materially erred in such determination;

(4) To make a recommendation to the city council as to whether the person originally complained against violated Division 1 of this article as alleged in the complaint originally filed; and

(5) If the recommendation to the city council is to find that the person complained against did violate Division 1 of this article as alleged in the complaint, also to recommend a sanction for the city council to impose in accordance with § 2-252.

(k) *Ascertaining presence of the parties.*

(1) If the person filing the appeal fails to appear at the hearing, the hearing officer shall dismiss the appeal and adjourn the hearing. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal, the ERC, and the city secretary a written notice of the hearing officer's dismissal. The hearing officer's dismissal of an appeal for failure to appear at the hearing is final unless the person filing the appeal petitions the hearing officer in writing within 30 calendar days following delivery of the dismissal to reconsider on grounds that the person had good cause to not appear and the hearing officer grants such request. Any petition for reconsideration filed by the appellant must include a statement that explains in detail why the person filing the appeal did not appear.

(2) If the person filing the appeal appears at the hearing but the person responding to the appeal does not, the hearing officer may proceed with the hearing in that person's absence provided that the city secretary has a certified mail receipt that the respondent received notice of the date, time and location of the hearing.

(l) *Determining whether there is a sufficient basis for the appeal.* If the hearing officer finds that the appeal is not based on a determination of the ERC described in § 2-253(a), the hearing officer shall deny the appeal in its entirety. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal and the city secretary a written notice of the hearing officer's determination, which shall include the reasons for such decision. The hearing officer's denial of an appeal on such grounds is final and will not be considered by the city council pursuant to subsection (q) below.

(m) *Determining whether the appeal is sufficient.* If the hearing officer finds that the appeal does not state sufficient facts to satisfy any of the requirements of § 2-253(b), the hearing officer shall deny the appeal in its entirety. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal and the city secretary a written notice of the hearing officer's determination, which shall include the reasons for such decision. The hearing officer's denial of an appeal on such grounds is final and will not be considered by the city council pursuant to subsection (q) below.

(n) *Review of determination that complaint does not allege conduct which would be a violation of Division 1.* If the appeal is based on the ERC's dismissal of a complaint for failure to allege conduct which would be a violation of Division 1 of this article, pursuant to § 2-251(j), the hearing officer shall review the record and determine whether the ERC materially erred in its determination that the complaint did not allege conduct which would be a violation of Division 1. The hearing officer's determination as to whether the ERC materially erred in its determination that the complaint did not allege conduct which would be in violation of Division 1 shall be based on a de novo review of the record. If, based on such standard of review, the hearing officer determines that the ERC did err materially in its determination that the complaint did not allege conduct which would be a violation of Division 1, the hearing officer shall remand the complaint to the ERC, and the ERC shall proceed to consider the complaint in accordance with the remaining order of business set forth in § 2-251. If the hearing officer determines that the ERC did not err materially, the hearing officer shall deny the appeal and adjourn the hearing. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal and the city secretary a written notice of the hearing officer's determination, which shall include the reasons for such decision. The hearing officer's denial of an appeal on such grounds is final and will not be considered by the city council pursuant to subsection (q) below.

(o) *Review of determination that conduct alleged was undertaken in reasonable reliance upon a written opinion of the city attorney.* If the appeal is based on the ERC's dismissal of a complaint on grounds that the conduct alleged was undertaken in reasonable reliance upon a written opinion of the city attorney, pursuant to § 2-251(k), the hearing officer shall review the record and determine whether the record shows that the ERC materially erred in its determination that the conduct alleged in the complaint was undertaken in reasonable reliance upon a written opinion of the city attorney. The hearing officer's determination as to whether the ERC materially erred in its determination that the conduct alleged in the complaint was undertaken in reasonable reliance upon a written opinion of the city attorney shall be based on the substantial evidence standard of review of the record. If, based on such standard of review, the hearing officer determines that the ERC did err materially in its determination that the conduct alleged in the complaint was undertaken in reasonable reliance upon a written opinion of the city attorney, the hearing officer shall remand the complaint to the ERC, and the ERC shall proceed to consider the complaint in accordance with the remaining order of business set forth in § 2-251. If the hearing officer determines that the ERC did not err materially in its determination, the hearing officer shall deny the appeal and adjourn the hearing. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal and the city secretary a written notice of the hearing officer's determination, which shall include the reasons for such decision. The hearing officer's denial of an appeal on such grounds is final and will not be considered by the city council pursuant to subsection (q) below.

