

DIVISION 2. - ETHICS

Sec. 2-151. - Definitions.

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

City board or commission means a city commission, committee, board, task force, or other city body, the members of which are appointed by the city council.

Conference means a conference, seminar, educational gathering, meeting to discuss city business or other fact-finding meeting authorized under this division.

Employee means any person employed by the city, including individuals employed on a part-time basis, but does not include any independent contractor hired by the city.

Official or city official means the mayor, members of the city council, the city secretary, the head of any city department, members of city boards or commissions, and any other person appointed or authorized by the city council to represent or act on behalf of the city in any capacity, whether such person is salaried, hired, appointed or elected.

Region means the geographic area designated as Region 10 by the Texas Municipal League.

Sec. 2-152. - Purpose.

This division is adopted to establish guidelines for high ethical standards in official conduct by city officials and employees and to instill a high level of public confidence in the professionalism, integrity and commitment to the public interest of those in the public service of the city.

Sec. 2-153. - Policy.

It is the policy of the city that all city officials and employees conduct themselves in a manner consistent with sound business and ethical practices, that the public interest is always considered in conducting city business, and that the appearance of impropriety must be avoided to ensure public confidence.

Sec. 2-154. - Conflicts of interest prohibited.

- (a) ~~All Officials of the City are required to comply the requirements of Texas Local Government Code Chapter 171 and any amendments or successors thereto. No city official or employee may transact any business in his official capacity with or participate in any discussion, vote or decision affecting any person with whom he has a personal business relationship or business entity in which he has any personal pecuniary interest, whether direct or indirect; provided, however, that participation involving a nonprofit organization, entity or other charitable association will not constitute a conflict of interest under this provision.~~
- (b) No city official or employee may utilize information obtained in his official capacity for his personal pecuniary benefit, whether direct or indirect.
- (c) No city official or employee may represent, directly or indirectly, ~~himself or~~ any other person, business entity, group or interest before the body of which he is a member, ~~except in matters of purely public concern and when doing so without compensation.~~
- (d) ~~An employee must notify his supervisor in writing of any personal pecuniary interest that he has in a matter that would be affected by an exercise of discretionary authority by the employee. Upon receipt of such notice, his supervisor will reassign the matter. An official or employee may not participate in discussions, a vote or a decision on a matter in which he has a personal pecuniary interest, whether direct or indirect, or when his participation is prohibited by law.~~

~~Sec. 2-155. - Disclosure of conflicts required.~~

Commented [CZ1]: May delete if you move the reimbursement section.

Commented [CZ2]: Shouldn't these individuals be classified as City Employees?

Commented [CZ3]: What does this mean? Isn't everything that comes before the city a "public concern".

- (a) ~~The city may not contract for the purchase of services or property with an entity in which a city official has a substantial interest, except as provided by law.~~
- (b) ~~Each city official has a continuing duty to disclose the existence of any personal pecuniary interest which he has or subsequently obtains in any matter that would be affected by a vote or decision of the body of which he is a member. In the event of a conflict of interest, a city official must, prior to any vote or decision on the matter:~~
- ~~(1) File an affidavit with the city secretary stating the nature and extent of his conflict of interest;~~
 - ~~(2) Leave the dais and abstain from participation in the discussion of the matter in which he has a conflict of interest; and~~
 - ~~(3) If the matter is discussed in executive session, he may not be physically present for the discussion.~~
- (c) ~~An employee must notify his supervisor in writing of any personal pecuniary interest that he has in a matter that would be affected by an exercise of discretionary authority by the employee. Upon receipt of such notice, his supervisor will reassign the matter.~~

Sec. 2-156. - Gifts.

A city official or employee may not accept a benefit, as defined in V.T.C.A., Penal Code § 36.01, from any person or entity if acceptance of the benefit is prohibited by V.T.C.A., Penal Code § 36.08 or other state statute; provided, however, that nothing in this section will be deemed to prohibit an official or employee from accepting a benefit permitted under V.T.C.A., Penal Code § 36.10.

Sec. 2-157. - Bribery.

A city official or employee may not intentionally or knowingly offer, confer or agree to confer, or solicit, accept or agree to accept any benefit, as defined in V.T.C.A., Penal Code § 36.01, as consideration, when to do so is prohibited by V.T.C.A., Penal Code § 36.02 or other state statute.

Sec. 2-158. - Prohibition against serving as surety.

No city official or employee may serve as a surety on any official bond required of an official or employee of the city, or as a surety for any person or entity doing business with the city.

Sec. 2-159. - Travel and expense policy.

- (a) *Purpose.* The city council wishes to establish an equitable and reasonable policy to cover the reimbursement of officials and employees for necessary and reasonable expenses incurred in the conduct of authorized city business. All requests for reimbursement will be subject to requirements of documentation and reasonableness.
- (b) *Verified statement of expenditures.* Any official or employee desiring reimbursement for travel or other business expenses must present a verified statement of the expenses to the city secretary, together with supporting receipts and invoices.
- (c) *Travel within region.* All reasonable and necessary travel by officials and employees for conduct of city business including travel for attendance at conferences within the region or which costs less than \$50.00 per person is authorized, subject to compliance with applicable city policies and procedures. Reimbursement for the use of private automobiles by officials and employees will be made monthly upon submission to the city secretary of a verified statement of expenditures in accordance with subsection (b) of this section. Mileage will be reimbursed at the maximum nontaxable rate allowed by the Internal Revenue Service at the time the mileage is incurred. Officials and employees will report the shortest distance between destinations for all travel.
- (d) *Travel out of region.* Travel out of the region by officials and employees for conduct of city business, including attendance at conferences, is permissible if the travel is authorized in advance by the city council and does not exceed applicable budgetary limitations. Reimbursement for out-of-region travel

Commented [CZ4]: TLGC Section 21.031 provides automatic removal for conviction.

