

MISSION STATEMENT

The government of the City of White Settlement exists to promote and sustain a superior quality of life. In partnership with the community and others, we pledge to deliver cost-effective services and quality facilities in a personal, responsive, and innovative manner.

Code of Ethics

For Elected Officials
and
Board and Committee Members

Adopted 2012

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ORDINANCE No. 2436-12

AN ORDINANCE OF THE CITY OF WHITE SETTLEMENT ADOPTING THE CITY OF WHITE SETTLEMENT “CODE OF ETHICS FOR ELECTED OFFICIALS AND BOARD AND COMMITTEE MEMBERS”; AMENDING CHAPTER 2 ARTICLE 1 OF THE WHITE SETTLEMENT CODE OF ORDINANCES BY ADDING A NEW SECTION, SECTION 2-4 “CODE OF ETHICS”, TO CHAPTER 2 ARTICLE 1; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN BOOKLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of White Settlement is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of White Settlement recognizes that the proper orientation of democratic government requires that City elected officials and board and committee members be independent, impartial and responsible only to the people of the City; and

WHEREAS, the City Council deems it advisable to adopt a specific code of ethics for the conduct of City Elected Officials and board and committee members, and procedures for the enforcement of such provisions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE SETTLEMENT, TEXAS:

Section 1

The Code of Ethics attached hereto as Exhibit "A" and incorporated by reference is hereby in all things formally adopted as the official Code of Ethics for the City of White Settlement.

Section 2

Chapter 2 "Administration" Article 1 "In General" Section 2-4 "Code of Ethics", with the adoption of this Ordinance is hereby being incorporated into the City of White Settlement Code of Ordinances.

Section 3

This Ordinance shall be cumulative of all provisions of Ordinances of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 4

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of the is ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5

All rights and remedies of the City of White Settlement are expressly saved as to any and all violations of the provision of the City of White Settlement Code of Ordinances or any other ordinances affecting Ethics for Elected Officials and Board and

Committee Members which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 6

Penalty for violation of this ordinance or Code of Ethics shall be in accordance to Chapter 1 Section 1-11 "General penalty for violations of Code; continuing violations", of the City of White Settlement Code of Ordinances as adopted and as amended.

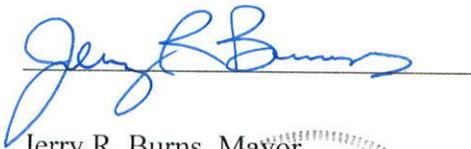
Section 7

The City Secretary of the City of White Settlement is hereby directed to publish in the official newspaper the caption, savings clause, penalty clause, publication clause and effective date clause of this ordinance, one time, after the adoption of this ordinance.

Section 8

The Ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 13th DAY OF NOVEMBER, 2012.



Jerry R. Burns, Mayor

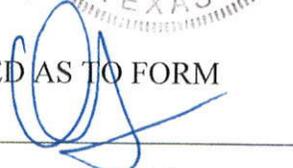
ATTEST





Amy Arnold, TRMC
City Secretary

APPROVED AS TO FORM



Warren Spencer, City Attorney

ATTACHMENT "A"

CHAPTER 2 ADMINISTRATION”

ARTICLE 1 “IN GENERAL” SECTION 2-4 “CODE OF ETHICS”

CODE OF ETHICS FOR ELECTED OFFICIALS AND BOARD AND COMMITTEE MEMBERS

Section 2-4.001 Statement of Purpose

It is hereby declared to be the policy of the City of White Settlement that the proper operation of democratic government requires that city elected officials and members of boards and committees are independent, impartial and responsible only to the people of the city. Governmental decisions and policy should be made in the proper channels of the governmental structure; that no city elected official or Board or Committee Member should have any interest financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest; that public offices are positions of public trust imposing the duty fiduciary upon all office holders, who are not to use their public position for personal gain, and that the public should have confidence in the integrity of its government. To implement such a policy, the City Council deems it advisable to enact this code of ethics and conduct for all elected city officers and board and committee members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city’s public servants, but also as a basis for discipline, city charter provisions and state statutes defining and prohibiting conflict of interest. This code of ethics is not intended to be nor shall it be used as a political weapon to intimidate or embarrass persons affected.