(p) *Review of ERC's determination based on the evidentiary proceeding.* If the appeal is based on the ERC's determination at the conclusion of its evidentiary proceeding conducted pursuant to § 2-251(l) as to whether a violation of Division 1 of this article occurred, the hearing officer shall review the record and determine whether the ERC materially erred in its determination as to whether a violation of Division 1 of this article occurred. The hearing officer's determination as to whether the ERC materially erred in its determination shall be based on the substantial evidence standard of review of the record. The hearing officer's determination shall proceed as follows:

(1) If the ERC found that a violation of Division 1 of this article did not occur, and the hearing officer determines that the ERC did not err materially in such determination, the hearing officer shall deny the appeal and adjourn the hearing. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal, the city secretary and each member of the city council a written copy of the hearing officer's determination, which shall include the reasons for such decision. The hearing officer's determination in this regard shall be final and will not be considered by the city council pursuant to subsection (q) below.

(2) If the ERC found that a violation of Division 1 of this article did occur, and the hearing officer determines that the ERC materially erred in such determination, the hearing officer shall uphold the appeal. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal, and the city secretary a written copy of the hearing officer's determination, which shall include the reasons for such decision and recommend that the city council accept the hearing officer's determination that a violation of Division 1 of this article did not occur and that no sanction should be imposed upon the person complained against.

(3) If the ERC found that a violation of Division 1 of this article did occur, and the hearing officer determines that the ERC did not err materially in such determination, the hearing officer shall deny the appeal and adjourn the hearing. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal, and the city secretary a written copy of the hearing officer's determination, which shall include the reasons for such decision and recommend that the city council accept the ERC's determination that a violation of Division 1 of this article occurred and the sanction to be imposed or recommended in accordance with § 2-252.

(4) If the ERC found that a violation of Division 1 of this article did not occur, and the hearing officer determines that the ERC materially erred in such determination, the hearing officer shall uphold the appeal and, based on a de novo standard of review of the record, announce any sanction to be imposed or recommended in accordance with § 2-252. Within ten business days, the hearing officer shall deliver to the person filing the appeal, the person responding to the appeal, and the city secretary a written copy of the hearing officer's determination, which shall include the reasons for such decision and recommend that the city council accept the hearing officer's determination that a violation of Division 1 of this article occurred and the sanction to be imposed or recommended in accordance with § 2-252.

(q) *City council hearing.* Within 45 calendar days following the date on which the hearing officer provides the city secretary with a copy of any recommendations of the hearing officer pursuant to subsection (p)(2), (p)(3) or (p)(4) above, or as soon thereafter as is practicable, the city secretary shall deliver to the city council a written copy of the hearing officer's determination and recommendations, as well as the transcripts of the hearings of both the ERC and the hearing officer, and shall schedule a hearing before the city council to consider such recommendations. The written determination and recommendations of the hearing officer, as well as the transcripts of the proceedings before the ERC and the hearing officer, shall form the sole evidentiary basis for the city council hearing. No other evidence or testimony shall be presented at the hearing before the city council. However, the person filing the appeal and the person responding to the appeal shall each be entitled to make a statement to the city council as to whether the city council should adopt, reject or modify the recommendations of the hearing officer. Each statement shall be subject to any time limitation imposed by the presiding officer of the city council. No rebuttal statements may be made. Following any such statements and a review by the city council of the transcript of the testimony and evidence presented to the hearing officer as well as the hearing officer's determination and recommendations, the city council shall, by majority vote, adopt, reject or modify the determination and any recommendations of the hearing officer. If any adopted determination includes a recommended sanction against an employee, the city manager will be solely responsible for considering, imposing and carrying out such sanction in accordance with the city manager's authority under Chapter V of the Charter of the City of Fort Worth, Texas. If any adopted determination includes a recommended sanction against an officer other than a member of the city council, the city council, by majority vote, will be responsible for considering, imposing and carrying out such sanction. Within ten business days, the city secretary shall deliver to the person filing the appeal and the person responding to the appeal a written copy of the city council's determination.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-254 CRIMINAL PENALTIES.

Except where otherwise provided by state law or in § 2-255, it is not the intention of the city council in adopting this article that violations thereof be subject to criminal penalties.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-255 SUBPOENAS.

