

ORDINANCE NO. 2014-19

AN ORDINANCE OF THE CITY OF WYLIE, TEXAS, ESTABLISHING A CODE OF ETHICS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City of Wylie desires for all of its citizens to have confidence in integrity, independence, and impartiality of those who act on their behalf in government; and

WHEREAS, this proposed Code of Ethics to define the bounds of reasonable ethical behavior by the City Council and all appointed City Offices.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS that this Ordinance be adopted in order to promote confidence in the government of the City of Wylie, and thereby enhance the City's ability to function effectively.

Section 1. Definitions.

In this article:

Administrative Board means any board, commission, or other organized body: (1) That has, by law, final decision-making authority on matters within its jurisdiction and that is either: (a) established under the City Charter or by city ordinance, or (b) whose members are all council members or are appointed or confirmed by the City Council; or, (2) Created as a non-profit economic development corporation by the City Council under the authority of the Development Corporation Act of 1979, as amended.

Advisory Board means a board, commission, or other organized body other than an Administrative Board, that was created by an act of the City Council whose members are appointed or confirmed by the City Council and are charged with making recommendations to the City Council on matters within its jurisdiction.

City Official means a member of the City Council, an Administrative Board, or an Advisory Board.

Economic Interest means a legal or equitable property interest in land, chattels, and intangibles, and contractual rights having a value of more than fifty thousand dollars (\$50,000.00). Service by a City Official as an Officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that City Official an "Economic Interest" in the

property of the organization. "Economic Interest" does not include the contract and/or business relationship that the City Manager, City Secretary, City Attorney and/or his law firm, and/or the Municipal Court Judges and Magistrates and/or their respective law firms have with the City."

Official Action means:

- (1) any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an Official's duties; or
- (2) any failure to act, if the Official is under a duty to act and knows that inaction is likely to affect substantially an Economic Interest of the Official.

Review Panel means the body charged with reviewing and acting on complaints and requests for declaratory relief filed under this article.

Section 2. Covered officials.

The rules of ethical conduct contained below apply generally to City Officials unless otherwise specified.

Section 3. Officials required to comply with both state and local law.

Where a City Official's conduct is regulated by a provision of this article and a similar provision of state law, and it is possible to comply with the requirements of both, a City Official shall comply with both.

Section 4. Education.

The City shall provide training and educational materials to City Officials on their ethical obligations under state law and this article. Such training shall include at least one formal classroom session in each calendar year. All City Officials shall must annually attend the formal training session offered by the City or equivalent training sessions conducted by the Texas Municipal League or similar organizations. The City also shall prepare and distribute written materials on the subject to each City Official at the time of his or her election or appointment to office.

Section 5. Ethical values.

It is the official policy of the City that:

- (A) City Officials shall be independent, impartial, and responsible to the citizens of the City;
- (B) City Officials shall not have a financial interest, and shall 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) The principles of personal conduct and ethical behavior that should guide the behavior of City Officials include:

1. A commitment to the public welfare;
2. Respect for the value and dignity of all individuals;
3. Accountability to the citizens of the City;
4. Truthfulness; and
5. Fairness.

(D) Under such principles of conduct and ethical behavior, City 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.

(E) To implement the principles of conduct and ethical behavior set out above, the City Council has determined that it is advisable to enact rules of ethical conduct to govern City Officials. It is the purpose and intent of City Council to assure 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.

Section 6. Rules of Ethical Conduct for City Officials.

The rules of ethical conduct contained below, are intended not only to serve as a guide for official conduct, but also as a basis for discipline of City Officials who do not abide by them.

(A) **Appearance on behalf of private interests of others.**

- (1) A member of the City Council shall not appear before the City Council, an Administrative Board or an Advisory Board for the purpose of representing the interests of another person or entity. However, a member of the City Council may, to the extent as otherwise permitted by law, appear before any such body to represent the member's own interests or the interests of the member's spouse or minor children.

- (2) A City Official who is not a member of the City Council shall not appear before the body on which he or she serves for the purpose of representing the interests of another person or entity, and shall not appear before any other body for the purpose of representing the interests of another person or entity in connection with an appeal from a decision of the body on which the City Official serves. However, the City Official may, to the extent as otherwise permitted by law, appear before any such body to represent the City Official's own interests or the interests of the City Official's spouse or minor children.

