

PROPOSED CODE OF ETHICS 7/6/17

Section 1. PREAMBLE

In order to achieve and maintain the trust of the community as an independent, fair, impartial governing body with the intent of providing ethical, transparent and accountable representation of the citizens of the City of McKinney by those elected by the citizens or appointed by elected officials, the City Council shall adopt this Code of Ethics governing the proper discharge of the duties of elected or appointed public office. This code of ethics shall not only serve as a guide for the proper administration of responsibilities in the furtherance of the laws of the State of Texas, the United States of America, and the City Charter of the City of McKinney, but shall also serve as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that such officers or appointees of the City shall at all times strive to avoid even the appearance of impropriety in their service.

Section 2. 1 Title and Application

- a. This document shall be known as the Code of Ethics and shall be adopted by resolution of the City Council.
- b. This Code of Ethics shall apply to the Mayor, all City Council members, members of City Boards, committees, or commissions appointed from time to time by the City Council while said individuals serve in their position or office whether elected or appointed.
- c. This Code of Ethics shall apply to all individuals and conduct of individuals elected or appointed to public office or currently serving in elected or appointed public office from the date of adoption of resolution approving the Code of Ethics.

Section 2.2. Definitions

Benefit: anything reasonably regarded as pecuniary or economic gain or advantage including any benefit to any other individual with whom the elected or appointed official has a direct beneficiary interest.

Business Entity: any person, entity, corporation (whether for profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the City or any of the City's affiliated Boards or Agencies. Business entity also includes any business entity that represents a party conducting or seeking to conduct business with the City.

City: City shall be defined as the City of McKinney and shall include any associated organizations or agencies operating under city charter, the laws of the State of Texas or the laws of the United States of America including but not limited to McKinney Economic Development Corporation, McKinney Community Development Corporation, McKinney House Finance Corporation, McKinney Convention and Visitors Bureau, McKinney Main Street, McKinney Housing Authority, McKinney Planning and Zoning Commission, McKinney Parks, Recreation and Open Space Board and any other Board or Commission established from time to time by the City Council, City of McKinney.

City Council: governing body of the City

Confidential Information: any information to which an official has access to in a person's official capacity which may not be disclosed to the public pursuant to the Texas Government Code or other laws of the State of Texas or United States of America as specifically designated as confidential information including (1) information from a meeting closed to public pursuant to the Texas Open Meetings Act or Texas Public Information Act that is specifically enumerated as protected or confidential under the law 2) information protected by attorney client, attorney work product or other applicable legal privilege; and 3) information that is deemed confidential by law.

Contract: any lease, claim, account, or demand against or agreement with any entity or person, whether express or implied, executed or executor, oral or written.

Corporation: any corporation that has a board of directors appointed in whole or in part by the City Council that is operating under the direct authority of the City Council or subject to authority granted to the City as the governing body.

Employee: any person employed by the City, including those individuals on a part-time or internship basis or contractually obligated to perform services for the City of McKinney.

Officer or Official: means any member of the City Council and any appointed member of a City board, commission or committee established by ordinance, charger, state law or otherwise, on a temporary or permanent basis operating either under the direct or indirect authority or subject to either the direct or indirect control of the City Council.

Relative: any person related to an officer within the second degree of consanguinity or affinity including but not limited to spouse, parents, children, stepchildren, father and mother in law, or son and daughter in law, grandparents, grandchildren, sisters and brothers of the officer.

Gift: anything of value in excess of \$50.00 regardless of form, offered or given in the absence of adequate and lawful consideration. Gift shall not include the receipt or acceptance of campaign contributions which are regulated by federal, state or local laws or ordinances. .

Knowingly: a person acts knowingly, or with knowledge, with respect to the person's conduct or circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstance exist. A person acts knowingly, or with knowledge with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

Substantial Interest: 1) ownership of ten (10) percent or more of the voting stock or shares of a business entity; 2) ownership of ten (10) percent or more or fifteen thousand dollars (\$15,000.00) or more of the fair market value of a business entity; 3) funds received from a business entity exceeds ten (10) percent of a person's gross income for the previous year and action on the matter

involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. 4) substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of \$10,000.00 or more and is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. Ownership shall include any ownership under any entity as defined above including any equitable or beneficial interest as a beneficiary of a trust or foundation.

Appearance of Impropriety: An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that an officer's honesty, integrity, or impartiality in the service of and conducting of business in the public domain or interest is impaired such that the public confidence of the officer or the governing body as a whole is eroded and questioned due to the improper conduct of the officer.