Section 2-4.002 Definitions

As used in this code of ethics, the following words and terms shall have the meaning ascribed hereto:

Advisory Board means a board; commission or committee of the city that functions only in an advisory or study capacity.

Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any another person whose welfare the beneficiary has a direct and substantial interest. A pecuniary gain or advantage shall not include insignificant amounts or items of de minimis value. This policy does not establish dollar limits. "Insignificant and "de minimis" shall have their usual meanings and be subject to interpretation on a case by case basis.

Business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized in law.

Candidate means any person who declares for or files for any office of the City of White Settlement to be filled by election

Code means this code of ethics and conduct.

Compensation means any economic benefit received in return for labor, services, property, or investment.

Confidential Information means information to which the following apply:

- (1) At the time of the use or disclosure of the information, the information is not a public record subject to public disclosure under the Texas Public Information Act; and
- (2) The use or disclosure of the information will have, or could reasonably be expected to have, a material financial effect on any investment or interest in real property that a city officer, board or committee member, or any person to whom the city officer, board or committee member provides the information, has at the time of the use or disclosure of the information or acquires after the use or disclosure of the information.

Conflict of interest means action upon any matter which would constitute a violation of this code of ethics, Texas Penal Code or Texas Local Government Code, Chapter 171.

Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board or commission which can or may lead to a vote or formal action by that body.

Economic benefit means any money; real or, personal property, purchase, sale, lease, contract, option, credit, loan discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Entity means a sole proprietorship, partnership, limited liability partnership, firm, corporation, professional corporation, holding company, joint-stock company, joint venture, receivership, trust or any other entity recognized by law through which business may be conducted.

False means a knowing or willful misrepresentation or concealment of any item required to be disclosed by this chapter.

Family member means a person related in the first or second degree of consanguinity or affinity to any person subject hereto. Consanguinity – 1st degree is an individual's parent or child; 2nd degree is the individual's brother, sister, grandparent or grandchild. Affinity – 2nd degree is anyone related by consanguinity to the individual's spouse within 1st or 2nd degree, or the spouse of anyone related to the individual by consanguinity within the 1st or 2nd degree. Not included – aunts, uncles, and cousins.

Gift means a favor, hospitality, or economic benefit, other than compensation, but does not include campaign contributions reported as required by state law.

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

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of his or conduct or that the circumstances exists. A person acts

knowingly, or with knowledge, with respect to the result of his conduct when he or she is aware that his or her conduct is reasonably certain to cause the end result.

Ministerial act means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.

Obscene means disgusting to the senses, repulsive; abhorrent to morality or virtue; containing or being language regarded as taboo in polite usage; repulsive by reason of crass disregard of moral or ethical principles.

Officer or Official means any member of the city council and any member of a board or commission or committee established by ordinance, charter or state law; provided no member of an Advisory board or committee shall be deemed an officer of the city.

Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Substantial interest.

A) A person has a substantial interest in a business entity if:

- 1) The interest is ownership of ten (10) percent or more of the voting stock or shares of the business entity or ownership of two thousand five hundred dollars (\$2,500.00) or more of the fair market value of the business entity; or
- 2) Funds received by the person from the business entity exceed ten (10) percent of the person's gross income for the previous year; or
- 3) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of two thousand five-hundred dollars (\$2,500.00) or more; or
- 4) An interest of a Family Member to the local public official is a "substantial interest"; or

- 5) The person holds a position of member of the board of directors or other governing body of the business entity; or
- 6) The person serves as an elected officer of the business entity; or
- 7) The person is an employee of the business entity; or
- 8) The person is a creditor, debtor or guarantor of any person, group or business entity in the amount of five thousand dollars (\$5,000.00) or more; or
- 9) Property of the person has been pledged to a person, group or business entity or is subject to a lien in favor of the person, group or business entity in the amount of five thousand dollars (\$5,000.00) or more.

