

ORDINANCE NO. 2372

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS AMENDING CHAPTER 2, ARTICLE IV OF THE CODE OF ORDINANCES BY ADOPTING A REVISED CODE OF ETHICAL CONDUCT.

Whereas, section 2-74 of the Code of Ethical Conduct requires a comprehensive review of the Code of Ethical Conduct to occur every five years; and

Whereas, on December 5, 2023, the City Council appointed the Independent Ethics Review Board as the Independent Ethics Task Force; and

Whereas, the Independent Ethics Review Board in its capacity as the Independent Ethics Task Force conducted 11 meetings open to the public; and

Whereas, on March 4, 2025, the proposed revisions to the Code of Ethical Conduct were presented to City Council in a workshop; NOW THEREFORE;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND:

Section 1. That Chapter 2, Article IV of the Code of Ordinances is revised to read as follows:

ARTICLE IV. CODE OF ETHICAL CONDUCT

DIVISION 1. STATEMENT OF PURPOSE AND PRINCIPLES

Sec. 2-71. General statement.

Officials act as fiduciaries entrusted with and responsible for the property and resources of the community and must make governmental decisions, recommendations, and policies free of coercive or other improper influence and must use their position in the best interests of the city rather than for personal interests, whether their own interests or those of their family, friends, or business associates.

It is important that officials understand the ethical conflicts they confront every day, appreciate their fiduciary obligations to city residents, and recognize the importance of preventing conflicts from occurring, disclosing conflicts when they arise, and withdrawing from any involvement in a matter where they have a conflict.

Public trust requires that acts which are contrary to the public interest be defined and prohibited; that there be an orderly procedure for raising and addressing ethical questions; that ethical behavior be encouraged; and that unethical behavior be discouraged and suitably disciplined through a process which is fundamentally fair.

Although this article is necessary to identify standards below which an official's conduct cannot fall without the risk of penalty, it is understood that a healthy ethical environment for the

provision of public service cannot be achieved or maintained by mere adherence to standards and that all officials should strive to achieve the highest possible level of ethical conduct.

Sec. 2-72. Ethical values.

It is the official policy of the city that:

- (a) Officials must be independent, impartial, and responsible to the residents of the city;
- (b) Officials must not have a financial interest, and must not engage in any business, transaction, or professional activity, or incur any obligation, that conflicts with the proper discharge of their duties for the city in the public interest;
- (c) Officials have the responsibility to conduct themselves in a professional and ethical manner and must embrace the principles of honesty, accountability, respect, and trust;
- (d) The principles of personal conduct and ethical behavior that should guide the behavior of officials include:
 - (1) A commitment to the public welfare;
 - (2) Respect for the value and dignity of all individuals;
 - (3) Accountability to the residents of the city;
 - (4) Truthfulness; and
 - (5) Fairness.
- (e) Under such principles of conduct and ethical behavior, officials should:
 - (1) Conduct themselves with integrity and in a manner that merits the trust and support of the public;
 - (2) Be responsible stewards of the taxpayers' resources; and
 - (3) Take no official actions that would result in personal benefit in conflict with the best interests of the city.
- (f) To implement the purpose and principles set out in this division, the city council has determined that it is advisable to enact a code of ethical conduct to govern officials. It is the purpose and intent of city council to ensure a fair opportunity for all of the city's citizens to participate in government, to adopt standards of disclosure and transparency in government, and to promote public trust in government.

Sec. 2-73. Purpose.

The purposes of this code of ethical conduct are:

- (a) To establish standards of ethical conduct for officials, candidates, and those who do business with the city;
- (b) To provide clear, consistent guidance with respect to such standards by clarifying which acts are allowed and which are not;
- (c) To promote public confidence in the integrity of our city's governance;

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- (d) To provide for the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of our city's government to city residents; and
 - (e) To provide for the fair and effective administration and enforcement of this code of ethical conduct.

Sec. 2-74. Reserved.

