

THE CODE OF THE City of AUSTIN, TEXAS

Codified through
Ordinance No. 20151217-075, effective February 1, 2016.
(Supp. No. 109)

ARTICLE 4. - CODE OF ETHICS.

§ 2-7-61 - CONDUCTING BUSINESS THROUGH PARTNERSHIPS, PROFESSIONAL CORPORATIONS, AND OTHER ENTITIES.

If a City official or employee is a member of a partnership or professional corporation, or conducts business through another entity, a substantial interest of the partnership, professional corporation, or entity shall be deemed to be a substantial interest of the City official or employee if:

- (A) the partnership or professional corporation has fewer than 20 partners or shareholders;
- (B) regardless of the number of partners or shareholders, the official or employee has an equity interest, share, or draw equal to or greater than five percent of the capital or revenues of the partnership, professional corporation, or other entity; or
- (C) with regard to the partnership, professional corporation, or other entity's substantial interest in a client, the official has personally acted within the preceding 24 months in a professional or fiduciary capacity for that client.

Source: 1992 Code Section 2-3-61; Ord. 031204-9; Ord. 031211-11.

§ 2-7-62 - STANDARDS OF CONDUCT.

- (A) No City official or employee shall transact any business in his official capacity with any entity in which he has a substantial interest.
- (B) No City official or employee shall formally appear before the body of which the official or employee is a member while acting as an advocate for himself or any other person, group, or entity.
- (C) No salaried City official or employee shall represent, for compensation, any other 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 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 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 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.

- (G) No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct
- (H) (1) No City official or employee shall solicit or accept other employment to be performed or compensation to be received while still a City official or employee, if the employment or compensation could reasonably be expected to impair independence in judgment or performance of City duties.
 - (2) If a City official or employee accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official or employee might reasonably be expected to act, investigate, advise, or make a recommendation, the official or employee shall disclose that fact to the board or commission on which he serves or to his supervisor and shall take no further action on matters regarding the potential future employer.
- (I) No salaried City official or employee shall use his official position to secure a special privilege or exemption for himself or others, or to secure confidential information for any purpose other than official responsibilities.
- (J) No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- (K) No City official or employee shall accept remuneration, directly or indirectly, for campaign work relating to an item placed on the ballot if that individual served on the body which exercised discretionary authority in the development of the ballot item and participated in the discussion or voted on the item.
- (L) No salaried City official and certain City employees to include the mayor, councilmembers, the city manager, assistant city managers, the city clerk, deputy city clerks, council aides, municipal court clerk, deputy municipal court clerks, municipal judges (including substitute judges), the city auditor, assistants to the city auditor, the city attorney, deputy city attorneys, assistant city attorneys, purchasing agents and those employees with the authority to purchase or contract for the City, all department heads, deputy department heads, and the spouse of each of the above, shall solicit nor propose on a contract, enter into a contract or receive any pecuniary benefit from any contract with the City. This prohibition does not include any employment contract which may be authorized for the official, a contract of sale for real property or a contract for services which are available to all citizens.
- (M) For a period of two years after leaving office, a former mayor or councilmember may not solicit or propose on a contract with the City or enter into a contract with the City for the sale to the City of any goods or services other than real estate. This subsection does not apply to a former mayor or councilmember who had a business relationship with the City in the six months immediately preceding taking the office of mayor or councilmember if the solicitation or proposal is on behalf of the same business.
- (N) For a period of two years after leaving office, a former mayor or councilmember, members of their family, or anyone acting on their behalf, may not sell or lease any real estate to the City unless the city council has designated the property for acquisition and would otherwise have to acquire the property through its power of eminent domain.

Source: 1992 Code Section 2-3-62; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 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 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 councilmembers.
- (E) 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) 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.

Source: 1992 Code Section 2-3-63; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 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.

Source: 1992 Code Section 2-3-64; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 2-7-65 - SUBSTANTIAL INTEREST OF RELATIVE.

- (A) A substantial interest of a spouse of a City official or employee shall be deemed to apply to that official or employee for the purposes of Sections 2-7-63 (*Prohibition on Conflict of Interest*) and 2-7-64 (*Disclosure of Conflict of Interest*) concerning disclosure and recusal or reassignment.
- (B) If the spouse of a City official or employee does business through a partnership or other entity, the substantial interests of that partnership or 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 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.

- (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.

Source: 1992 Code Section 2-3-65; Ord. 031204-9; Ord. 031211-11; Ord. 20110428-047.

§ 2-7-66 - MISUSE OF OFFICIAL INFORMATION.

No former City official or former employee shall use any confidential information to which he had access by virtue of his official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal financial interest.

Source: 1992 Code Section 2-3-66; Ord. 031204-9; Ord. 031211-11.

§ 2-7-67 - RESTRICTIONS ON PROVIDING REPRESENTATION OF OTHERS.

- (A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) BEFORE THE CITY means before the city council, a board or commission, or a City official or employee.
 - (2) CASE, PROJECT OR MATTER means to refer to specific cases, projects or regulatory matters, rather than generic policies, procedures or legislation of general application. For instance, the zoning process or site plan review process is not a "case, project or matter" within the meaning of this section; however, a specific zoning case or site plan would constitute a "case, project or matter" subject to the restrictions imposed in this section. It is not the intent of this chapter, and this chapter shall not be construed, to proscribe the practice of any profession or occupation by former City officials and employees.
 - (3) REPRESENT means all communications with and appearances before the City in which the City is asked to make a decision, as that term is defined in this chapter. The term represent does not include communications and appearances involving only ministerial action on the part of the City.
- (B) A City employee in a position which involves significant decision-making, advisory, or supervisory responsibility, or a City official who leaves the service or employment of the City shall not, within 12 months after leaving that employment or service, represent any other person or entity in any formal or informal appearance, if the City official or employee has received or shall receive remuneration from the person, entity or members of the entity being represented:
- (1) before the City concerning a case, project or matter over which the person exercised discretionary authority as a City employee or official; or
 - (2) before any other agency on a case, project or matter over which the person exercised discretionary authority as a City employee or official.
- (C) A former City employee or official who is subject to the requirements of Subsection (B) shall, during the 24 months after leaving the service or employment of the City, disclose his previous position and

responsibilities with the City and the work performed, if any, as a City employee or official regarding the matter for which he is appearing before the City whenever he represents any other person or entity in any formal or informal appearance before the City.

- (D) In any formal or informal appearance before the City, a person representing a person or entity which employs a former City official or employee who had discretionary authority over the project or matter for which the person or entity is appearing before the City shall disclose any former involvement of such former City official or employee in the project or matter. This disclosure requirement shall be in effect for 24 months after the former City official or City employee leaves City service or employment.
- (E) This section shall become effective from and after February 1, 1987. This section shall not apply to persons who left the service or employment of the City prior to February 1, 1987.

Source: 1992 Code Section 2-3-67; Ord. 031204-9; Ord. 031211-11.