



City of Denton

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

Meeting Agenda

Board of Ethics

Monday, March 4, 2024

5:30 PM

Council Work Session Room

REGISTRATION GUIDELINES FOR ADDRESSING THE BOARD OF ETHICS

Citizens are also able to participate in the following way (NOTE: Other than public hearings, citizens are only able to comment one time per agenda item; citizens cannot use both methods to comment on a single agenda item. Public comments are not held for work session reports.):

- eComment – On March 1, 2024, the agenda was posted online at <https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>. Once the agenda is posted, a link to make virtual comments using the eComment module will be made available next to the meeting listing on the Upcoming Events Calendar. Within eComment, citizens may indicate support or opposition and submit a brief comment about a specific agenda item. Comments may be submitted up until the start of the meeting at which time the ability to make an eComment will be closed. Similar to when a citizen submits a white card to indicate their position on an item, the eComments will be sent directly to members of the Board of Ethics and recorded by the Secretary.

Members review comments received in advance of the meeting and take that public input into consideration prior to voting on an agenda item. The Chair will announce the number of Comment Cards submitted in support or opposition to an item during the public comment period. Comments will not be read during the meeting. The Secretary will reflect the number of comments submitted in favor/opposition to an item, the registrant's name, address, and (summary of) comments within the Minutes of the Meeting, as applicable.

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, March 4, 2024, 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:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

This section of the agenda permits a person to make comments regarding public business on items as listed on the agenda and in-person presentations (allows for comments on items not listed on the agenda.) Each speaker will be allowed a maximum of three (3) minutes with up to five speakers per meeting.

2. ITEMS FOR CONSIDERATION

- A. [BOE24-011](#) Consider approval of minutes for February 5 and February 8, 2024
[Estimated Presentation/Discussion Time: 5 minutes]

Attachments: [Exhibit 1 - Draft Regular Meeting Minutes.pdf](#)
[Exhibit 2 - Draft Advisory Opinion 24-001 Meeting Minutes.pdf](#)

- B. [BOE24-012](#) Receive a report, hold a discussion, and give staff direction regarding draft redlines for

potential proposed amendments from the Board of Ethics to 1) repeal and replace Ethics Ordinance Sec. 2-273 (a) Conflicts of Interest, and 2) eliminate Sec. 2-281 (c) (4) Burden of Proof, including amending the Board of Ethics' Rules of Procedure to adjust Evidentiary Hearing procedures to reflect the elimination of the requirement for the Complainant to testify at an evidentiary hearing.

[Estimated Presentation/Discussion Time: 15 minutes]

Attachments:

[Exhibit 1 - Agenda Information Sheet.pdf](#)

[Exhibit 2 - Ethics Ordinance Draft Redlines.pdf](#)

[Exhibit 3 - Rules of Procedure Draft Redlines.pdf](#)

- C. [BOE24-013](#) Receive a report, hold a discussion, and take necessary action regarding forwarding proposals to amend City of Denton Code of Ordinances Chapter 2, Article XI (Ethics) and the Board of Ethics Rules of Procedure to the City Council.

[Estimated Presentation/Discussion Time: 15 minutes]

Attachments:

[Exhibit 1 - Agenda Information Sheet.pdf](#)

[Exhibit 2 - Letter of Proposed Amendments \(Draft\).pdf](#)

- D. [BOE24-014](#) Receive a report, hold a discussion, and give staff direction regarding the definition of Complainant as it relates to the City of Denton Code of Ordinances Chapter 2, Article XI (Ethics).

[Estimated Presentation/Discussion Time: 30 minutes]

Attachments:

[Exhibit 1 - Agenda Information Sheet.pdf](#)

- E. [BOE24-015](#) Management Reports
1. City Council Candidate Letter (Financial Disclosures Information)
 2. February 2024 Advisory Opinion Responses Report

[Estimated Presentation Discussion Time: 5 minutes]

Attachments:

[City Council Candidate Letter \(Financial Disclosures Information\).pdf](#)

[February 2024 Advisory Opinion Responses Report.pdf](#)

- F. [BOE24-016](#) 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.pdf](#)

[Exhibit 2 - Board of Ethics Tentative Meeting Topics \(March 2024\).pdf](#)

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 March 1, 2024, 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.



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Legislation Text

File #: BOE24-011, **Version:** 1

AGENDA CAPTION

Consider approval of minutes for February 5 and February 8, 2024
[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, February 5, 2024, 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:

PRESENT: Chair Annetta Ramsay, Vice-Chair Dustin Pavelek, and Members David Zoltner, Patricia Reinke, and Andrea Eberhard.

ABSENT: Member Tom Pryor.

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

None.

2. ITEMS FOR CONSIDERATION

A. **BOE24-006** Consider approval of minutes from January 8, 2024.

Vice-Chair Pavelek moved to approve the minutes as presented; motion seconded by Member Reinke. Motion carried.

AYES (5): Chair Ramsay, Vice-Chair Pavelek, and Members Zoltner, Reinke, and Eberhard.

NAYS (0): None.

ABSENT (1): Member Tom Pryor.

B. **BOE24-007** Receive a report, hold a discussion, and give staff direction regarding draft redlines for potential proposed amendments from the Board of Ethics to 1) repeal and replace Ethics Ordinance Sec. 2-273 (a) Conflicts of Interest, and 2) eliminate Sec. 2-281 (c) (4) Burden of Proof, including amending the Board of Ethics' Rules of Procedure to adjust Evidentiary Hearing procedures to reflect the elimination of the requirement of the Complainant to testify at an evidentiary hearing.

The item was presented, and discussion followed. The Board gave direction to correct some non-substantive grammatical errors in the presented red lines.

Member Zoltner moved to amend the presented draft language in Sec. 2-273 (a) (d) (ii) to "A substantial Client or Customer;" motion seconded by Member Eberhard. Motion carried.

AYES (5): Chair Ramsay, Vice-Chair Pavelek, and Members Zoltner, Reinke, and Eberhard.

NAYS (0): None.

ABSENT (1): Member Tom Pryor.

C. **BOE24-008** Management Reports

1. January 2024 Advisory Opinion Responses Report

The item was presented, and discussion followed.

- E. BOE24-009** Receive a report, hold a discussion, and give staff direction regarding future meeting topics.

The item was presented, and discussion followed. The Board of Ethics requested staff provide information on campaign financing requirements by the next meeting. In addition, the Board of Ethics gave staff direction to bring back redlines related to Proposal 1 amending Sec. 2-272 Mandates (C) and (d) and to place an item on a future agenda to discuss the definition of Complainant as defined in Sec. 2-269 of the Ethics Ordinance.

With no further business, the meeting was adjourned at 6:32 p.m.

Annetta Ramsay
Chair

Madison Rorschach
Recording Secretary

APPROVED ON: _____

City of Denton Board of Ethics Special Called Advisory Opinion Panel

After determining that a quorum is present, the Board of Ethics of the City of Denton, Texas, will convene in a Special Called Meeting on Thursday, February 8, 2024, at 5:30 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Vice-Chair Dustin Pavelek, and Members Patrica Reinke and David Zoltner.

ALSO PRESENT: Special Counsel Dottie Palumbo – Bojorquez Law Firm

1. ITEMS FOR CONSIDERATION

A. BOE24-010 Request for Advisory Opinion No. 24-001, received February 1, 2024, from Councilmember Byrd concerning potential improper use of influence applicability and recusal recommendation.

The item was presented, and discussion followed.

Member Reinke moved that moderating a virtual “Meet the Candidate” event would not be considered improper use of influence, per the Ethics Ordinance Sec. 2-273 (e) as long as all candidates were invited to participate in the Candidate Forum held by the public service group; motion seconded by Member Zoltner. Motion carried.

AYES (3): Vice-Chair Pavelek, and Members Reinke and Zoltner.

NAYS (0): None.

Member Reinke moved to provide Council Member Byrd with the following recommendations regarding a potential recusal:

1. The moderator should make clear that she is not representing the City in her Official Capacity.
2. All Candidates should be invited.
3. The moderator could be perceived by attendees, viewers, or participants to have violated Ethics Ordinance Sec. 2-273 (e) based on how she questions the candidates.

Motion seconded by Member Zoltner. Motion carried.

AYES (3): Vice-Chair Pavelek, and Members Reinke and Zoltner.

NAYS (0): None.

With no further business, the meeting was adjourned at 5:57 p.m.

Annetta Ramsay
Vice-Chair

Madison Rorschach
Recording Secretary

MINUTES APPROVED ON: _____



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Legislation Text

File #: BOE24-012, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding draft redlines for potential proposed amendments from the Board of Ethics to 1) repeal and replace Ethics Ordinance Sec. 2-273 (a) Conflicts of Interest, and 2) eliminate Sec. 2-281 (c) (4) Burden of Proof, including amending the Board of Ethics' Rules of Procedure to adjust Evidentiary Hearing procedures to reflect the elimination of the requirement for the Complainant to testify at an evidentiary hearing.

[Estimated Presentation/Discussion Time: 15 minutes]



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AGENDA INFORMATION SHEET

DEPARTMENT: Board of Ethics
CITY AUDITOR: Madison Rorschach
DATE: March 4, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding draft redlines for potential proposed amendments from the Board of Ethics to 1) repeal and replace Ethics Ordinance Sec. 2-273 (a) Conflicts of Interest, and 2) eliminate Sec. 2-281 (c) (4) Burden of Proof, including amending the Board of Ethics' Rules of Procedure to adjust Evidentiary Hearing procedures to reflect the elimination of the requirement for the Complainant to testify at an evidentiary hearing.

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

Over the last year, the Board of Ethics has reviewed the City of Denton's Ethics Ordinance and the Board's Rules of Procedure. During this time, the Board developed two proposals to amend the Ethics Ordinance and Board of Ethics Rules of Procedure. Staff has developed redlines of the Ethics Ordinance and Rules of Procedure based on the Board's direction as outlined in Exhibit 2 and Exhibit 3. In addition, two minor verbiage changes are recommended as clean-up items. These redlines were updated in February 2024 to reflect the direction received during the February 5, 2024, Board of Ethics meeting.

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 Amended by City Council to eliminate Member experience requirements
Jul. 19, 2022: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations
Jul. 18, 2023: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations
Dec. 12, 2023: Ethics Ordinance Amended by City Council to eliminate Alternate Members

EXHIBITS

1. Agenda Information Sheet
2. Ethics Ordinance Draft Redlines
3. Board of Ethics Rules of Procedure Draft Redlines

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

CITY OF DENTON
CODE OF ORDINANCES
CHAPTER 2: ADMINISTRATION
ARTICLE XI. ETHICS

DIVISION 1. GENERAL

Sec. 2-265. Authority

This Article is enacted pursuant to the authority granted to the City under Section 14.04 of the Charter.

Sec. 2-266. Purpose

The purpose of this Article is to foster an environment of integrity for those that serve the City of Denton and our citizenry. The City Council enacted this Article in order to increase public confidence in our municipal government. It is the policy of the City that all City Officials and employees shall conduct themselves in a manner that assures the public that we are faithful stewards of the public trust. City Officials have a responsibility to the citizens to administer and enforce the City Charter and City Ordinances in an ethical manner. To ensure and enhance public confidence in our municipal government, each City Official must strive not only to maintain technical compliance with the principles of conduct set forth in this Article, but to aspire daily to carry out their duties objectively, fairly, and lawfully. Furthermore, this Article was enacted to ensure that decision makers provide responsible stewardship of City resources and assets.

It is not the purpose of this Article to provide a mechanism to defame, harass or abuse their political opponents, or publicize personal grudges. Rather, this Article is intended to provide a framework within which to encourage ethical behavior, and enforce basic standards of conduct while providing due process that protects the rights of the Complainant and the Respondent.

Sec. 2-267. Prospective

This Article shall apply prospectively, and shall not sustain any Complaints based on acts or omissions alleged to have taken place prior to May 15, 2018.

Sec. 2-268. Applicability

This Article applies to the following persons:

- (a) City Officials;
- (b) Former City Officials whose separation from city service occurred less than one (1) year from the date of the alleged violation of this Article. Application of this Article to Former City Officials shall be limited to alleged violations:
 - (1) that occurred during the term as a City Official;
 - (2) of the prohibition on representing others for compensation (§2-273(d)(2)); or
 - (3) of the prohibition of subsequent work on prior projects (§2-273(h));
- (c) Vendors; and
- (d) Complainant(s), who must comply with this Article's procedures and the prohibition on Frivolous Complaints.

Sec. 2-269. Definitions

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accepted Complaint: a sworn allegation of a violation of this Article after the required documentation has been submitted to the City Auditor and determined to be administratively complete.

Actionable Complaint: an Accepted Complaint that has been deemed by a Panel to contain allegations and evidence that, if accepted as true, would support a finding that a violation of this Article occurred.