DIVISION 2. CODE OF ETHICAL CONDUCT

Sec. 2-75. Definitions.

In this article:

Administrative board means a board that, by law, has final decision-making authority on matters within its jurisdiction.

Advisory board means a board that is charged with making recommendations to the city council on matters within its jurisdiction but has no final decision-making authority.

Customer or client means:

- (a) Any person or entity to which a person or entity has supplied goods or services during the previous 12 months, having, in the aggregate, a value greater than \$50,000; or
- (b) Any person or entity to which an official's outside employer or business has supplied goods or services during the previous 12 months, having, in the aggregate, a value greater than \$50,000.00 but only if the official knows or has reason to know the outside employer or business supplied the goods or services.

De minimis means any property or service the value of which (after taking into account the frequency of which such fringes are provided to the official) is so small that it lacks significance or importance to make accounting for it unreasonable or administratively burdensome.

Domestic partner means an adult, unrelated by blood, with which an unmarried or separated official has a committed relationship, maintains a mutual residence, and shares basic living expenses.

Financial benefit means any money, service, license, permit, contract, loan, travel, entertainment, hospitality, gratuity, or promise of any of these, or anything else of value to the official or an official's relative. The term does not include campaign contributions authorized by law.

Gift means any item, service, favor, or benefit received or given having more than de minimis value. The term includes lodging, transportation, entertainment, and food. The term does not include a financial benefit received or given on the same terms available to the general public or an election campaign contribution.

Interest in a contract means a relationship to a contract such that a direct or indirect financial or other material benefit has been, or will be received as a result of that contract. Indirect benefit includes a benefit to the official's relative or outside business or employer.

Official means a current or former member of city council, administrative board, advisory board, or candidate for city council.

Outside employer or business includes:

- (a) Any substantial business activity other than service to the city;
- (b) Any entity, other than the city, of which the official is a member, official, director, or employee, and from which the official receives compensation exceeding 10 percent of the official's gross income for the previous year; or
- (c) Any entity in which the official has an ownership interest of 10 percent or more of the voting stock or shares or more than \$15,000 of the fair market value.

Personal benefit includes benefits other than those that are directly financially advantageous. These include non-financial benefits such as enhanced reputation and success of one's career.

Personal interest means a relationship to something such that a personal benefit has been or will be obtained by taking certain action or inaction with respect to it.

Relative means a spouse, domestic partner, child, step-child, brother, sister, parent or step-parent, niece or nephew, aunt or uncle, or grandparent or grandchild of the official.

Sec. 2-76. Covered officials.

The code of ethical conduct contained in this article apply generally to all officials and in certain defined circumstances to candidates for city council and former officials. For the purposes of this code, the mayor and council members are deemed to have worked for every city department, board, and commission.

Sec. 2-77. Conflicts of interest.

- (a) An official must not use, or attempt to use, their official position or office, or take or fail to take any action, or influence, or attempt to influence, others to take or fail to take any action, in a manner which they know, or have reason to believe, may result in a personal or financial benefit, not shared with a substantial segment of the city's population, for any of the following persons or entities:
 - (1) The official;
 - (2) The official's relative, a member of their household, or the employer or business of the relative;
 - (3) A person with which the official has a financial or business relationship, including but not limited to:
 - a. An outside employer or business of the official, or the official's spouse or domestic partner, or someone who works for such outside employer or business; or
 - b. A client or substantial customer; or