Section 2. 3: Guiding Principles

The provisions of this Code of Ethics shall reflect and demonstrate the desire of the governing body to demonstrate qualities and characteristics of individuals who seek first to serve their community and fellow citizen above themselves. The guiding principles of this Code shall include the following maxims for which members of the governing body should aspire:

- a. To act with honesty and integrity and a sense of professional decorum that promotes confidence and trust in the body electorate.
- b. To make decisions that is in the best interest of the community as a whole and not the best interest of a specific special interest group or association.
- c. To act respectfully towards fellow officers, city employees that may be presenting before the governing body and the general public in their efforts to bring business or grievances before the governing body.

- d. To promote objective, transparent and impartial judgment by avoiding a prior commitment to a position, vote, or opinion on a matter to be brought before the governing body as a whole in a public forum until such time as the matter has been brought before the entire council or board that has authority to render a decision.
- e. To respect the consensus of the governing body after a decision has been made whether the individual officer was part of a majority or minority opinion on the matter that has been voted upon by avoiding personal or disparaging remarks about any individual member or members solely based upon the outcome of a particular vote on an item.
- f. To respect the City Manager/City Council form of government and the role of the officers and the governing body relative to the City Manager and Executive members as set forth in the City Charter of the City of McKinney.

Section 3: Standard of Conduct

No Officer of the City or relative thereof shall:

- 3.1 Have a financial interest, direct or indirect, in any contract with the City nor shall such person be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in land, materials, supplies or services.
- 3.2 Participate in a vote or decision on any matter in which the officer has a substantial interest. In the event an officer recuses himself or herself from a vote, the officer shall comply with rules and regulations, ordinances or statutes regarding the disclosure of said conflict.
- 3.3 Participate in a vote or decision where the officer owns property within 200 feet of property that will be directly or indirectly impacted by the outcome of the vote.
- 3.4 Represent or appear on behalf of private interests of an entity with which the officer is affiliated or has an interest or on behalf of others others before the City Council, or any agency, board, commission, corporation or committee of the City, nor shall represent any private interest of others in any action or proceeding

involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is or might be an adverse party.

3.5 Accept a gift from any person that might reasonably tend to influence such officer in the discharge of such person's official duties. The prohibition shall not include:

- a. lawful campaign contributions
- b. an honorarium in consideration for service provided to the public
- c. meals, lodging, transportation in connection with services rendered by the officer as part of his responsibilities including participation at conferences, regional meetings or seminars or similar events that require the officer's attendance on behalf of the City.
- d. Any gift that would have been offered to the person if such person was not an officer or employee of the City;
- e. Gifts associated with professional or business relationships or kinship or personal outside the service of and independent of the officer's status with the city.
- f. Complimentary attendance at political or charitable events
- g. Meals, lodging, transportation or entertainment associated with and in connection with public events, appearances or ceremonies related to official city business that is furnished by a sponsor of the public event.

3.6 Disclose confidential information

3.7. Engage in activities which would conflict with or be incompatible with the rules, regulations, ordinances or the city or incompatible with such person's official position or duties as an officer of the City.

3.8 Fail to disclose substantive information that is relevant to a matter under consideration if that information is from sources outside the public decision making process or domain.

3.9. Violate Open Meetings requirements either directly or indirectly by discussing or soliciting direction on matters to be brought before the governing body from other officers individually in a manner that such discussions would constitute a walking quorum.

3.10. Act as a surety on any official bond required for any officer or employee of the City, or for a business that has a contract, work or business with the City.

3.11. Use public resources such as personnel, equipment, supplies or facilities for the purpose of conducting business that is not official city business unless otherwise provided for by law, ordinance or city policy. This provision shall not be interpreted to prevent the use of personal computers, laptops or equipment assigned to an officer that may be necessary in the conducting of regular business so long as the activity does not constitute a conflict of interest as defined herein or does not violate any municipal, state or federal law.

Section 4: Appearance of Impropriety

An Officer shall conduct himself or herself in a manner to avoid even the appearance of impropriety such that the action of the officer might not only impugn the officer but also result in the questioning of the ethics or integrity of the governing body as a whole. An Officer shall recuse himself from participation in a vote if his or her participation would give the appearance of personal gain or benefit whether personal gain or benefit exists and whether the officer has a substantial interest as defined herein or whether the interest of the officer is outside of 200 feet from a property directly affected by the vote. The recusal shall include public vote that would directly or indirectly benefit a relative, or entity with which the officer is affiliated as defined herein or would confer a benefit to an individual affiliated with the officer through any board, (for profit or nonprofit), association, foundation or entity as defined herein.