Advisory Opinions: written rulings regarding the application of this Article to a particular situation or behavior.

Article: this Chapter 2, Article XI of the Code of Ordinances for the City of Denton.

Baseless Complaint: a Complaint that does not allege conduct that would constitute a violation of this Article, or that does not provide evidence that, if true, would support a violation of this Article.

Board of Ethics: the oversight entity established by the Council to administer this Article.

Business Entity: a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, political subdivision, government agency, university, or any other entity recognized by law.

Candidate: a person who has filed an application for a place on a ballot seeking public office, or one who has publicly announced the intention to do so.

Charged: to be charged with a violation of this Article is to have an Accepted Complaint deemed Actionable.

City: the City of Denton in the County of Denton and State of Texas.

City Auditor: the person appointed to serve in the capacity provided for by Section 6.04 of the City Charter, or their designee and clerical staff acting in the City Auditor's absence.

City Official: for purposes of this Article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and Zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board.

City Secretary: the person appointed to serve in the capacity provided for by Section 2.12 of the City Charter, or their designee and clerical staff acting in the City Secretary's absence.

Code: the Code of Ordinances of the City of Denton, Texas, as such Code may be amended from time to time.

Complainant: the human individual who submitted a Complaint to the City.

Complaint: written documentation submitted to the City accusing a City Official of violating this Article.

Confidential Information: any written information that could or must be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under that Act, unless disclosure has been authorized by the City Council or City Manager.

Council: the governing body of the City of Denton, Texas, including the Mayor and City Council Members.

Customer or Client: any person or entity to which a person or entity has supplied goods or services during the previous twenty-four (24) months or any person or entity to which a City Official's outside employer or business has supplied goods or services during the previous twenty-four (24) months, but only if the City Official knows or has reason to know.

Deliberations: discussions at the dais; voting as a Member of the Board or Commission; or presentations as a member of the audience before any City Board or Commission; conversing or corresponding with other City Officials or Staff. This term does not apply to a general vote on a broad, comprehensive, or omnibus motion, such as approval of the City budget or polling places.

Department Heads: the employees appointed by the City Council, those being the City Manager, City Auditor, City Attorney, and Municipal Court Judge.

Domestic Partner: *An adult, unrelated by blood, with whom an unmarried or separated City Official has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.*

Financial Benefit: *Any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law. A “financial interest” is a relationship to something such that a direct or indirect financial benefit has been, will be, or might be received as a result of it.*

Former City Official: a City Official whose separation from city service occurred less than one (1) year from the date of an alleged violation of this Article.

Frivolous Complaint: a sworn Complaint that is groundless and brought in bad faith, or groundless and brought for the purpose of harassment.

Household: *Anyone whose primary residence is in the City Official’s home, including non-relatives who are not rent-payers or servants.*

Interfere: a person interferes with a process or activity pertaining to this Article when they intentionally and wrongfully take part in, or prevent, a City process or activity from continuing or being carried out properly or lawfully.

Ministerial Act: *An Action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.*

Outside Employer or Business: *Any substantial business activity other than services to the City; any entity, other than the City, of which the City Official is a member, official, director, or employee, and from which they receive compensation for services rendered or goods sold or produced; any entity located in the City or which does business with the City, in which the City Official has an ownership interest, except a public corporation in which the City Official’s ownership interest is the lesser of 1) stock valued at less than fifty-thousand dollars (\$50,000) or 2) five percent of the outstanding stock; and entity to which the City Official owes, or by which the City Official is owed, more than ten-thousand dollars (\$10,000), either in the form of a note, a bond, a loan, or any other financial instrument. For this definition, “compensation” does not include reimbursement for necessary expenses, including travel expenses.*

Panel: an *ad hoc* subcommittee of the Board of Ethics consisting of three (3) members assigned by the Chairperson or designated by the City Auditor (as applicable) on a rotating basis,

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

Person: associations, corporations, firms, partnerships, bodies politic, and corporate, as well as individuals.

Personal Benefit: Benefits other than those that are directly financially advantageous. These include Financial Benefits to Relatives, business associates, and others listed in Sec. 2-273 (A)(1), as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career. A "personal interest" means a relationship to something such that a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.

Recklessly: a person acts recklessly when they are aware of but consciously disregard a substantial and unjustifiable risk that a certain result is probable from either their conduct, or in light of the circumstances surrounding their conduct. The risk must be of such a nature and degree that to disregard it constitutes a gross deviation from the standard of care that an ordinary person would exercise under the circumstances.

~~*Relative:* a family member related to a City Official within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption) in accordance with Texas Government Code, Title 5, Subtitle B, Chapter 573. A spouse, child, step-child, sibling, parent, step-parent, or a person claimed as a dependent on the City Official's latest individual state income tax return.~~

Respondent: a City Official who has been charged in a Complaint with having violated this Article.

Shall: a mandatory obligation, not a permissive choice.

Special Counsel: an independent, outside attorney engaged by the City to advise the City as an organization and/or the Board of Ethics.

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Sec. 2-270. Cumulative & Non-Exclusive

This Article is cumulative of and supplemental to all applicable provisions of the City Charter, other City Ordinances, and State/Federal laws and regulations. Compliance with this Article does not excuse or relieve any person from any obligation imposed by any other Rule. Attempts to enforce this Article shall not be construed as foreclosing or precluding other enforcement options provided by other law.

DIVISION 2. RULES OF CONDUCT

Sec. 2-271. Expectations

The following list conveys the City Council's expectations for City Officials. These expectations are aspirational, and shall not serve as the basis for a Complaint.

- (a) City Officials are expected to conduct themselves in a manner that fosters public trust.
- (b) City Officials are charged with performing their public duties in a way that projects a high level of personal integrity and upholds the integrity of the organization.
- (c) City Officials must avoid behavior that calls their motives into question and erodes public confidence.
- (d) City Officials shall place the municipality's interests and the concerns of those the City serves above private, personal interests.
- (e) Those who serve the City are expected to value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence as values the City professes.
- (f) City Officials must balance transparency with the duty to protect personal privacy and preserve the confidential information with which the City has been entrusted.
- (g) It is neither expected nor required that those subject to this Article relinquish or waive their individual rights.

Sec. 2-272. Mandates

- (a) **Duty to Report.** City Officials shall report any conduct that the person knows to be a violation of this Article. Failure to report a violation of this Article is a violation of this Article. For purposes of this section, submittal of a Complaint or a report made to the Fraud, Waste, or Abuse hotline shall be considered to be a report under this Section. A report to the hotline may remain anonymous unless disclosed by the caller.
- (b) **Financial Disclosures.** All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law. All prospective Vendors and City Officials shall file disclosure forms as required by, and in accordance with, State law.
- ~~(c) **Business Disclosures.** When a Pending Matter is before the City Official, and the City Official has knowledge of being a partner with one of the owners of the Business Interest with the Pending Matter, all City Officials shall file with the City Auditor a report listing the known names of human individuals with whom the City Official or the City Official's spouse is named partner in the following types of businesses: General Partnership, Limited Partnership, Limited Liability Partnership, or Limited Liability Corporation, or Professional Corporation. Annual reports shall be submitted within ninety (90) days of taking office. Failure to submit a report shall not serve as a basis for a Complaint unless the City Official fails to submit a report within thirty (30) days of being provided written~~

~~notification of the omission. Neither the existence of a business relationship as described in this Section, nor the submission of a report required by this Section shall prevent a City Official from participating in Deliberations on matters pending before the City absent a Conflicting Interest.~~

- ~~(d) **Disclosure Process.** Disclosures mandated by this section shall be filed with the City Auditor and City Secretary at least one business day prior to deliberation of the Pending Matter. Disclosures received shall be distributed by City staff to the relevant body prior to the Pending Matter being deliberated.~~

Sec. 2-273. Prohibitions

(a) Conflicts of Interest:

(1) A City Official may not use their official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which they know, or has reason to believe may result in a Personal Benefit or Financial Benefit, not shared with a substantial segment of the City's population, for any of the following persons or entities (no group of government employees may be considered "a substantial segment" for the purposes of this provision):

a. The City Official;

b. A member of the City Official's household, including a Domestic Partner and their dependents, or the employer or business of any of these people;

c. A sibling or step-sibling, step-child or foster child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either the City Official or of their spouse or Domestic Partner, or the employer or business of any of these people;

d. A person with which the City Official has a financial or business relationship, including but not limited to:

i. An Outside Employer or Business of the City Official's, or of their spouse or Domestic Partner, or someone who works for such outside employer or business;

ii. A substantial Client or Customer;

iii. A substantial debtor or creditor of the City Official or of their spouse or Domestic Partner;

iv. A person or entity from whom the City Official has received an election campaign contribution of more than two-hundred dollars (\$200) in the aggregate during the last twenty-four (24) months (this amount includes

contributions from a person's immediate family or business as well as contributions from an entity's owners, directors, or officers, as well as contributions to the City Official's party town committee or non-candidate political committee);

v. A person or business entity from which the City Official or their spouse or Domestic Partner has an offer of employment for which the application is still pending, has received an offer of employment that has not been rejected, or has accepted an offer of employment within the past twelve (12) months;

vi. A Business Entity, nongovernmental civic group, union, social, charitable, or religious organization of which they (or their spouse or domestic partner) is an officer or director.

These prohibitions apply equally to attempts to use, act, or influence.

(2) Whenever a City Official has reason to believe that they should withdraw from participation under Sec. 2-273 (A) (1) of this code, they must:

a. Immediately refrain from participating further in the matter, formally or informally;

b. Promptly inform the appropriate individual or body, pursuant to Subsection (4) below, that they have a conflict, and the nature of the conflict; and

c. Promptly file with the City Auditor a signed statement disclosing the reasons for withdrawal, or, if a member of a board or commission, state this information on the public record of the Board or Commission.

(3) Whenever someone suggests or requests (privately or publicly) that a City Official withdraw from participation under Sec. 2-273 (A) (1) of this code, and they choose not to do so, they must promptly file with the City Auditor a signed statement disclosing the reasons for refusing to withdraw or, if a member of a board or commission and if the suggestion was made publicly at a meeting of that board or commission, state this information upon the public record of that board or commission.

(4) A City Official is required to inform the appropriate individual or body pursuant to subsection (2) b. as follows:

a. If a member of a board, commission, committee, or authority, inform the chair or the entire body at a public or executive session (if at an executive session, the disclosure should also be made after going back into regular session); if the chair, inform the vice-chair;

b. If not on such a body and appointed by the City Council, inform the City Council;

- c. If an elected official, inform the mayor; if the mayor, inform the mayor pro tempore.
- (5) A City Official with an interest in a contract must disclose this interest prior to the first of any of the following events of which the official has knowledge:
 - a. The preparation of the contract specifications;
 - b. The solicitation of the contract;
 - c. The bidding of a contract;
 - d. The negotiation of a contract;
 - e. The approval of a contract.
- (6) The provisions of Sec. 2-273 of this Article do not require withdrawal or transaction disclosure as a result of:
 - a. An action specifically authorized by statute, rule, or regulation of the State of Texas or of the United States;
 - b. A ministerial act.
- (7) A City Official need not make a disclosure pursuant to this section if they, with respect to the same matter, has already made such a disclosure.
 - ~~(1) *Deliberation Prohibited.* It shall be a violation of this Code for a City Official to knowingly deliberate regarding a Pending Matter for which the City Official currently has a Conflicting Interest. City Officials with a current Conflicting Interest in a Pending Matter must recuse themselves and abstain from Deliberations. It is an exception to this recusal requirement if the City Official serves on the City Council, Planning and Zoning Commission, Board of Ethics, Historic Landmark Commission, Public Utilities Board, or Board of Adjustment; where a majority of the members of that body is composed of persons who are likewise required to file (and who do file) disclosures on the same Pending Matter.~~
 - ~~(2) *Disclosure Required.* If a City Official has a Conflicting Interest in a Pending Matter, the City Official shall disclose the nature of the Conflicting Interest by filing a sworn statement with the City Auditor. Disclosures under this subsection shall be for the time period, including the previous calendar year, and up to date where the Conflicting Interest arises before the City Official.~~
 - ~~(3) *Definition of Conflicting Interest.* For purposes of this Article, the term is defined as follows:

Conflicting Interest: a stake, share, equitable interest, or involvement in an undertaking in the form of any one (1) or more of the following:~~

- ~~(A) ownership of five percent (5%) or more voting shares or stock in a Business Entity;~~
- ~~(B) receipt of more than six hundred dollars (\$600.00) in gross annual income from a Business Entity, as evidenced by a W-2, 1099, K-1, or similar tax form;~~
- ~~(C) ownership of more than six hundred dollars (\$600.00) of the fair market value of a Business Entity;~~
- ~~(D) ownership of an interest in real property with a fair market value of more than six hundred dollars (\$600.00);~~
- ~~(E) serves on the Board of Directors or as an Officer of a Business Entity, unless the City Official was appointed to that position by the City Council;~~
- ~~(F) serves on the Board of Directors (i.e., governing body) or as an Officer of a nonprofit corporation or an unincorporated association, unless the City Official was appointed to that position by the City Council; and/or~~
- ~~(G) direct or indirect solicitation of an offer of employment for which the application is still pending, receipt of an offer of employment that has not been rejected, or acceptance of an offer of employment from or to a person or Business Entity within the past twelve (12) months;~~
- ~~(H) A City Official is considered to have a Conflicting Interest if the City Official's Relative has a Conflicting Interest.~~

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

(b) Gifts.