- c. A substantial debtor or creditor of the official or the official's spouse or domestic partner.
- (4) A publicly traded company if the official or their spouse, parent, or child owns the stock or instruments of debt greater than 10 percent of the value of the company;
- (5) Real property if the official or their spouse, parent, or child holds an equitable or legal ownership with a fair market value of \$2,500 or more;
- (6) A nongovernmental civic group, social, charitable, or religious organization of which the official, or the official's spouse or domestic partner, is an officer or director;
- (7) A public or private business entity for which the official or their relative serves as a director, general partner, or officer, or in any other policy-making position except when so appointed to the position by the city; or
- (8) A person or entity from which the official has received an election campaign contribution of more than \$2,500 in the aggregate during the past election cycle (this amount includes contributions from a person's immediate family or business as well as contributions from an entity's owners, directors, or officers).
- (b) An official must file a conflict disclosure statement pursuant to V.T.C.A. Local Government Code ch. 176 with respect to a vendor if the vendor has an employment relationship with the official or a relative that results in the official or relative receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date the city enters into a contract with the vendor. Such conflict disclosure statement must be filed with the city clerk no later than 5:00 p.m. on the seventh business day after the official becomes aware of the facts that require the filing of a statement.
- (c) It is a violation for an official to, within two years of entering city service, award a contract or participate in a matter benefiting a person or entity that formerly employed the official.

Sec. 2-78. Acceptance and disclosure of gifts.

- (a) An official must not solicit or accept any gift that is offered or given with the intent to influence the judgment or discretion of such official or that is given in consideration of the favorable exercise of the official's judgment or discretion in the past.
- (b) An official who receives gift(s) from a person or vendor that reasonably appear to exceed \$100 in aggregate value for the previous 12 months must file with the city clerk a conflict disclosure statement pursuant to V.T.C.A. Local Government Code ch. 176 containing the following information:
 - (1) The date the gift was received and who received it;
 - (2) A description of the gift;
 - (3) The fair market value of the gift;
 - (4) The name, address, and employer of the person who provided the gift;
 - (5) The name of any organization or individual represented by the person or on whose behalf the person was acting in providing the gift; and

- (6) A statement that the aggregate value of the gift(s) are believed to exceed the sum of \$100.
- (c) An official who receives gift(s) of food from a person or vendor that reasonably appear to exceed \$100 in aggregate value for the previous 12 months if received as a gift, or \$500 in individual value if received as a guest, must file with the city clerk a conflict disclosure statement pursuant to V.T.C.A. Local Government Code ch. 176 containing the following information:
 - (1) The date the gift was received and who received it;
 - (2) A description of the gift;
 - (3) The fair market value of the gift;
 - (4) The name, address, and employer of the person who provided the gift;
 - (5) The name of any organization or individual represented by the person or on whose behalf the person was acting in providing the gift;
 - (6) A statement that the aggregate value of the gift(s) is believed to exceed the sum of:
 - a. \$100 if received as a gift; or
 - b. \$500 if received as a guest.
- (d) A conflicts disclosure statement required by (a), (b), or (c) above, must be filed no later than 5:00 p.m. on the seventh business day after the date on which the official becomes aware of the facts that required the filing of the statement.
- (e) A conflicts disclosure statement required by (a), (b), or (c) above, is required to be filed by an official for gifts received by a relative pursuant to the requirements of V.T.C.A. Local Government Code ch. 176.
- (f) The requirements of (a) and (b), above, do not apply to a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the status of the recipient as an official.
- (g) This section does not apply to any gift that is required to be and is reported under any other state law, including a required election campaign filing.

Sec. 2-79. Abstention from participation.

- (a) An official must abstain from participation in, discussion of, and any vote on a matter before the city, if:
 - (1) Acting on the matter, or failing to act on the matter may personally or financially benefit the official or the official's relative;
 - (2) Within the 12 months preceding the date of the vote, the official has filed a conflict disclosure statement pursuant to V.T.C.A. Local Government Code ch. 176 relating to the matter to be discussed; or
 - (3) The official has received campaign contributions of more than \$2,500 in the aggregate during the past election cycle (this amount includes contributions from a person's

immediate family or business as well as contributions from an entity's owners, directors, or officers).

