



CITY OF LAREDO CODE OF ETHICS

PETE SAENZ
MAYOR

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ETHICS CODE (AUGUST 5, 2013)

CITY OF LAREDO, TEXAS CODE OF ETHICS

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DIVISION 1: DECLARATION OF POLICY

Section 1.01 Statement of Purpose

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. It is the goal of the City of Laredo Such to strive to meet the highest standards of ethics consistent with this Code, regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern.

The purpose of the Code is to establish guidelines for ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Laredo and by directing disclosure by such officials and employees of private financial or their interests in matters affecting the City. By prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this code of ethics furthers the legitimate interests of democracy. Various provisions from state and local law have been created and adapted to guide the ethical behavior of local public servants, city officials, employees and others whose actions inevitably affect public faith in city government.

The provisions and requirements of this Code shall apply to public officials, employees and every person who attempts to influence government action, such as former city officials and employees, candidates for public office, persons doing business with the city, and lobbyists. No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees, or to establish an exception to the employment-at-will doctrine beyond that specified in the Civil Service Statutes and Rules or pertinent collective bargaining agreement. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence.

Through this comprehensive code and the above stated goals, the city will strive to elevate the level of ethics in local government, to provide honest and responsible service to the citizens of Laredo, and to maintain the confidence and trust of the public that this government serves. With the above in mind, the City of Laredo hereby adopts the following goals for the city ethics program

Section 1.02 Definitions

As used in this Code of Ethics, the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise or more specific definitions set forth elsewhere in this code apply.

- (a) **Acceptance.** A written or verbal indication that someone agrees; “Acceptance” of an offer of subsequent employment or business opportunities include legally binding contracts and all informal understandings that the parties expect to be carried out. An agreement, either by an express act or by implication from conduct wherein a binding contract is formed.
- (b) **Affiliated.** Business entities are “affiliated” if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent business entity.
- (c) **Affinity.** Relationship by “affinity” (by marriage) is defined in Vernon Texas Code Annotated (V.T.C.A) Government Code § 573.024 and § 573.025.
- (d) **Before the City.** Representation or appearance “before the city” means before the City Council; before a board, commission, or other city entity; or before a city official or employee. Representation “before the city” does not include representation before a board where members of said board are not wholly appointed by the City Council.
- (e) **Benefit.** Anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.
- (f) **Board Member.** A person appointed to and currently serving on any City of Laredo committee, board, or commission including:
 - (1) **Advisory Boards.** Created by charter or ordinance to inform and make recommendations to City Council on proposed public policy matters. The City of Laredo advisory boards includes all city boards, committees and commissions that are not decision making or separate legal entities.
 - (2) **Decision Making Boards.** Governed by state law and are “quasi judicial” to set or enforce public policy and are potentially subject to review by the courts. The City of Laredo decision making boards include the Board of Adjustment, Building Standards Board and Planning and Zoning Commission.
 - (3) **Separate Legal Entities.** Established under the provisions of a state statute to serve the city but that are separate entities, corporations or political bodies. The

City of Laredo separate legal entity boards include the, Laredo Affordable Housing, Metropolitan Planning Organization and the South Texas Development Council

- (g) Business Entity.** A sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, unincorporated association, or any other entity recognized by law.
- (h) Candidate.** A person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

 - (1)** The filing of an application for a place on a ballot;
 - (2)** The making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;
 - (3)** Before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication; and
 - (4)** The soliciting or accepting of a campaign contribution or the making of a campaign expenditure.
- (i) City.** The City of Laredo, Texas.
- (j) Code of Ethics.** “Code of Ethics,” “ethics code,” or “this code” means Sections 1 through 9 of this Code, its amendment(s) and/or enhanced definitions.
- (k) Complainant.** An individual who has filed a sworn complaint with the Ethics Compliance Officer as provided in Section 8.04.
- (l) Confidential Government Information.** All information held by the City that is not available to the public under the Texas Public Information Act and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is permitted under the Open Meetings Act.
- (m) Consanguinity.** Relationship by “consanguinity” (by blood) is defined in V.T.C.A., Government Code §573.022 and §573.023.

- (n) **Discretionary Contract.** Any contract that is not required by law to be awarded on a low or high qualified bid basis. Discretionary Contracts do not include those contracts subject to V.T.C.A., Local Government Code §252.022(a) (7) (procurement of items that are available from only one source) or those contracts not involving an exercise of judgment or choice.
- (o) **Economic Interest.** Includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a city official or employee as an official, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than 10% of the voting stock or shares of the entity and the value of the stock is less than \$15,000.
- (p) **Employee.** The term “employee” or “city employee” is any person listed on the City of Laredo payroll as an employee, whether part-time or full-time including any employee subject to the collective bargaining process (i.e. members of the Police and Fire Departments). However, the pertinent provisions contained within any collective bargaining agreements with the City takes precedence over conflicting provisions contained within this Ethics Code.
- (q) **Former City Official or Employee.** A person whose city duties terminate on or after the effective date of this Code.
- (r) **Gift.** A voluntary transfer of property (including the payment of money) or the conferral of a benefit having pecuniary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor.
- (s) **Indirect Ownership.** A person “indirectly owns” an equity interest in a business entity where the interest is held through a series of business entities, some of which own interests in others.
- (t) **Intentionally.** A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.
- (u) **Knowingly.** A person acts knowingly 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 her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that his or her conduct is reasonably certain to cause the result.

(v) Official or City Official includes the following, unless specified otherwise:

- (1)** The Mayor;
- (2)** Members of the City Council;
- (3)** Members of Boards, Committees and Commissions;
- (4)** Municipal Court Judge;
- (5)** Associate Municipal Court Judge;
- (6)** The City Manager;
- (7)** Deputy City Manager;
- (8)** Assistant City Manager;
- (9)** Assistant to the City Manager;
- (10)** City Secretary;
- (11)** Department Director;
- (12)** Assistant Department Director;
- (13)** City Finance Director; and
- (14)** Internal Auditor

Note: the term “official” has a different meaning as used in Section 2.10 (Prohibited Interests in Contracts), Section 3.04 (Discretionary Contracts), Division 5 (Lobbyists), or Section 7.01 (Filing Requirements), and is not synonymous with any use of the term “official” in this code.

(w) Official Action. Official action includes:

- (1)** any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an official or employee’s duties, and

- (2) any failure to act, if the official or employee is under a duty to act and knows that inaction is likely to affect substantially an economic interest of the official or employee or any person or entity listed in Sections 2.01 (Conflicts of Interest).
- (x) **Information.** Information gathered pursuant to the power or authority of city government.
- (y) **Ownership.** Ownership of an interest in a mutual or common investment fund that holds securities or other assets does not constitute direct or indirect ownership of such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than 10% of the voting stock or shares of the entity and the value of the stock is less than \$15,000.
- (z) **Partner.** Someone who engages in an activity or undertaking with another, including acting as partners in general partnerships, limited partnerships, and joint ventures. One who shares or takes part with another especially in a venture with shared benefits and shared risks.
- (aa) **Personally and Substantially Participated.** Taking action as an official or employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action. The fact that the person had responsibility for a matter does not by itself establish that the person “personally and substantially participated” in the matter.
- (bb) **Recklessly.** A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.
- (cc) **Representation.** A presentation of fact, either by words or by conduct, made to induce someone to act. Representation does not include appearance as a witness in litigation or other official proceedings.
- (dd) **Respondent.** An individual identified in a sworn complaint to have allegedly violated the Ethics Code of the City of Laredo.
- (ee) **Solicitation.** “Solicitation” of subsequent employment or business opportunities includes all forms of proposals and negotiations relating thereto.

DIVISION 2: Present City Officials and Employees

Section 2.01 Conflicts of Interest

(a) General Rule. To avoid the appearance and/or risk of impropriety, an official or employee shall not take any action that he or she knows is likely to affect the economic interests of:

- (1)** the official or employee;
- (2)** his or her parent, child, spouse, or other family member within the third degree of affinity or within the third degree of consanguinity;
- (3)** his or her outside client;
- (4)** a member of his or her household;
- (5)** any outside employer of the official or employee or of his or her parent, child, spouse, or member of the household;
- (6)** a business entity in which the official or employee knows that any of the persons listed in Subsections (a)(1) or (a)(2) of this Section holds an economic interests as that term is defined in Section 1.02 (Definitions);
- (7)** a business entity which the official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in Subsection (a)(1) or (a)(2) of this Subsection holds an economic interest as defined in Section 1.02 (Definitions);
- (8)** a business entity or nonprofit entity for which the city official or employee serves as an official or director or in any other policy making position; or
- (9)** a person or business entity with whom, within the past twelve months:
 - (A)** the official or employee, or his or her spouse, directly or indirectly has
 - (i)** solicited an offer of employment for which the application is pending;
 - (ii)** received an offer of employment which has not been rejected,
 - (iii)** accepted an offer of employment, or

(B) the official or employee, or his or her spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities, where negotiations are pending or not terminated.

(b) **Recusal and Disclosure.** A city official or employee whose conduct violates Subsection (a) must recuse him or herself, and from the time that the conflict is, or should have been recognized, if applicable, he or she shall:

- (1) immediately refrain from further participation in the matter, including discussions with persons likely to consider or participate in the matter;
- (2) file the appropriate form with the external auditor within three (3) business days disclosing the nature and extent of the prohibited conduct;
- (3) promptly bring the conflict to the attention of his or her supervisor who will then, if necessary, reassign responsibility for handling the matter to another employee; and
- (4) promptly disclose the conflict to other members of the council, board or commission in which he or she serves and shall not be present during the board's discussion of, or voting on, the matter.

(c) For purposes of this Section, an action is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or any segment thereof.

Section 2.02 Unfair Advancement of Private Interests

(a) **General Rule.** A city official or employee shall not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official or employee who represents to a person that he or she may provide an advantage to that person based on the official's or employee's violates this rule.