- (1) *General.* It shall be a violation of this Article for a City Official or a City Official's Relative to accept any Gift that might reasonably tend to influence such Officer in the discharge of official duties.
- (2) *Specific.* It shall be a violation of this Article for a City Official to accept any Gift for which the fair market value is greater than fifty dollars (\$50.00). It shall be a violation of this Article for a City Official to accept multiple Gifts for which the cumulative fair market value exceeds two hundred dollars (\$200.00) in a single fiscal year. It shall be a violation of this Article for a Vendor to offer or give a Gift to a City Official or a City Official's Relative exceeding fifty dollars (\$50.00) per Gift, or multiple Gifts cumulatively valued at more than two hundred dollars (\$200.00) in a single fiscal year.

- (3) *Definition of Gift.* Anything of monetary value, including but not limited to cash, personal property, real property, services, meals, entertainment, and travel expenses, except those provided in 2-273(b)(3) below.
- (4) *Exceptions.* For the purposes of this Article, the term Gift does not include any of the following:
- (A) a lawful campaign contribution;
 - (B) meals, lodging, transportation, entertainment, and related travel expenses paid for (or reimbursed by) the City in connection with the City Official's attendance at a conference, seminar or similar event, or the coordinator of the event;
 - (C) meals, lodging, transportation, or entertainment furnished in connection with public events, appearances, or ceremonies related to official City business, nonprofit functions, or charity functions, or community events, if furnished by the sponsor of such events (who is in attendance);
 - (D) complimentary copies of trade publications and other related materials;
 - (E) attendance at hospitality functions at local, regional, state, or national association meetings and/or conferences;
 - (F) any gift that would have been offered or given to the City Official because of a personal, familial, professional relationship regardless of the City Official's capacity with the City;
 - (G) tee shirts, caps, and other similar promotional material; and
 - (H) complimentary attendance at political, nonprofit, or charitable fund raising events.
- (5) *Donations.* It is not a violation under this Article for a City Official to accept a Gift prohibited by this Article on behalf of the City of Denton. Conveyance of a Gift prohibited by this Article to the City of Denton or a nonprofit corporation cures any potential violation.
- (6) *Reimbursement.* It is not a violation under this Article for a City Official to accept a Gift prohibited by this Article and promptly reimburse the Person the actual cost or fair market value of the Gift.
- (7) *Disclosure Required.* If a City Official chooses to accept a Gift, the City Official shall disclose the value of the Gift and the nature of the Gift's acceptance by filing an affidavit with the City Auditor.

(c) **Outside Employment.**

- (1) *Applicability of Section.* This subsection applies to Department Heads.

- (2) *Prohibition.* It is a violation of this Article for a Department Head to solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties.
- (3) *Disclosure and Consent.* It is a violation of this Article for a Department Head to accept employment from any Person other than the City without first disclosing the prospective employment arrangement in writing to the Mayor and receiving the Mayor's written consent.
- (d) **Representation of Others.**
- (1) *Current City Officials.* It shall be a violation of this Article for a City Official to represent for compensation any person, group, or entity before a board or commission of the City. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- (2) *Former City Officials.* It shall be a violation of this Article for a City Official to represent for compensation any person, group, or entity before the City Council or a board, commission, or staff of the City for a period of one (1) year after termination of official duties. This prohibition applies to representation in the form of advocacy or lobbying regarding discretionary approvals of the City, not routine, ministerial actions. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation. The prohibition in this subsection solely applies to the Former City Official, and shall not be construed to apply to other affiliated Persons. This subsection does not apply to Former City Officials who represent others for compensation in the course of applying for non-discretionary, ministerial permits and routine approvals. It shall be an exception to this Article when the Former City Official is employed by or owns a small business which existed before the Former City Official commenced service as a City Official and is the sole source of specialized knowledge or expertise necessary within that small business, and that knowledge or expertise is necessary to transact business with the City.
- (e) **Improper Influence.** It shall be a violation of this Article for a City Official to use such person's official title/position to:
- (1) secure special privileges or benefits for such person or others;
- (2) grant any special consideration, treatment, or advantage to any citizen, individual, business organization, or group beyond that which is normally available to every other citizen, individual, business organization, or group;
- (3) assert the prestige of the official's or employee's City position for the purpose of advancing or harming private interests;

- (4) state or imply that the City Official is able to influence City action on any basis other than the merits; or
- (5) state or imply to state or local governmental agencies that the City Official is acting as a representative of the City, as an organization, or as a representative of the City Council without first having been authorized by the City Council to make such representation (except the Mayor, City Manager, and City Attorney).
- (f) **Misuse of Information.**
- (1) *Personal Gain.* It shall be a violation of this Article for a former City Official to use any confidential information to which the City Official had access by virtue of their official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal or private financial interest of any Person.
- (2) *Confidential Information.* It shall be a violation of this Article for a City Official to intentionally, knowingly, or recklessly disclose any confidential information gained by reason of the City Official's position concerning the property, operations, policies, or affairs of the City. This rule does not prohibit the reporting of illegal or unethical conduct to authorities designated by law.
- (g) **Abuse of Resources.** It shall be a violation of this Article for a City Official to use, request, or permit the use of City facilities, personnel, equipment, software, supplies, or staff time for private purposes (including political purposes), except to the extent and according to the terms that those resources are generally available to other citizens and the City Officials for official City purposes.
- (h) **Abuse of Position.** It shall be a violation of this Article for any City Official to engage in the following:
- (1) *Harassment & Discrimination.* Use the Official's position to harass or discriminate against any person based upon ethnicity, race, gender, gender identity, sexual orientation, marital status, parental status, or religion.
- (2) *Interference.* Interfere with any criminal or administrative investigation alleging the violation of any provision of this Article, the City Charter, administrative policy, or executive order in any manner, including but not limited to seeking to persuade or coerce City employees or others to withhold their cooperation in such investigation is a violation of this Article.
- (i) **Subsequent Work on Prior Projects.** It shall be a violation of this Article for any former City Official, within one (1) year of the cessation of official duties for the City, to perform work on a compensated basis relating to a City contract or arrangement for the provision of goods, services, real property, or other things of value, if while in City service the former City Official personally and substantially participated in the negotiation, award or administration of the contract or other arrangement. This Section does not apply to a City Official whose involvement with a contract or arrangement was limited to Deliberations

as a member of the City Council, Planning and Zoning Commission, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board.

DIVISION 3. IMPLEMENTATION

Sec. 2-274. Staffing

- (a) **City Auditor.** The City Auditor's Office shall be responsible to provide staff and clerical support to the Board of Ethics to assist in the implementation and enforcement of this Article. The degree of support required shall be at the discretion of the City Auditor. Nothing herein creates a duty for the City Auditor to enforce this Article. Furthermore, this Article shall not be construed as requiring the City Auditor to investigate allegations of violations of this Article submitted via the Fraud, Waste, or Abuse hotline.
- (b) **Conflicts Log.** The City Auditor's Office shall, in cooperation with the City Secretary's Office, maintain a Conflicts Log on an ongoing basis listing the Conflicting Interests disclosed by City Officials in accordance with this Article. The log is a public record. The City Auditor is neither authorized nor required to inspect or act upon the content of the Conflicts Log.
- (c) **City Manager.** If a Complaint accuses the City Auditor of violating this Article, the duties of the City Auditor under this Article shall be performed by the City Manager for purposes of processing that Complaint.

Sec. 2-275. Legal Counsel

- (a) **City Attorney.** The City Attorney shall provide legal support to the City Auditor and the Board of Ethics in the administration of this Article. Nothing herein shall be construed to limit the authority of the City Attorney to render legal guidance in accordance with the City Attorney's professional obligations and standards.
- (b) **Special Counsel.** Independent, outside legal services shall be engaged by the City Attorney on the City's behalf to provide legal support to the City Auditor and the Board of Ethics when:
 - (1) in the City Attorney's discretion it is necessary in order to comply with the Texas Disciplinary Rules of Professional Conduct (for lawyers), or is in the best interest of the City;
 - (2) when the City Council deems Special Counsel is necessary; or
 - (3) when action is being taken by the Board of Ethics regarding any council member.

Sec. 2-276. Training

- (a) **Curriculum.** The City Auditor shall approve a training program that provides an introduction and overview of the expectation, mandates, and prohibitions provided for by this Article.

- (b) **Orientation.** City Officials shall complete a training session regarding this Article within ninety (90) days of commencing their official duties.
- (c) **Annual.** City Officials shall complete an annual training session regarding this Article.
- (d) **Exiting Officials.** Information shall be provided to City Officials terminating their City service regarding the continuing restrictions on the representation of others by certain former City Officials.

Sec. 2-277. Board of Ethics

- (a) **Creation.** There is hereby created a Board of Ethics for the City of Denton.
- (b) **Appointment.** The Board of Ethics shall be appointed by majority vote of the City Council.
- (c) **Number.** The Board of Ethics shall consist of seven (7) regular members.
- (d) **Terms.** Board of Ethics members shall be appointed for two (2) year, staggered terms. Members may be reappointed for successive terms. Appointment to fill a vacancy shall be for the remainder of the unexpired term. Members of the inaugural Board of Ethics shall draw straws to determine which three (3) members shall receive an initial term of one (1) year in order to stagger terms. In total, members may only serve three (3) consecutive terms. A member may be reappointed no sooner than one (1) year after expiration of a previous term.
- (e) **Eligibility.** Membership on the Board of Ethics is limited to residents of the City of Denton.
- (f) **Ineligibility.** The following shall disqualify a person from serving on the Board of Ethics:
 - (1) current service as a City Official;
 - (2) separation from city service as a City Official within two (2) years of the appointment;
 - (3) familial relations to a City Official within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption);
 - (4) current service as an elected official in Denton County; and / or
 - (5) conviction of a felony or crime of moral turpitude.
- (g) **Scope of Authority.** The Board of Ethic's jurisdiction shall be limited to implementation and enforcement of this Article, and shall include the authority to administer oaths and affirmations, issue and enforce limited subpoenas to compel the attendance of witnesses and the production of testimony, evidence, and/or documents as is reasonably relevant to the Actionable Complaint, as provided by the City Charter. The issuance and enforcement of subpoenas shall be only upon a majority vote of the Board of Ethics, in accordance with the Rules of Procedure, and enforcement shall be through any of the Sanction options listed herein.

- (h) **Amendments.** The Board of Ethics may recommend amendments to this Article. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this Article.
- (i) **Officers.** At the first meeting of each fiscal year the Board of Ethics shall select from among its members a Chairperson and Vice-Chairperson.
- (j) **Rules of Procedure:** The Board of Ethics shall adopt rules of procedure governing how to conduct meetings and hearings. Such procedural rules are subject to confirmation or modification by the City Council.
- (k) **Removal:** The City Council may, by a vote of two-thirds (2/3), remove a member of the Board of Ethics for cause. Justifications warranting removal for cause shall include neglect of duty, incompetence, gross ignorance, inability or unfitness for duty, or disregard of the Code of Ordinances.

Sec. 2-278. Advisory Opinions

- (a) **Requests.** Any City Official may request an Advisory Opinion on a question of compliance with this Article. Requests shall be submitted in writing to the City Auditor, who shall assign the request to a Panel or Special Counsel.
- (b) **Issuance.** A Panel of the Board of Ethics shall issue Advisory Opinions upon request. Advisory Opinions shall be issued within thirty (30) days of receipt of the request. This time limitation is tolled and shall not run until the Board of Ethics is empaneled and its Rules of Procedure are confirmed by the City Council.
- (c) **Reliance.** It shall be an affirmative defense to a Complaint that the Respondent relied upon an Advisory Opinion. In making a determination on the proper disposition of a Complaint, the Board of Ethics may dismiss the Complaint if the Board finds that:
 - (1) the Respondent reasonably relied in good faith upon an Advisory Opinion;
 - (2) the request for an Advisory Opinion fairly and accurately disclosed the relevant facts; and
 - (3) less than five (5) years elapsed between the date the Advisory Opinion was issued and the date of the conduct in question.