B) A person does not have substantial interest in a business entity if:

- 1) The person holds a position as a member of the board of directors or other governing board of a business entity; and
- 2) The person has been designated by the City Council to serve on such board; and
- 3) The person receives no remuneration either directly or indirectly, for his or her service on such board; and
- 4) The primary nature of the business entity is charitable, nonprofit or governmental.

Section 2-4.003 Affected Parties

The persons subject to the provisions hereof shall be:

- 1) The members of the city council, including the mayor; and

- 2) The members of any board, commission or committee established pursuant to the charter or the ordinance of this city, or the laws of this state including, but not limited to:
 - a) White Settlement City Council
 - b) White Settlement Economic Development Corporation Board of Directors
 - c) White Settlement Crime Control and Prevention District
 - d) White Settlement Board of Adjustments and Appeals (BAA)
 - e) White Settlement Planning and Zoning Commission (P&Z)
 - f) White Settlement Park and Recreation Board
 - g) White Settlement Library Board
 - h) White Settlement Pride Commission;
 - i) Civil Service Commission,
 - j) Animal Control Advisory Commission; and

- 3) Candidates for City of White Settlement Elected office(s).

Section 2-4.004 Standards of Conduct

- A) Elected and appointed City Officials and advisory board members shall not use their position to secure special privileges and shall avoid situations that could cause any person to believe that they may have brought bias or partiality to a question before the council, any board, or decision maker. When an item to be considered by the council or any board presents a conflict of interest to a city officer or advisory board member, it will be the responsibility of the city official to make such conflict known to the City Secretary and to remove himself/herself from discussion and voting on the matter. Members of the Council will not condone, overlook or forgive any unethical or illegal activity. All members of the council agree to uphold the intent of this policy and to govern their actions accordingly.

- B) Elected and appointed City Officials and advisory board members shall make a commitment to improve the quality of life for the individual and the community, and be dedicated to the faithful stewardship of the public trust.

C) Elected and appointed City Officials and advisory board members shall conduct themselves in a manner that is demonstrating respect, kindness, consideration, and courtesy to others through words and actions.

D) Elected Officials shall:

- 1) Fully participate in city council meetings and other public forums,
- 2) Refrain from use of obscene language in council meetings and public forums,
- 3) Prepare in advance of council meetings and be familiar with agenda items,
- 4) Represent the city at ceremonial functions at the request of the Mayor,
- 5) Be respectful of other people's time by staying focused and act efficiently during public meetings,
- 6) Serve as a model of leadership and civility to the community,
- 7) Inspire public confidence in White Settlement government,
- 8) Provide contact information to the City Manager's office in case an emergency or urgent situation arises while a council member is out of town,
- 9) Demonstrate honesty and integrity in every action and statement.

E) Meeting Chairs shall:

- 1) Maintain order, decorum, and the fair and equitable treatment of all speakers,
- 2) Keep discussions and questions focused on the specific agenda item under consideration.

F) Requests for City Council representation at ceremonial events will be coordinated by the City Secretary. The City Secretary will notify all council members of the request.

Notice will be posted of all non-city sponsored events in which 1) the City Secretary has provided request to council members, and 2) council members have expressed intent to attend. The notice will state the date, time and location (if known) of the event and include the sentence “A quorum of the City Council Members may be present. They may not deliberate or take action”.

- G) When a council member receives a personalized e-mail, the council member should acknowledge the receipt of the e-mail and concern voiced via a reply e-mail. The response should be polite and careful in regard to any personal opinions expressed on the issue. If a reply is sent, the City Manager and/or City Secretary should be copied if there is any further action and/or official response needed in regard to the e-mail. E-mail has become a familiar form of communication between the public and its elected officials. It is important to remember that e-mails held by elected officials regarding their position are a form of public record and must be maintained as per the Open Records Act.

Section 2-4.005 Prohibited Conduct

- A) No city officer or advisory board member, or their spouses shall knowingly:
- 1) Accept or solicit any gift, favor, service or thing of value from any person, group or business entity that might reasonably tend to influence any city officer or advisory board member, or their spouses or herein the discharge of his or her official duties. This prohibition shall not apply to:
 - a) All occasional non-pecuniary gifts, insignificant in value; or
 - b) An award publicly presented in recognition of public service; or
 - c) Any gift which would have been offered or given to him or her if he or she were not a city officer or advisory board member or their spouses.
 - 2) Grant in the discharge of his or her official duties any improper favor, service or thing of value to any person, group or business entity.