(b) **Special Rules.** The following special rules apply in addition to the general rules:

- (1) **Acquisition of Interest in Impending Matters.** A city official or employee shall not acquire an interest in, or affected by, any contract, transaction, zoning decision, or other matter, if the official or employee knows or has reason to know, that the interest will be directly or indirectly affected by impending official action by the city.

(2) Reciprocal Favors. A city official or employee may not enter into an agreement or understanding with any other person wherein any official action or inaction by the official or employee will be rewarded or reciprocated by the other person, directly or indirectly.

(3) Appointment of Relatives. A city official shall not appoint any relative within the third degree of consanguinity or second degree of affinity to any office or position of employment within the city.

(4) Supervision of Relatives. No official or employee shall be permitted to be in the line of supervision of a relative within the third degree of consanguinity or second degree of affinity. Department Directors are responsible for enforcing this policy. If an employee, by reason of marriage, promotion, reorganization, or otherwise, is placed into the line of supervision of a relative, one of the employees will be reassigned or other appropriate arrangements will be made for supervision.

(c) Recusal and Disclosure. A city official or employee whose conduct violates this section shall adhere to the recusal and disclosure provisions provided in Section 2.01(b), (Recusal and Disclosure).

Section 2.03 Gifts

(a) General Rules.

(1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:

- (A)** that reasonably tends or gives the appearance to influence or reward official conduct; or
- (B)** that the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

(2) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit from:

- (A)** any individual or entity doing or seeking to do business with the City including any registered lobbyist or public relations firm; or
- (B)** any person or entity seeking action or advocating on zoning or platting matters before a city body.

(b) Exceptions to the Section 2.03. Section (a)(2) herein does not include:

- (1)** Gifts or benefits of nominal value not to exceed \$250 and no more than a cumulative value of \$500 in a single calendar year.
- (2)** A gift to a city official or employee relating to a special occasion, such as a birthday, wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and recipient;
- (3)** Advancement, reimbursement or payment of reasonable expenses related to travel only if performed in furtherance of a municipal purpose and only if appropriate to the public official's or public employee's performance of his or her official duties or representative function. For example, solicitations would be acceptable to defray travel related expenses and costs associated with hosting receptions during the city's annual legislative advocacy trip to Washington, DC, bi-annual trips to Austin, or any other domestic or international trip made for purposes of promoting the interests of the City of Laredo. Such payments must be disclosed in a travel report as required in Section 7.04 (Travel Reporting Requirements) Payment for or reimbursement of expenses for travel in excess of authorized rates under city policy will be treated as a personal gift to the official or employee for any applicable reporting requirements under Sections 7.01 (Financial Disclosure Report), 7.02 (Contents of Financial Disclosure Reports) or 7.06 (Other Persons Required to Report Gifts);
- (4)** A public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion and it is not prohibited under the V.T.C.A., Penal Code § 36.08;
- (5)** A loan from a lending institution made in its regular course of business on the same terms generally available to the public;
- (6)** A scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;
- (7)** Any solicitation for charitable causes; provided solicitations are not made by any city official or employee to another for which he or she may have supervisory or other authority over;
- (8)** Admission to an event in which the city official or employee is attending in connection with his or her spouse or child;

(9) Ceremonial and protocol gifts presented to city officials or employees from a foreign government or international or multinational organization and accepted for the City of Laredo;

(10) Admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, if attending or participating in an official capacity;

(11) Admission to a community event held at any city-owned facility or at any other local venue provided the offer is unsolicited by the city official or employee;

(12) Admission to training or education program, including meals and refreshments furnished to all attendees, if such training is related to the official or employee's official duties and is in the interest of the city;

(13) Lodging, transportation, or entertainment that the official or employee accepts as a guest and not to exceed \$500 from a single source in a calendar year; and,

(14) Political contributions received and reported in compliance with the Texas Election Code and,

(15) Any solicitation for a city sponsored event that serves a valid public purpose and that benefits all the residents of the City of Laredo. For example, solicitations would be acceptable to defray costs associated with, but not limited to, the Recycle Day Fair, Kite Festival, Harvest Festival, and Sister Cities Festival.

(c) Gifts to Closely Related Persons. A city official or employee shall take reasonable steps to persuade a parent, spouse, child, or other relative within the third degree of consanguinity or second degree of affinity, or, an outside business associate, to not solicit, accept, or agree to accept any gift or benefit:

(1) that reasonably tends or gives the appearance to influence or reward the city official's, Board Member's or employee's official conduct, or

(2) that the official, Board Member or employee knows or should know is being offered with the intent to influence or reward the city official's, board member's or employee's discharge of official duties.

If a city official who is required to file a financial disclosure report under Division 7 (Financial Disclosure) knows that a gift or benefit meeting the requirements of Subsections (c)(1) or (c)(2) above, has been accepted by a person identified in this rule, the official shall promptly file a report with the City Secretary's Office disclosing the donor,

the value of the gift or benefit, the recipient, and the recipient's relationship to the official filing the report.

(d) Definitions. For purposes of this section:

(1) A person is an "outside business associate" if both that person and the city official or employee own, with respect to the same business entity:

(A) ten percent (10%) or more of the voting stock, units or shares of the business entity; or

(B) ten percent (10%) or more of the fair market value of the business entity.

(2) A "sponsor" of an event is the person or persons primarily responsible for organizing the event or sponsoring a table or tables. A person who simply contributes money or buys tickets to an event is not considered a sponsor.

(3) A "source" is the individual or entity that funds an expenditure or series of expenditures. Expenditures made by multiple agents of the same source will be considered to be expenditures from a single source.

(4) Any item of "nominal value" is an item with a fair market value of **\$250.00** or less.

Section 2.04 Confidential Information

(a) Improper Access. A city official or employee shall not use his or her position to obtain official information about any person or entity for any purpose other than the performance of official duties.

(b) Improper Disclosure or Use. A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said official or employee's position concerning the property, records, operations, policies or affairs of the city, including those items discussed in closed or executive session. This rule does not prohibit any reporting of illegal or unethical conduct to authorities as a result of a court order or subpoena.

Section 2.05 Representation of Private Interests

(a) Representation by a Board Member. A member of the Historic District Landmark Board, Ethics Commission, Planning and Zoning Commission, Civil Service Commission,

Board of Adjustment or other decision making board, shall not represent any person, group, or entity:

- (1) before that board or body of the City in which he or she serves; or
- (2) before city staff having responsibility for making recommendations to, or taking any action on behalf of, of the City; or
- (3) before a board of the City which has appellate jurisdiction over the board of which the person is a member, if any issue relates to the member's duties.

(b) Representation by City Officials and Employees.

- (1) **General Rule.** A city official or employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the city. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- (2) **Exception for Board Members.** The rule stated in subsection (b)(1) does not apply to a person who is classified as a city official only because he or she is an appointed member of a board or other city body.

(c) Prestige of Office and Improper Influence. In connection with representation of private interests before the city, an official or employee shall not:

- (1) assert the prestige of the official's or employee's city position for the purpose of advancing private interests; or
- (2) state or imply that he or she is able to influence city action on any basis other than the merits.

(d) Representation in Litigation Adverse to the City.

- (1) **Officials and Employees (Other than Board Members).** A city official or employee, other than a person who is classified as an official only because he or she is an appointed member of a board or other city body, shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to those of the city.

- (2) **Board Members.** A person who is classified as a city official only because he or she is an appointed member of a board or other city body shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is substantially related to the official's duties to the city.

Section 2.06 Public Property and Resources

A city official or employee shall not use, request, or permit the use of city resources, facilities, equipment, supplies or staff time while on city duty for private purposes (including political purposes), except:

- (a) for a public purpose that is directly related to the governmental responsibilities of the City;
or,
- (b) when those resources are lawfully available to the public.

Section 2.07 Political Activity. Limitations on the political activities of city officials and employees are imposed by state law, the City Charter, and city personnel rules and are incorporated into this provision by reference. In addition, the following ethical restrictions apply:

(a) **Automatic Resignation.** Any elected official or member of the Historic District Landmark Board, Planning & Zoning Commission, Ethics Commission, City Charter Review Commission, Civil Service Commission, Board of Adjustment or any other decision making board, shall forfeit that appointment with the city immediately upon the filing of a campaign treasurer appointment.

(b) **Influencing Subordinates.** A city official or employee shall not directly or indirectly induce, or attempt to induce, any city subordinate:

- (1) to participate in an election campaign (beyond merely encouraging another to vote), to participate in a political fundraising activity, or to contribute to a political candidate or political committee;
- (2) to engage in any other activity relating to a particular candidate, party or issue that is not directly related to a legitimate function of city government;
- (3) to refrain from engaging in any lawful political activity after working hours.

(c) Paid Campaigning. A city official or employee shall not accept anything of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city body that contributed to the development of the ballot item. Anything of value does not include a meal or other item of nominal value the city official, board member, or employee receives in return for providing information on an item pending on the ballot.

(d) Official Vehicles. A city official or employee shall not display or fail to remove campaign materials on any city vehicle under his or her control.

Section 2.08 Actions of Others

(a) Violations by Other Persons. A city official, board member, or employee shall not intentionally or knowingly assist or induce, or attempt to assist or induce, any person to violate any provision of this Code of Ethics.

(b) Using Others to Engage in Forbidden Conduct. A city official or employee shall not violate the provisions of this Code through the acts of another.

Section 2.09 Prohibited Interests in Contracts

(a) No city official or employee shall have a direct or indirect financial interest in any contract, purchase or sale with the city.

(b) Any willful violation of this section by a city official or employee shall constitute malfeasance in office, and any city official or employee who is found guilty hereof, shall forfeit his or her position with the city. Any knowing violation of this section, express or implied, by an individual or entity contracting with the city, shall further render the contract at issue voidable at the discretion of the city manager or city council.

(c) Financial Interest. For purposes of §2.01(a), a city official or employee is presumed to have a prohibited financial interest if any one of the following is a party to that contract, purchase or sale with the city:

(1) A city official or employee that has the power or duty to exercise authority over that contract, purchase or sale, by negotiating, preparing, authorizing or approving the contract, by authorizing or approving payment under the contract, by auditing bills or claims under the contract, or by appointing anyone with said powers or duties.