Sec. 2-279. Complaints

- (a) **Complainants.** Any person who has first-hand knowledge that there has been a violation of Sections 2-272 and/or 2-273 of this Article may allege such violations by submitting a Complaint. The persons who may submit Complaints includes (but is not limited to) members of the Board of Ethics.
- (b) **Form.** Complaints shall be written on, or accompanied by, a completed form promulgated by the City Auditor.

- (c) **Contents.** A Complaint filed under this section must be in writing, under oath, must set forth in simple, concise, direct statements, and state:
- (1) the name of the Complainant;
 - (2) the street or mailing address, email address, and the telephone number of the Complainant;
 - (3) the name of each person Respondent of violating this Article;
 - (4) the position or title of each person Respondent of violating this Article;
 - (5) the nature of the alleged violation, including the specific provision of this Article alleged to have been violated;
 - (6) a statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and
 - (7) all documents or other material available to the Complainant that are relevant to the allegation.
- (d) **Violation Alleged.** The Complaint must state on its face an allegation that, if true, constitutes a violation of this Article.
- (e) **Affidavit.** 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 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.
- (f) **Limitations Period.** To be accepted, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Article. A Complaint will not be accepted more than two (2) years after the date of the act or omission. Notwithstanding the foregoing, nothing in this subsection shall be construed to extend the one (1) year limitation of activity applicable to Former City Officials. The time for filing a Complaint regarding an alleged violation of this Article where the alleged violation occurred after the Effective Date but before the Board of Ethics is empaneled shall be tolled and not begin to run until such time as the Board of Ethics is empaneled and its Rules of Procedure are confirmed by the City Council.
- (g) **Filing.** Complaints shall be submitted to the City Auditor. Submission of Complaints may be made by hand delivery, U.S. Mail, or email directed to an email address publicly listed by the City Auditor.
- (h) **Acceptance of Complaint.** Within five (5) business days of receiving a Complaint, the City Auditor shall determine if it is administratively complete and timely.
- (1) *Administratively Complete.* A Complaint is administratively complete if it contains the information described above. If the Complaint is administratively complete, the City Auditor shall proceed as described in this Article. If the

Complaint is incomplete, the City Auditor shall send a written deficiency notice to the Complainant identifying the required information that was not submitted.

The Complainant shall have ten (10) business days after the date the City Auditor sends a deficiency notice to the Complainant to provide the required information to the City Auditor, or the Complaint is automatically deemed abandoned and may not be processed in accordance with this Article. Within five (5) business days of a Complaint being abandoned, the City Auditor shall send written notification to the Complainant and the Respondent.

- (2) *Timely.* To be timely, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Article. A Complaint will not be accepted more than two (2) years after the date of the act or omission.
- (i) **Notification of Acceptance.** Within five (5) business days of determining that a Complaint is administratively complete and timely, the City Auditor shall send a written notification of acceptance and a copy of the complaint to the Complainant, the Respondent, and the City Attorney.

For purposes of this provision, a Complaint shall be considered Accepted when the City Auditor has deemed the submittal administratively complete and timely.

- (j) **Confidentiality.** A Complaint that has been submitted to the City is hereby deemed confidential until such time as the Complaint is either dismissed or placed on an agenda for consideration by the Board of Ethics in accordance with this Article. Clerical and administrative steps shall be taken to identify and manage confidential information in accordance with this Article. The confidentiality created by this Article includes the fact that a Complaint was submitted and the contents of that Complaint. It shall be a violation of this Article for a City Official to publicly disclose information relating to the filing or processing of a Complaint, except as required for the performance of official duties or as required by law. Requests for records pertaining to Complaints shall be responded to in compliance with the State law. The limited confidentiality created by this Article is limited in scope and application by the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code.
- (k) **Ex Parte Communications.** After a Complaint has been filed and during the pendency of a Complaint before the Board of Ethics, it shall be a violation of this Article:
 - (1) for the Complainant, the Respondent, or any person acting on their behalf, to engage or attempt to engage directly or indirectly about the subject matter or merits of a Complaint in *ex parte* communication with a member of the Board of Ethics or any known witness to the Complaint; or
 - (2) for a Member of the Board of Ethics, to knowingly allow an *ex parte* communication about the subject matter or merits of a Complaint, or to communicate about any issue of fact or law relating to the Complaint directly or indirectly with any person other than a Member of the Board of Ethics, the City Auditor's office, the City Attorney's office, or Special Counsel.

- (1) **Retaliation Prohibited.** After a Complaint has been filed, and during or after the pendency before the Board of Ethics, it shall be a violation of this Article:
 - (1) For a City Official, Former City Official, or Vendor to directly or indirectly discriminate against, harass, threaten, harm, damage, penalize, or otherwise retaliate against any person who:
 - (A) Files a complaint regarding an alleged violation of this Article, or
 - (B) Testifies, assists, or participates in any manner in a proceeding or hearing under this Article.
 - (2) The outcome of the original ethics complaint shall not be deemed relevant to the complaint of retaliation itself.

Sec. 2-280. Preliminary Assessment

- (a) **Referral to Chairperson.** Accepted Complaint(s) shall be referred to the Chairperson of the Board of Ethics within five (5) business days of being determined administratively complete.
- (b) **Assignment of Panel.** Within five (5) business days of receiving an Accepted Complaint, the Chairperson of the Board of Ethics shall assign the Complaint to a Panel for Preliminary Assessment. Board members who have previously submitted an Ethics Complaint against the Respondent in a Preliminary Assessment shall not be assigned to the Panel unless a majority of the Board members have previously submitted an Ethics Complaint against the Respondent. The Chairperson shall order a meeting of the Panel, which shall be conducted in compliance with the Texas Open Meetings Act. Each Panel shall select a Presiding Officer to conduct Panel deliberations.
- (c) **Panel Determination.** Within ten (10) business days of being assigned an Accepted Complaint, the Panel shall review the Complaint on its face and determine whether the Complaint is:
 - (1) *Actionable:* the allegations and evidence contained in the Complaint, if true, would constitute a violation of this Article.
 - (2) *Baseless:* the allegations and evidence contained in the Complaint, if true, would not constitute a violation of this Article.

Actionable Complaints shall be returned to the Chairperson for listing on an agenda for a public hearing to be held within thirty (30) calendar days of a Panel's Actionable determination. Baseless Complaints shall be dismissed. Written notification of the Panel's determination shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Written notifications of dismissal shall include notice of the right to appeal.

- (d) **Recommendation to Determine Frivolity.** Before filing notification of its determination, the Panel may consider recommending a hearing first be held to determine

if an Accepted Complaint is frivolous. Written notification of the Panel's recommendation to hold a hearing to determine frivolity shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Hearings to determine frivolity shall be held within thirty (30) calendar days of a Panel's recommendation.

- (e) **Appeals.** A Panel's preliminary assessment under this Section 2-280 may be appealed to the Board of Ethics by either the Complainant or the Respondent, as applicable. An appeal shall be perfected by filing a written notice of appeal with the City Auditor within ten (10) business days of the date of the written notification.

Sec. 2-281. Meetings

- (a) **Calling Meetings.** Meetings of the Board of Ethics shall be called upon request of the Chairperson, three (3) members, or the City Auditor.
- (b) **Quorum.** The quorum necessary to conduct meetings of the Board of Ethics shall be four (4). The Chairperson (or acting chairperson) shall count toward the establishment of a quorum and retains the right to vote.
- (c) **Hearings:**
 - (1) *Scheduling:* Hearings shall be scheduled by the City Auditor upon the filing of:
 - (A) a Panel determination that a Complaint is Actionable;
 - (B) an Appeal challenging a Panel's dismissal of a Complaint as Baseless; or
 - (C) a Panel recommendation that a hearing be held to determine if an Accepted Complaint is Frivolous.
 - (2) *Purpose:* The purpose of the hearing(s) shall be solely to determine whether:
 - (A) a violation of this Article occurred, and if so to assess the appropriate sanction;
 - (B) an Accepted Complaint was erroneously dismissed as Baseless by a Panel; and/ or
 - (C) an Accepted Complaint is Frivolous.
 - (3) *Sworn Testimony:* All witness testimony provided to the Board of Ethics shall be under oath.

~~(4) *Burden of Proof:* Because the burden of showing that a violation of this Article occurred is placed on the Complainant, it is the Complainant that has the obligation to put forth evidence, including testimony, supporting the Complaint. The Complainant is required to testify at the hearing unless it is held to determine if an Accepted Complaint is frivolous. A Complainant's failure to testify at a hearing,~~

~~other than a hearing to determine frivolity, shall be grounds for dismissal of a Complaint.~~

~~(5)~~(4) *Representation:* The Respondent shall have a right to present a defense. Both the Complainant and the Respondent have a right to be represented by legal counsel or another representative.

- (d) **Open Meetings.** All meetings and hearings of the Board of Ethics, including Panel deliberations, shall be conducted pursuant to the Texas Open Meetings Act. The Board of Ethics may convene in Executive Session (i.e., conduct a closed meeting) as allowed by the Act. All final actions of the Board of Ethics shall take place in open session.
- (e) **Postponement in Certain Instances.**
 - (1) *Board:* Proceedings may be postponed upon majority vote by the members of the Board of Ethics.
 - (2) *Parties:* The Complainant and the Respondent are each entitled to one (1) postponement without cause. Additional postponements shall be solely for good cause and at the discretion of the Board of Ethics.
 - (3) *Criminal Proceedings:* If a Complaint alleges facts that are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the Board of Ethics may, when a majority of its members deem appropriate, postpone any hearing or any appeal concerning the Complaint until after the criminal investigation or criminal proceedings are terminated.

Sec. 2-282. Disposition

- (a) **Dismissal.** If the Board of Ethics determines at the conclusion of a hearing by simple majority vote of its members that a Complaint should be dismissed, it may do so upon finding:
 - (1) the Complaint is Baseless;
 - (2) the alleged violation did not occur;
 - (3) the Respondent reasonably relied in good faith upon an Advisory Opinion, as provided in this Article; or
 - (4) the Complainant failed to testify at the hearing.
- (b) **Sanctions.** If the Board of Ethics determines by simple majority vote of those present and voting at the conclusion of a hearing that a violation has occurred, it may within ten (10) business days impose or recommend any of the following sanctions:
 - (1) *Letter of Notification.* If the violation is clearly unintentional, or when the Accuser's action was made in reliance on a written Advisory opinion, a letter of notification shall advise the Respondent of any steps to be taken to avoid future violations.

(2) *Letter of Admonition.* If the Board of Ethics finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notification.

(3) *Letter of Reprimand.* If the Board of Ethics finds that the violation:

(A) was minor and was committed knowingly, intentionally, or in disregard of this Article; or

(B) was serious and may have been unintentional.

(4) *Recommendation of Suspension.* If the Board of Ethics finds that a violation was committed by a member of the Planning & Zoning Commission, Zoning Board of Adjustment, Board of Ethics, Public Utilities Board, Historic Landmark Commission, or a Department Head, and it:

(A) was serious and was committed knowingly, intentionally, or in disregard of this Article or a state conflict of interest law; or

(B) was minor but similar to a previous violation by the Person, and was committed knowingly, intentionally or in disregard of this Article.

The final authority to impose a suspension rests with the City Council.

(5) *Ineligibility.* If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

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

(c) **Frivolous.**

(1) *Prohibition.* It is a violation of this Article for a Person to submit a Frivolous Complaint.

(2) *Hearing.* A hearing shall be scheduled on frivolity if the Preliminary Panel recommends an Accepted Complaint first be considered for frivolity. The Complainant is not required to testify at a hearing to determine if their submitted Complaint is frivolous.

(3) *Super-Majority Vote.* If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds (2/3) of its Members that a Complaint was Frivolous, the Board may impose a sanction as provided by Section 2-282(b).

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

(4) *Factors.* In making a determination on frivolity, the Board of Ethics shall consider the following factors:

- (A) the timing of the sworn Complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, and with respect to the date of any pending election in which the Respondent is a Candidate or is involved with a candidacy, if any;
 - (B) the nature and type of any publicity surrounding the filing of the sworn Complaint, and the degree of participation by the Complainant in publicizing the fact that a Complaint was filed;
 - (C) the existence and nature of any relationship between the Respondent and the Complainant before the Complaint was filed;
 - (D) if the Respondent is a Candidate for Election to Office, the existence and nature of any relationship between the Complainant and any Candidate or group opposing the Respondent;
 - (E) any evidence that the Complainant knew or reasonably should have known that the allegations in the Complaint were groundless; and
 - (F) any evidence of the Complainant's motives in filing the Complaint.
- (5) *External Remedies.* Complainants who submit Frivolous Complaints are hereby notified that their actions may subject them to criminal prosecution for perjury (criminal prosecution), or civil liability for the torts of defamation or abuse of process.

