

CITY OF DALLAS
CODE OF ETHICS

EFFECTIVE JANUARY 1, 2001

PREFACE

On June 28, 2000, the Dallas City Council passed Ordinance No. 24316, which establishes in Chapter 12A of the Dallas City Code a new code of ethics for all city officials and employees. This new code of ethics states a purpose; provides principles of conduct for elected and appointed city officials; defines terms; revises the ethics laws governing current and former officials and employees of the city; provides regulations, restrictions, and prohibitions relating to improper economic benefits, unfair advancement of private interests, gifts, confidential government information, outside employment, and use of public property and resources; regulates political activities of city officials and employees; provides restrictions on contracting with the city and representing the private interests of others before the city; provides requirements for certain city officials and employees to file financial disclosure reports and travel reports; provides for the creation, membership, qualifications, jurisdiction, and powers of an ethics advisory commission; provides procedures and requirements for the disposition of complaints of ethics violations; provides for legal counsel to the ethics advisory commission; and provides for enforcement and penalties relating to ethics violations. The new code of ethics has an effective date of January 1, 2001 and an expiration date of January 1, 2005, unless reenacted prior to expiration.

Ordinance No. 24316 also repealed Article XII, Chapter 2 of the Dallas City Code (which was the city's former code of ethics) and Article I, Chapter 31A of the Dallas City Code (which contained the former financial reporting requirements for city officials), except that these articles are continued in effect for the purpose of governing the conduct of city officials and employees occurring before January 1, 2001.

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CHAPTER 12A
CODE OF ETHICS

ARTICLE I.

DECLARATION OF POLICY.

SEC. 12A-1. STATEMENT OF PURPOSE AND PRINCIPLES OF CONDUCT.

(a) Purpose. It is hereby declared to be the policy of the city that the proper operation of democratic government requires that:

(1) city officials and employees be independent, impartial, and responsible only to the people of the city;

(2) governmental decisions and policy be made using the proper procedures of the governmental structure;

(3) no city official or employee have any financial interest, direct or indirect, or engage in any business, transaction, or professional activity or incur any obligation of any nature that is in conflict with the proper discharge of his or her duties in the public interest;

(4) public office not be used for personal gain; and

(5) the city council at all times be maintained as a nonpartisan body.

(b) Principles of conduct.

(1) The city council further believes that an elected or appointed official of the city assumes a public trust and should recognize the importance of high ethical standards within the organization they lead or support. Essential values and ethical behaviors that an elected or appointed official should exemplify include the following:

(A) Commitment beyond self.

(B) Obedience and commitment beyond the law.

(C) Commitment to the public good.

(D) Respect for the value and dignity of all individuals.

(E) Accountability to the public.

- (F) Truthfulness.
- (G) Fairness.
- (H) Responsible application of resources.

(2) In keeping with the values set forth in Subsection (b)(1), and to assist in the fulfillment of responsibilities to the individuals and communities served, each elected or appointed official should subscribe to the following principles.

(A) To conduct himself or herself and to operate with integrity and in a manner that merits the trust and support of the public.

(B) To uphold all applicable laws and regulations, going beyond the letter of the law to protect and/or enhance the city's ability to accomplish its mission.

(C) To treat others with respect, doing for and to others what the official would have done for and to him or her in similar circumstances.

(D) To be a responsible steward of the taxpayer resources.

(E) To take no actions that could benefit the official personally at the unwarranted expense of the city, avoiding even the appearance of a conflict of interest, and to exercise prudence and good judgment at all times.

(F) To carefully consider the public perception of personal and professional actions and the effect such actions could have, positively or negatively, on the city's reputation both in the community and elsewhere.

(G) To strive for personal and professional growth to improve effectiveness as an elected or appointed official.

(c) To implement the policy and principles set forth in this section, the city council has determined that it is advisable to enact this code of ethics for all city officials and employees, whether elected or appointed, paid or unpaid, advisory or administrative, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

(d) This section is a statement of purpose and principles only. Nothing in this section may be used to create a cause of action against an official or employee under this chapter.

SEC. 12A-2. DEFINITIONS.

In this chapter, the following words and phrases have the meanings ascribed to them in this section, unless the context requires otherwise:

(1) **ACCEPT.** A person “accepts” an offer of employment or a business opportunity when the person enters into a legally binding contract or any informal understanding that the parties expect to be carried out.