- 3) Solicit or accept, from any source, any compensation, gift, favor, service, economic benefit, or thing of value, including a promise of future employment, that might reasonably tend to influence him or her, in the discharge of his or her official duties, in consideration of any person subject hereto of exercising or having exercised any official power or performing or having performed any official duty on behalf of the city from any person, group or business entity:
 - a) Who is licensed or has a substantial interest in any business entity that is licensed by any city department, agency, commission or board on which the city officer or advisory board member serves; or
 - b) Who has a financial interest in any proposed ordinance or decision upon which the city officer or advisory board member may or must act or make a recommendation; provided, however, that any city officer or advisory board member and their spouses, may accept travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the city council prior to the occurrence of the ceremonial function.
- 4) Disclose any confidential information gained by reason of the position of the officer, advisory board member or spouse concerning the property, operation, policies or affairs of the city, or use such confidential information to advance any personal interest, financial or otherwise, of such officer or advisory board member, spouse or others. This subparagraph (4) shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this ordinance.
- 5) Use one's position or office to secure special privileges or exemption for himself/herself or another or for the private gain of the city officer; advisory board member or his or her spouse.
- 6) Hold him or her out as representing the city in any capacity other than that for which he was appointed, or elected.

- 7) Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment in the performance of his or her official duties.
 - 8) Make unauthorized use, or permit unauthorized use, of city owned vehicles, equipment, materials or property.
 - 9) Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
 - 10) Transact any business in his or her official capacity with the city with a business entity in which he or she has a substantial interest.
 - 11) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city, including but not limited to conduct that would constitute threats, intimidation of city employees or others, or bullying.
 - 12) Perform or refuse to perform any act in order to deliberately thwart the execution of city ordinances, rules or regulations or the achievement of official city programs.
 - 13) Be an interested party to any exchange, purchase, or sale of property, goods, or services with the city or enter into any contract with the city, except in full and impartial compliance with statutes, City Charter, ordinances and regulations applicable thereto and subject to any restrictions of the City Charter; provided further, that such persons shall receive no favor or special concession or inducement not customarily available and granted by the city in such a transaction; and provided further , that any discretion by officers of the city, in connection with any such transaction shall be exercised impartially and upon the same standards applied to all White Settlement citizens.
- B) No member of the city council or city officer shall knowingly represent, directly or indirectly, any person, group or business entity;
- 1) Before the city council or any department, agency, board or commission of the city; or

- 2) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission is a party; or
 - 3) In any action or proceeding in the municipal court(s) of the city which was instituted by a city officer or employee in the course of his or her official duties, or criminal proceeding in which any city officer or employee is a material witness for the prosecution.
- C) The restrictions in paragraph (B) do not prohibit the following:
- 1) A member of a city board or commission (other than city council), or his or her spouse, appearing before the city council or a city department, agency, board or commission to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall appear before the board or commission of which he or she is a member, or
 - 2) An officer of an employee organization appearing before the city council or a city department, agency, board or commission to address employment matters.
- D) The city council shall not approve or award any bid or contract for the city's purchase of goods or services from any person, group or entity which at any time prior to such award or approval, has hired a person who, at any time within such six-month period, was either a member of the White Settlement City Council or the department head of any city department or agency that had direct, or indirect, review or consideration, or recommending or approval authority for the Project or decision which is the subject of the award of such bid or contract.
- E) A person subject hereto who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the city for the entity, if said official receives any fee, compensation or other monetary payment from the entity, unless the city council appointed such city official to the board of directors or such corporate office.
- F) Nothing in this article shall prohibit the city council from participating in a vote or decision relating to salaries or travel budgets of city council members.