Sec. 2-283. Reconsideration

The Complainant or Respondent may request the Board of Ethics to reconsider its decision. The request must be filed with the City Auditor within five (5) business days of receiving the final opinion of the Board of Ethics. The request for reconsideration shall be sent to the Chairperson of the Board of Ethics and the non-filing party (Complainant or Respondent). If the Chairperson finds, in the Chairperson's sole discretion, that the request includes new evidence that was not submitted at a prior hearing, and that the new evidence bears directly on the Board of Ethics's previous determination, the Chairperson shall schedule a hearing on the request for reconsideration to occur within thirty (30) business days after filing with the City Auditor. Absent new evidence, the Chairperson shall unilaterally dismiss the request for reconsideration and provide notice to the Parties.

Sec. 2-284. Nepotism

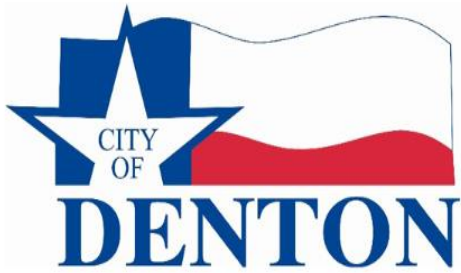
- (a) **City Council.** No Person shall be employed by the City who is a relative of any member of the City Council within the third (3rd) degree of affinity or consanguinity.
- (b) **Preexisting Employment.** The prohibitions of this Section do not apply to a Person who was employed by the City more than six (6) months prior.

|

Sec. 2-285. General Procedural Matters

- (a) **Deadlines.** Any deadline provided in this Article shall be construed as expiring at 5:00 p.m. local time on the last day.
- (b) **Mailbox Rule.** Under this Article, a deadline for any response or request for appeal is met when the date the response or request for appeal is mailed falls within the timeline requirements of this Article. The posted date of any mailing will control whether it meets the timeline requirements of this Article.

Sec. 2-286. Lobbyists [*reserved*]



Rules of Procedure for Conducting Meetings & Hearings

City of Denton, Texas
Board of Ethics

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DRAFT

**CITY OF DENTON
BOARD OF ETHICS**

**RULES OF PROCEDURE FOR
MEETINGS & HEARINGS**

A. GENERAL

1. CONFIDENTIALITY

The City of Denton shall strive to maintain a level of confidentiality during the preliminary phases of processing Complaints in order to avoid unduly tarnishing of peoples' reputations while striving to provide due process. Confidentiality shall be limited by law, including the Texas Public Information Act.

Under the Code of Ethics, a Complaint submitted to the City is confidential until it is either dismissed or placed on an agenda subject to Code of Ethics Section 2-279(i).

The Board of Ethics shall maintain the confidentiality of any document it receives that is categorized as being subject to common law privacy as defined by Section 552.101 of the Texas Government Code; trade secrets, audit working papers, certain commercial or financial information as defined by Section 552.110 of the Texas Government Code; confidentiality of certain private communications of elected officers as defined by Section 552.109 of the Texas Government Code; and all other information considered confidential and protected under the Texas Public Information Act or other law, as applies to Section 552.022 of the Government Code.

Code of Ethics §2-279(j),(i).

2. EX PARTE

The Complainant and the Respondent are prohibited by the Code of Ethics from communicating (directly or indirectly) about the subject matter or merits of the Complaint, or any issue of law or fact about a Complaint, with the Board, any of its members, or witnesses identified in the Complaint (or filed supplements). Similarly, the Board is prohibited from communicating about the subject matter or merits of a Complaint, or any issue of law or fact about a Complaint with the parties or other persons (except for members of the Board, the City Auditor's Office, City Attorney's Office, or Special Counsel).

3. AMENDMENTS

The Board of Ethics may recommend amendments to City of Denton Code of Ordinances, Chapter 2, Article XI, or to its own Rules of Procedure to the City Council by a simple majority vote.

Code of Ethics §2-279(k).

B. MEETINGS

1. **Calling Meetings.** Board meetings shall be called by the Chairperson, or upon request of three (3) board members, or the City Auditor, at least annually.
2. **Call to Order.** The Chairperson shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the board is present. The quorum is four (4) board members, which can include the Chairperson.
3. **Open Meetings.** Board meetings shall be conducted in compliance with the Texas Open Meetings Act.
4. **Participation.** Public comment may be provided at regular meetings of the Board of Ethics on any matter of concern to the Board of Ethics during the public comment period designated on the meeting agenda. Up to five (5) speakers are permitted to provide public comment at each meeting, and each speaker shall speak for no more than three (3) minutes. Additionally, during a regular meeting of the Board of Ethics, any citizen or interested person may comment on a specific item posted on the agenda for final action. Each speaker on a specific agenda item shall speak for no more than three (3) minutes per item. Individuals may sign up to provide public comment or to comment on a specific agenda item by filling out the sign-up sheet at the location of the meeting immediately before the meeting begins.
5. **Adjournment.** Meetings of the Board may be adjourned by the Chairperson's initiative or upon vote of a majority of the members.
6. **Alternate Members.** Alternate members of the Board of Ethics shall attend meetings only upon request by the City Auditor's Office. The role of an alternate is to participate in meetings of the Board of Ethics as a replacement for a regular member who is absent or abstaining.
7. **Notice of Absence or ~~Abstention~~Abstainment.** Upon receipt of an agenda for meeting or hearing, each member of the Board shall immediately (within twenty-four (24) hours) inform the City Auditor if the member is planning to: (a) not attend; or (b) abstain from participation. The matter of determining which alternate shall be designated to attend a hearing shall be at the discretion of the Chairperson.

Code of Ethics §2-281, §2-277(g).

C. ADVISORY OPINION

1. **Assignment.** The City Auditor shall refer requests to either a Panel or to Special Counsel as follows:
 - (a) If a request is received more than ten (10) business days before deliberation of the Pending Matter, the City Auditor shall assign it to a Panel;

- (b) If a request is received more than five (5) business days before deliberation of the Pending Matter, the City Auditor shall assign it to a Panel or Special Counsel if a Panel cannot be formed at least five (5) business days before deliberation of the Pending Matter;
- (c) If a request is received less than five (5) business days before deliberation of the Pending Matter, the City Auditor shall inform the City Official that the Advisory Opinion cannot be issued prior to deliberation and at which point the City Official may choose to withdraw the Advisory Opinion request. If a request is withdrawn the City Auditor shall provide information about the prohibitions of Sec. 2-273 and report the withdrawal to the Board of Ethics at the next regular meeting.

Panels shall be designated by the Chairperson consisting of three (3) board members on a rotating basis. Three (3) board members must be in attendance.

- 2. **Calling Meetings.** Panel meetings shall be called by the City Auditor.
- 3. **Open Meetings.** Panel meetings shall be conducted in compliance with the Texas Open Meetings Act.
- 4. **Notice.** The City Auditor shall send a written notification of the Panel meeting to the requesting City Official at least five (5) calendar days prior.
- 5. **Participation.** While the requesting City Official and other persons may attend the meeting, no testimony or public comments will be accepted.
- 6. **Scope.** When assembled, Panels shall respond to a request for an Advisory Opinion by issuing written guidance regarding how the Code of Ethics applies (if at all) to a particular situation or behavior. The opinion may contain conclusions and / or recommendations.
- 7. **Basis of Opinion.** A Panel's opinion shall be limited to the facts presented in writing by the requestor. No additional material will be considered. The opinion shall reflect the majority position of the Panel.
- 8. **Deadline.** A Panel must issue its Advisory Opinion within thirty (30) days of the City Auditor's receipt of the request.

Code of Ethics §2-278.

D. PRELIMINARY ASSESSMENTS

- 1. **Assignment.** The Chairperson shall designate panels consisting of three (3) board members on a rotating basis. Board members who have previously submitted an Ethics Complaint against the Respondent in a Preliminary Assessment shall not be assigned to the Panel unless a majority of the Board members have previously submitted an Ethics Complaint against the Respondent.
- 2. **Calling Meetings.** Panel meetings shall be called by the Chairperson.

3. **Open Meetings.** Panel meetings shall be conducted in compliance with the Texas Open Meetings Act.
4. **Notice.** The City Auditor shall send a written notification of the Panel meeting to the Complainant, the Respondent, and the City Attorney at least five (5) calendar days prior.
5. **Participation.** While the Complainant, the Respondent, and other persons may attend the meeting, no testimony or public comments will be accepted.
6. **Scope.** When assembled, Panels shall determine if a Complaint is Actionable or Baseless, as defined by the Code of Ethics.
7. **Basis.** A Panel's review is limited to the contents of the Complaint which includes all additional documents, hyperlinks, video, and audio submitted along with the original Ethics Complaint Form. The Panel may consider whether the action(s) alleged within the contents of the Complaint are a violation of any provision of the Ethics Ordinance, regardless of a provision specified by the Complainant. No extraneous information may be considered, unless the Panel wishes to review information as part of a consideration of the accuracy of the statements made in the Complaint in conjunction with the making of a recommendation that a hearing be first held on an accepted Complaint to determine if it may be frivolous.

Code of Ethics §2-280.

E. HEARINGS

1. Preliminary Hearing

If a Complaint proceeds to a hearing, the Board of Ethics may conduct a preliminary hearing to:

- (a) issue a subpoena requesting the production of data or other evidence from a City Official needed for the performance of the board's duties and including the board's exercise of its powers of investigation., subject to Section E(11) of these Rules.

(b) rule on any procedural requests from the parties, such as Motions for Continuance.

(b)(c) Request additional evidence be produced by the Complainant or Respondent. Within three (3) calendar days of the Preliminary Hearing, the City Auditor shall send requests for additional evidence to the Complainant and Respondent. The City Auditor shall be available to facilitate the submission of an Open Records Request.

2. Evidentiary Hearing

If a Complaint proceeds to a hearing, the Board of Ethics may:

- (a) allow witnesses to attend and testify;

- (b) admit evidence; and
- (c) make determinations.

3. Scheduling / Calling

Hearings shall be scheduled by the City Auditor upon the filing of:

- (a) a Panel determination that a Complaint is Actionable;
- (b) an Appeal challenging a Panel's dismissal of a Complaint as Baseless; or
- (c) a Panel recommendation that a hearing be held to determine if an Accepted Complaint is Frivolous.

The City Auditor shall send a written notification of the hearing to the Complainant, the Respondent, and the City Attorney at least seven (7) calendar days prior.

Code of Ethics §2-281(c).

4. Purpose

The purpose of evidentiary hearing(s) shall be solely to determine whether:

- (a) a violation of the Code of Ethics occurred, and if so to assess the appropriate sanction;
- (b) an Accepted Complaint was erroneously dismissed as Baseless by a Panel; and/ or
- (c) an Accepted Complaint is Frivolous.

5. Authority of Chair

The Chair will control discussion at all times so that only one (1) person speaks at a time. The Chair will enforce these rules through the following measures:

- (a) by calling a person to order, advising them of the rules and requesting compliance;
- (b) by ending a person's opportunity to speak on an agenda item; and/or
- (c) by ordering a person to leave a meeting and barring the person's presence during the remainder of the meeting.

The Chair may reasonably extend time limits provided under these rules, either at their own discretion or by a simple majority vote of the Board. At the expiration of a party's time, the chair shall ask the party if they feel they have had a full and fair hearing, and if they feel they have had an opportunity to present all of the relevant evidence and testimony in their hearing.

6. Call to Order

The Chairperson shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the board is present. The chair shall identify the Complaint being considered by the board.

7. Recusals

At any point prior to the commencement of deliberations, members of the Board can recuse themselves. It is preferred that recusals be communicated to the Chairperson prior to a hearing so that alternate members can be designated. Grounds for recusal shall include prohibitions listed in City of Denton Code of Ordinances, Chapter 2, Article XI, Section 2-273(a) (Conflicts of Interest), or any other ethical basis deemed compelling by the recusing member. Board members shall recuse themselves if the City Council member who nominated them is a party to a Complaint pending before the Board member.

8. Enter Appearance of the Parties

The Chairperson shall call the parties to announce if they are present. ~~If the Complainant is not present, the Chairperson shall dismiss the Complaint, close the hearing, and issue a Letter of Dismissal unless the hearing is being held to determine if an Accepted Complaint is frivolous.~~

9. Procedural Request

All procedural motions that the Complainant or person charged in the complaint wishes the board to consider at the evidentiary hearing must be filed with the City Auditor's Office at least four (4) calendar days prior to the evidentiary hearing. The board shall determine whether to grant requests that had not been submitted in time for the Preliminary Hearing.