(B) Misuse and disclosure of confidential information.

- (1) It is a violation of this ethics code for a City Official to violate V.T.C.A., Penal Code, § 39.06 (Misuse of Official Information), as amended.
- (2) A City Official shall not disclose to the public any information that is deemed confidential under any federal, state, local law, or council rules, unless required by law.

(C) Restrictions on political activity and political contributions.

- (1) No City Official or candidate for City Council shall meet with any employee or group of employees of the City for political campaign purposes while such employees are on duty.
- (2) No City Official shall, directly or indirectly, coerce or attempt to coerce any City employee to:
 - (a) Participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or
 - (b) Refrain from engaging in any lawful political activity.
- (3) The following actions by City Officials are not prohibited by this section:
 - (a) The making of a general statement encouraging another person to vote in an election;
 - (b) A solicitation of contributions or other support that is directed to the general public or to an association or organization; and
 - (c) The acceptance of a campaign contribution from a City employee.

- (4) No City Official shall use, request, or permit the use of City facilities, personnel, equipment, or supplies for the creation or distribution of materials to be used in a political campaign or for any other purpose in support of a political campaign. However, meeting rooms and other City facilities that are made available for use by the public may be used for political purposes by City Officials under the same terms and conditions as they are made available for other public uses

(D) Use of cell phones or electronic devices during meetings.

City Officials shall refrain from using cell phones or electronic devices during a meeting unless it is for the purpose of accessing agendas and information relevant to the agenda. Cell phones shall be turned off or put on vibrate during meetings. Should it be necessary to use a cell phone, City Officials shall step out of the meeting. Text messaging, emails and other written communications shall not be sent during a meeting unless it is an emergency.

(E) Use of City letterhead and logo.

The City's name, letterhead and logo are not to be used for non-City business or purposes. City Officials shall not use the City letterhead or other materials for personal correspondence, in connection with non-City business such as personal fund raising for charitable causes, endorsements, or other types of personal business.

Section 7. Board of Ethics.

(A) Creation and appointment.

There is hereby created a Board of Ethics to consist of five members and two alternates. The purpose of the Board shall be to issue advisory opinions and waivers on ethical issues arising under this article and to hear inquiries or complaints and issue findings and recommendations regarding alleged violations of this article.

Prospective Board of Ethics members shall be interviewed by the entire City Council.

(B) Qualifications.

- (1) All members must live within the city of Wylie city limits.
- (2) Members may not serve on any other Council appointed Board or Commission during their term on the Board of Ethics.
- (3) No City of Wylie employee can be on the Code of Ethics Board.

(C) Terms of appointment.

No Board of Ethics member may serve more than two (2) consecutive years (with the exception of the inception to achieve staggered terms.)

(D) Removal.

The unexcused absence of any member of the Board of Ethics from three (3) consecutive meetings, unless the Board has excused the absence for good and sufficient reasons as determined by the Board, shall constitute a resignation from the Board.

A member may be removed for inappropriate conduct before the expiration of the member's term. Before removing a member, the Board of Ethics shall specify the cause for a recommendation of removal and shall give the member the opportunity to make a personal explanation. Then the recommendation shall be brought to the City Council for an official vote by Council. If the recommendation is regarding a City Council member that member shall be exempt from the vote.

E. Consultation with city attorney.

The Board of Ethics may consult with the city attorney or a designee of the city attorney regarding legal issues which may arise in connection with this article and may request advisory assistance from the city attorney in conducting hearings on inquiries during any stage of the process.

F. Advisory opinions and waivers.

- (1) Any current elected officials or board/commissions member or anyone seeking to become an elected officials or board/commissions member may submit a written request to the Board of Ethics for advisory opinions on whether any conduct by that person would constitute a violation of the Code of Ethics. The Board of Ethics shall render an advisory opinion pursuant to written rules adopted by the Board, but in no case shall the Board take longer than six (6) weeks from the time it received the request to issue an advisory opinion or to give written notice explaining the reason for delay and stating an expected issuance date.
- (2) Any current elected officials or board/commissions member or anyone seeking to become an elected officials or board/commissions member may submit a written request for a waiver of any provision of the Code of Ethics. The Board of Ethics is empowered to grant a waiver if it finds that the waiver will serve the best interests of the City. The Board shall issue appropriate notice of its meeting on the waiver and its meeting shall be open to the public. The Board shall

either issue or deny the waiver within six (6) weeks of receiving the request.