- (b) The official must leave the room while the matter is being discussed.
- (c) Abstention of an official will be recorded in the minutes or audio recording of the meeting of the respective board or council on which they serve.
- (d) Affidavits of conflict of interest must be filed with the city clerk before any vote on the matter and as soon as possible after the official becomes aware of the need to file the affidavit. An official need not make a disclosure pursuant to this section if, with respect to the same matter, they have already made such a disclosure.
- (e) An official whose outside employment or other outside activity or relationship can reasonably be expected to require more than sporadic abstention must resign or cease such outside employment or activity. If the ongoing conflict involves a relationship, the official must resign. An official should not begin employment or an activity or relationship that can reasonably be expected to require more than sporadic abstention. If a prospective official is in such a situation, they should not accept the position.

Sec. 2-80. Council member prohibited from doing business with the city.

- (a) Except as provided below, no council member may have a financial interest in any significant contract or transaction involving the sale or lease of goods, real estate, or services, or the lending of credit to the city.
- (b) For the purposes of this section, the ownership by a council member or their relative of the stock or instruments of debt of a publicly traded company does not give the council member a financial interest in any contracts or transactions that the company has with the city, provided that the value of the interest held is less than five percent of the value of the company.
- (c) For the purpose of this section, a contract or transaction is significant only if the total payments made by the city pursuant to the contract or transaction exceed \$1,000 in the aggregate.
- (d) This section does not apply to the city's acquisition by eminent domain proceedings of an interest in land owned by a council member.

Sec. 2-81. Representations.

- (a) An official must not represent any other person or entity before the city, nor in any matter not before the city, but against the interests of the city. However, it is acceptable for elected officials to represent constituents without compensation in matters of public advocacy, including but not limited to lawfully obtaining city services, licenses, or permits or in transacting other routine matters of public business with city departments or agencies, provided that no preferential treatment or consideration is requested by the elected city official on behalf of the constituent.
- (b) For a period of two years after the termination of their city service, an official must not, on behalf of any other person, for compensation, directly or indirectly, formally or informally, act as agent, attorney, lobbyist, or other sort of representative, to or before their former board, or commission. Acting indirectly includes action by a partner, associate, and other

professional employee of an entity in which the former official is a partner, associate, or professional employee, as well as acting by a member of the former official or employee's immediate family.

Sec. 2-82. Appearances.

An official must not appear before any board or commission, except on their own behalf. Any time an official appears before the meeting of city council or any city board or commission, or when they write a letter to the editor or any other form of publicly distributed communication regarding a topic within the scope of their official responsibility, they are required to clearly disclose at the beginning of the speech or writing whether they are appearing in an official capacity or as a private citizen. If the speech or writing is in response to criticism or other communication directed at or regarding their official role, the official must respond only in their official role.

Sec. 2-83. Misuse and disclosure of official information.

An official or former official shall not use or disclose confidential information gained by virtue of their position for any purpose other than the performance of their official responsibilities.

Sec. 2-84. Restrictions on political activity and political contributions.

An official or candidate must not knowingly request, or authorize anyone else to request, that any city employee participate, or not participate, in any political activity, including the making of a campaign contribution.

Sec. 2-85. Restrictions applicable to former officials.

- (a) A former official must not use or disclose confidential government information acquired during the official's service on the city council. An official is not prohibited from disclosing information if:
 - (1) The information is no longer confidential;
 - (2) The information involves reports of illegal or unethical conduct and is disclosed to a law enforcement agency;
 - (3) The disclosure is necessary to further public safety and is not otherwise prohibited by law; or
 - (4) Required to do so by law.
- (b) No former official of city council may have a financial interest in a significant contract with the city, within the meaning of section 2-80 of this article within two years following the expiration of the official's most recent term of office.

Sec. 2-86. Misuse of city property.

An official must not use, or permit others to use, any city funds, property, or personnel for profit or for personal convenience or benefit, except when available to the public generally, or to a class of residents, on the same terms and conditions.

Sec. 2-87. Ethics advisory opinions issued by the city attorney's office.