Within one (1) business day after receipt, the City Auditor's Office will promptly forward the procedural motions to the board members, the city attorney's office, and the opposing party.

In addition to other procedural matters, the board may consider a request for a reset or continuance of a hearing. The board may also, on its own motion, reset or continue a hearing. At the beginning of the hearing, the board will consider and rule upon any such request and procedural motions.

10. Evidence & Witnesses

No later than by seven (7) calendar days prior to the hearing, the Board of Ethics shall in writing request the parties to submit to it the identities of their witnesses, briefly describing the matter each will be expected to testify about, and any sworn statements and documentary evidence they desire to be considered. The parties shall submit their aforementioned evidence to the City Auditor within the time specified in the notice (that being no less than four (4) calendar days prior to the hearing), who shall forward to the parties, Board members and the City Attorney no less than three (3) calendar days prior to the hearing.

11. Subpoena

Periodically, the need for additional information may be needed when considering a Complaint. The Board of Ethics has the authority under the Code of Ethics to issue subpoenas for witnesses and/or records in furtherance of its investigatory and enforcement power under the Code. When deemed necessary by simple majority, the Board may issue subpoenas to City Officials compelling their attendance and/or their production of data or other evidence deemed relevant to the pending Complaint. The scope of the Board's authority to subpoena records is limited to those under the direct control and in possession of City Officials. Subpoenas will not be issued for persons who would serve as character witnesses. The subpoena shall be on a form provided by the City Auditor's Office. Service of subpoenas shall be by the City Auditor's Office.

The Board may consider a party's failure to comply with a subpoena in its deliberations and/or exclude evidence related to the subject matter of the subpoena offered by the party which fails to comply.

A record subpoenaed and produced under the Code of Ethics (as provided by the City Charter) that is otherwise privileged or confidential by law remains privileged or confidential and shall not be released to the public unless release is ordered by the Attorney General's office in a ruling issued pursuant to Section 552.306 of the Texas Government Code or a court of competent jurisdiction.

At the conclusion of all proceedings regarding a Complaint, records subpoenaed and produced that are otherwise privileged or confidential by law shall be returned to the producing source and all copies shall be destroyed in accordance with the City's Records Retention Schedule.

Code of Ethics §2-277(h).

12. Exhibits

All exhibits submitted by the parties shall be numbered sequentially. Complainant's exhibits shall be pre-marked with the letter "C" followed by a dash, followed by a number; for example, "C-1". The Respondent's exhibits shall be pre-marked with the letter "AR," followed by a dash, followed by a number, for example "AR-1".

13. Decorum

Speakers must confine their remarks to the subject under discussion. Personal attacks and remarks are prohibited.

14. Sworn Testimony

Each witness before testifying at the final hearing shall be duly sworn by the Chair or Presiding Member.

Code of Ethics §2-281(c)(3).

15. Order of Presentations

~~Complainant shall open the presentation of the evidence and argument. Respondent may then elect to present evidence and argument in response to the evidence presented to support its defense but will not be required to do so. Complainant shall be permitted to present rebuttal evidence on any defense raised in Respondent's case presentation.~~

156. Opening Statement

Before presenting any evidence, each party ~~shall~~may present their positions with an initial statement in a narrative form including a summary of documents and witness testimony to be presented. Initial statements shall not exceed three (3) minutes. Complainant shall go first.

176. Presentation of Evidence

The parties may offer such evidence as is relevant and material to the complaint or any defense. All exhibits submitted in advance of the final hearing shall be admitted at the start of final hearing except those that the Board finds, after objection by a party, to be inadmissible as hearsay or speculative. Parties are restricted to evidence submitted in the board packet except if good cause is shown and granted by the majority of the Board members present.

If the parties choose to offer evidence and argument, the Complainant shall open the presentation. Respondent may then elect to present evidence and argument in response to the evidence presented to support its defense but will not be required to do so. Complainant shall be permitted to present rebuttal evidence on any defense raised in Respondent's case presentation if Complainant initially chose to present evidence and argument.

178. Witness Testimony

Parties may proffer testimony of their witnesses if the witness is present and available for further examination, if needed. Testimony of witnesses at hearing shall be in question and answer format. Opposing parties shall be permitted to cross-examine the witnesses. Members of the Board may question witnesses, subject to reasonable time limits imposed by the Chair. Questioning by the Board shall not count against a party's allotted time.

198. Representation

The parties may be accompanied or represented by legal counsel or another representative. A party's representative may present evidence and conduct examination of witnesses. A party's representative may not testify on behalf of a party. If a party designates a representative to present evidence on the party's behalf, then only the representative may present evidence at the hearing (i.e., the party cannot also present evidence) (e.g., A witness offered by the Complainant can be questioned by the Complainant, or the Complainant's representative, but not both). Nothing herein relieves the Complainant of the obligation to testify.

2019. Time Limitations

The parties shall be permitted thirty (30) minutes per side to present all their witness testimony, cross-examine opposing witnesses, and present documentary evidence unless otherwise modified by the Board.

210. Closing Statements

Each party shall be permitted five (5) minutes to make a closing statement summarizing what they believe the evidence at the final hearing proved or failed to prove. Complainant shall go first. Of the five (5) minutes allotted for closing, the Complainant may reserve a portion of that time to provide a rebuttal.

221. Closing of Hearing

Upon expiration of the timelines allotted and being satisfied that the record is complete, the Chairperson shall declare the hearing closed. If additional evidence is required, the Chairperson may seek to continue the hearing.

232. Executive Session

The Board can go into executive session (i.e., conduct a closed-door meeting) at any point during a meeting or hearing in accordance with the Texas Open Meetings Act, pursuant to Texas Government Code § 551.071 (Consultation with Attorney), and/or § 551.074 (Personnel Matters). However, all decisions must be made in open session.

243. Deliberations

Upon the closing of a public hearing, the Board shall conduct deliberations. During deliberations, the Board may discuss the Complaint, any evidence and testimony that was submitted, and the opinions of the Board members about the credibility of the information before the Board, and the applicability of the Code of Ethics. Deliberations may be in open or closed session, but all decisions must be made in open session.

254. Reliability of Evidence

The Board shall rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs. The amount of weight given to any evidence or testimony shall solely be at the discretion of the Board.

26. Burden of Proof

~~Because the burden of showing that a violation of the Code of Ethics occurred is placed on the Complainant, it is the Complainant that has the obligation to put forth evidence, including testimony, supporting the Complaint. The Complainant is required to testify at the hearing unless it is held to determine if an Accepted Complaint is frivolous. A Complainant's failure to testify at a hearing, other than a hearing to determine frivolity, shall be grounds for dismissal of a Complaint.~~

~~Code of Ethics §2-281(c)(4).~~

275. Determinations

Upon conclusion of deliberations, the Chairperson shall call for a motion. All votes will be voice vote, with the option for any member to request a roll call vote at any time.

If at any point during any proceeding or hearing of the Board, the Board determines that the complaint was erroneously accepted because it was filed more than two (2) years after the date of the act or omission (unless tolled pursuant to the ordinance), the Board shall dismiss the complaint and the Chairperson shall issue a Letter of Dismissal.

The Board is obligated to render its decision (i.e., imposing or recommending a sanction) within ten (10) business days after the conclusion of a hearing at which the Board determined that a violation occurred.

The dismissal of a Complaint for any other reason must be communicated by the Chairperson in a Letter of Dismissal which sets forth the reasons for the dismissal.

Code of Ethics § 2-282(b).

268. Reconsideration

Requests for reconsideration shall follow the procedure established in City of Denton Code of Ordinances, Chapter 2, Article XI, Section 2-283.



City of Denton

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

Legislation Text

File #: BOE24-013, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and take necessary action regarding forwarding proposals to amend City of Denton Code of Ordinances Chapter 2, Article XI (Ethics) and the Board of Ethics Rules of Procedure to the City Council.

[Estimated Presentation/Discussion Time: 15 minutes]



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Board of Ethics
CITY AUDITOR: Madison Rorschach
DATE: March 4, 2024

SUBJECT

Receive a report, hold a discussion, and take necessary action regarding forwarding proposals to amend City of Denton Code of Ordinances Chapter 2, Article XI (Ethics) and the Board of Ethics Rules of Procedure to the City Council.

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

During the last year, the Board of Ethics has reviewed the City of Denton's Ethics Ordinance and the Board's Rules of Procedure. During this time, the Board has developed 2 proposals to amend the Ethics Ordinance and Board of Ethics Rules of Procedure as outlined in Exhibit 2. In addition, one minor verbiage changes are recommended as a cleanup item.

During the October 2, 2023, February 5, 2024, and March 4, 2024 meetings of the Board of Ethics draft language for each proposal has been presented and accepted by the Board of Ethics. This draft language, as accepted by the Board of Ethics, will be included along with Exhibit 2 when the packet of proposed amendments is forwarded to the City Council for review and potential adoption.

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 Amended by City Council to eliminate Member experience requirements
Jul. 19, 2022: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations
Jul. 18, 2023: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations
Dec. 12, 2023: Ethics Ordinance Amended by City Council to eliminate Alternate Members

EXHIBITS

1. Agenda Information Sheet
2. Letter of Proposed Amendments

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

June 4, 2024

Denton City Council
2015 E. McKinney Street
Denton, Texas 76201

Honorable Members of the City Council,

The Board of Ethics has met and approved the attached packet of amendments during five meetings over the last year. During these meetings, the Board approved two proposals to amend the Ethics Ordinance, which are briefly outlined below:

1. Repeal and replace Ethics Ordinance Sec. 2-273 (a) Conflicts of Interest.

Primarily, this proposal expands the applicability of the Conflict of Interest section from only requiring recusal from specific votes (i.e., Pending Matters) to prohibiting a City Official to taking any action, failing to act, or influencing someone to act or fail to act, if they know or believe it may result in a Personal Benefit or Financial Benefit for the following persons or entities:

- Themselves;
- A member of their household including a Domestic Partner, and their dependents, or the employer or business of these people;
- Certain Relatives (as redefined) of themselves, their spouse, or their Domestic Partner, or the employer or business of these people; or
- A person with whom the City Official has a financial or business relationship as exemplified in the attached redlines.

In addition, it retains the requirement to file an affidavit with the City Auditor if the City Official must withdraw from participation due to a Conflict of Interest and creates a requirement to notify the appropriate individual or body if the City Official must withdraw from participation due to a Conflict of Interest.

2. Eliminate Sec. 2-281 (c) (4) Burden of Proof, including amending the Board of Ethics' Rules of Procedure to adjust Evidentiary Hearing procedures to reflect the elimination of the requirement for the Complainant to testify at an evidentiary hearing.

Primarily, this proposal eliminates the current requirement for the individual who submits an Ethics Complaint (i.e., the Complainant) to attend and testify at an evidentiary hearing held to determine if a violation of the Ethics Ordinance has occurred. Changes to the Board of Ethics' Rules of Procedure are also included in this proposal to allow for this change.

OUR CORE VALUES

Integrity • Fiscal Responsibility • Inclusion • Transparency • Outstanding Customer Service

In addition, the packet of proposed amendments includes the following minor verbiage change for clarity:

- Clarify Sec. 2-281 Meetings subsection (c) Hearings that “both the Complainant and Respondent [of an Ethics Complaint] have a right to be represented by legal counsel or another representative” as stated in the Rules of Procedure.

The proposed language changes can be seen in:

- Exhibit 3 – Redlined Ethics Ordinance
- Exhibit 4 – Redlined Board of Ethics Rules of Procedure

Respectfully submitted,

Annetta Ramsay
Chair, Board of Ethics

CC:
Mack Reinwand, City Attorney
Sara Hensley, City Manager,
Madison Rorschach, City Auditor



City of Denton

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

Legislation Text

File #: BOE24-014, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding the definition of Complainant as it relates to the City of Denton Code of Ordinances Chapter 2, Article XI (Ethics).

[Estimated Presentation/Discussion Time: 30 minutes]



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Board of Ethics

CITY AUDITOR: Madison Rorschach

DATE: March 4, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding the definition of Complainant as it relates to the City of Denton Code of Ordinances Chapter 2, Article XI (Ethics).

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

During the February 5, 2024 meeting, the Board of Ethics gave staff direction to place on a future agenda an item to discuss the way Complainant is defined in the City's Ethics Ordinance.