(2) A spouse, sibling, parent, child or other family member related within the third degree of consanguinity or second degree of affinity to a city official or employee prohibited in §2.09(c)(1) above.

(3) A business entity in which a city official or city employee prohibited by §2.09(c)(1) above, or their spouse, sibling, parent, child or other family member related within the third degree of consanguinity or second degree of affinity, directly or indirectly owns:

(A) Ten percent (10%) or more of the voting stock or shares of the business entity; or

(B) Ten percent (10%) or more of the fair market value of the business entity.

(4) A business in which an individual or entity prohibited by §2.09(c)(1), (2), or (3) above is:

(A) a subcontractor;

(B) a partner; or

(C) a parent or subsidiary company.

(d) Exceptions. A city official or employee may apply to the City Council for a determination on whether any of the following exceptions exist to a prohibited financial interest in a contract, purchase or sale with the city:

(1) The contract, purchase or sale with the city was in effect prior to the election or appointment of the city official or employee. In this case, the city official or employee does not have a prohibited financial interest and the contract, purchase or sale in question shall be allowed to continue through completion. .

(2) Despite the potential or existence of a prohibited financial interest, the contract shall be allowed as the bidder is the sole source provider.

(3) Despite the potential or existence of a prohibited financial interest in a contract with the city, the contract shall be allowed as the bidder submitted the lowest responsive bid, and it is deemed to best serve the interest of the city.

Section 2.10 City Council Contract Personnel

(a) A member of the City Council who, in the course of official duties, has direct supervisory authority over contract personnel shall make good faith efforts to ensure that contract personnel abide with the obligations imposed on City Officials and employees under the code of ethics.

(b) Contract personnel employed by a member of the City Council shall also comply with all obligations imposed by this code of ethics on city employees, except for restrictions on political activity imposed on city employees by the City Charter or the City's Personnel Rules. Contract personnel, though, may not engage in political activity using City resources or during duty hours.

(c) All contracts for administrative services between a member of the City Council and independent contractors shall contain a provision requiring the independent contractor to comply with all requirements imposed by this code on city employees.

Section 2.11 Persons Required to Report; Time to Report; Place to Report

(a) A city official or employee who has knowledge of a violation of any of the provisions of this Ethics Code shall use his best effort to report this violation as provided within five working days after the person has knowledge of a violation. A City official or employee shall not delegate to, or rely on, another person to make the report. Any city official or employee who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation is subject to the penalties herein.

(b) A report made under this Section shall be made to the Ethics Compliance Officer or his or her designee;

(c) A report shall state:

- (1)** The name of the City official or employee who believes that a violation of a provision of the Ethics Code has been or may have been committed;
- (2)** The identity of the person(s) who allegedly committed the violation;
- (3)** A statement of the facts on which the belief is made; and
- (4)** Any other pertinent information concerning the alleged violation.

DIVISION 3: Former City Officials and Employees

Section 3.01 Continuing Confidentiality

A former city official or employee shall not use or disclose confidential government information acquired during service as a city official or employee.

This rule does not prohibit:

(a) Any disclosure that is no longer confidential by law; or

(b) The confidential reporting of illegal or unethical conduct to authorities designated by law.

Section 3.02 Subsequent Representation of Private Interests.

(a) **Representation by Former Board Members.** A person who was a member of a Board or other city body shall not represent any person, group, or entity for a period of one (1) year after the termination of his or her official duties:

- (1) before that board or body;
- (2) before city staff having responsibility for making recommendations to, or taking any action on behalf of, that Board or body, unless the board or body is only advisory in nature; or
- (3) before a board or other city body which has appellate jurisdiction over the Board or body of which the former city official or employee was a member, if any issue relates to his or her former duties.

(b) **Representation by Other Former City Officials and Employees.** A former city official or employee shall not represent for compensation any person, private group, or private entity, other than himself or herself, or his or her spouse or minor children, before the city for a period of two (2) years after termination of his or her official duties. This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board or other city body. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

(c) **Improper Representation of Influence.** In connection with the representation of private interests before the city, a former city official or employee shall not state or imply that he or she is able to influence city action on any basis other than the merits.

(d) **Representation in Litigation Adverse to the City.** A former city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are, or could be adverse to the interests of the city, and the matter is one in which the former city official or employee personally participated prior to termination of his or her official duties.

Section 3.03 Prior Participation in Discretionary Contracts.

(a) A former city official or employee shall not, within two (2) years of the termination of official duties for the city, perform work on a compensated basis relating to a discretionary city contract, if he or she personally and substantially participated in the negotiation, award or administration of the contract.

(b) A former city official or employee, within two (2) years of termination of official duties, must disclose to the City Secretary immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary city contract for which he or she did not personally and substantially participate in its negotiation, award or administration. This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member.

Section 3.04 Discretionary Contract

(a) Impermissible Interest in Discretionary Contracts. This Section applies to purchase orders that are made on sales and not competitive bid basis. Within one (1) year of the termination of official duties, a former city official or employee shall neither have a financial interest, direct or indirect, in any contract or sales with the City, nor have a financial interest, direct or indirect, in the sale to the City of any land, materials, supplies, or service. A former city official or employee has a prohibited “financial interest” in a purchase order/contracts or sales with the city, or in the sale to the city of land, materials, supplies, or service, if any of the following persons or entities is a party to the contract or sale:

(1) The former official or employee;

(2) His or her parent, child, or spouse;

(3) A business entity in which the former official or employee, or his or her parent, child or spouse, directly or indirectly owns:

(A) Ten percent (10%) or more of the voting stock or shares of the business entity,
or

(B) Ten percent (10%) or more fair market value of the business entity; or,

(4) A business entity of which any individual or entity listed in Subsection (a)(1), (a)(2) or (a)(3) above is:

(A) A subcontractor on a city contract;

(B) A partner; or

(C) A parent or subsidiary business entity.

(b) Exception: Prior Employment or Status. Notwithstanding Section (a) of this Section 3.04 (Discretionary Contract/Purchase Order) and Section 3.03 (Prior Participation in Negotiation, Award or Administration of Contracts), a former city official or employee may upon leaving official duties return to employment or other status enjoyed immediately prior to commencing official city duties.

(c) Definitions. For purposes of this Section:

(1) A “former city employee” is any person who, prior to termination of employee status was required to file a financial disclosure statement pursuant to Section 7.01.

(2) A “former city official” is any person who, immediately prior to termination of official duties, was:

(A) the Mayor;

(B) a member of City Council;

(C) a City Court Judge or Assistant City Court Judge; or

(D) City Manager

(E) City Finance Director

(F) Board Member.

(3) The term “service” means any services other than the personal services of the former official or employee.

Section 3.05. Any violation of Section 3, with the knowledge, expressed or implied, of the individual or business entity contracting with the Council shall render the contract involved voidable by the City Manager or the Council.

DIVISION 4: PERSONS DOING BUSINESS WITH THE CITY

Section 4.01 Persons Seeking Discretionary Contracts

(a) Disclosure of Parties, Owners, and Closely Related Persons. For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and this Code of

Ethics, an individual or business entity seeking a contract or sale from the city is required to disclose in connection with a proposal for a discretionary contract on a form provided by the city:

- (1) The identity of any individual who would be a party to the discretionary contract;
- (2) The identity of any business entity that would be a party to the purchase order/contract or sale and the name of:
 - (A) Any individual or business entity that would be a subcontractor on the purchase order/contract or sale; and
 - (B) Any individual or business entity that is known to be a partner or a parent entity of any individual or business entity who would be a party to the purchase order/contract or sale, or any subsidiary business entity that is anticipated to be involved in the execution of the contract; and
 - (C) An individual or business entity seeking a Discretionary Contract/Purchase Order is required to supplement this filing on a form provided by the city in the event there is any change in the information

(b) Political Contributions. Any individual or business entity seeking a contract from the city must disclose in connection with a proposal for a contract, on a form provided by the city, all political contributions totaling One Hundred Dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under Subsection 4.01(a), above. Indirect contributions by an individual include, but are not limited to, contributions made by an individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made by officials, owners, attorneys or registered lobbyists of the entity. However, indirect contributions do not include contributions by owners of an entity holding less than five percent (5%) of the fair market value or voting stock of the entity.

Section 4.02 Disclosure of Association with City Official or Employee

(a) Disclosures During Appearances. A person appearing before a city board or other city body shall disclose to it any known facts which, reasonably understood, raise a question as to whether any member of the board or body would violate Section 2.01 (Conflicts of Interest) by participating in official action relating to a matter pending before the board or body.

(b) Disclosures in Proposals. Any individual or business entity seeking a Discretionary Contract/Purchase Order with the city shall disclose, on a form provided by the city, any known facts which, reasonably understood, raise a question as to whether any city official would violate Section 2.01 (Conflicts of Interest) by participating in official action relating to any contract.

(c) Disclosure of Benefit. If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any city official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, he or she shall disclose that fact in a signed writing to the city official, employee, or body that has been requested to act in the matter, unless the interest of the city official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary.

(d) Definition. For purposes of this rule, facts are “reasonably understood” to “raise a question” about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

Section 4.03 Prohibited Contacts During Contract Solicitation Period

A person or entity who seeks or applies for a city contract or any other person acting on behalf of such person or entity, is prohibited from contacting city officials and employees regarding such a contract after a Request for Proposal (RFP), Request for Qualification (RFQ) or other solicitation has been released, if such contact could be construed as an attempt to influence a decision regarding said contract. This no-contact provision shall conclude when the contract is awarded. If contact is required, such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agents may lead to disqualification of their offer from consideration.

DIVISION 5: LOBBYISTS

Section 5.01 Definitions

As used in this Section only, the following words and phrases have the meaning ascribed to them, unless the context requires otherwise:

(a) City Official means the Mayor, members of the City Council, Municipal Court Judges and Assistant Municipal Court Judges, the City Manager, Deputy City Manager, Assistant City Managers, City Secretary, Department Directors, Assistant Department Directors, Internal Auditor and Assistant Internal Auditor; City Finance Director, and members of the following boards and commissions: Fire Fighter’s and Police Official’s Civil Service Commission; Ethics Commission, Civil Service Commission; Parks & Leisure Advisory

Committee, Third Party Funding Committee, Charter Review Commission, Civil Service Commission, Historical District Landmark Board or any Decision Making Board.