Commented [CZ5]: TLGC Section 21.031 provides automatic removal for conviction.

Commented [CZ6]: Not an ethics issue. Should be moved to another location in the Code.

will be based on the most economical means reasonably available. When private automobiles are used for out-of-region travel, reimbursement will be made on the basis of actual mileage traveled or tourist-class airfare, whichever is less. If no air service is available to the authorized destination, actual mileage will be allowed. Mileage will be reimbursed at the maximum nontaxable rate allowed by the Internal Revenue Service at the time the mileage is incurred. The difference in cost between first-class air accommodations and tourist-class air accommodations will not be eligible for reimbursement, except when tourist-class air accommodations are not reasonably available. If a rental car is used for city business, officials and employees must choose the optional insurance coverage, and the city will pay for the insurance cost.

- (e) *Registration, hotel and meals expenses.* Registration expenses for approved conferences will be reimbursed in full. Costs of a hotel room for all conferences, not exceeding the official conference rate, if available, will be eligible for reimbursement, including the cost of the room the night before the commencement of the conference and the night of the final meeting day of the conference. Reasonable costs of meals on travel dates and meals that are not provided by the conference will be reimbursed for the official or employee only.
- (f) *Other expenses.* Officials and employees engaged in necessary and authorized travel in the conduct of city business will be reimbursed for the actual cost of reasonable, necessary and documented expenses, including the cost of telephone, parking, tolls, taxis, and reasonable gratuities.
- (g) *Limitations.* The following items of travel-related expenses will not be reimbursed:
 - (1) Any item of a personal nature;
 - (2) Entertainment;
 - (3) Social activities;
 - (4) Alcoholic beverages;
 - (5) Expenses of a spouse, children, or guests; and
 - (6) Laundry and valet service.
- (h) *Report to council.* All members of the city council who participate in a conference must submit a written report to the council summarizing the information obtained by the member at the next city council meeting following the date the member returns from the conference.

Sec. 2-160. - Complaint procedure.

- (a) All complaints or allegations of a violation of this article against an official or employee must be in writing, sworn to before a notary public, and filed of record with the mayor, or, if the complaint is against the mayor, with any councilmember. A complaint must describe in detail the acts complained of and the specific sections of this article alleged to have been violated. Neither general complaints lacking in specific detail nor anonymous complaints will be sufficient to invoke the procedures set forth in this article.
- (b) Complaints under this division will be filed, heard and considered in accordance with the procedures set forth in V.T.C.A., Local Government Code § 21.021 et seq.
- (c) The council may consider a complaint in executive session subject to the individual's right under the Texas Open Meetings Act to a public hearing, but any final action, decision, or vote with regard to about any matter will be made in a meeting that is open to the public.

Sec. 2-161. - Violations.

- (a) By councilmembers. The failure of any city councilmember to comply with one or more of the applicable standards of conduct set forth in this article will constitute grounds for reprimand or removal from office in accordance with V.T.C.A., Local Government Code § 21.021 et seq. Any reprimand or removal will require the affirmative vote of three city councilmembers. Any-city

Commented [CZ7]: Who determines this? Seems pretty subjective to me.

Commented [CZ8]: This section of the TLG is only applicable to the removal of a Council Member from Office.

Commented [CZ9]: This isn't necessary as it is a recitation of the laws. However, if you want to keep it in the ordinance, I recommend adding the underlined language.

Commented [CZ10]: How does this work with violations of the stated criminal codes?

Commented [CZ11]: This needs to be completely rewritten with direction from City Council. Only a District Judge may remove a Council Member.

~~councilmember removed from office because of violations of this article will be ineligible to hold city office or employment for two years after removal, in addition to any other penalty provided by law.~~

(b) *By other officials and employees.*

- (1) The failure of a city official, other than a councilmember, to comply with one or more of the standards of conduct set forth in this article will constitute grounds for expulsion, reprimand, or removal from office to the extent allowed by law.
- (2) The failure of a city employee to comply with one or more of the standards of conduct set forth in this article will constitute grounds for reprimand, suspension or termination to the extent allowed by law. All disciplinary action and any appeals therefrom will be in conformity with applicable procedures established in the personnel policies of the city and state law.
- (3) Any city official other than a councilmember removed from office or employee dismissed from employment because of violation of this article will be ineligible to hold city office or employment for two years after removal, in addition to any other penalty provided by law.

~~Sec. 2-162. City attorney opinions.~~

~~Any councilmember may request that the city attorney issue an opinion with regard to whether a specific interest or relationship constitutes a conflict of interest under this division. Any councilmember or city official acting in reasonable reliance on any such city attorney opinion will not be construed to have violated this division due to such interest or relationship.~~

Commented [CZ12]: I add this as a reminder that certain individuals have rights under the Texas Government Code as it relates to their removal. See Tex. Loc. Gov't Code Sections 22.071 and 22.077.