(2) **AFFECT PARTICULARLY AN ECONOMIC INTEREST or AFFECT PARTICULARLY A SUBSTANTIAL ECONOMIC INTEREST.** An action is likely to “affect particularly an economic interest” or “affect particularly a substantial economic interest,” whichever is applicable, if it is likely to have an effect on the particular interest that is distinguishable from its effect on members of the public in general or on a substantial segment of the public.

(3) **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.

(4) **AFFINITY.** Relationship by “affinity” (by marriage) is defined in Sections 573.024 and 573.025 of the Texas Government Code, as amended.

(5) **BEFORE THE CITY.** Representation or appearance “before the city” means before:

- (A) the city council;
- (B) a board, commission, or other city body or city entity; or
- (C) a city official or employee.

(6) **BENEFIT** means 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.

(7) **BUSINESS ENTITY** means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law, except that the term does not include a governmental entity.

(8) **CITY** means the city of Dallas, Texas.

(9) **CITY COUNCIL MEMBER or MEMBER OF THE CITY COUNCIL** means all members of the Dallas city council, including the mayor.

(10) **CLIENT.**

(A) The term “client” includes any specialized and highly personalized professional business relationship of an individual official or employee. The term does not include a regular or ordinary business or vendor relationship.

(B) If the official or employee does not personally represent the client but conducts business as a member of a primary partnership or professional corporation or conducts business through another entity, a client of the partnership, professional corporation, or entity is deemed to be a client of the official or employee if:

(i) the partnership, professional corporation, or entity derived two percent or more of its annual gross income within the preceding 12 months from the client; and

(ii) the city official or employee knows of the client's relationship.

(11) CODE OF ETHICS or ETHICS CODE means this chapter.

(12) CONFIDENTIAL GOVERNMENT INFORMATION includes:

(A) all information held by the city that is not available to the public under the Texas Open Records Act;

(B) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act; and

(C) any information protected by attorney-client, attorney work product, or other applicable legal privilege.

(13) CONSANGUINITY. Relationship by "consanguinity" (by blood) is defined in Sections 573.022 and 573.023 of the Texas Government Code, as amended.

(14) DEPARTMENT DIRECTOR means the head of any department or office, including an office under the city manager, that is created by the city charter or by ordinance of the city council.

(15) DISCRETIONARY CONTRACT means any contract other than one that by law must be awarded on a competitive bid basis.

(16) DOMESTIC PARTNER means an individual who, on a continuous basis, lives in the same household and shares the common resources of life in a close, personal, intimate, committed relationship with a city official or employee. A domestic partner may be of the same or opposite gender as the official or employee and is not married to or related by blood to the official or employee.

(17) 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. Exceptions are as follows:

(A) Service by a city official or employee as an officer, 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.

(B) If a city official's primary source of employment is with a governmental entity other than the city, such employment by the governmental entity does not create for that city official an economic interest in the property or contracts of the governmental entity.

(C) 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.

(18) EMPLOYEE or CITY EMPLOYEE means any person listed on the city of Dallas payroll as an employee, whether part-time, full-time, permanent, or temporary.

(19) EX PARTE COMMUNICATION means any communication not made in a written document filed with the ethics advisory commission and not made orally during a hearing, but does not include a communication made pursuant to an inquiry duly authorized by the commission.

(20) FORMER CITY OFFICIAL OR EMPLOYEE means a person whose official duties as a city official or employee are terminated on or after January 1, 2001.

(21) GIFT means 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.

(22) INDIRECT OWNERSHIP. A person has "indirect ownership" of 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.

(23) KNOWINGLY or WITH KNOWLEDGE. A person acts "knowingly" or "with knowledge" with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts "knowingly" or "with knowledge" with respect to a result of his or her conduct when the person is aware that the conduct is reasonably certain to cause the result.

(24) OFFICIAL or CITY OFFICIAL includes the following persons:

(A) City council members.

(B) Municipal judges.

(C) The city manager, the first assistant city manager, and all assistant city managers.

(D) The city auditor and the first assistant city auditor.

(E) The city attorney and the first assistant city attorney.

(F) The city secretary and the first assistant city secretary.

(G) All department directors.

(H) Members of all boards, commissions (except the youth commission whose members are minors), committees, and other bodies created by the city council pursuant to city ordinance or federal or state law, including bodies that are only advisory in nature.