- G) No person subject hereto shall use his or her official position to secure confidential information for any purpose other than official responsibilities.
- H) No person subject hereto shall make any claim for reimbursement or prepayment of expense incurred by an official in furtherance of City business unless such expenditure has first been approved by the City Council, either in policy form, budgetary allowance or otherwise and any such expenses shall be documented and authenticated prior to reimbursement.
- I) No person subject hereto shall cause, participate, permit or condone any form of sexual harassment directed toward another person.
- J) No person subject hereto shall make any public comment regarding any other City Official or employee of the City that constitutes a racial or ethnic slur or is derogatory of that persons age, sex or religious belief; nor shall a City Official publish or cause to be published comments regarding another City Official or City Employee that contains profane utterances regarding the other persons character, demeanor or action.
- K) No person subject hereto shall use city facilities; personnel, equipment or supplies for private purposes; except to the extent such are customary, incidental or lawfully available to the public.
- L) The City Charter shall govern the appointment to and removal of persons from employment with the city. Except for the purpose of inquiry the city council and its members shall deal with the city departments and city employees for which the City Manager is responsible solely through the City Manager
- M) The restrictions in Section 2-4.005 do not prohibit the following:
 - 1) Rendering service to the City as an officer, employee or advisory board member;
 - 2) The paying of taxes, fines, utility service or filing fees;

- 3) Subject to restrictions contained in the charter of the city, executing and performing any community facilities contract or plat in compliance with laws and regulations applicable to any person; provided, however, that if any city ordinance, rule or regulation allows any discretion by the appropriate officer of the city in the interpretation or enforcement of such ordinance, rule or regulation, such officers shall exercise such discretion in favor of the city in connection with any such community facilities contract or plat;
- 4) Purchasing goods or services from the city in full compliance with all applicable state and local laws;
- 5) Members and spouses of members of the advisory boards set up by ordinance, charter or state law who are not otherwise officers of the city, may engage in any exchange, purchase or sale of property, goods or services with the city, or enter into a contract with the city, provided however, that the board of which they are members has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage;
- 6) A city contract for the purchase of services or personal property with a business entity in which a member of the governing body has a substantial interest if the business entity is the only business entity that provides the needed service or product within the jurisdiction of the city and is the only business entity that bids on the contract.

Section 2-4.006 Disclosure of Interest

- A) The City Council hereby directs all members of the City Council, or members of appointed Boards and Commissions to present a statement annually to the City Secretary by October 15th of each fiscal year in a form as set forth on the attached Exhibit "A" which is incorporated herein for all purposes and if applicable by the required Forms CIS and CIQ (Chapter 176 Local Government Code); such statement providing a complete disclosure of business and professional relationships with entities that do business with the City of White Settlement or plan to do business with the City of White Settlement in the future. Any individual required to complete this statement has a duty to amend the statement if a change in its disclosures should occur during each Fiscal Year. Amendments must occur by 5:00

P.M. on the seventh (7th) business day after the date in which the individual acquired knowledge of the change. Any individual who fails to file a required disclosure pursuant to this section not later than the seventh business day after the date the person received notice from the city secretary may be removed, from office by majority vote of the council for failure to conform to the requirements of the Ethics Ordinance.

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

- 1) a decision concerning a bank or financial institution from which the officer or advisory board member has a home mortgage, automobile loan, or other installment loan, if the loan is not currently in default, was originally for a term of more than two (2) years and cannot be accelerated except for failure to make payments according to the terms thereof;
- 2) A decision concerning a bank or other financial institution in which the officer or advisory board member holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S.. Government or an agency thereof;
- 3) A decision concerning a business entity with which the officer or advisory board member has a retail or credit card account;
- 4) A decision concerning the approval of substitution of collateral by a city depository bank;
- 5) A decision concerning real property in which the officer or advisory board member has a substantial interest if it is not reasonably foreseeable that such decision would have a special economic effect on the value of the property distinguishable from the effect on the public (See Section 171.004, Texas Local Government Code).

C) A city officer or: advisory board member shall disclose the existence of any substantial interest in any person, business entity or real property involved in any decision pending before such officer or advisory board member, or the body of which he or she is a member.

To comply with this paragraph, a city officer or advisory board member shall prior to any discussion or determination of the matter either file an affidavit of disclosure as required by Section 171.004 of the Texas Local Government Code or, if not so required, shall publicly disclose in the official records of the city to the city secretary the nature of the interest. In disclosing a substantial interest in a business entity, a city officer or advisory board member shall not be required to disclose the dollar amount of any income that he or she receives from the business entity.