- (b) Client** means any person on whose behalf lobbying is conducted. If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist (as defined in Subsection (g), below. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.
- (c) Compensation** means money or any other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation does not include the financial gain that a person may realize as a result of the determination of a City question, unless that gain is in the form of a contingent fee. If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if, for the purpose of evading the obligations imposed under this Section, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. “Compensation does not include a payment made to any individual regularly employed by a person if:
- (1)** The payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and
 - (2)** Lobbying activities are not part of the individual’s regular responsibilities to the person making the payment.
- (d) Expenditure** means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make the expenditure, regardless of whether such contract, promise, or agreement is legally enforceable. The date on which expenditure is incurred is determined according to generally accepted accounting principles. Expenditure does not include an amount paid to any person regularly employed by a person if:
- (1)** The amounts paid to the individual are ordinarily paid regardless of whether the individual engages in lobbying activities; and
 - (2)** Lobbying activities are not part of the individual’s regular responsibilities to the person making the payment.
- (e) Gift** has the same meaning as in Section 1.02 (q) (Definitions).

- (f) **Immediate family** means a spouse and dependent children.
- (g) **Lobbyist** means a person who engages in lobbying, whether directly or through the acts of another and receives compensation. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.
- (h) **Lobby or Lobbying** except as provided below, means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any City question. The term lobby or lobbying does not include a communication:
- (1) made by a public official or employee (including, but not limited to, an official or employee of the City of Laredo) acting in his or her official capacity;
 - (2) made by representative of a media organization if the purpose of the communication is disseminating news and information to the public;
 - (3) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
 - (4) made at a meeting open to the public under the Open Meetings Act;
 - (5) made in the form of a written comment or any other communication made on the record filed in the course of a public proceeding;
 - (6) made in writing as a petition for official action and required to be a public record pursuant to established city procedures;
 - (7) made in writing to provide information in response to an oral or written request by a city official for specific information;
 - (8) the content of which is compelled by law;
 - (9) made in response to a public notice soliciting communications from the public and directed to the official designated to receive such communications;
 - (10) made on behalf of an individual with regard to that individual's employment or benefits;

(11) made by a fact witness or expert witness at an official proceeding; or,

(12) made by a person solely on behalf of that individual, his or her spouse, or his or her minor children.

(i) **Lobbying firm** means:

(1) A self-employed lobbyist, or

(2) A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

(j) **City Question** means a public policy issue of a discretionary nature pending or impending before city council or any board or commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term “city question” does not include the day-to-day application, administration, or execution of city programs, policies, ordinances, resolutions, or practices, including matters that may be approved administratively without consideration by a board, a commission, or the City Council.

(k) **Person** means an individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

(l) **Registrant** means a person required to register under Section 5.02 (Persons Required to Register).

(m) **Knowingly** has the same meaning as in Section 1.02 (t) (Definitions)

Section 5.02 Persons Required to Register as Lobbyists. Except as provided by Section 5.03 (Exceptions), a person or entity who engages in lobbying must register with the City Secretary if:

(a) with respect to any client, the person or entity engages in lobbying activities for compensation; or

(b) the person or entity expends monies for lobbying activities.

Section 5.03 Exceptions. The following persons and entities are not required to register under Section 5.04 (Registration) or file an activity report under Section 5.05 (Quarterly Activity Reports):

- (a) **Media Outlets.** A person who owns, publishes or is employed by:
- (1) a newspaper;
 - (2) any other regularly published periodical;
 - (3) a radio station, satellite radio;
 - (4) a television station, including cable network;
 - (5) a wire service;
 - (6) internet; or
 - (7) any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote City questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration under Section 5 (Lobbyists). This Subsection does not exempt the news media or a person whose relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a City question in which the media outlet has a direct or indirect economic interest
- (b) **Mobilizing Entity Constituents and Not-for-Profit Organizations.** A person who's only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence city questions. This exception is not intended to apply to not-for-profit organizations.
- (c) **Governmental Entities.** Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the city.
- (d) **Unknown City Questions.** A person who does not know and has no reason to know that a city question is pending at the time of the contact with the city official. This Subsection does not apply if the existence of a city question is discovered during on-going contacts with a city official and the person then engages in additional lobbying of the same official or other city officials with respect to that city question.
- (e) **Dispute Resolution.** An attorney or other person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with

city officials who do not vote on or have final authority over any City question involved and so long as such an attorney complies with Rule 4.02 (Communication with One Represented by Counsel) (Volume 3A Government Code, Title 2, Subtitle E-Appendix, Article X, Section 9 of the Texas Disciplinary Rules of Professional Conduct, as amended).

(f) Compensation of Registrant. A client who would only be required to register under Section 5.02 because of any expenditure to compensate a registrant, other than an employee, to lobby on a City question of interest to the client, provided that the compensated registrant files a registration statement or activity report for the period in question.

(g) Agent or employee. An agent or employee of a lobbying firm or other registrant that files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(h) Individual. An individual who engages in lobbying but who neither receives compensation nor expends monies for lobbying with respect to any client. The term “expends” does not include the cost of photocopying documents, or creating other informational material by individuals who communicate with public officials to express personal opinions on behalf of themselves, their family or members of their household.

(i) Attorneys. A licensed attorney who is performing an act that may be performed only by a licensed attorney.

Section 5.04 Registration

(a) Separate Registrations. A person or entity required to register as a lobbyist under Section 5.02 (Persons Required to Register as Lobbyists) must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized official or agent of the registrant shall sign the form.

(b) Initial Registration. An initial registration form relating to a client must be filed by a person required to register under Section 5.02 (Persons Required to Register as Lobbyists) within 45 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register or knowingly fail to disclose such registration to relevant city officials, prior to official city action relating to the subject matter of the lobbying activity.

(c) Subsequent Annual Registration. Except as provided in Subsection (f) (Termination of Registration) below, subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.

(d) Consolidated Registration for Firms/Organizations. An individual, firm or organization that registers as a lobbyist and that employs agents or employees who engage in lobbying activity on behalf of the registrant's clients may include the agents or employees within the registrant's initial and annual registration, by identifying the agents or employees and disclosing lobbying activity as required under Subsection (e) below, by each agent or employee.

(e) Required Disclosures. Initial or subsequent registration shall be on a form prescribed by the City Secretary and shall include, to the extent applicable:

(1) the full name, telephone number, permanent address, and nature of the business of:

(A) the registrant;

(B) the client;

(C) any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;

(D) any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which, in whole or in major part, plans, supervises, or controls the registrant's lobbying activities on behalf of the client;

(E) any lobbying firm for which the registrant is an agent or employee with respect to the client; and

(F) each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;

(2) a statement of all City questions on which the registrant or its agents or employees has lobbied for the client in the year preceding the filing of the registration or most likely will lobby;

(3) a list of any positions held by the registrant or its agents or employees as an official or employee of the City of Laredo, as those terms are defined in Section 1.02 (Definitions) during the past two (2) years.

(4) if the registrant or its agents or employees is a former city official or employee, a statement that the registrant's lobbying activities have not violated and will not violate Section 3.02 (Subsequent Representation of Private Interest) or Section 3.03 (Prior Participation Contracts).

(f) Termination of Registration. A registrant shall file a notice of termination of registration with the City Secretary if the registrant is no longer required to register by Section 5.02 (Persons Required to Register as Lobbyists). A filing under this Subsection does not relieve the registrant of reporting requirements imposed by Section 5.05 (Quarterly Activity Reports) for the reporting period in question.

(g) Fee. At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the city, and the City Secretary shall collect, a fee of \$300 for the registrant and \$300 for each agent or employee of the registrant that engages in lobbying activity on behalf of the registrant's clients, up to a maximum total fee for a registrant of \$1,200. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be used to offset the costs of administering the city's lobbying ordinance and the costs of handling disclosure filings.

Section 5.05 Quarterly Activity Reports

(a) Required Disclosures. Except as provided in Section 5.03 (Exceptions), each registrant shall file with the City Secretary a notarized separate report under oath concerning the registrant's lobbying activities for each client from whom, or with respect to whom, the registrant received compensation of, or expended, monies for lobbying during the prior calendar quarter. A firm, entity, or person that employs agents or employees who lobby on behalf of that organization's or employer's clients may file quarterly reports regarding lobbying activities on behalf of all of its clients, so long as all activities by agents and employees that must be disclosed pursuant to this section are reported on the consolidated quarterly report. When a registrant files a quarterly report disclosing the lobbying activities of, the registrant's agents and employees are not required to file separate quarterly reports. The report for the preceding calendar quarter shall be filed between the first and fifteenth day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. The report shall be on the form prescribed by the City Secretary and shall include, with respect to the previous calendar quarter, to the extent applicable:

- (1)** The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed pursuant to Section 5.04 (Registration);
- (2)** A list of the specific issues upon which the registrant or its agents or employees engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;

- (3)** A list of the city officials contacted by the registrant or its agents or employees on behalf of the client with regard to a City question;
- (4)** A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;
- (5)** In the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenditures as defined in Section 5.01(d) (Definitions) that the registrant and its agents or employees incurred in connection with lobbying activities;
- (6)** Each gift, benefit, or expenditure greater than fifty dollars (\$50);
- (7)** Made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant, or by anyone acting on behalf of the registrant, shall be itemized by date, city official, actual cost, and circumstances of the transaction;
- (8)** Each exchange of money, goods, services, or anything of value by the registrant, or by anyone acting on behalf of the registrant, with any business entity in which the registrant knows or should know that a city official has an economic interest, or for which the city official serves as a director or official, or in any other policy making position, if:
 - (A)** The total of such exchanges is one thousand dollars (\$1000) or more in a calendar quarter; and
 - (B)** The city official:
 - (i)** has been lobbied by the registrant or its agents or employees during the calendar quarter; or
 - (ii)** serves on a board or other city body that has appellate jurisdiction over the subject matter of the lobbying.