(I) City council appointed members of boards of entities that were not created by the city council.

(25) OFFICIAL ACTION includes:

(A) any affirmative act (including the making of a formal or informal recommendation), that is within the scope of an official's or employee's duties; and

(B) any failure to act, if the official or employee is under a duty to act.

(26) OFFICIAL INFORMATION includes information gathered pursuant to the power or authority of city government.

(27) PARTNER includes any partner in a general partnership, limited partnership, or joint venture.

(28) PERSONALLY PARTICIPATED. The requirement of having "personally participated" in a matter is met only if the individual in fact exercised discretion relating to the matter. The fact that the person had responsibility for a matter does not by itself establish that the person "personally participated" in the matter.

(29) REPRESENTATION encompasses every form of communication or personal appearance in which a person, not acting in performance of official duties, formally or informally serves as an advocate for private interests. Lobbying and service as an expert witness, even on an informal basis, are forms of representation. "Representation" does not include appearance as a fact witness in litigation or other official proceedings.

(30) SOLICITATION. "Solicitation" of subsequent employment or a subsequent business opportunity includes any form of proposal or negotiation relating to employment or a business opportunity.

(31) SUBSTANTIAL ECONOMIC INTEREST.

(A) A person has a "substantial economic interest" in a business entity if:

(i) the person owns 10 percent or more of the voting stock, shares, or other ownership interest in the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or

(ii) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(B) A person has a "substantial economic interest" in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(C) For purposes of determining a "substantial economic interest," 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.

ARTICLE II.

PRESENT CITY OFFICIALS AND EMPLOYEES.

SEC. 12A-3. IMPROPER ECONOMIC BENEFIT.

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

(1) the official or employee;

(2) the official's or employee's outside client;

(3) the official's or employee's outside employer;

(4) a business entity in which the official or employee knows that he or she holds an economic interest;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which he or she holds an economic interest;

(6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or

(7) a person or business entity:

(A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the substantial economic interests of:

(1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;

(2) the official's or employee's domestic partner;

(3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(c) Recusal and disclosure. A city official or employee whose conduct or action on a matter would violate Subsection (a) or (b) must recuse himself or herself. From the time that the conflict is recognized, the city official or employee shall:

(1) immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and

(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.

(d) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (c):

(1) a supervised employee shall promptly bring his or her conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;

(2) the park and recreation director shall promptly bring his or her conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring his or her conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring his or her conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring his or her conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring his or her conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose his or her conflict to the board or commission of which he or she is a member and shall not be present during any discussion or voting on the matter; and

(8) a city council member shall promptly disclose his or her conflict to the city council and shall not be present during any discussion or voting on the matter.

(e) Disclosure requirements relating to offers of employment. Whenever a city employee who is a department director or of higher rank receives an offer of employment from any person or business entity that the employee knows had an economic interest in any discretionary contract with the city in which the employee personally participated within the preceding 12 months, the employee shall, immediately upon receiving the offer, disclose the offer, whether rejected or not, to the appropriate supervisory person or body designated under Subsection (d). Unless recusal is required under Subsection (c), the employee may continue to personally participate, on the behalf of the city, in contracts and other matters in which the person or entity making the employment offer has an economic interest.

(f) Board of directors of a reinvestment zone. Notwithstanding any other provision of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(1) own property within that reinvestment zone; and

(2) participate in discussions and voting on matters before the board of directors that may directly or indirectly affect the member's property within the reinvestment zone.

SEC. 12A-4. UNFAIR ADVANCEMENT OF PRIVATE INTERESTS.

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede personal interests by granting or securing, or by attempting 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 every other person or organization.

(b) Special rules. The following special rules apply in addition to the general rule set forth in Subsection (a):

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any matter if the official or employee knows that the interest will be affected by impending official action of the city.

(2) Acquisition of interest in decided matter. A city official or employee shall not acquire an interest in any matter affected by an official action of the city for a period of one year after the date of the official action.

(3) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person.

(4) Appointment or employment of relatives.