(a) The ERC or hearing officer, at their discretion, may issue one or more subpoenas for the attendance of witnesses, the production of books, papers, records or other evidence needed for the performance of their duties or exercise of their powers. The subpoena shall be issued on the sworn application (of either the complaining party or the person complained against) stating that the applicant in good faith believes that such item exists, and stating in detail a description of any such items, sufficient to be able to identify such item, that the party requesting the subpoena has not been able to obtain such item otherwise, and that the applicant in good faith believes that the item is in the possession or control of a person or entity whose name and address is specified in the sworn application.

(b) The ERC or hearing officer may issue any such subpoena upon terms and conditions that they deem applicable.

(c) The party requesting the subpoena, or the party to the proceeding opposing it, and the person or business entity against whom the subpoena is sought each has the right to appeal to the city council any decision by the ERC or hearing officer concerning the request for subpoena. Such appeal shall be made in writing within ten calendar days after the ERC or hearing officer's decision (which must be in writing) by filing such appeal with the city secretary. All proceedings before the ERC or hearing officer shall be stayed until after the city council acts on the appeal.

(d) If the city council denies such an appeal or the time for an appeal has expired, any person who is subpoenaed by the ERC or hearing officer to give testimony or to produce books, papers, records or other evidence needed for the performance of the ERC or hearing officer's duties or the exercise of their powers, willfully makes default or refuses to answer any question pertinent to the proceedings before the ERC or hearing officer, or refuses to obey any subpoena or fails to produce books, papers and other evidence required by the ERC or hearing officer, shall be deemed guilty of a misdemeanor and may be fined not more than \$500 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-256 EVIDENCE OF CRIMINAL CONDUCT.

During the performance of their duties under the provisions of this article, if the ERC, hearing officer, city manager or city council receives evidence of criminal conduct, the ERC, hearing officer, city manager or council may provide such evidence to the prosecuting attorney having jurisdiction of such matter for appropriate action.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§ 2-257 POSTPONEMENT OF HEARINGS IN CERTAIN CASES.

If a complaint alleges facts concerning a possible violation of Division 1 of this article and such facts are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the ERC, hearing officer, city manager or city council may, when they deem appropriate, postpone any hearing or any appeal concerning such complaint until after the criminal investigation or criminal proceedings are terminated.

(Ord. 20548-12-2012, § 1, passed 12-18-2012, eff. 12-22-2012)

§§ 2-258—2-260 RESERVED.

DIVISION 5: FINANCIAL DISCLOSURE BY OFFICERS AND CANDIDATES

Editor's note:

This division, formerly codified as Division 2 of this article, derived from 1964 Code, §§ 43-5 through 43-9, Ord. 7650, § 1, adopted October 25, 1977 and Ord. 7784, § 1, adopted August 15, 1978. This division was renumbered as Division 4 of this article by Ord. 10617, § 1(2), adopted June 26, 1990, and as this Division 5 by Ord. 20548-12-2012, § 2, adopted December 18, 2012.

This division was amended and reorganized by § 1 of Ord. 21845-08-2015, adopted August 25, 2015, which repealed § 2-265. See also Code Comparative Table.

§ 2-261 DEFINITIONS.

As used in this division, the following words and phrases shall have the meanings ascribed in this section.

CANDIDATE. Every person who declares for or files for any office of the city to be filled by election.

OFFICER. The mayor, a member of the city council, the city manager, the city attorney, the city secretary, the city internal auditor, the chief financial officer and the judges of the municipal court.

(1964 Code, § 43-5) (Ord. 7650, § 1, passed 10-25-1977; Ord. 7784, § 1, passed 8-15-1978; Ord. 10617, § 1 (2), passed 6-26-1990; Ord. 20837-08-2013, § 1, passed 8-6-2013; Ord. 21845-08-2015, § 1, passed 8-25-2015)

Cross-reference:

Definitions and rules of construction generally, see § 1-2

§ 2-262 PERSONAL FINANCIAL STATEMENT.

(a) Every officer shall file a verified personal financial statement with the city secretary in the same form as required by Chapter 145 of the Texas Local Government Code, except that a newly appointed officer shall file the verified personal financial statement with the city secretary within 30 days from the date he or she is sworn into office.

(b) The reporting period for the personal financial disclosure for newly appointed officers is 12 months preceding the date the officer is sworn into office.

(c) Every candidate shall file a verified personal financial statement with the city secretary in the same form as that required by Chapter 145 of the Texas Local Government Code not later than the earlier of:

- (1) The 20th day after the deadline for filing an application for a place on the ballot in the election; or
- (2) The fifth day before the date of the election.

