

ORDINANCE NO. 20120823-004

AN ORDINANCE AMENDING CHAPTER 2-1 OF THE CITY CODE RELATED TO THE USE OF ELECTRONIC MAIL BY CITY BOARDS AND COMMISSIONS.

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

PART 1. Ordinance No. 20120802-014 is repealed.

PART 2. Chapter 2-1 (*City Boards*) is amended to add a new Section 2-1-49 to read:

§2-1-49 COMMUNICATIONS USING ELECTRONIC DEVICES.

- (A) In this section, “electronic communications” means communications using an electronic device to transmit text. This section does not apply to voice communications. This section does not, by reverse implication, allow voice communications that are prohibited by Texas Government Code, Chapter 551 (*Open Meetings Act*) or Subsection (D) of Section 2-1-3 (*Boards Established*).
- (B) The city clerk shall establish and maintain an electronic mail (e-mail) system for the use of City board members in conducting board business. The city manager shall provide the necessary technical support.
- (C) Except as provided in this subsection, a City board member shall use the City e-mail account provided by the city clerk under Subsection (B) for all electronic communications related to the member’s service as a board member.
 - (1) Before the city clerk may furnish a City e-mail account to a board member, the member must receive training on the use of the account, and accept the terms of a user agreement to be prescribed by ordinance.
 - (2) If a board member receives a communication related to the member’s service as a board member on a non-City account, the member shall promptly forward the communication to the City account furnished to the member.
 - (3) A board member who does not comply with the training requirement prescribed in Subsection (B)(8) of Section 2-1-23(*Training*), or does not accept the terms of the user agreement, may not have access to a City e-mail account. A board member who does not have access to a City e-mail account may not use electronic devices for communications related to board business.

- (a) Except as provided by (b), a board member who uses electronic devices for communications related to board business in violation of this subsection without prompt remedy automatically vacates the member's position, subject to the hold over provision in Section 2-1-27 (*Vacancy and Hold Over Capacity*).
- (b) This subsection does not prohibit a City employee who is assigned to support a board as a job duty from contacting a board member by telephone or e-mail or prohibit the board member from responding to a communication initiated by the liaison.

PART 3. Section 2-1-23 (*Training*) of the City Code is amended to read as follows:

§ 2-1-23 TRAINING.

- (A) A board member must comply with the training requirements of this section to maintain eligibility to serve on the board. Except as provided by Subsection (C), a [A]board member who does not comply with the training requirements automatically vacates the board member's [his] position, subject to the hold over provision in Section 2-1-27 (*Vacancy and Hold Over Capacity*).
- (B) Each board member must complete a board course developed by City staff not later than the 90th day after the date of the member's appointment or reappointment. The training shall include:
 - (1) a review of a board member's personal and ethical responsibilities;
 - (2) the role of council and staff and the council-manager form of government;
 - (3) the role of advisory boards in making recommendations and advising council;
 - (4) board procedures, including attendance and quorum;
 - (5) the City's business planning process;
 - (6) Government Code Chapter 551 (Open Meetings Act), Robert's Rules of Order, and Americans with Disabilities Act requirements; [~~and~~]
 - (7) conflict resolution; and
 - (8) the use of a City e-mail account for board-related business.

(C) A board member who does not comply with the training requirement prescribed by Subsection(B)(8) does not vacate the board member's position, but is subject to the prohibition of Subsection (C)(3) of Section 2-1-49 (Communications Using Electronic Devices).

PART 4. Each board member serving on a City board on the effective date of this ordinance shall comply with the training requirement of Section 2-1-49(B)(8) within 90 days of the effective date, subject to the prohibition in Section 2-1-49(C)(3). The City Clerk shall notify all sitting board members of the availability of the training, the deadline for taking the training, and the consequence of failing to take the training and sign the user agreement prescribed by Section 2-1-49.

PART 5. The user agreement under Section 2-1-49(C)(1) of the City Code is set out in Exhibit A to this ordinance and is incorporated in this ordinance for all purposes as if set out in full.

PART 6. This ordinance takes effect on September 3, 2012.

PASSED AND APPROVED

_____ August 23 _____, 2012 §
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 Lee Leffingwell
 Mayor

APPROVED: _____
 Karen M. Kennard
 City Attorney

ATTEST: _____
 Shirley A. Gentry
 City Clerk

Agreement for Use of the City's E-mail System by Board Members

I understand that an e-mail address is provided to me for my use as a board member. In consideration for the use of the City server and the City e-mail address provided to me for my use of the address and the server, I acknowledge and agree that:

1. The address and the attendant access to the City e-mail server is solely for my use as a City board member and not for any personal, business, campaign, or political purposes whatsoever.
2. I agree not to send any messages except for a purpose related to my board membership.
3. I agree not to use the server to support, oppose, or express an opinion on any candidate for electoral office or on any ballot proposition submitted to the voters for a vote.
4. While I cannot completely control what messages are sent to the address, I agree not to use the address to solicit or subscribe to news feeds, distribution lists and other automated e-mail distributions; and I agree to unsubscribe to unsolicited messages of this nature. I also agree to ask a person sending a message to my City e-mail account that does not relate to board business to use a personal account.
5. I understand and, by my use of the e-mail address and server, I agree that I have no expectation of privacy in the content of any email sent or received by me on this server.
6. I understand that the messages sent and received on the server are subject to the Texas Public Information Act and may have to be searched to find information responsive to a Public Information request, and may have to be produced by the City for public inspection.
7. Should I receive a communication related to my service as a board member on a non-City account, I agree to promptly forward the communication to the City account and, to the greatest extent feasible, advise the sender to use the City account for all future correspondence related to my service as a board member.

8. I agree to cooperate fully with the City in looking for information on the server that may be responsive to a request for information under the Public Information Act.
9. I agree and understand that content on the server is subject to retention under the Texas Local Government Records Act, and that I cannot delete City related content from the server.
10. I agree to send any messages related to my service as a City board member received by me on a personal email account, or by means of any other electronic messaging technology, to my City e-mail account, and to ask the person sending the message to send future messages relating to City board business to my City e-mail address.
11. I release and indemnify the City from any liability to me, or created by me, by my use of the City server.