D) Where the interest of a city officer or advisory board member in the subject matter of a vote or decision is remote or incidental, the city officer or advisory board member may participate in the vote or decision and need not disclose the interest.

i. *Remote interest* means an interest of a person or entity, including a city officer or advisory board member, who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the council member would be affected in common with the general public.

ii. *Incidental interest* means an interest in a person, entity or property which is not a substantial interest and which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This article does not establish dollar limits on the term "insignificant value" and "de minimis" which shall have their usual meanings and be subject to interpretation on a case by case basis.

Sec. 2-4.007 Voting for Appointments to City Boards, Commissions and Committees and Applicant Responsibility to report Campaign Contributions

A) Any person being considered, or with an application pending for appointment to any city board, commission, or committee established pursuant to the charter or ordinances of the city or the laws of the State of Texas if that person has made a financial contribution of \$250.00 or more to the election campaign of a member of the city council during the two years preceding the date of the proposed appointment, the council member or members who

received such contribution(s) must abstain from voting on such appointment. All persons shall enter upon the Application for City Boards, Commissions, information regarding any financial contribution as noted above, or if an application is on file for an appointment, shall notify the City Secretary of such contributions for notation on the application within 30 days of the passage of this Ordinance. The City Secretary shall send a copy of this Section to all persons who have an application on file requesting appointment. The provisions of this section shall apply only to contributions made on or after January 1, 2013.

Sec 2-4.008 Ethics Review Commission

- A) An Ethics Review Commission is hereby established to be composed of six (6) members, all of whom shall reside in the city.
- B) Each Commission member shall be appointed by the City Council and shall occupy a position on the Commission, such positions being numbered 1 through 6 and a Secretary to the Commission. The City Secretary shall serve as the Secretary to the Commission.
- C) The Commission members shall be appointed to three (3) year staggered terms. Positions 2 and 3 shall expire November 1, 2013 with successive three (3) year terms; positions 1 and 6 shall expire November 1, 2014 with successive three (3) year terms and; positions 4 and 5 shall expire November 1, 2015 with successive three (3) year terms.
- D) All vacancies shall be filled for the unexpired term. A member shall hold office until his/her successor has been appointed by the City Council and has acted on all complaints initiated during his/her term. No member may participate in a decision regarding a complaint initiated prior to the expiration of the previous member's term, but new members shall assume the duties of office with respect to the complaints initiated after the previous member's term.
- E) The Commission shall elect a Chairperson and a Vice-Chairperson to one (1) year terms. Election shall be held in January of each year. In the event that a vacancy should occur during the term of the Chairperson or Vice-Chairperson, then the Commission may appoint a successor to serve the remainder of that term. The Vice-Chairperson shall act as Chairperson

in the absence of the Chairperson. The Chairperson will only vote in the occurrence of a tie vote by the Commission.

- F) Four (4) or more members of the Commission shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the majority of the members present. A Commission member abstaining shall be considered as present, but not voting, in defining a quorum of members present.
- G) The Commission shall meet at least once a year to elect Chairperson and Vice-Chairperson and make any necessary recommendations to the City Council for amendments to the Code of Ethics or Commission Procedures and Guidelines. Special meetings shall be scheduled by the Secretary to the Commission at the direction of the Chairperson or at the request of any two Commissioners.
- H) The Commission may render advisory opinions on potential violations of the Code of Ethics at the request of the City Official, member of a City Board or Commission, or appointed Official subject to the terms of this Code.
- I) Independent legal counsel may be utilized to advise the Commission and participate in hearings. Independent legal counsel may be selected by the Commission on a case by case basis.