Each exchange shall be itemized by date, business entity and address, city official, amount, and nature of transaction. For purposes of this Subsection, the term “exchange” does not include a routine purchase from a commercial business establishment, if the official is neither aware, nor likely to become aware, of the transaction; and

(9) The name and position of each city official or member of a city official's immediate family who is employed by the registrant.

(b) **Preservation of Records.** Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this Section for five (5) years from the date of filing of the report containing such items.

(c) **No Activity or Changes.** No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

(d) **Estimates of income or expenses.** For purposes of Subsections (a)(5), (a)(6), and (a)(7) above, required estimates of compensation or expenses shall be made to the nearest one hundred dollars (\$100), for amounts totaling less than five thousand dollars (\$5,000), and to the nearest one thousand dollars (\$1000), for amounts totaling more than five thousand dollars (\$5,000).

(e) **Contingent fees.** A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement.

Section 5.06 Restricted Activities

(a) **False Statements.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false or misleading statement of fact to any city official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a city official without notifying such official in writing of the truth.

(b) **Failure to Correct Erroneous Statement.** A registrant who learns that a statement contained in a registration form or activity report filed by the registrant during the past three (3) years is false shall not fail to correct that statement by written notification to the City Secretary within thirty days of learning of the falsehood.

(c) **Personal Obligation of City Officials.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any city official under personal obligation to such lobbyist or person.

(d) **Improper Influence.** A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

(e) Use of False Identification. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a city official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(f) Prohibited Representations. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any city official.

(g) Legislator's Exclusion. At any time within thirty (30) days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, members of the Texas Legislature and their agents and employees are prohibited from lobbying as that term is defined in Section 5.01 Subsection (h) of this Code. If a legislator, his or her spouse, agent, or employee does engage in lobbying activity during a time outside a regular session and outside the thirty (30) days before and after a regular session, and the governor calls a special session for which the legislator had no notice at time of the lobbying activity, this section is not violated.

(h) Limitations on Gifts. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a City official or a City employee or his or her immediate family, save and except for

- (1)** items received that are of nominal value; or
- (2)** meals in an individual expense of \$50 or less at any occurrence, and no more than a cumulative value of \$500 in a single calendar year, from a single source, as permitted in Section 2.04, or
- (3)** other gifts permitted under section 2.04.

(i) Prohibited Lobbying. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with City officials and employees regarding such contract after a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been released. This no-contact provision shall conclude when the contract is posted as City Council agenda item. If contact is required with City officials and employees such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agent(s) may lead to disqualification of their offer from consideration.

Section 5.07 Identification of Clients

(a) Appearances. Each person who lobbies or engages another person to lobby appearing before the City Council or an official body identified in the definition of “city official” in Section 5.01 (Definitions) shall orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether he or she is registered as a lobbyist as required by Section 5.02 (Persons Required to Register as Lobbyists).

(b) Oral Lobbying Contacts. Any person who makes an oral lobbying contact with an official shall, identify the client or clients on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

(c) Written Lobbying Contacts. Any registrant who makes a written lobbying contact (including an electronic communication) with a city official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

Section 5.08 Timeliness of Filing Registrations and Reports A registration or report filed first-class United States mail or carrier is timely if:

- (a)** It is properly addressed with postage and handling charges prepaid; and
- (b)** It bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

Section 5.09 Administration

The City Secretary shall:

- (a)** provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance with Section 5 (Lobbyists);
- (b)** review for completeness and timeliness registrations and reports;
- (c)** maintain filing, coding, and cross-indexing systems to carry out the purposes of Section 5 (Lobbyists), including:

- (1) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and,
 - (2) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under Section 5 (Lobbyists);
- (d) make available for public inspection and copying at reasonable times the registrations and reports filed under Section 5 (Lobbyists); and
- (e) retain registrations and reports in accordance with the Local Government Records Act

Section 5.10 Constitutional Rights

Nothing in Section 5 (Lobbyists) shall be construed to prohibit or interfere with any person's rights guaranteed by the United States and Texas Constitutions.

DIVISION 6: MEMBERS OF THE PUBLIC AND OTHERS

Section 6 (Members of the Public and Others) applies to current and former city officials and employees, persons doing business with the city, and lobbyists, as well as to members of the public and any other person (including business entities and nonprofit entities).

Section 6.01 Prohibited Conduct. No person shall intentionally or knowingly induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct contrary to the obligations imposed by any provision of this Ethics Code.

DIVISION 7: FINANCIAL DISCLOSURE

Section 7.01 Filing of the Financial Disclosure Statement

(a) **Persons Required to File Financial Disclosure Statements.** City Officials and candidates for city office shall be required to file financial disclosure statements. For purposes of this Section *only*, "City Official" means the Mayor, a Member of the City Council, the City Manager, the City Attorney, the Municipal Court Judge and any Associate Municipal Court Judge.

(b) **Filing Dates.** Pursuant to Section 145.004, Local Government Code, a city official shall file the financial disclosure statement required by this chapter within the time prescribed by Chapter 572 of the Texas Government Code. The city official is allowed to timely request an extension of time to file as provided for by Section 145.004 of the Texas Local Government Code.

(c) Reporting Periods. Each initial or annual financial disclosure report filed by an individual designated in Section 7.01(a) shall disclose information relating to the prior calendar year, as well as any material changes in that information which occurred between the end of the prior calendar year and the date of filing.

(d) Form of Statement. The City Secretary shall require and make available copies of the form designed by the Texas Ethics Commission under Chapter 572, Texas Government Code, to each city official for filing as the financial disclosure statement required herein. The City Secretary shall also provide advice regarding reporting requirements and deadlines; shall review reports for completeness and for timeliness; shall maintain filing, coding, and cross-indexing systems to carry out the purpose of this Section; make available the filed reports available for public inspection and copying at reasonable times.

Section 7.02 Failure to File the Financial Disclosure Statement

(a) Notice. Immediately after the financial disclosure statements become due, the City Secretary shall promptly determine whether any statement contains incomplete information, or any required individual has failed to file a statement or receive an extension of time for filing. The City Secretary shall promptly give notice by certified mail to each city official in violation of the filing requirement herein.

(b) Civil Penalty. Any city official who is responsible for filing a financial disclosure statement and who fails to file the statement before the 30th day after the date notice is first attempted under Subsection (a), shall become civilly liable to the city in the amount of five hundred dollars (\$500). A penalty paid under this section shall be deposited to the credit of the general fund of the city.

(c) Criminal Penalty. A city official or a candidate for a city office filled by election commits an offense if the official or candidate knowingly fails to file a financial disclosure statement as required by law. An offense under this section is a Class C misdemeanor.

Section 7.03 Travel Reporting Requirements. Any city official or employee who, in connection with his or her official duties, accepts a trip or excursion involving the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency must file with the City Secretary, before embarking on the travel, a disclosure statement identifying:

- (1) The name of the sponsor;
- (2) The places to be visited;
- (3) The purpose and dates of the travel; and,

- (4) The estimated amount of the expenses paid.

Section 7.04 Items Received on Behalf of the City

A city official or employee who accepts any gift to the city on behalf of the city must promptly report that fact to the City Manager, who shall have the item appropriately inventoried as city property.

DIVISION 8: ETHICS COMMISSION

Section 8.01 Definitions

As used in Section 8 (Ethics Commission), the term “ethics laws” includes this Code of Ethics, Section 171 of the Texas Local Government Code. The term “ethical violation” includes violations of any of those enactments together with violations of any city department policy relating to ethics, including but not limited to, all future collective bargaining agreements. Other terms used in Section 8 (Ethics Commission) are defined in Section 1.02 (Definitions).

Section 8.02 Structure of the Ethics Commission

(a) **City Charter.** In accordance with Article 12, Section 12.02 of the City Charter, it is hereby established an independent Ethics Commission (“the Commission”), which shall have the powers and duties specified herein.

(b) **Composition.** The Ethics Commission shall consist of nine (9) members. The Mayor and each member of the City Council shall nominate one member of the Commission. Each nominee must be confirmed by a majority of City Council members. Nomination and confirmation of commission members shall be conducted at open meetings of the City Council.

(c) **Terms of Office.** Initial Commission appointments shall be made so that terms are staggered, with five members to serve an initial term of two years and four members to serve an initial term of three years, determined after appointment by lottery. Subsequent appointments shall be for a term of two years beginning on the day after the expiration of the preceding full term. No member of the Commission shall serve for more than three full terms. The tenure of the members of the Commission shall not be concurrent with the terms of the appointing councilmember, so that all members shall be allowed to serve the duration of the terms for which they were appointed.

(d) **Qualifications.** Members of the Commission shall have good moral character and shall be residents of the city. The City Council shall support the inclusion of one attorney and one

individual with expertise in finance or accounting to be members of the Ethics Commission. No member of the Commission shall be:

- (1) A salaried city official or employee;
 - (2) An elected public official;
 - (3) A candidate for elected public office;
 - (4) An official of a political party;
 - (5) A campaign treasurer, campaign manager, official or other policy or decision-maker for the campaign of any candidate for elected public office;
 - (6) A campaign treasurer, campaign manager, official or other policy or decision-maker for any political action committee as defined in the Texas Election Code;
 - (7) A member of any city board or commission other than the Ethics Commission;
 - (8) A spouse, parent or child of a city official; or,
 - (9) Convicted of a felony or any crime involving moral turpitude, or have been found by the Ethics Commission to have violated any provision of the City Code of Ethics.
- (e) **Automatic Removal.** A member of the Ethics Commission shall be removed immediately from office for the failure to satisfy or continue to satisfy the qualifications and restrictions set out above. Notice should be provided to the City Council within thirty days of the removal.
- (f) **Removal Subject to Hearing.** Subject to 8.02(e), A member of the Ethics Commission may be removed from office by a majority vote of the City Council only after a public hearing at which the member was provided with the opportunity to be heard. Grounds for removal by the City Council include: substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; or any alleged violation of the Code of Ethics.
- (g) **Forfeiture.** A members of the Ethics Commission automatically shall forfeit their appointed position for failure to attend three consecutive meetings without being excused by a majority vote of the remaining members of the Ethics Commission for good cause.
- (h) **Vacancies.** The City Council shall fill any vacancy on the Commission by a person who will serve the remainder of the unexpired term. The nomination to fill a vacancy shall be made

by the member of City Council (or his or her successor) who had nominated the person whose successor is to be selected to fill the vacancy.