G. Complaints or inquiries to the Board of Ethics.

Any person may file an official written complaint or inquiry with the Board of Ethics asking whether a current elected officials or board/commissions member has failed to comply with this code of ethics.

Prior to review by the Board of Ethics, the city attorney shall first determine the following:

- (1) If the Board of Ethics has jurisdiction over the alleged violation, and;
- (2) If the alleged violation, if true, would or would not constitute a violation of this article.

Subject to the rules adopted by the Council pursuant to section 7.H., the Board of Ethics shall:

- (1) Conduct a hearing in a meeting, which shall be open to the public on all official written complaints or inquiries which have not been dismissed pursuant to paragraph G of section 7 or resolved under paragraph F of section 7.
- (2) Except as otherwise provided in this article, make public written findings and recommendations, if any, on complaints or inquiries. Board findings should characterize the seriousness of the violation, if any.
- (3) The City Manager or the City Attorney shall inform the person who is the subject of the complaint or inquiry and the person who submitted the complaint or inquiry of the Boards' findings, and recommendations; and
- (4) If the Board feels corrective action may be necessary, it must make its recommendations to the City Council in writing. The Board may propose actions appropriate to the finding, ranging from a recommendation that the person abstain from further action on the matter or seek a waiver, to adopting a resolution reprimanding the person.

(H) Procedures for complaints or inquiries.

The City Council shall adopt written rules to govern the Board of Ethics in order to create a process that is fair both to the person who submitted the complaint or

inquiry and the person who is the subject of the complaint or inquiry. In addition to rules which the Board may in its discretion adopt, the rules shall:

- (1) Establish time lines for all aspects of its handling of complaints or inquiries. The time lines shall be sufficiently long to enable a person who is the subject of a complaint or inquiry to have adequate time to understand the complaint or inquiry and prepare a response. The rules shall allow the Board to alter the time lines upon a request of the subject of a complaint or inquiry for more time to prepare;
- (2) Require the complaint or inquiry to be in writing on a form approved by the Board, to be signed, and to show the home or business address and telephone number of the person who submitted it. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint or inquiry is true. The rules shall require the complaint or inquiry to describe the facts that constitute the violation of this Code of Ethics in sufficient detail so that the Board and the person who is the subject of the complaint or inquiry can reasonably be expected to understand the nature of any offense that is being alleged;
- (3) Prohibit the Board from accepting complaints or inquiries about actions that took place or became known to the complainant more than six (6) months prior to the date of filing;
- (4) Require the Board to notify the person who is the subject of the complaint or inquiry that a complaint or inquiry has been filed. The rules shall require the Board to provide the notification in a timely manner, but no more than five (5) days from the day the complaint or inquiry was filed. The rules shall require the notification to include a copy of the full complaint or inquiry; a copy of any portion of this article that is alleged to have been or that may be violated; and the Board's rules for dealing with complaints or inquiries;
- (5) Require the Board to provide the subject of the complaint or inquiry with a copy of the complaint or inquiry before it provides copies to any other parties. The rules shall recognize that distribution to the public of a complaint or inquiry prior to screening by the Board as required in below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the rules shall prohibit the public release of the complaint or inquiry until the screening process in below has been completed;
- (6) Require the Board or a committee of the Board to meet within thirty-one (31) days of receiving a complaint or inquiry to screen the

complaint or inquiry. The rules shall allow the Board to immediately dismiss a complaint or inquiry if:

- a. The alleged violation is a minor or de minimis violation;
- b. The complaint or inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment;
- c. The matter has become moot because the person who is the subject of the complaint or inquiry is no longer an elected officials or board/commissions member;
- d. The person who is the subject of the complaint or inquiry had obtained a waiver or an advisory opinion under section 7.F. permitting the conduct.

The rules shall require the dismissal and the reason for dismissal to be in writing and available to the public.