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 Amended by City Council to eliminate Member experience requirements

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

Jul. 18, 2023: Ethics Ordinance Amended by City Council based on Board of Ethics Recommendations

Dec. 12, 2023: Ethics Ordinance Amended by City Council to eliminate Alternate Members

EXHIBITS

1. Agenda Information Sheet

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



City of Denton

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

Legislation Text

File #: BOE24-015, **Version:** 1

AGENDA CAPTION

Management Reports

1. City Council Candidate Letter (Financial Disclosures Information)
2. February 2024 Advisory Opinion Responses Report

[Estimated Presentation Discussion Time: 5 minutes]



CANDIDATE LETTER MAY 4, 2024 GENERAL ELECTION CITY COUNCIL PLACES 5, 6, and 7 (MAYOR)

January 2, 2024

This Candidate Packet is prepared to acquaint candidates with applicable City regulations, as well as State and local legal requirements related to running for City Council. The packet contains much information but is not all-inclusive of the laws governing elections. Therefore, we recommend you familiarize yourself with information provided in this packet and contact the noted authority should you have any questions. Contact information for those authorities listed is provided later in this letter (Candidate Packet, Section 1).

ELECTION DAY, RESIDENCY AND QUALIFICATIONS

On Saturday, May 4, 2024, qualified residents of Denton will elect members to the Denton City Council for Places 5, 6, and 7 (Mayor). The specific requirements for each District are the following:

- Shall have domiciled for at least one year next preceding his or her election within the corporate limits of Denton, shall continuously be domiciled within the corporate limits of Denton, and as follows when seeking office for the particular seat noted below:
 - If running for Mayor (Place 7), may reside anywhere in the City for at least one year preceding his or her election and throughout the term of office.
 - If running for At-Large Place 5, must reside in Districts 1 or 2 for at least one year preceding his or her election and throughout the term of office.
 - If running for At-Large Place 6, must reside in Districts 3 or 4 for at least one year preceding his or her election and throughout the term of office.

Additional qualifications are as follows:

- Be a United States citizen.
- Be a registered voter of the city at the time of filing for office.
- Be 18 years of age or older on or before the first day of the term in which they are elected.
- Have not been determined mentally incompetent by a final judgment of a court.
- Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.
- Not be in arrears in the payment of any taxes or other liabilities due the City of Denton.
- Have resided continuously in Texas on or before one year preceding the filing deadline.
- Shall have and maintain the eligibility requirements for municipal officers set forth in Section 141.001 of the Texas Election Code, Vernon's Texas Civil Statutes Annotated hereinafter referred to as "Election Code" as it may now read or hereafter be amended.
- Shall not hold any other public office of emolument.
- If a member of the council shall, after being elected, cease to possess any of the above-noted qualifications or eligibility requirements, or shall hold another office of emolument, or enter a plea of guilty to a felony, or be convicted of a felony, he or she shall immediately forfeit his or her office.

Article II (THE COUNCIL) of the Denton City Charter (excerpt provided) contains information relative to City Council composition, roles and responsibilities. A full version of the City Charter can be found on the City's [website](#). (See Candidate Packet, Section 2)



Article III (NOMINATIONS AND ELECTIONS) of the Denton City Charter (excerpt provided) covers the annual order/regulation of elections, application for candidacy and runoff elections. A full version of the City Charter can be found on the City's [website](#). (See Candidate Packet, Section 3)]

IMPORTANT DATES/CALENDAR

- **CANDIDATE ELECTION CALENDAR OF IMPORTANT DATES** – City Secretary's Office
[Provides important dates related to the May 4, 2024 General Election. (See Candidate Packet, Section 4)]
- **DRAWING FOR BALLOT POSITION** – City Secretary's Office
[The Texas Election Code requires the order in which candidates are listed on the ballot be determined by a drawing. The drawing will be held at 11:00 a.m., **Monday, February 26, 2024**, in the City of Denton Council Chamber, [215 E. McKinney](#). The candidate or their representative may draw for the ballot position. If a candidate or representative is not at the drawing, the city secretary will draw on behalf of the candidate. An additional notification will be sent as the date draws near. Staff will also be providing a presentation covering political signs.]

CANDIDACY

- **CONDUCT OF VOTING GENERALLY** – Texas Election Code, Title 6, Chapter 61 – Secretary of State
[Provides information on expected conduct during the election process. (See Candidate Packet, Section 5)]
- ***APPLICATION FOR A PLACE ON THE CITY OF DENTON GENERAL ELECTION BALLOT AND INSTRUCTIONS*** – Secretary of State
[The Application must be signed before a Notary Public and be accurately completed in its entirety. Notary Public services are available from the City Secretary's Office at no cost. As the Application is a sworn document, it cannot be changed once filed. Formal review of the Application and conformance with the requirements set forth earlier will be conducted after its submission. (See Candidate Packet, Section 6)]

Also included are the following:

- Texas Government Code, Title 9, Chapter 143 (Candidate for City Office). (See Candidate Packet, Section 7)
- Texas Government Code, Title 5, Chapter 573 (Degrees of Relationship; Nepotism Prohibition). (See Candidate Packet, Section 8)
- Related Consanguinity and Affinity Relationship Chart. (See Candidate Packet, Section 9)]
- ***FILING PERIOD FOR APPLICATION FOR A PLACE ON THE DENTON GENERAL ELECTION BALLOT*** - Secretary of State
[Applications may be filed in person, by mail, by fax, or by email. The first day to file for office is 8 a.m., **Wednesday, January 17, 2024**. The last day to file for office is 5 p.m., **Friday, February 16, 2024**. Candidates are encouraged to apply well before the deadline to allow sufficient time to address any filing deficiencies that may be identified during the formal review period. (See Candidate Packet, Section 10)]
 - **Filing in Person:** Denton City Hall, City Secretary's Office, [215 E. McKinney](#), between the hours of 8 a.m. and 5 p.m. during the entire filing period.
 - **Filing by Mail:** Denton City Hall, City Secretary's Office, [215 E. McKinney](#), Denton, TX 76201. **An application by mail is considered to be filed at the time of its receipt by the City Secretary's Office.**
 - **Filing by Fax:** (940)349-8596 – Application must already be signed, sworn/notarized.
 - **Filing by Email:** City.Secretary@cityofdenton.com – Application must already be signed, sworn/notarized. **Application cannot be received after 5:00 p.m. on Friday, February 16, 2024.**



- *CODE OF FAIR CAMPAIGN PRACTICES (FORM CFCP)* – Secretary of State
[Also *included* is Texas Election Code, Title 15, Chapter 258 (Fair Campaign Practices). THIS FORM IS STRICTLY VOLUNTARY. The Texas Election Code encourages every candidate subscribe to the Code of Fair Campaign Practices. This form may be submitted at any time. (See **Candidate Packet, Section 11**)]
- *CITY OF DENTON CODE OF ELECTION ETHICS* – City Secretary's Office
[The Denton Code of Election Ethics fosters truthful, fair and open campaigns for public office. While candidates are encouraged to subscribe to this Code of Election Ethics, acceptance is voluntary. This form may be submitted at any time. (See **Candidate Packet, Section 12**)]
- *FIRST STEPS FOR CANDIDATES RUNNING FOR A CITY OFFICE* – Texas Ethics Commission
[This is an at-a-glance guide on certain requirements of filing for candidacy and applicability of reporting requirements. (See **Candidate Packet, Section 13**)]

CAMPAIGN TREASURER

- *APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM CTA) AND INSTRUCTION GUIDE* – Texas Ethics Commission
[This form must be filed *BEFORE* any funds can be collected or expended for campaign purposes, or at the time of filing for candidacy, whichever comes first. Candidates may appoint themselves as their own campaign treasurer. (See **Candidate Packet, Sections 14 through 16**)]
- *AMENDMENT: APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM ACTA) AND INSTRUCTION GUIDE* – Texas Ethics Commission
[Also includes Texas Election Code, Title 15 Chapter 252 (Campaign Treasurer). A campaign treasurer or information contained in the original form filed may be changed at any time. Changes can only be made by using this form. Only the information being changed from the original CTA or previously filed ACTA should be noted on this form. (See **Candidate Packet, Sections 17 and 18**)]

POLITICAL ACTIVITY/CAMPAIGN CONTRIBUTIONS

The City of Denton does not limit employees from publicly endorsing a candidate, placing a yard sign on private property, wearing or distributing campaign material, making financial contributions, or campaigning for a candidate, are permissible under City policy so long as those activities take place while the employee is off-duty and does not include the use of any City equipment or resources.

The Texas Election Code sets forth certain requirements for campaign contributions/expenditures. Important information is noted below.

CAMPAIGN FINANCE AND OTHER REPORTING REGULATIONS

- *"GUIDE TO LOCAL FILING AUTHORITY'S DUTIES UNDER THE CAMPAIGN FINANCE LAW"* – Texas Ethics Commission
[Explains the responsibilities of the City Secretary's Office under the Texas campaign finance law. In summary, this office is required to make forms available, accept certain filings but does not regulate the content of those filings and is not required to remind filers of reporting deadlines. (See **Candidate Packet, Section 19**)]
- *"A BRIEF OVERVIEW OF THE TEXAS ETHICS COMMISSION AND ITS DUTIES"* – Texas Ethics Commission
[Provides information on the forms mandated and administered by the Texas Ethics Commission and outlines their area of authority. (See **Candidate Packet, Section 20**)]



- *CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES* – Texas Ethics Commission
[This guide helps candidates gain a better understanding as to the reporting requirements for campaign finance reports. (See **Candidate Packet, Section 21**)]
 - *2024 FILING SCHEDULE FOR REPORTS DUE IN CONNECTION WITH ELECTIONS HELD ON UNIFORM ELECTION DATES* – Texas Ethics Commission
[This schedule outlines filing deadlines for campaign finance reporting as related to the May 4, 2024 General Election. It also notes deadlines for semi-annual reports required to be filed depending on when the original Campaign Treasurer Appointment (CTA) form was filed. (See **Candidate Packet, Section 22**)]
 - *REGULATING POLITICAL FUNDS AND CAMPAIGNS* – Texas Election Code, Title 15, Chapter 251, General Provisions – Texas Ethics Commission
[Requirements on political fund expenditures and submittal of campaign finance reports. (See **Candidate Packet, Section 23**)]
 - *RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES* – Texas Election Code, Title 15, Chapter 253 – Texas Ethics Commission
[Restrictions relative to political fund expenditures and submittal of campaign finance reports. (See **Candidate Packet, Section 24**)]
 - *POLITICAL REPORTING* – Texas Election Code, Title 15, Chapter 254 – Texas Ethics Commission
[Requirements on political fund expenditures and submittal of campaign finance reports and the contents of those reports. Most candidates will be required to file at least two Title 15 reports although those involved in a runoff election will have to file an additional report. Candidates will be required to file semiannual report(s) until a **DESIGNATION OF FINAL REPORT** form is filed. However, filing of a Candidate/Officeholder Report of Unexpended Contributions may still be required.
 - The **30TH DAY BEFORE GENERAL ELECTION (Thursday, April 4, 2024 due date at 5 p.m.)** report covers the period beginning on the day a campaign treasurer was appointed or the first day after the period covered by the last required report, as applicable, and continuing through the 40th day before the election (Monday, March 28, 2024).
 - The **8TH DAY BEFORE GENERAL ELECTION (Friday, April 26, 2024 due date at 5 p.m.)** report covers the period beginning on the 39th day before the election (Tuesday, March 29, 2024) and continuing through the 10th day before the election (Wednesday, April 27, 2024).
 - The **8TH DAY BEFORE RUNOFF ELECTION (Friday, June 7, 2024, due date at 5 p.m.)** report covers the period beginning the day after the last day covered in the 8th Day Before General Election report (Saturday, April 27, 2024) and continuing through the 10th day before runoff election day (Wednesday, June 5, 2024). This information is **tentatively** based on the expectation the runoff election will be held Saturday, June 15, 2024, which is subject to change at this point.
NOTE: Candidates will be notified if the runoff election changes once/if notified by Denton County.
- Carefully read the Election Code requirements and the Texas Ethics Commissions' instructions included with report forms to ensure all required reports are timely/accurately filed. Submission deadlines and reporting periods applicable to each filing are further outlined in the Candidate Calendar provided in this packet. (See **Candidate Packet, Section 25**)
- *CANDIDATE/OFFICEHOLDER CAMPAIGN FINANCE REPORT/FINAL REPORT (FORMS C/OH and C/OH-FR) AND INSTRUCTION GUIDE* – Texas Ethics Commission
[These provide the schedules and instructions on applicable contributions and expenditures reported on running a campaign. All reports are filed with the City Secretary's Office. It is important candidates understand the importance of adhering to reporting requirements. Questions or complaints regarding filed reports must be directed to the Texas Ethics Commission.
 - This section includes Form C/OH-FR (last page). Filing this form terminates the campaign treasurer appointment but will not necessarily end the requirement to file campaign finance reports. Further, the form now provides the option of filling out the "Unsworn Declaration" section in lieu of getting the form notarized. (See **Candidate Packet, Sections 26 and 27**)]