- (a) Any official may file a written request with the city attorney for an advisory opinion with respect to whether the contemplated action by that person would violate this code of ethical conduct.
- (b) Within seven business days of receipt of the request, the city attorney will issue a written advisory opinion. Opinions that address new issues and that are instructive on the application of the code of ethical conduct will be posted on the ethics webpage in a manner that does not reveal the identity of the individual requesting the opinion.
- (c) An official who reasonably and in good faith acts in accordance with a written advisory opinion issued by the city attorney may use the advisory opinion as a defense to prosecution, provided that:
 - (1) The official requested the issuance of the opinion;
 - (2) The request for an opinion fairly and accurately disclosed all relevant facts; and
 - (3) Less than five years elapsed between the date the opinion was issued and the date of the conduct in question.

Sec. 2-88. Education.

The city attorney's office will provide training and educational materials to officials on their ethical obligations under state law and this article. Such training must include at least one formal classroom session in each calendar year to remain in good standing. All officials must attend the formal training session offered by the city each calendar year. The city will also provide written materials on the subject to each official at the time of their election or appointment to office.

Secs. 2-89—2-93. Reserved.

DIVISION 3. PROCUREMENT

Sec. 2-94. Participation in procurement.

- (a) The procurement of goods and services must be accomplished in a manner that exhibits the highest level of ethical behavior so as to protect the integrity of the procurement process and ensure compliance with state and federal laws. To ensure transparency, impartiality, accountability, and professionalism, the following process is adopted for the procurements of goods or services exceeding \$50,000 and for the procurement of professional and consulting services:
 - (1) The city manager, or their designee, will acquire and evaluate bids and proposals in accordance with state and federal purchasing laws;
 - (2) The city manager, or their designee, will negotiate a contract with the most responsive and responsible bidder or proposer;
 - (3) Once the terms of the contract have been negotiated, the city manager, or their designee, will make a recommendation to city council; and

- (4) City council will vote to accept the bid and award the contract to the recommended bidder or proposer or reject all of the bids.
- (b) The city manager will maintain and enforce internal purchasing policies and procedures consistent with this section.
- (c) An official must not, other than as permitted by law, obtain, disclose, or discuss bid or proposal information or source selection information with prospective bidders, proposers, or contractors.

DIVISION 4. CAMPAIGN ACTIVITY

Sec. 2-95. Campaign activity.

- (a) The requirements set out in this section are inclusive of those in the Texas Election Code, and nothing in this section should be construed to limit obligations imposed by the Texas Election Code.
- (b) *Fair campaign practices act.* The city clerk will post a list of all candidates that have signed the Code of Fair Campaign Practices (V.T.C.A Election Code ch. 258) on the city's webpage.
- (c) *Campaign contributions.*
 - (1) An individual may not make a contribution in support of, or opposition to, a candidate for city office under a name other than the name by which the individual is identified for legal purposes.
 - (2) A contribution must be made in the name of the individual who owns and is contributing the thing of value, and the individual may not make a contribution on behalf of another individual.
 - (3) It is unlawful for any person who is an adverse party in any pending litigation against the city, or who has an ownership in any entity that is an adverse party to the city in any pending litigation to contribute or donate any funds to any candidate for city office if the litigation seeks recovery of an unspecified amount or of an amount in excess of \$25,000, exclusive of costs of court and attorneys' fees. Such restriction is not applicable to attorneys representing a person or entity in pending litigation against the city. It is the duty of any candidate to refuse to accept any contribution that may be offered by a person who is known to the candidate to have a litigation interest described in this section. If a candidate unknowingly accepts a contribution in contravention of the foregoing provision, then it is the duty of the candidate to return the contribution within 10 calendar days after the candidate becomes aware of the litigation.
- (d) *Required filings.*
 - (1) Each candidate must file with their application, consent, and affidavit of candidate, a written statement acknowledging receipt of a copy of this code of ethical conduct.
 - (2) A political committee which makes contributions or expenditures in connection with advocating or opposing a position or issue in a city election must file with the city clerk a copy of each contribution and expenditure report filed with the Texas Ethics Commission. The filing date for filing with the city clerk is the date established under the Texas Election Code for filing with the Texas Ethics Commission.