- (7) Require the Board to have hearings at meetings, which are open to the public on complaints or inquiries, which have not been dismissed pursuant to paragraph G of this section or resolved under paragraph F of this section.
- (8) Allow any person who is the subject of a complaint or inquiry to designate a representative if he or she wishes to be represented by someone else, to present evidence, and to cross-examine witnesses. The rules shall allow the person who submitted the complaint or inquiry and the subject of the complaint or inquiry sufficient time to examine and respond to any evidence not presented to them in advance of the hearing;
- (9) Require deliberations on complaints or inquiries to be conducted in open session;
- (10) Allow the Board to dismiss a complaint or inquiry without a finding for or against the subject of the complaint or inquiry if the person committed the violation due to oversight and comes into voluntary compliance;
- (11) Allow the Board to dismiss a complaint or inquiry if the person who submitted it does not appear at hearing and if, in the opinion of the Board, it would be unfair to the subject of the complaint or inquiry not to have the opportunity to examine the person. The rules shall, however, require the Board to schedule the hearing at a time that is reasonably convenient to both the person who submitted the complaint or inquiry and the subject of the complaint or inquiry;

- (12) Require the Board to base a finding of a violation upon [clear and convincing evidence];
- (13) Require the Board to inform the person who submitted the complaint or inquiry and the subject of the complaint or inquiry in writing if it believes a complaint or inquiry is frivolous, groundless, or brought for purposes of harassment;
- (14) Prohibit members who have not been present for the hearing from participating in a recommendation;
- (15) Require that findings and recommendations be made only by a majority of the Board;
- (16) Allow the Board to consider, when it makes findings and recommendations, the severity of offense; the presence or absence of any intention to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern;
- (17) Allow the Board to issue an advisory opinion in response to a complaint or inquiry, in lieu of making findings and recommendations, where deemed appropriate by the Board.

Section 8. Other Obligations.

This Code of Ethics is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this Code shall 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.

Even if a City Official is not prohibited from taking official action by this Code of Ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

Section 9. Effective Date.

This Code of Ethics shall take effect on May 28, 2014, following its adoption and publication as required by law. Every person shall be provided reasonable opportunity to review this Code of Ethics as a condition of their candidacy and/or application to be a City Official. Individuals seated as City Officials on the effective date of this Ordinance shall be bound by it and shall sign a written acknowledgement of receipt and understanding of this Code within 30 days of the effective date. All City Officials elected, appointed or retained following the effective date of this Code shall sign a written acknowledgement of receipt and understanding of this Code before performing any of the duties or functions of the City Official's position.

Section 10. Distribution and Training.

- (A) At the time of application for a position of City Official, every applicant shall be furnished with a copy of this Code of Ethics. No application shall be considered complete without a signed acknowledgement of receipt and understanding of this Code by the applicant.
- (B) The City Attorney or City Manager as designated by the City Council shall develop educational materials and conduct educational programs for the City Officials on the provisions of this Code of Ethics, Article XI of the City Charter, and Chapters 171 and 176 of the Texas Local Government Code. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.

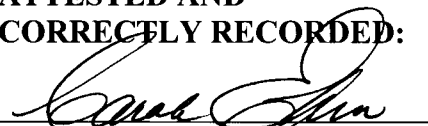
Section 11. Severability.

If any provision of this Code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision or application.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, on this 20th day of May, 2014.


Eric Hogue, Mayor

**ATTESTED AND
CORRECTLY RECORDED:**


Carole Ehrlich, City Secretary

DATES OF PUBLICATION: May 28, 2014 in the Wylie News






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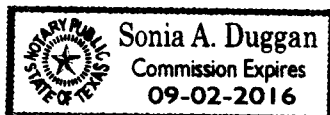
STATE OF TEXAS
COUNTY OF COLLIN


Before me, the undersigned authority, on this day personally appeared Chad Engbrock, publisher of C & S Media, dba *The Wylie News*, a newspaper regularly published in Collin County, Texas and having general circulation in Collin County, Texas, who being by me duly sworn, deposed and says that the foregoing attached:

City of Wylie
Ordinance No. 2014-19
was published in said newspaper on the following dates, to-wit:
May 28, 2014


Chad Engbrock, Publisher

Subscribed and sworn before me on this, the 1 day of June, 2014
to certify which witness my hand and seal of office.




Notary Public in and for
The State of Texas

My commission expires 9/27/16

May 28 - May 29, 2014

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