Section 5.- Additional Standards/Compliance

5.1 No member of City Council or any appointed board, commission or committee appointed by the City Council who is also on a board of a profit or nonprofit organization may vote on any funding request or contractual agreement

between that organization and the City of McKinney or any board or commission of the City of McKinney. The board member shall step down from consideration of any such vote and shall not participate in any of the negotiation or deliberation of any such agreement prior to a vote.

5.2 All members of any board or commission or committee and any Council Member shall complete required annual disclosures under the Texas Local Government Code Chapter 176 disclosing any vendor relationships or contractual relationships with the City of McKinney whether doing business with the city during time of service or not. Said disclosure shall be filed in accordance with the applicable laws of the State of Texas.

5.3. A City Council member or board or commission or committee appointee shall not vote or participate in deliberation or negotiation on any matter involving any entity for which the member is employed.

5.4 Any person appointed to a board or commission by the City Council shall not appear on behalf of a business, client or other private or public interest before any city board or commission or the City Council where approval is required by the board or commission or City Council for action by the business, client or interest. This prohibition shall also apply to business interest in which the board member or Council member has an ownership interest . To the extent this provision conflicts with any other resolution concerning conflict of interests this provision shall control.

5.5. No board or commission member or member of City Council shall use his or her board position, title or office in communicating opinions on issues where said opinion or statement is attributed to the entire board or council or on behalf of the board or Council that is contrary to the consensus of a Council or Board decision based on a majority of the Board or Council after a vote. In addition, no board member or commission member or member of City Council shall use his or her position or title to render an opinion on a public issue that is to come before the board or council where such statement may be interpreted as the opinions of or action that will be taken by the body as a whole or which may be attributed to the body as a whole before a public vote is taken. The purpose of this provision is

to avoid confusion regarding the attribution of the member's statements, whether intended or not, to the member's board or to the City of McKinney or City Council prior to action on an item or contrary to policy after action is taken.

5.6 Any officer who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the officer is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest and shall abstain from further participation in such matter. The affidavit shall be on a form provided by the City and must be filed with the City Secretary or record keeper of such body, board, commission, corporation or committee.

5.7. Any officer, who by his or her participation in a matter pending before the body, board, commission, corporation or committee would give the appearance of a conflict or impropriety, whether having a substantial interest or not shall, before a vote or decision on such matter, shall file an affidavit stating that while a substantial interest conflict may not exist, the officer is not participating to avoid the appearance of a conflict of interest, and then shall abstain from further participation in such matter. The affidavit shall be on a form provided by the City and must be filed with the City Secretary or record keeper of such body, board, commission, corporation or committee.

6.0 Complaints against officers.

6.1 All complaints or allegations of a violation of this Code of Ethics against an officer shall be made in writing on a form provided by the City, sworn to before a notary public, and filed of record with the City Secretary. The Complaint shall state with particularity the act or acts or omissions complained of, the section of the Code of Ethics to have been violated and to the extent possible the date or dates of said violation. Complaints that are general in nature or anonymous shall not be considered a valid complaint.

6.2. Upon receipt of a complaint, the City Secretary shall provide a copy of the complaint to the affected officer and the City Council as well as the City Manager or the Board and the President or Director of any board for which the complaint

is applicable. The City Council or Board may refer the complaint to the City Attorney for review if necessary, to determine the sufficiency of the complaint however such a review by the City Attorney shall not be required if the Board or Council determines that the complaint meets the requirements for filing and consideration.

6.3. In the event the complaint is referred to the city attorney for review and determination concerning the meeting of the requirements of this code, the city attorney shall submit a written report to the City Council or Board or Commission as soon as possible but no later than the first official meeting following 15 days from the date the complaint is received by the city attorney. The City Attorney, or City Manager may contact the complainant to request clarification or to interview witnesses, examine documents if necessary or further investigate the nature of the complaint. If the complaint fails for lack of specificity, the City Attorney or City Manager shall contact the complainant and advise them of their ability to provide further detail or written clarification. If no further clarification is provided within fifteen days, a written report shall be submitted to the Board or City Council that the complaint fails to meet the requirements of this Code and no further action shall be taken.

6.4. In the event a complaint meets the requirements of specificity as stated herein, the Council shall place the matter on an agenda for consideration or call a special meeting no later than the first official meeting following fifteen days from the date the complaint is determined to meet the requirements of this code. The City Council or Board shall meet in executive session for further review or consideration of said complaint. However, any ultimate action relative to the complaint including a finding of no violation shall be made in public in the form of a report to be filed explaining in detail the facts, findings and conclusions in support of the action to be taken.