- (3) The starting and ending dates of reporting periods and the due dates of contribution and expenditure reports by candidates for city elections, officeholders, and by political committees is governed by the Texas Election Code.
- (4) Contribution and expenditure reports required to be filed with the city clerk's office under the Texas Election Code may be filed and updated electronically.
 - a. The city will post the contribution and expenditure reports on the city's website.
 - b. If an individual inadvertently files an incorrect or incomplete report, it is their responsibility to file an amended report as soon as possible, though no later than 14 calendar days after discovery of the error or after the error should have reasonably been discovered.

DIVISION 5. COMPLAINT PROCEDURES

Sec. 2-96. Time for filing complaints.

A complaint must be filed within one year of the date the violation is alleged to have occurred or one year after the complainant discovered the alleged violation. Complaints may be filed against officials who no longer hold office.

Sec. 2-97. Detailed written complaints required.

A complaint alleging a violation of this code of ethical conduct must be made in writing, signed by the complainant, sworn to before a notary public, and filed with the city clerk and contain the following information:

- (a) The name, mailing address, email address, and telephone number of the person making the complaint;
- (b) The name of, and office held by, the person against whom the complaint is directed;
- (c) The specific provision of this Code of Ethical Conduct that is alleged to have been violated;
- (d) For each violation alleged, a detailed description of the facts that are alleged to constitute the violation, including the date or dates on which the violation is alleged to have occurred;
- (e) The names, addresses, and telephone numbers of any witnesses to the violation(s); and
- (f) Copies or descriptions of any documentation to substantiate the alleged violation(s).

Sec. 2-98. Ex parte communications.

After a complaint has been filed and during the pendency of a complaint before the Independent Ethics Review Board, it shall be a violation of this Code:

- (a) 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 Independent Ethics Review Board or any known witness to the complaint; or

- (b) For a member of the Independent Ethics Review Board, 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 Independent Ethics Review Board, the city clerk's office, the city attorney's office, or special counsel.

Sec. 2-99. Preliminary review of complaints.

- (a) The city clerk will provide copies of each complaint to the person or persons accused and to the city attorney, as soon as practicable.
- (b) Within seven business days of receiving the complaint from the city clerk, the city attorney will take one of the following actions:
 - (1) Dismiss the complaint if:
 - a. The deadline for filing a complaint has passed;
 - b. The accused is not subject to this article;
 - c. The conduct alleged is not regulated under this article; or
 - d. The complaint is not signed and sworn to by the person filing the complaint.
 - (2) Forward the complaint to the Independent Ethics Review Board with a report. The report will include a copy of any written opinion or opinions from the city attorney to the accused official that relate to the conduct at issue and whether, in the city attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this article. Where the city attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the city attorney will recommend that the Independent Ethics Review Board dismiss the complaint without a hearing.
- (c) The city attorney's recommendation that the Independent Ethics Review Board conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any current or former official or candidate for city council has violated or has not violated this article. The Independent Ethics Review Board will make that determination.

Sec. 2-100. Independent ethics review board procedures.

- (a) Within 10 business days after the Independent Ethics Review Board receives a report and recommendation from the city attorney, it will render a decision as to whether the complaint should be:
 - (1) Dismissed as frivolous;
 - (2) Dismissed because the subject conduct was undertaken in good faith reliance on a formal written opinion of the city attorney; or
 - (3) Investigated.
- (b) When deciding if a complaint should be dismissed as frivolous, the Independent Ethics Review Board will consider:

- (1) The nature and type of any publicity surrounding the filing of the sworn complaint and the degree of participation by the person filing the complaint in publicizing the fact that a sworn complaint was filed;
 - (2) The existence and nature of any relationship between the accused official and the person filing the complaint before the complaint was filed;
 - (3) Any evidence that the person filing the complaint knew or reasonably should have known that the allegations in the complaint were groundless;
 - (4) Any evidence of the person filing the complaint's motives in filing the complaint; and
 - (5) Any evidence that the information provided in the complaint is incomplete or unsubstantiated.
- (c) When the Independent Ethics Review Board determines that an investigation should be made, it will proceed with such investigation using such procedures as are appropriate considering the nature and circumstances of the particular complaint.
- (d) If the Independent Ethics Review Board determines that there is insufficient cause to proceed with the investigation or proceeding, it will dismiss the complaint and send notification of this dismissal to the complainant and the accused official, former official, or candidate. If it determines that there is sufficient cause to proceed, it will send notification of this finding to the complainant and accused official, former official, or candidate. In its letter of dismissal or notification of finding, which must be sent within five business days after the vote on sufficient cause, the Independent Ethics Review Board must set forth a brief summary of the facts and the reasons for dismissal.
- (e) The Independent Ethics Review Board may dismiss a complaint if it determines that the complainant refuses to cooperate in the investigation or refuses to provide requested information to the Independent Ethics Review Board.
- (f) The accused official, former official, or candidate may file with the Independent Ethics Review Board a response to the complaint within 10 business days after receipt of the Independent Ethics Review Board's decision to proceed.
- (g) At any time after a complaint has been filed, the Independent Ethics Review Board may seek and enter into a settlement agreement with the accused official, former official, or candidate against who the complaint was filed. The settlement agreement will include the nature of the complaint, findings of fact, conclusions of law, the Independent Ethics Review Board's reasons for entering into the agreement, an admission of violation by the accused official, former official, or candidate, and a waiver of the right to a hearing. It will also, where relevant, include a promise by the accused official, former official, or candidate not to do certain actions, the imposition of penalties permitted by this code of ethical conduct, remedial action to be taken, and oral or written statements to be made. If a settlement agreement is breached by the accused official, former official, or candidate, the Independent Ethics Review Board may rescind the agreement and reinstitute the proceeding.
- (h) The Independent Ethics Review Board may not sustain a complaint or impose sanctions on an accused official, former official, or candidate for city council without holding a public hearing on the complaint.

- (i) The Independent Ethics Review Board may go into executive session if permitted by state law, but any decision must be rendered during an open public meeting.
- (j) If the complaint is dismissed by the Independent Ethics Review Board because the evidence failed to establish a violation of this Code, the Independent Ethics Review Board shall not entertain any other similar complaint based on substantially the same evidence.

Sec. 2-101. Public hearing.

- (a) After a determination to proceed, the Independent Ethics Review Board will conduct public hearings to determine whether or not a violation of the code of ethical conduct has occurred.
- (b) The Independent Ethics Review Board will rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs. The Independent Ethics Review Board will not consider hearsay unless it finds the nature of the information is reliable and useful. No person may be held to have violated the code of ethical conduct unless four members of the Independent Ethics Review Board so finds by a preponderance of the evidence.
- (c) The accused official, former official, or candidate has the right to attend the hearing, the right to make a statement, the right to present witnesses, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the official, former official, or candidate charged in the complaint may advise that person during the course of the hearing.
- (d) The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the complainant may advise the complainant during the course of the hearing. Witnesses may not be presented by the complainant, except with the permission of the Independent Ethics Review Board.
- (e) All witnesses will be sworn and all questioning of witnesses will be conducted by the members of the Independent Ethics Review Board. The Independent Ethics Review Board may establish time limits and other rules relating to the participation of any person in the hearing.

Sec. 2-102. Retaliation prohibited.

An official may not retaliate against an individual for reporting or participating in an investigation of a potential violation of this code of ethical conduct.

Sec. 2-103. Sanctions for violations of this article.