Sec 2-4.009 Disposition of Alleged Violations

- A) A sworn complaint based on personal knowledge alleging a violation(s) of this Code of Ethics shall
 - 1) specify the section alleged to have been violated; and
 - 2) name the City Official being charged
- B) A complaint alleging a violation of this section must be filed with the Secretary to the Commission within one (1) year from the date of the alleged violation and not afterward.
- C) Not later than seven (7) working days after the Secretary to the commission receives a sworn complaint, the Secretary shall notify, by copy of the complaint, the City Attorney, the Commission and the person complained against. The Official complained of will have a

maximum of seven (7) working days from the receipt of the complaint to file a written response to the Secretary of the Commission and no preliminary hearing shall be held within said seven day period to allow for such response. Not later than twenty-one (21) working days after receipt of complaint, the Commission shall notify in writing the person who made the complaint and the person complained against of a date for a preliminary hearing. If the Commission does not hold a preliminary hearing or final hearing within forty-five (45) working days after receipt of the complaint, it shall notify the person who made the complaint of the reason for the delay and shall subsequently give him the appropriate notification when a hearing is set.

- D) Upon the sworn complaint being filed with the Secretary to the commission, the City Attorney shall investigate possible violations of the Code of Ethics by any City Official. A complaint filed by an individual member of the commission shall be deemed to have been filed in the Commissions member's capacity as a private citizen and, in such event, the member of the Commission filing the complaint shall not thereafter participate in that portion of the commission meeting at which such complaint is considered save and except that the Commissioner filing the complaint may participate as a Complainant at such meeting.
- E) The City Council or Commission may consider possible violation of this section on its own initiative. Within seven (7) working days of the Commission's decision to consider a possible violation of this section, the Commission shall draft a written complaint specifying the section alleged to have been violated and shall notify, by copy of the complaint, the City Attorney and the person complained against. The official complained of will have a maximum of seven (7) working days from the receipt of the complaint to file a written response to the Secretary to the Commission and no preliminary hearing shall be held within said seven (7) day period to allow for such response. Not later than twenty one (21) working days after the drafting of the complaint, the Commission shall notify in writing the person complained against of the date for the preliminary hearing.
- F) The City Attorney shall be tasked with investigation of complaints of alleged violations and will forward necessary complaints, on a case by case basis, to the appropriate Law Enforcement Agency for investigation.

- G) After a complaint has been filed and during the pendency of a complaint before the Commission, a member of the Commission may not communicate, directly or indirectly, with any part or person about any issue fact or law regarding the complaint, except at a meeting of the Commission.
- H) As soon as reasonably possible, but in no event more than sixty (60) days after receiving a complaint, the Commission shall conduct a preliminary hearing.
- 1) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this section has occurred. The person filing a complaint, or the Independent Counsel in cases considered upon the Commission's own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross-examination or requests for persons or evidence issued for the hearing. Members of the Commission may question the Complainant, the Independent Counsel for the Commission, or the Official named in the complaint.
 - 2) The Official named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The Official may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the Official agrees that a violation has occurred, he may so state and the Commission may consider the appropriate sanction. (Sec. 2-4.010)
 - 3) The Chairperson of the Commission shall preside at all sessions held by the Commission and shall rule and determine the admissibility of documents, evidence and oral testimony if objection is made to the same; and shall be the sole judge as to the extend and duration of such preliminary hearing.
 - 4) The complainant and the Official named in the complaint shall have the right of representation by counsel.

- 5) At the conclusion of the preliminary hearing, the Commission shall decide, on a case by case basis;
 - a) whether a final hearing should be held, or
 - b) if the violation should be referred to Law Enforcement Authorities, or
 - c) if the violation should be referred to the City Council
 - d) If the Commission determines that there are reasonable grounds to believe that a violation of this section has occurred, it shall schedule a final hearing. If the Commission does not determine that there are reasonable grounds to believe that a violation of this section has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.
- 6) The Complainant, the Independent Counsel, and the Official named in the complaint may ask the Commission at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled.
- 7) A full and complete transcript and recording of the proceeding shall be kept and maintained by the Secretary of the Commission as required by the City's Records Retention Schedule.