6.5. If the complaint is against a board member of a board, commission or committee appointed by the City Council, the Board, Commission or Committee shall first review the complaint as provided in 6.2, 6.3 and 6.4 above. The Board, Commission or Committee shall then follow the process for evaluation,

investigation and possible hearing as outlined herein above and then forward a recommendation to the City Council for further action with a recommendation for possible remedies as outlined under Section 7 below. In the event a board, commission or committee finds that a complaint is valid and forwards a recommendation to the Council for further action, the affected Board member shall have the right to a public process before the City Council as outlined in 6.6 below.

6.6. The effected officer shall have the right but not the requirement to have the complaint considered in a public meeting. At such meeting the City Attorney shall present the complaint, any written report relative to the complaint and any investigation relative to the nature of the complaint as well as whether the complaint on its face is a violation of the Code of Ethics. The affected officer shall have the right to a full and complete hearing before the City Council with the opportunity to call and cross-examine witnesses and present evidence on the person's behalf. The on implicated City Council members in attendance shall conduct a hearing and review the complaint. The City Council may reject the complaint at the conclusion of the hearing or take further action as provided herein.

6.7. The City Council may appoint outside legal counsel, or direct the City Manager to appoint outside legal counsel to perform the duties of the City Attorney or City Council in the investigation and conducting of any hearing as outlined in 6.2 through 6.5 above.

6.8. No action or decision with regard to a complaint shall be made except in a meeting which is open to the public.

6.9. A complaint or allegation of a violation of this Code of Ethics may only be made against an officer while such person holds such position or office. A complaint made against an officer pursuant to this Section shall be processed and resolved even if such person resigns from, or ceases to hold such position or office prior to resolution of the complaint.

Section 7. Permissible Action on Complaints

The City Council may take any one or more of the following actions in an open meeting concerning a complaint filed under this Code of Ethics:

- 1) Issue a specific finding that the complaint was filed based on a good faith belief of a violation but that the complaint does not meet the required specificity for further action.
- 2) Dismissal of the complaint upon a finding of no violation.
- 3) Dismissal of the complaint with a specific finding that the complaint is without merit with no basis in fact and brought in bad faith.
- 4.) Issue a letter of notification that the complaint is valid, but the violation was unintentional. Said letter shall provide detailed steps that the officer must take to avoid future violations and future sanctions.
- 5.) Issue a public reprimand if the violation is found to be committed knowingly or intentionally.
- 6.) In the case of a violation by a board member, commission member or committee member appointed by Council, removal of the board member, commission member or committee member if the violation is found to be knowingly or intentional and it is determined a public reprimand is not sufficient.
- 7,) In the case of a violation by a Council Member, the public reprimand may include a request for resignation of the Council Member provided the request is made by a 2/3 vote of the Council as part of the public reprimand.
8. In the case of a violation by a Council Member, should it be determined that the violation was knowingly or intentionally committed and of such a serious nature as to undermine the integrity and ethics of the Council as a whole, removal of the Council Member provided that removal is in compliance with the City Charter or State Law.
9. In the case of a violation by a Council Member, should removal not be permitted under the city charter or State Law, pass a resolution of censure or a

recommendation of recall election if the City Council finds that the violation is knowingly and intentional and of a serious nature or repeated violation

9. In the event the violation also constitutes a violation of criminal law, refer the matter to the appropriate authorities for further investigation.

Section 8. Interpretation

Any officer may request that the City Attorney or appointed outside counsel issue a written opinion concerning the meaning or effect of any section, word or requirement of this Code of Ethics as it affects such person.

Section 9. Execution, Effective Date and Savings Clause

9.1 In the event any sentence, paragraph, clause or section of this Code of Ethics is determined to be invalid due to conflicting with City Charter, State or Federal Law, the Constitution of the State of Texas or Constitution of the United States, the invalidity or unconstitutionality of a specific provision shall not affect the validity of the remainder of the Code as a whole.

9.2. Any provisions of any ordinance or resolution concerning the operation of the City Council or any board, commission or committee in conflict with a specific provision of this Code of Ethics is hereby repealed other than conflicts with the City Charter in which case the City Charter controls.

9.3. The Code of Ethics upon approval of the Council shall be passed as an Ordinance of the City of McKinney and shall take effect immediately upon the passing of the ordinance and execution by the Mayor or presiding officer of the City Council.

9.4. Upon election to City Council, or appointment to any Board, Commission or Committee by the City Council, the City Council Member or appointed Board, Commission or Committee member shall 1) participate in and acknowledge participation and completion of requirements to attend presentation relative to the Open meetings Act of the State of Texas; 2) .sign a statement acknowledging receipt and review of this Code of Ethics.