If the Independent Ethics Review Board determines that a violation has occurred, the Independent Ethics Review Board may impose the following sanctions and post notice on the City's webpage:

- (a) A letter of notification when the violation is clearly unintentional, or when the respondent's conduct complained of was made in reliance on a public written opinion of the city attorney. A letter of notification may advise the respondent of any steps to be taken to avoid future violations;
- (b) A letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification;

- (c) A reprimand when the violation has been committed intentionally or through disregard of this article. A reprimand directed to an official will also be sent to the city council;
- (d) A letter of censure when a serious or repeated violation of this article has been committed intentionally or through culpable disregard of this article by an elected official, former elected official, or candidate. A letter of censure directed to an elected official, former official, or candidate will be transmitted by the Independent Ethics Review Board to the city clerk, published by the city clerk in a local newspaper of general circulation, and sent by the Independent Ethics Review Board to the city council; or
- (e) Up to \$2,000 fine.
- (f) Appointed Officials. If the Independent Ethics Review Board determines that a serious or repeated violation of this article has been committed intentionally or through culpable disregard of this article by an appointed official, the Independent Ethics Review Board may recommend to city council the removal from office or suspension from office, including a recommendation for the length of a suspension. The final authority to carry out a recommendation regarding removal of an appointed official is the city council.
- (g) Elected Officials. If the Independent Ethics Review Board determines that a serious or repeated violation of this article has been committed intentionally or through culpable disregard of this article by a current elected official, the Independent Ethics Review Board may recommend the recall of the elected official from office. A recommendation regarding the recall of an elected official will be sent to the local newspaper of general circulation. The final authority to carry out a recommendation regarding recall of an elected official rests with the citizens.

Sec. 2-104. Reconsideration.

If the Independent Ethics Review Board determines a violation of this Code has occurred and imposes sanctions, the person who received the sanctions may petition to the Independent Ethics Review Board to reconsider the matter only if there is newly discovered evidence which was not presented to the Independent Ethics Review Board during the original proceedings. The person who was sanctioned may request the reconsideration by providing written notice to the city clerk within 14 business days of the date the Independent Ethics Review Board's written notice regarding the sanctions. Upon granting reconsideration, the Independent Ethics Review Board will follow the procedures set forth in section 2-101 of this article and all relevant sections that follow. If the sanctioned party does not provide written notice to the city clerk on or before the expiration of the 14th business day following the date of the written notice of the sanctions, the decision of the Independent Ethics Review Board shall be final and no longer eligible for reconsideration.

Sec. 2-105. Name clearing proceedings.

Any official against whom public allegations of ethics violation(s) have been made and dismissed by the Independent Ethics Review Board, has the right to request a declaratory "name clearing" statement from the Independent Ethics Review Board be posted on the city's website stating that no violation of the Code was determined and the allegation(s) are dismissed.

Sec. 2-106. Penalty for filing false complaint or giving false testimony.

It is unlawful for a person to intentionally file a complaint under this article that the person knows contains false information or by making reasonable inquiry should know that it contains false information. It is unlawful for a person to intentionally give false testimony under oath in any hearing before the Independent Ethics Review Board held under this article. Any person found liable of violating this section will be fined not more than \$1,000 for each offense.

Sec. 2-107. Public records and open meetings.

Meetings and other proceedings of the Independent Ethics Review Board will be conducted in compliance with the Texas Open Meetings Act. Requests for records will be handled in compliance with the Texas Public Information Act.

Sec. 2-108. Other obligations.

This code of ethical conduct is inclusive of and supplemental to applicable state and federal laws and regulations including Texas and Federal whistleblower protections. Compliance with the provisions of this code of ethical conduct does not excuse or relieve any person from any obligation imposed by state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Section 2. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED ON _____, 2025

ADOPTED ON _____, 2025.

Joe R. Zimmerman, Mayor

ATTEST:

APPROVED AS TO FORM:

Linda Mendenhall, City Clerk