(i) Recusal. A member of the Ethics Commission shall recues himself or herself from any case in which, because of familial relationship, employment, any economic interest, or his or her impartiality might reasonably be questioned. If the number of Commission members recused from a case is so large that an Ethics Commission cannot be constituted, as provided for in Section 8.06 (Ethics Commission), the City Manager shall nominate a sufficient number of *ad hoc* members so that the case can be heard. Ad hoc members of the Ethics Commission must be confirmed by a majority vote of the City Council and serve only for the case in question. An Ethics Commission Member may not participate in official action on any complaint:

- (1) that the member initiated;
- (2) that involves the member of City Council who nominated him or her for a seat on the Ethics Commission; or
- (3) during the pendency of an indictment or information charging the member with any felony or misdemeanor offense, or after a finding of guilt of such an offense.

(j) Chair and Vice-Chair. Each year, the Commission shall meet and elect a chair and a vice-chair from among its members, who will serve one-year terms and may be re-elected. The chair or a majority of the Commission may call a meeting of the Commission. The chair shall preside at meetings of the Ethics Commission and perform other administrative duties. The vice-chair shall assume the duties of the chair in the event of a vacancy in that position.

(k) Reimbursement. The members of the Ethics Commission shall not be compensated but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

Section 8.03 Jurisdiction and Powers

(a) Jurisdiction. The Ethics Commission shall have jurisdiction to investigate and make findings and conclusions concerning:

- (1) An alleged violation of the Ethics Code enacted from time to time by ordinance;
- (2) An alleged violation of regulations governing lobbying or a member of any board or commission for which the position is appointed by City Council;
- (3) An alleged violation of local campaign finance regulations enacted from time to time by ordinance; and

- (4) An alleged violation of Section 12.01 of the City Charter, provided, however that the Ethics Commission has no jurisdiction to find or conclude that a city official or employee has forfeited his or her office or position.
- (b) **Limitations.** The Commission shall not consider any alleged violation that occurred more than two (2) years prior to the date of the filing of the complaint. The termination of a city official's or employee's duties does not affect the jurisdiction of the Ethics Commission with respect to alleged violations occurring prior to the termination of official duties.
- (c) **Powers.** The Ethics Commission has the power:
- (1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with applicable ordinance;
 - (2) To meet as often as necessary to fulfill its responsibilities, or if requested in writing by a quorum of the Commission, to call special meetings for purposes of discussing issues directly related thereto;
 - (3) To request from the City Manager the assignment of one staff member to carry out its duties;
 - (4) To review, index, maintain on file, and dispose of sworn complaints;
 - (5) To make notifications, extend deadlines, and conduct investigations, both on referral or complaint;
 - (6) To compel the production of sworn testimony, witnesses and evidence;
 - (7) To recommend cases for prosecution by appropriate authorities;
 - (8) To enforce its decisions by assessing civil fines and other sanctions authorized by ordinance and consistent with this Code of Ethics;
 - (9) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
 - (10) To prepare an annual report and to recommend to the City Council needed or desirable changes in ordinances under its jurisdiction;
 - (11) To exercise such powers and duties as may be established by ordinance.

Section 8.04 Complaints

- (a) **Filing.** Any person (including a member of the Ethics Commission) who has a belief that there has been an ethics law violation may file a sworn complaint with the Ethics Compliance Officer to allege such violations. A complaint filed in good faith is qualifiedly privileged. A person, who knowingly makes a false statement in a complaint or proceeding before the Ethics Commission is subject to prosecution for the criminal offense of perjury or civil liability for the tort of abuse of process.
- (b) **Contents.** A complaint filed under this Section must be accompanied by an affidavit stating that the information contained in the complaint is true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the Ethics Code. If the complaint is based on information and belief, the complaint shall state the source and basis. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury. The complaint itself must state on its face an allegation that, if true, constitutes a violation of a law administered and enforced by the Commission in writing and under oath and must set forth in simple, concise, and direct statements:
- (1) The name of the complainant;
 - (2) The street or mailing address and the telephone number of the complainant;
 - (3) The name of each person complained about;
 - (4) The position or title of each person complained about;
 - (5) The nature of the alleged violation, including, if possible, the specific provision of the Code of Ethics alleged to have been violated;
 - (6) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred;
 - (7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material relevant to the allegation and available to the complainant but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material relevant to the allegation but unavailable to the complainant, including the location of the documents, if known; and,
 - (8) The names addresses, telephone numbers of persons with relevant knowledge of the alleged violation.

(c) Frivolous Complaint.

- (1)** For purposes of this section, a “frivolous complaint” is a sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.
- (2)** By a vote of at least two-thirds of those present, the Commission may order a complainant to show cause why the Commission should not determine that the complaint filed by the complainant is frivolous.
- (3)** In deciding if a complaint is frivolous, the Commission will be guided by Rule 13 of the Texas Rules Civil Procedure, and may also consider:
 - (A)** The timing of the sworn complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the respondent is a candidate or is involved with a candidacy, if any;
 - (B)** The nature and type of any publicity surrounding the filing of the sworn complaint, and the degree of participation by the complainant in publicizing the fact that a sworn complaint was filed;
 - (C)** The existence and nature of any relationship between the respondent and the complainant before the complaint was filed;
 - (D)** If respondent is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the respondent;
 - (E)** Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and
 - (F)** Any evidence of the complainant's motives in filing the complaint.
- (4)** Notice of an order to show cause shall be given to the complainant, with a copy to the respondent, and shall include:
 - (A)** An explanation of why the complaint against a respondent appears to be frivolous; and
 - (B)** The date, time, and place of the hearing to be held under this section.

- (5) Before making a determination that a sworn complaint against a respondent is frivolous, the Commission shall hold a hearing at which the complainant may be heard and accompanied by his or her retained counsel.
- (6) By a record vote of at least a simple majority of those present after the hearing under subsection (5) of this section, the Commission may determine that a complainant filed a frivolous complaint and may recommend sanctions against that complainant.

(d) Sanctions for Filing Frivolous or Knowingly False Complaints.

- (1) Before imposing a sanction for filing a frivolous complaint, the Commission shall consider the following factors:
 - (A) The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
 - (B) The sanction necessary to deter future violations; and
 - (C) Any other matters that justice may require.
- (2) The Commission may impose the following sanctions:
 - (A) A civil penalty of not more than \$500;
 - (B) Imposition of attorneys' fees incurred by Respondent; and/or
 - (C) Any other sanction permitted by law.
- (3) The Commission may notify the appropriate regulatory or supervisory agency for their appropriate action. This may include a referral for criminal prosecution if the facts so warrant.

- (e) **Confidentiality.** The Commission and its staff shall not communicate to anyone information about a pending sworn complaint, including whether or not a complaint has been filed, to any person other than the respondent, the complainant, and a witness or potential witness identified by the respondent, the complainant, or another witness or potential witness. Information otherwise confidential under this section may be disclosed by entering it into the record of a formal hearing or Ethics Commission proceeding.

- (f) Notification to the Ethics Commission.** A copy of a complaint shall be promptly forwarded to each respondent, even if the complaint fails to meet the filing requirements of Section 8.04(b) above. A complaint that is not sworn as required by Section 8.04(a), but shall be returned to the complainant. The respondent(s) shall also be provided with a copy of the ethics rules and informed that:
- (1)** Within fourteen (14) days of receipt of the complaint, he or she may file a sworn response with the Ethics Compliance Officer;
 - (2)** Failure to file a response does not preclude the Ethics Commission from adjudicating the complaint;
 - (3)** A copy of any response filed by the respondent(s) will be provided by the Ethics Compliance Officer to the complainant, who may, within seven (7) days of receipt, respond by sworn writing filed with the City Secretary, a copy of which shall be provided by the City Secretary to the respondent(s);
 - (4)** The complainant(s) or respondent(s) may request a hearing; and,
 - (5)** City officials and employees have a duty to cooperate with the Ethics Commission, pursuant to Section 8.06(e) (Duty to Cooperate). Upon receipt, the Ethics Compliance Officer shall forward to the Ethics Commission.
- (g) Assistance.** The Ethics Compliance Officer shall provide information to persons who inquire about the process for filing a complaint.

Section 8.05 Ethics Compliance Officer

- (a) City Attorney's Office.** The City Attorney or an Assistant City Attorney shall serve as the Ethic Compliance Officer for the City.
- (b) Duties.** The Ethics Compliance Officer shall:
- (1)** receive and promptly transmit to the Ethics Commission complaints and responses filed with the Ethics Compliance Officer;
 - (2)** review complaints for legal sufficiency;
 - (3)** request additional information from complainant as needed;
 - (4)** recommend acceptance or rejection of complaints made to the Ethics Commission;

- (5) act as legal counsel to the Ethics Commission on matters related to the content of the Ethics Ordinance. As legal counsel to the Ethics Commission, the City Attorney may not represent any person or party in any proceeding before the Ethics Commission;
 - (6) issue advisory opinions upon request about the requirements imposed by the ethics laws; and
 - (7) oversee training and education of city officials and employees about their responsibilities under the Ethics Code to be performed by the Human Resources Department.
- (c) **Outside Independent Counsel.** An independent outside attorney, who does not otherwise represent the city, shall be appointed by the City Attorney with the same duties and authority under Section 8.05 (a)(1), (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) (Ethics Compliance Officer), who shall be entitled to reasonable compensation to perform its duties for a particular case:
- (1) When a complaint is filed relating to an alleged violation of the ethics laws by the City Manager, Mayor, a member of the City Council, City Attorney or an Assistant City Attorney; or,
 - (2) When requested by the City Attorney due to a potential conflict of interest.
- (d) **Exculpatory Evidence.** The Ethics Compliance Officer shall disclose to the Ethics Commission and provide to the person charged with violating the ethics laws evidence known to the Ethics Compliance Officer tending to negate guilt or mitigate the seriousness of the offense.

