

ORDINANCE NO. 20110428-047

AN ORDINANCE AMENDING CHAPTER 2-7 OF THE CITY CODE RELATING TO CONFLICTS OF INTEREST.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 2-7-2(6) (*Definitions*) is amended to read:

- (6) ENTITY means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted, but does not include a governmental body.

PART 2. City Code Sections 2-7-62(C), (D), (E), and (F) (*Standards of Conduct*) are amended to read:

- (C) No salaried City official or employee shall represent, for compensation, any other [~~private~~] person, group or entity before any department, commission, board or committee of the City.
- (D) No salaried City official or employee shall represent, directly or indirectly, any other [~~private~~] person, group or entity in any action or proceeding against the interests of the City, or in any litigation in which the City or any department, commission, or board or committee thereof is a party; provided, however, that nothing herein shall limit the authority of the city attorney and his staff to represent the City, its boards, commissions, committees and officers and particularly the Human Rights Commission in the discharge of their duties, including equal employment opportunity cases.
- (E) No salaried City official or employee shall represent, directly or indirectly, any [~~private~~] person, group or entity in any action or proceeding in the municipal courts of the City which was instituted by a City official or employee in the course of official duties.
- (F) No City official shall represent any [~~private~~] person, group or entity in any action or proceeding in the municipal courts of the City which was instituted by or arising from a decision of a board, commission, committee, task force or other body on which the official serves.

PART 3. City Code Section 2-7-63 (*Prohibition on Conflict of Interest*) is amended to read:

§ 2-7-63 PROHIBITION ON CONFLICT OF INTEREST

- (A) A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest; provided, however, that this provision shall not prohibit any member of the city council from participating in a discussion relating to a petition certified to the city council by the city clerk which petition seeks the recall of said member of the city council.[:]
- (B) A [~~in addition, a~~] City official or employee who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the City for the entity. This subsection does not apply to a City official or employee who:
- (1) serves as a corporate officer or member of the board of directors of a nonprofit entity that is owned by the City or created by the city council;
or
 - (2) as a duty of office or as a job assignment, serves as a corporate officer or member of the board of directors of a nonprofit entity as a representative of the City.
- (C) Where the interest of a City official or employee in the subject matter of a vote or decision is remote or incidental, the City official or employee may participate in the vote or decision and need not disclose the interest.
- (D) Nothing in this chapter shall prohibit the city council from participating in a vote or decision relating to salaries, terms of office or travel budgets of city
- (E)[~~(B)~~] If a member of the city council participates in a vote or decision on a contract for the purchase by the City of any goods or services from a person or entity in which the member has a substantial interest, the contract is voidable by the City.
- (F) [~~(C)~~] A document prepared by the City that solicits bids or proposals from vendors, service providers, or other persons shall provide notice of the provisions of this section.

PART 4. City Code Section 2-7-64 (*Disclosure of Conflict of Interest*) is amended to read:

§ 2-7-64 DISCLOSURE OF CONFLICT OF INTEREST.

- (A) A City official shall disclose the existence of any substantial interest he may have in a natural person, entity or property which would be affected by a vote or decision of the body of which the City official is a member or that he serves as a corporate officer or member of the board of directors of a nonprofit entity for which a vote or decision regarding funding by or through the City is being considered.
- (B) To comply with this section, a councilmember or unsalaried City official, prior to the vote or decision, either shall file an affidavit as required by Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments) of the Local Government Code or, if not so required, shall publicly disclose in the official records of the body the nature and extent of such interest.
- (C) To comply with this section, a City employee shall notify in writing his supervisor of any substantial interest he may have in a natural person, entity or property which would be affected by an exercise of discretionary authority by the City employee and a supervisor shall reassign the matter.

PART 5. City Code Section 2-7-65 (*Substantial Interest of Relative*) is amended to read:

- (B) If the spouse of a City official or employee does business through a partnership or other [business] entity, the substantial interests of that partnership or [business] entity shall not be deemed under Section 2-7-61 (*Conducting Business Through Partnerships, Professional Corporations, and Other Entities*) to apply to the City official or employee.
- (C) A City official [~~subject to Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments) of the Local Government Code,~~] or a City employee may not participate in a vote or decision affecting a substantial interest of a person to whom the official or employee is related in the first or second degree of consanguinity or affinity. This subsection does not apply to a substantial interest of a relative based on the relative's employment by a governmental body. [~~For the purposes of this section, "substantial interest" shall be as defined in Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments) of the Local Government Code. It is the intent of this subsection to conform the civil law prohibitions of this chapter to the criminal law prohibitions of Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments) of the Local Government Code, with respect to relatives other than spouses. This chapter in no way supersedes Chapter 171~~

~~(Regulation of Conflicts of Interest of Officers of Municipalities, Counties,
and Certain Other Local Governments) of the Local Government Code.]~~

(D) For the purposes of Subsection (C):

A relative other than a spouse has a substantial interest if:

- (1) the person owns 10 percent or more of the voting stock or shares of the entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the entity; or
- (2) funds received by the person from the entity exceed 10 percent of the person's gross income for the previous year; or
- (3) the person has a substantial interest in real property if the interest is an equitable or legal ownership in real property with a fair market value of \$2,500 or more.

PART 7. This ordinance takes effect on May 9, 2011.

PASSED AND APPROVED

_____, April 28, 2011 §
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 § Lee Leffingwell
 Lee Leffingwell
 Mayor

APPROVED: Karen M. Kennard ATTEST: Shirley A. Gentry
 Karen M. Kennard Shirley A. Gentry
 City Attorney City Clerk