- *CORRECTION/AMENDMENT AFFIDAVIT FOR CANDIDATE/OFFICEHOLDER (FORM COR-C/OH) AND INSTRUCTION GUIDE* – Texas Ethics Commission
[This form allows corrections to previously filed reports. The affidavit must identify the information being changed. (See **Candidate Packet, Section 28**)]
- *CANDIDATE/OFFICEHOLDER REPORT OF UNEXPENDED CONTRIBUTIONS (FORM C/OH-UC) AND INSTRUCTION GUIDE* – Texas Ethics Commission
[If the candidate had unexpended political contributions, interest, assets, or other money earned from political contributions at the time a final report is/was filed, this report is required annually. This report is required until a report of the final disposition of unexpended contributions has been filed. (See **Candidate Packet, Sections 29 and 30**)]

PERSONAL FINANCIAL STATEMENT

Candidates are required to file a Personal Financial Statement (Form PFS). The form, instruction guide, hints and regulations are provided. Officeholders and candidates holding or running for an elected office in municipalities with populations of 100,000 or more are required to file this form. The **candidate's deadline** for filing the PFS is 5 p.m., Thursday, March 10, 2024, if filing in person and 11:59 p.m. if filing electronically with the City Secretary's Office at Denton City Hall, 215 E. McKinney. It is important you utilize the form provided with the candidate packet to ensure you use the most current form provided by the State. The reporting period is January 1, 2023 through December 31, 2023. (See **Candidate Packet, Sections 31 through 34**)]

POLITICAL ADVERTISING

The City of Denton, State of Texas and Texas Department of Transportation (TxDOT) set forth certain requirements/restrictions on political signs on residential property and public rights-of-way. See below:

- DENTON CODE OF ORDINANCES CHAPTER 33 - Signs and Advertising Devices, [Section 33.16.3](#) – Denton Development Services, Zoning Compliance Division
[Requires that political signs in residential neighborhoods cannot exceed a size of thirty-six (36) square feet and be more than eight (8) feet high. The City of Denton prohibits the placement of political signs in the City public right-of-way, as this is a public safety issue. (See **Candidate Packet, Sections 35 and 36**)]
- *"A SHORT GUIDE TO THE PROHIBITION AGAINST USING POLITICAL SUBDIVISION RESOURCES FOR POLITICAL ADVERTISING IN CONNECTION WITH AN ELECTION"* – Texas Ethics Commission
[Provides information relative to the prohibition of using City resources for political advertising for the general/special/runoff elections. (See **Candidate Packet, Section 37**)]
- *"POLITICAL ADVERTISING: WHAT YOU NEED TO KNOW"* – Texas Ethics Commission
[Outlines state-mandated disclosures/notices on political advertising. (See **Candidate Packet, Section 38**)]
- *REGULATING POLITICAL ADVERTISING AND CAMPAIGN COMMUNICATIONS* – *Texas Election Code, Title 15, Chapter 255* – Secretary of State
[Outlines legal requirements/restrictions on political advertising. **Section 255.007 of the Texas Election Code** requires the following notice be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY"
(See **Candidate Packet, Section 39**)]



- **POLITICAL SIGNS** – Texas Department of Transportation (TxDOT)
[Regulates the placement of political signs on state highways. (See **Candidate Packet, Sections 40**)
- **CAMPAIGN SIGNS** – TxDOT
[Addresses TxDOT's role and enforcement for wrongfully placing campaign signs on right of ways, trees, telephone poles, traffic signs and private property. (See **Candidate Packet, Section 41**)]

POLL WATCHERS AND INSPECTORS

- **APPOINTMENT OF POLL WATCHER BY CANDIDATE ON THE BALLOT OR DECLARED WRITE-IN CANDIDATE AND POLL WATCHER'S GUIDE AND INSTRUCTIONS** – Secretary of State
[Also includes Texas Election Code, Title 3, Chapter 33 (Watchers). **THIS IS STRICTLY OPTIONAL.** However, should a poll watcher be appointed, they should be provided a copy of the Watcher's Guide to ensure an understanding of their responsibilities and limitations that apply to this appointment. (See **Candidate Packet, Sections 42 through 44**)]
- **STATE INSPECTORS – TEXAS ELECTION CODE, TITLE 3, CHAPTER 34** – Secretary of State
[**THIS IS STRICTLY OPTIONAL.** A request may be submitted to the Secretary of State for state inspectors' observation of activities within polling locations for Election Day (May 4, 2024). The request can be made on the form provided in this packet and must be fully executed before submitting it to the Secretary of State. The due date to submit the form is no later than the fourth business day before the election in which inspectors are requested (Tuesday, May 3, 2024). (See **Candidate Packet, Sections 45 and 46**)]

CANDIDATE INFORMATION IS PUBLIC INFORMATION

All information a candidate files with the City Secretary's Office in relation to candidacy or election to public office becomes a public record at time of filing and is provided in accordance with the Texas Public Information Act.

IMPORTANCE OF UPDATED CONTACT INFORMATION

The mailing address indicated on the Application for a Place on the General Election Ballot, Campaign Treasurer Appointment, or Amendment of Campaign Treasurer will be used to notify candidates about election related matters. It is important candidates notify this office of any contact information change(s).

CONTACT INFORMATION

City Secretary's Office

- Jesus (Jesse) Salazar, City Secretary, City of Denton 940-349-7735
Jesus.Salazar@cityofdenton.com
- Patricia Timm, Assistant City Secretary, City of Denton 940-349-8304
Patricia.Timm@cityofdenton.com

Denton Development Services, Zoning Compliance Division

- Caleb Norris, Zoning Compliance Division 940-349-7454
Caleb.Norris@cityofdenton.com
- Justin James, Zoning Compliance Division 940-349-7457
Justin.James@cityofdenton.com
- Denton County Elections Department 940-349-3200
www.votedenton.com/
- Secretary of State, Elections Division 800-252-8683
www.sos.state.tx.us



- Texas Department of Transportation 800-558-9368
www.txdot.gov/
- Texas Ethics Commission 512-463-5800
www.ethics.state.tx.us
- U.S. Department of Justice 202-514-2000
www.usdoj.gov

CANDIDATE REQUESTS FOR INFORMATION

In order to provide the most efficient service for candidates during this election season, please direct all requests for information to my attention at jesus.salazar@cityofdenton.com rather than contacting individual city departments. We will coordinate with the proper department(s) to provide the requested information through this office. Readily available information will be provided at no cost to candidates and/or representatives of candidates. However, the City reserves the right to assess charges to requests that are considered beyond readily accessible information.

SUMMARY

This Candidate Packet may include revised forms from those provided in previous years. Therefore, please ensure the forms contained in this packet are used. While many of the forms listed have been linked to the appropriate source, hard copies of these forms can be obtained from this office. This packet is designed to provide valuable information on responsibilities/requirements of filing for candidacy. Do not hesitate to contact the proper authority if you have questions.

Thank you for your interest in serving our community.

Respectfully,

Jesus Salazar
City Secretary

MEMORANDUM

DATE: March 4, 2024
TO: Board of Ethics
FROM: Madison Rorschach, City Auditor
SUBJECT: Advisory Opinion Responses Report

Background

In accordance with the Board of Ethics Rules of Procedure Section C. Advisory Opinions, information on Advisory Opinion requests should be reported to the Board of Ethics at the next regular meeting. Specifically, the Rules of Procedure outline the following timelines to guide the City Auditor in how to process an Advisory Opinion request:

Timeline for Request Submission	Assigned To
More than Ten Business Days	Three-Member Panel of the Board
More than Five Business Days	Special Counsel
Less than Five Business Days	Provide Information on Prohibitions

As a reminder, Advisory Opinion panels issue written guidance to City Officials regarding how the Code of Ethics applies (if at all) to a particular situation or behavior and may contain conclusions and/or recommendations.

During February 202, the City Auditor received one request for advice on interpreting the Ethics Ordinance's prohibitions within the 10-day time frame needed for a Panel of the Board of Ethics to issue the opinion. As such, the issued Advisory Opinion is attached for the Board of Ethics' consideration, discussion, and potential direction.¹

Provided Responses

1. 24-001 Meet the Candidate Event Moderator (Council Member Vicki Byrd – District 1)

¹ It should be noted that it is an affirmative defense to a Complaint that the Respondent relied upon an Advisory Opinion given certain conditions.



Board of Ethics

215 E. McKinney St., Denton, TX 76201 • (940) 349-7228

February 13, 2024

Councilmember Vicki Byrd
City of Denton
215 E. McKinney
Denton, Texas 76201

Advisory Opinion

Advisory Opinion No. 24-001: Pertaining to a request received February 1, 2024, from Councilmember Byrd concerning potential improper use of influence applicability and recusal recommendation.

Councilmember Vicki Byrd,

Pursuant to Section 2-278 of the Ethics Ordinance, a panel of the Board of Ethics convened on February 8, 2024, to deliberate your request received February 1, 2024, concerning potential improper use of influence applicability and recusal recommendation and has rendered the opinion given below.

The members of the panel were Panel Chair Dustin Pavelek, Patricia Reinke and David Zoltner

Question Presented: Under Sections 2-273 Prohibitions, Section 2-273(e) Improper Influence of the City of Denton Ethics Ordinance, would City Council Member Byrd's participation as a moderator at a virtual "Meet the Candidate" event be prohibited?

Background Information:

On February 1, 2024, the City Auditor received an Advisory Opinion request from Councilmember Vicki Byrd regarding a potential improper use of influence regarding moderating a virtual "Meet the Candidate" event for a public service group of which she is a member. Per, Councilmember Byrd, she will not receive compensation for moderating this event and is not a Board member of the public service group.

Discussion:

Based on the received request, the Board of Ethics was requested to answer the following question:

1. Would Councilmember Byrd moderating a virtual "Meet the Candidate" event for a public service group she is a member of be considered improper use of influence, per the Ethics Ordinance?

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

Answer:

No, as long as all candidates are invited to participate in the Candidate Forum held by the public service group.

Recusal Recommendation:

The Panel discussed a recusal recommendation and provided the following recommendations:

1. The moderator should make clear that she is not representing the City in her Official Capacity.
2. All Candidates should be invited.
3. The moderator could be perceived by attendees, viewers or participants in how she questions the candidates that may be a violation of the Denton Ethics Ordinance, Sec. 2-273, Prohibitions, Section (e)Improper Influence.



Dustin Pavelek
Panel Chair
City of Denton Board of Ethics

This opinion pertains only to the relevant sections of the City of Denton Ethics Ordinance. It is not intended as legal advice and does not absolve any party of obligations that may exist under other applicable law (e.g., Texas Local Government Code Chapter 171). All parties are encouraged to consult competent legal counsel concerning their obligations under the law.



City of Denton

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

Legislation Text

File #: BOE24-016, **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
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: March 4, 2024

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. Those items that are struck through may no longer need to be addressed based on current proposed amendments to the ordinance.

Topic	Est. Time
Review Complaint Reconsideration Process	0:30
Comprehensive Review of Current Sanctions; Frivolous Sanctions	1:30
Preliminary Panel Member Objection Process	0:30
Order to Show Cause Process	0:45
Potential Campaign Financing Restrictions	0:30
Definition of Complainant	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.

Due to the City Council's current work session schedule and upcoming elections, the Packet of Proposed amendments has been scheduled to be presented to the City Council on June 4, 2024.

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 April 2024;
- What topic(s), if any, does the Board of Ethics want to be added to May 2024; and
- Any additional topics that the Board wishes to discuss at future meetings.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

May 1, 2018: Ethics Ordinance Adopted

Jun. 2, 2020: Ethics Ordinance amended based on Board of Ethics recommendations
Jan. 25, 2022: Ethics Ordinance amended by City Council to remove profession preferences
Jul. 19, 2022: Ethics Ordinance amended based on Board of Ethics recommendations
Jul. 18, 2023: Ethics Ordinance amended based on Board of Ethics recommendations
Dec. 12, 2023: Ethics Ordinance amended by City Council to eliminate Alternate Members

EXHIBITS

1. Agenda Information Sheet
2. Board of Ethics Tentative Meeting Topics (March 2024)

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

Board of Ethics Tentative Meeting Topics

Updated: February 28, 2024

Meeting	Item	Est. Time
March 2024	Minutes	0:05
	2024 Packet of Proposed Amendments Follow-Up	0:15
	Amendment Proposal Packet Finalization & Forwarding	0:15
	Definition of Complainant	0:30
	Management Reports	0:05
	Future Meeting Topics Update	0:05
	Total Est. Time:	1:10
April 2024	Minutes	0:05
	<i>TBD</i>	
	Management Reports	0:05
	Future Meeting Topics Update	0:05
	Total Est. Time:	0:15
May 2024	Minutes	0:05
	<i>TBD</i>	
	Management Reports	0:05
	Future Meeting Topics Update	0:05
	Total Est. Time:	0:15