Sec. 2-4.010 Final Hearing

- A) The final hearing shall be held within thirty (30) days after the initial determination by the Commission that there are reasonable grounds to believe that a violation of this section has occurred. The complainant may, however, seek and the Commission may grant two postponements not to exceed fifteen (15) days each.
 - 1) The issue at a final hearing shall be whether a violation of this section has occurred. The Commission shall make its determination based on clear and convincing evidence in the record. All witnesses shall make their statements under oath. If the Commission determines that a violation has occurred, it shall state its findings in writing, shall identify the particular provision(s) of the Code of Ethics violated, and within five (5) working

days shall deliver a copy of the findings to the complainant, if any, the person name in the complaint and the City Secretary.

- 2) The chairperson of the Commission shall preside at all sessions held by the Commission and shall rule and determine the admissibility of documents, evidence and oral testimony if objection is made to the same.
- 3) The person against whom the complaint is filed shall have the right to examine all evidence and interviews that supported the complaint and cross examine all witnesses against him/her.
- 4) The deliberations and dealings of the Commission shall be kept in absolute secrecy until a decision is made by the group as a whole. The deliberations will occur only by the Commission gathered together as a group for that purpose and all deliberations of the Commission shall, until a finding is made, be maintained in absolute confidentiality and secrecy.
- 5) The Commission shall have the authority to issue a subpoena for a person or document if, in their judgment, it is warranted.
- 6) A full and complete transcript and recording of the proceeding shall be kept and maintained by the Secretary of the Commission as required by the City's Records Retention Schedule.

Sec. 2-4.011 Sanctions

- A) If the Commission determines that a violation of this section has occurred, it shall proceed directly to determination of the appropriate sanction. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so. If the City Official acted in reliance upon a written opinion of the City Attorney, the Commission shall consider that fact.
- B) If the Commission determines that a violation has occurred, predicated upon a majority of the Commissioners present, it may impose the following sanctions:

- 1) Level I Sanction: A letter of notification shall be the appropriate sanction when the violation is clearly unintentional, or when the City Official's conduct complained of was made in reliance on a written opinion of the City Attorney. A letter of notification shall advise the Official to whom it is directed of any steps to be taken to avoid future violations.
 - 2) Level II Sanction: A letter of admonition shall be the appropriate sanction in those cases in which the Commission finds that the violation is minor and/or may have been unintentional , but calls for a more substantial response than a letter of notification.
 - 3) Level III Sanction: A reprimand shall be the appropriate sanction when the Commission finds that a violation has been committed intentionally or through disregard of this section. A reprimand directed to any City Official shall also be sent to the City Council and transmitted to the City Secretary's office and published in the Official Newspaper of the City.
- C) If the Commission determines that a violation has occurred, predicated upon a majority of the Commissioners present, and recommends the violation to the City Council for final disposition, the City Council may impose the following sanctions:
- 1) Level IV Sanction: Suspension shall be the appropriate sanction when a majority vote of the City Council finds that a serious or repeated violation of this section has been committed intentionally or through total disregard of this section by a City Official. A notice of suspension directed to a City Official shall be transmitted to the City Secretary, published in the Official Newspaper of the City and shall be filed in the official records of the city.
 - 2) Level V Sanction: Removal from office shall be the appropriate sanction
 - a) in which the City Official is found guilty by a court of law in any criminal matter; or
 - b) in which the City Official has received a prior level IV Sanction and additional complaints have been filed in which the Commission and/or City Council find that the serious or repeated violation has continued.

Sec. 2-4.012

Enforcement

- A) The City Council shall have the primary duty to enforce this code. The City Council may consider possible violation of this section on its own initiative or shall appoint an Ethics Commission either of which will be tasked with taking appropriate action involving investigations and hearings of an apparent violation of this code and recommend punishment sanctions. The Ethics Commission will not conduct investigations, however, will forward complaints for investigation to appropriate authority, will hold hearings and will impose sanctions and/or recommend sanctions to council for final disposition. The Commission may consider possible violations of this section on its own initiative.

- B) The City Council shall be the final determining body of sanctions in which the Ethics Commission has determined that a violation has occurred and in which a majority of the commissioners recommend consideration of imposing a sanction of Level 4 or Level 5.

- C) The Ethics Commission shall have authority to impose sanctions of Level 1, Level 2 or Level 3 with or without bringing a final hearing before the City Council, at the sole discretion of a majority of the Commission members.