Section 8.06 Assessment

- (a) **Adjudicative Powers of the Commission.** The Ethics Commission may not meet or take any action without the presence of a quorum. Five Members shall constitute a quorum. A complaint received from the Ethics Compliance Officer shall be promptly reviewed by the Ethics Commission, who shall have full power to investigate and dispose of the complaint. The identity of the members of the Ethics Commission shall be revealed to the person charged in the complaint who, for good cause, may request the recusal of any member of the Commission. Determination of good cause shall be made by the majority of the members of the Commission whose recusal has not or is not being sought.
- (b) **Notice of Charges.** The Ethics Commission shall consider whether the facts of the case establish a violation of any provision in the ethics laws, regardless of which provision, if

any, were identified in the complaint as having been allegedly violated. However, before the Ethics Commission may find that a violation of a particular rule, the respondent must be on notice that compliance with that rule is in issue and must have an opportunity to respond. Notice is conclusively established: if the complaint alleged that the rule was violated; if compliance with the rule is raised by a member of the Commission or the Ethics Compliance Officer as a disputed issue at a hearing before the Ethics Commission; or if the Commission or the Ethics Compliance Officer provides the respondent with written notice of the alleged violation and a (14) day period within which to respond in writing.

(c) **Scheduling of a Hearing.** Regardless of whether the complainant or the respondent requests a hearing, a quorum of the Ethics Commission has discretion to decide whether to hold a hearing.

(d) **Ex Parte Communications.** It is a violation of this code:

(1) for the complainant, the respondent, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in *ex parte* communication about the subject matter of a complaint with any member of the Ethics Commission, or any known witness to the complaint; or

(2) for a member of the Ethics Commission to:

(A) knowingly entertain an *ex parte* communication prohibited by Subsection (1) of this rule; or

(B) communicate directly or indirectly with any person, other than a member of the Ethics Commission, its staff, or the Ethics Compliance Officer, about any issue of fact or law relating to the complaint.

(e) **Duty to Cooperate.** All city officials and employees shall cooperate with the Ethics Commission and shall supply requested testimony or evidence to assist it in carrying out its charge. Failure to abide by the obligations imposed by this Subsection is a violation of this code of ethics.

(f) **Extension of Deadlines.** A complainant or respondent who fails to meet a deadline to submit a filing with the Ethics Commission may file a Request to Accept Late Filing. The complainant or respondent must include within the request a statement of good cause for the Commission to grant the request. The Commission may grant a request to accept a late filing for good cause. Any extension given pursuant to his or her request shall extend the deadline for the Commission to issue a decision under Section 8.08 (Disposition) by the amount of time granted.

- (g) Timeliness of Notices or Submissions.** When the Ethics Code requires a notice or other document to be submitted or otherwise given to a person or to the Ethics Commission, the requirement is met in a timely fashion if the document is sent to the person or the Commission by first-class mail or certified mail addressed with postage or handling charges prepaid and it bears a post office cancellation mark indicating a date within the time required to provide notice or to submit a document, unless another method of submission is expressly required.

Section 8.07 Evidentiary Hearings

At any hearing held by an Ethics Commission during the investigation or disposition of a complaint, the following rules apply:

(a) General Rules.

- (1)** If a complaint is not summarily dismissed, it will be pursued further at an open hearing before the ethics advisory commission. Not less than 10 days before the hearing, the commission shall advise the City Secretary to by certified mail or personal service, give written notice of the hearing to both the person who made the complaint and the person about whom the complaint was made. The notice must state the specific provision or provisions of this chapter alleged in the complaint to have been violated, as determined by the Ethics Compliance Officer.
- (2)** The Ethics Compliance Officer must submit to the Ethics Commission a detailed report that in addition to the complaint should include any witness statements, findings and other investigative materials at least three days prior to the scheduled hearing date.
- (3)** The Complainant and Respondent may, but are not required to, submit material to the Ethics Commission. If either does wish to submit such material to the board, the party must file the material with the Ethics Compliance Officer, who shall provide a copy of the same to the other party and the members of the Commission, at least three calendar days prior to the hearing. The Commission by majority vote has the discretion to allow for consideration of materials not timely submitted.
- (4)** At least five members of the Ethics Commission must be present for the hearing. Any member of the Ethics Commission who is not present may not participate in the disposition of the case. In order for the Commission to find that there has been a knowing and willful violation of the Ethics Code, it shall be necessary that no fewer than five of those Commissioners who attended the hearing shall vote in the affirmative.

(5) A record of the proceeding shall be made by audio tape recording. The Complainant or Respondent may arrange for an alternative method of recording at his or her own expense provided notification is given to the Ethics Compliance Officer in writing at least fourteen (14) days before the scheduled hearing date.

(b) Notice of charges. At the hearing, the Ethics Commission shall consider if the facts establish a violation of any provision of this chapter, regardless of which provisions, if any, were identified in the complaint as having been allegedly violated. Before the commission may find that a violation of a particular provision occurred, the person charged in the complaint must have notice that compliance with that provision is in issue and be given an opportunity to respond. Notice of violation of a particular provision is conclusively established if:

(1) The complaint alleged that the provision was violated; or

(2) The ethics advisory commission or its legal counsel provides the person charged in the complaint with written notice of the alleged violation of the provision and with a ten day period within which to respond in writing to the charge.

(c) Presentation of Evidence.

(1) All witnesses must be sworn in by the Chair and all questioning of witnesses shall be conducted by the members of the Ethics Commission.

(2) During the hearing, the Ethics Compliance Officer may advise the Ethics Commission on the legal format of the proceedings only. However, the Ethics Commission may also elect to recess at any time, and as often as needed, for purposes of consulting with the Ethics Compliance Officer on any legal issue.

(3) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but the hearing shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of common law or statutory rules which might make improper the admission of such evidence in civil actions. Either party may impeach any witness regardless of which party called the witness.

(4) The parties shall have a full and fair opportunity to present their positions and facts to the hearing panel at the hearing. Each party has the right to the assistance of legal counsel at its own expense. Each party shall be allotted a reasonable amount of time to make its presentation to the hearing panel. The Ethics Commission shall rely on

evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(5) The Ethics Commission shall further abide by the following:

(A) The Commission shall hear evidence relevant to the allegations; and

(B) The Commission shall not consider hearsay unless it finds the nature of the information is reliable and useful.

(d) The Person Charged (Respondent). The person charged in the complaint has the right to attend the hearing, to make a statement, to present witnesses, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the person charged in the complaint may advise that person during the course of the hearing, but may not speak on his or her behalf, except with the permission of the Ethics Commission. The time permitted for presentation will be at the discretion of the Ethics Commission.

(e) The Complainant. The complainant has the right to attend the hearing, to make a statement, and to be accompanied by legal counsel or another advisor. Only legal counsel to the complainant may advise the complainant during the course of the hearing, but may not speak on behalf of the complainant, except with the permission of the Ethics Commission. Witnesses may not be presented by the complainant, except with the permission of the Ethics Commission. The time permitted for presentation will be at the discretion of the Ethics Commission.

Section 8.08 Disposition

(a) Written Opinion. The Ethics Commission shall issue a decision within ninety (90) days after the filing of a complaint. This deadline shall then be extended by any amount of time granted to a respondent pursuant a respondent's request for additional time to respond or to attend proceedings. If the Ethics Commission determines that a violation has occurred, the opinion shall identify in writing the particular rule or rules violated. If the complaint is dismissed, the grounds for the dismissal shall be set forth in the opinion. The failure of the Ethics Commission to comply within the above time limits may result in the charge being dismissed for want of prosecution. Prior to such dismissal, the complainant will be given notice and an opportunity to request continuance of the action. The Ethics Commission shall state in a written opinion its findings of fact and conclusions of law. The written opinion shall either:

(1) dismiss the complaint; or

(2) upon finding that there has been a violation of the ethics laws:

(A) impose sanctions in accordance with these regulations; or

(B) firm, entity, or individual that employs agents or employees who lobby on behalf of that organization's or employer's clients may file quarterly reports regarding lobbying recommend criminal prosecution and/or civil remedies, in accordance with this rule; or

(C) state why no remedial action is imposed or recommended.

(b) Recommendations. A recommendation for criminal prosecution shall be forwarded to the appropriate law enforcement agency.

(c) Similar Charges Barred. If the complaint is dismissed because the evidence failed to establish a violation of the ethics laws or the City campaign finance ordinance, the Ethics Commission shall not entertain any other similar complaint based on substantially the same evidence.

(d) Factors Relevant to Sanctions. To impose or recommend sanctions for a first violation of the Ethics Code other than a letter of notification, a letter of admonition or a referral to training, the Ethics Commission must find by a preponderance of the evidence that the person acted knowingly, unless otherwise provided by this code. In deciding whether to recommend or impose, a particular civil or criminal penalty in the case of a violation of the ethics law, the Ethics Commission shall take into account relevant considerations, including, but not limited to, the following:

(A) The culpability of the person charged in the complaint;

(B) The harm to public or private interests resulting from the violation;

(C) The necessity of preserving public confidence in the conduct of local government;

(D) Whether there is evidence of a pattern of disregard for ethical obligations; and write findings of fact and conclusions of law.

(e) Notification. Copies of the opinion shall be forwarded to the complainant, the person charged in the complaint, the Ethics Compliance Officer, and any member of the Ethics Commission who did not participate in the disposition of the case. A copy of the opinion shall also be forwarded to the City Secretary, who shall make it available as authorized by law. Failure to submit a required report or an amended report within five (5) days after receipt of notice of non-compliance by the City Secretary's Office, the City Attorney's Office or the Ethics

Commission, may be considered evidence of a knowing failure to comply with the reporting requirements. Upon finding a second or subsequent untimely, incomplete or inaccurate submission of reports within a two year period of time, the Ethics Commission may issue a letter of reprimand regardless of whether the second or subsequent violation was made knowingly by the filer.