(d) The reporting period for a statement required under this subsection shall be the 12 months preceding January 1 of the year in which the election is held.

(1964 Code, § 43-6) (Ord. 7650, § 1, passed 10-25-1977; Ord. 10617, § 1 (2), passed 6-26-1990; Ord. 16265, § 1, passed 1-18-2005; Ord. 21845-08-2015, § 2, passed 8-25-2015)

§ 2-263 FORMS FOR STATEMENTS.

(a) Persons filing financial disclosure statements shall use the form designed by the Texas Ethics Commission as required by Chapter 572, Texas Government Code.

(b) The city secretary shall provide copies of the forms required by this division to:

- (1) Officers and candidates as required by state law; and

(2) Newly appointed officers upon their swearing in and no later than the tenth day before the deadline.

(1964 Code, § 43-7) (Ord. 7650, § 1, passed 10-25-1977; Ord. 10617, § 1 (2), passed 6-26-1990; Ord. 21845-08-2015, § 2, passed 8-25-2015)

§ 2-264 PUBLIC RECORDS; INSPECTION.

(a) The city secretary shall maintain all statements required to be filed with the city secretary under this division as public records and retain them for a period of three years after which time he or she shall return them to the person filing them or destroy them.

(b) The financial disclosure statement file maintained by the city secretary under this section shall be kept in alphabetical order for each year in which statements are filed. Such files shall be open to public inspection during normal business hours. The city secretary shall maintain a list of all persons requesting to inspect such files identifying the file or files inspected.

(1964 Code, § 43-8) (Ord. 7650, § 1, passed 10-25-1977; Ord. 10617, § 1 (2), passed 6-26-1990)

§ 2-265—2-275 RESERVED.



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
www.cityofdenton.com

Legislation Text

File #: BOE23-029, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding future meeting topics.
[Estimated Presentation/Discussion Time: 5 minutes]



City of Denton

City Hall
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AGENDA INFORMATION SHEET

DEPARTMENT: Internal Audit
CITY AUDITOR: Madison Rorschach
DATE: June 5, 2023

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding future meeting topics.

BACKGROUND

City of Denton Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-277 (i) states that the Board of Ethics may recommend amendments to Article XI (i.e. the Ethics Ordinance) to the City Council from time to time.

DISCUSSION

Based on direction received at previous meetings the following meeting topics have been proposed.

Topic	Est. Time
Review Complaint Reconsideration Process	0:30
Comprehensive Review of Current Sanctions	0:60
Resident Public Comment Setup	0:30
Board of Ethics Alternates Definition	0:30
Definition of Pending Matter	0:60
Conflict of Interest Financial Thresholds/Definitions	1:30
Preliminary Panel Member Objection Process	0:30

To help plan for future meetings, a document outlining tentative future meeting topics has been prepared based on direction received previously from the Board of Ethics.

DIRECTION

Based on this information, staff would like direction from the Board on the following:

- What topic(s), if any, does the Board of Ethics want to be added to August 2023;
- What topic(s), if any, does the Board of Ethics want to be added to September 2023; and
- Any additional topics that the Board wishes to discuss at future meetings.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The Ethics Ordinance was first adopted by the City Council on May 1, 2018. Based on recommendations made by the Board of Ethics the Ethics Ordinance was amended on June 2, 2020 by the City Council. On January 25, 2022, the Ethics Ordinance was amended by the City Council to remove the requirement that preference be given to certain professions for service on the Board. Based on recommendations made by the Board of Ethics, the Ethics Ordinance was amended on July 19, 2022 by the City Council.

EXHIBITS

1. Agenda Information Sheet
2. Board of Ethics Tentative Meeting Topics (June 2023)

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor

Board of Ethics Tentative Meeting Topics

Updated: May 31, 2023

Meeting	Item	Est. Time
June 2023	Minutes	0:05
	Public Comment Follow-Up	0:10
	2023 Amendment Proposals Discussion	0:20
	Ethics Ordinance Training Update	0:20
	Burden of Proof Requirements Follow-Up	0:30
	Future Meeting Topics Update	0:05
	Total Est. Time:	1:30
August 2023	Minutes	0:05
	Definition of Alternates	0:20
	Definition of Pending Matter	0:45
	Future Meeting Topics Update	0:05
	Total Est. Time:	1:15
September 2023	Minutes	0:05
	Financial Thresholds Discussion	0:45
	<i>TBD</i>	<i>TBD</i>
	Future Meeting Topics Update	0:05
	Total Est. Time:	0:55