(f) Civil Sanctions for Ethics Code Violations. The following civil remedies may be recommended or imposed by an Ethics Commission which finds that the ethics laws have been violated:

(1) Disciplinary Action. Civil service employees who violate this code of ethics may be disciplined in accordance with city personnel rules and procedures. Other city officials and employees who engage in conduct that violates this code may be notified, warned, reprimanded, suspended, or removed from office or employment by the appointing authority, or by a person or body authorized by law to impose such remedies. Disciplinary action under this Section may be imposed in addition to any other penalty or remedy contained in this code of ethics or any other law. The Ethics Commission may refer a violation to the City Manager or his or her designate for disciplinary action in accordance with any applicable civil service rule;

(2) Suit for Damages or Injunctive Relief. This Code of Ethics has been enacted not only to further the policy stated in Section 1.01 (Statement of Purpose), but to protect the City and other persons from any loss or increased cost incurred as a result of the violation of these provisions. It is the intent of the City that this Ethics Code can and should be recognized by a court as a proper basis for a civil cause of action for damages or injunctive relief based upon a violation of these provisions, and that such forms of redress shall be available together with any other remedy or penalty contained in this Code of Ethics or other law. The Ethics Commission may refer a violation of the Ethics Code to the City Attorney for consideration of a suit by the city for damages or injunctive relief.

(3) Disqualification from Contracting or Lobbying.

(A) If the Ethics Commission finds that any person, their employee or agent (including business entities and non-profit entities) has intentionally or knowingly violated any provision of the Ethics Code, or has intentionally or knowingly assisted another person in violating any provision of the Ethics Code, or has violated a provision or assisted in a violation that the person should have known was a violation of the Ethics Code, the Ethics Commission may recommend to the City Council that the person be prohibited from entering into any contract with the city or prohibited from lobbying on behalf of clients before the city for a period not to exceed three (3) years.

(B) It is a violation of this Code of Ethics for a person debarred from entering into a contract with the city to enter, or attempt to enter, into a contract with the city during the period of disqualification from contracting; or for a city official or employee to knowingly assist a violation of Subsection (b)(1) of this rule.

(C) Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.

(4) Recommendation to Void or Ratify Contract. If the Ethics Commission finds that there has been an intentional or knowing violation of any provision of the Ethics Code, or that a person has committed a violation that he or she should have known was a violation of the code that is related to the awarding of a contract, the Ethics Commission must vote on whether to recommend to the City Council that the contract be ratified or voided. Such action shall not affect the imposition of any penalty or remedy contained in this Code of Ethics or any other law;

(5) Civil Fine. The Ethics Commission may impose upon any person, whether or not an official or employee of the city, who violates any provision of this Code of Ethics a fine not exceeding five hundred dollars (\$500). Each day after any filing deadline imposed by Section 5 (Lobbyists) and Section 7 (Financial Disclosure) for which any required statement has not been filed, or for which a statement on file is incorrect, misleading, or incomplete, constitutes a separate offense.

(6) Letter of Notification. The Ethics Commission may issue a letter of notification to any person, whether or not an official or employee of the city, when a found violation of the Code of Ethics was clearly unintentional or inadvertent. The letter must advise the person to whom it is directed of any required steps to avoid future violations and corrective measures, if any;

(7) Letter of Admonition. The Ethics Commission may issue to any person, whether or not an official or employee of the city, a letter of admonition when it finds that the violation of the Code of Ethics was minor and/or may have been unintentional or inadvertent.

(8) Letter of Reprimand. The Ethics Commission may issue to any person, whether or not an official or employee of the city, a letter of reprimand when it finds that the person has intentionally or knowingly violated the Code of Ethics.

(9) Referral to Ethics Training. Upon finding of violation of the Ethics Code, the Ethics Commission may require a city official or employee to attend ethics code training.

(g) Criminal Prosecution. An Ethics Commission may recommend to the appropriate law enforcement agency criminal prosecution under this section or under V.T.C.A. Local Government, §171. Prosecution of any person by the City Attorney for a violation of this ethics code may not be undertaken until a complaint is disposed of in accordance with Section 8.08. However, the absence of a recommendation to prosecute from an Ethics Commission to the City Attorney shall not preclude the City Attorney from exercising his or her prosecutorial discretion to prosecute a violation of this ethics code.

(h) Reconsideration. Within 5 business days of receiving the final opinion of the Ethics Commission, the complainant or respondent may request the Ethics Commission to reconsider its decision. The request must be filed with the Ethics Compliance Officer. Within fifteen (15) days after filing with the City Secretary, the originally assigned Commission shall review the request for reconsideration.

(i) Appeals. A decision of the Ethics Commission is final unless the person aggrieved by the decision appeals to the State District Court in Webb County no later than (30) days after the date the Commission renders the decision. An appeal of a Commission decision is initiated by filing a verified petition setting forth the specific points of error alleged. The District Court shall review an appeal under this section under the substantial evidence rule, and must base its decision solely on review of the record of the hearing before the Ethics Commission. The Trial Court shall affirm the decision of the Ethics Commission and shall not substitute its judgment for that of the Commission unless the Commission's decision was arbitrary, capricious, unlawful, or unsupported by substantial evidence.

Section 8.09 Petition for Declaratory Ruling

Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere shall have the right to file a sworn statement with the Ethics Compliance Officer affirming his or her innocence, and to request the Ethics Commission to investigate and make known its findings, and make any relevant recommendations concerning the issue.

Section 8.10 Advisory Opinions

(a) Ethics Code Inquiries by Persons Other Than City Officials and Employees.

(1) By writing filed with the City Secretary, any person other than a city official or employee may request an advisory opinion with respect to the interpretation of the ethics laws, but only with respect to whether proposed action by that person would violate the ethics laws.

(2) Within thirty (30) days of receipt by the chair of the Ethics Commission of a request for an advisory opinion, the Board shall meet and consult with the Ethics

Compliance Officer of the city and other appropriate persons to issue a advisory opinion. The preparation of the written opinion shall be by the Ethics Compliance Officer signed by the members of the Commission in agreement.

(3) A copy of the opinion shall be indexed and kept by the Ethics Commission as part of its records for a period of not less than five (5) years. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Commission, to the person who requested the opinion, to the members of the Ethics Commission, and to the City Secretary.

(b) Ethics Inquiries by City Officials and Employees.

(1) By writing filed with the Office of the City Attorney, any city official or employee may request an advisory opinion with respect to whether proposed action by that person would violate the ethics laws.

(2) Within sixty (60) days of receipt of the request, the Ethics Compliance Officer shall issue a written advisory opinion. The advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation. Opinions that address new issues and that are instructive on the application of the ethics regulations shall be posted on the ethics webpage in a manner that does not reveal the identity of the individual requesting the opinion.

(c) Ethics Opinions Initiated by the Commission.

(1) On its own initiative, the Ethics Commission, acting as the full board or a majority of its members, may issue a written advisory opinion with respect to the interpretation of the ethics laws or the municipal campaign finance regulations as they apply to persons other than city officials and employees if a majority of the Board determines that an opinion would be in the public interest or in the interest of such person or persons subject to the provisions of the ethics laws.

(2) Such an opinion may not include the name of any individual who may be affected by the opinion. A copy of any such opinion shall be indexed and kept by the Ethics Commission as part of its records for a period of not less than five (5) years.

(3) The City Attorney's Office shall make the opinion available as a public record in accordance with the Public information Act. The City Secretary's Office shall promptly post the opinion for a period of no less than five years on the Internet via the City of Laredo homepage.

(d) Reliance. A person who reasonably and in good faith acts in accordance with an advisory opinion issued by the Ethics Commission or Ethics Compliance Officer may not be found to have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

(A) He or she requested the issuance of the opinion;

(B) The opinion request fairly and accurately disclosed all relevant facts; and,

(C) Less than five years elapsed between the date the opinion was issued and the date of the conduct in question.

Section 8.11 Annual Report

The Ethics Commission shall jointly prepare and submit an annual report to the City Council that details the activities of the Commission during the prior year. The format for the report shall include a summary of the content of ethics opinions issued by the Commission. The report may recommend changes to the text or administration of this Code of Ethics. The Ethics Commission shall file this report with the City Secretary by January 31st of the succeeding year.

Section 8.12 Open Government Compliance. Proceedings of the Ethics Commission shall be in compliance with the Texas Open Meetings Act and preserved by written and audio recordings. Requests for records of the Commission shall be processed in accordance with the Texas Public Information Act.

DIVISION 9: ADMINISTRATIVE PROVISIONS

Section 9.01 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 local, state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Section 9.02 Distribution and Training

(a) Within thirty (30) days after entering upon the duties of his or her position, every new official or employee shall be furnished with information about this Code of Ethics. The failure of any person to receive a copy of this code shall have no effect on that person's duty to comply with this code or on the enforcement of its provisions. Upon appointment to a committee or commission, such official shall be provided with a copy of the Ethics Code.

(b) The City Human Resources Department Training Division in consultation with the Ethics Compliance Officer shall develop educational materials and conduct educational programs for officials and employees of the city on the provisions of this Code of Ethics.

(c) The Office of the City Manager and Department of Human Resources shall require all Directors to provide their employees with a copy of the Ethics Code upon approval and to provide training as needed. New Employees shall receive a copy of the Ethics Code during orientation.

(d) The Ethics Compliance Officer shall notify department directors regarding any significant amendments to the Ethics Code within 30 days of adoption.

(e) Information shall be provided to employees terminating city service at their exit interview regarding the restrictions on former employees contained herein.

Section 9.03 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 of this code which can be given effect without the invalid or unconstitutional provision or application.

Section 9.04 Effective Date.

The provisions contained in this Ethics Code, and any amendments thereto, shall not be construed and applied retroactively, and shall take effect ninety days following passage and publication in accordance with applicable law.