(A) A city official or employee shall not appoint, or take any action to influence the appointment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city official or employee who was either a domestic partner or a relative within the first degree of consanguinity or affinity may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by the domestic partner or relative until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(B) A city council member shall not appoint any fellow city council member's domestic partner or relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city council member and who was either a domestic partner or relative within the first degree of consanguinity or affinity of another city council member may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by any city council member until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(C) A city official or employee shall not appoint or employ, or take any action to influence the appointment or employment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to any position of employment within the city. Nothing in this subparagraph prohibits any person who, before June 28, 2000, was lawfully appointed to or employed in any position of employment with the city from continuing to serve in that position of employment.

(5) Supervision of relatives. In addition to the nepotism restrictions of Section 34-5(e) of the city code, no official or employee shall be permitted to be the immediate supervisor of his or her domestic partner or of any relative within the second degree of consanguinity or affinity.

(6) Fringe benefits. The general rule described in Subsection (a) of this section does not prohibit the city from granting fringe benefits to city employees as a part of their contracts of employment or as an added incentive to securing or retaining employees.

(c) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (b)(4) of this section shall adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter.

SEC. 12A-5. GIFTS.

(a) General rule. A city official or employee shall not solicit, accept, or agree to accept any gift or benefit that:

- (1) reasonably tends to influence or reward official conduct; or
- (2) the official or employee knows is intended to influence or reward the discharge of official duties.

(b) Gifts over \$250. All city officials and employees required to file a financial disclosure statement under Section 12A-19 of this chapter shall report all gifts over \$250 in the financial disclosure statement.

(c) Special applications. Subsections (a)(1) and (a)(2) do not include:

- (1) reimbursement of reasonable expenses for travel authorized in accordance with city policies;
- (2) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;
- (3) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;
- (4) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or
- (5) admission to an event in which the city official or employee is participating in connection with official duties.

(d) Campaign contribution exception. The general rule stated in Subsection (a) does not apply to a campaign contribution received and reported in compliance with the Texas Election Code.

SEC. 12A-6. CONFIDENTIAL INFORMATION.

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

(b) Improper disclosure or use. A city official or employee shall not intentionally or knowingly disclose any confidential government information gained by reason of the official's or employee's position. This rule does not prohibit:

(1) any disclosure that is no longer confidential government information;

(2) the confidential reporting of illegal or unethical conduct to authorities designated by law; or

(3) any disclosure, not otherwise prohibited by law, in furtherance of public safety.

SEC. 12A-7. REPRESENTATION OF PRIVATE INTERESTS.

(a) Representation by a member of a board, commission, or other city body. A city official or employee who is a member of a board, commission, or other city body shall not represent any person, group, or entity:

(1) before that board, commission, or body; or

(2) unless the board, commission, or body of which the city official or employee is a member is only advisory in nature:

(A) before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or body; or

(B) before a board, commission, or other city body that has appellate jurisdiction over the board, commission, or body of which the city official or employee is a member, if any issue relates to the official's or employee's duties.

(b) Representation before the city.

(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, minor children, or domestic partner) before the city. For purposes of this subsection, "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) Exceptions. The rule stated in Subsection (b)(1) does not prohibit:

(A) a person who is classified as a city official only because he or she is an appointed member of a board, commission, or other city body from representing for compensation a person, group, or entity before the city unless such representation is a violation of Subsection (a) of this section; or

(B) an employee who is a duly designated representative of an association of municipal employees from representing that association before the city if otherwise permissible under state law.

(3) Prestige of office and improper influence. In connection with the representation of private interests before the city, a city official or employee shall not:

(A) assert the prestige of the official's or employee's city position for the purpose of advancing private interests; or

(B) state or imply that he or she is able to influence city action on any basis other than the merits.

(c) Representation in litigation adverse to the city.

(1) Officials and employees (other than board and commission 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, commission, or other city body, shall not represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) 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. This rule does not prohibit an employee who is a duly designated representative of an association of municipal employees from such representation if otherwise permissible under state law.

(2) Board and commission members. A person who is classified as a city official only because he or she is an appointed member of a board, commission, or other city body shall not represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) 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.

(3) Affiliates of officials and employees. Subject to applicable professional ethical standards, the restrictions stated in Subsections (c)(1) and (c)(2) do not apply to representation by a partner or other affiliate of a city official or employee so long as the city official or employee does not participate in any manner whatsoever in the partner's or affiliate's representation.

(d) Representation in municipal court. No member of the city council may engage in the practice of law in or before the municipal courts of the city.

SEC. 12A-8. CONFLICTING OUTSIDE EMPLOYMENT.

(a) General rule. A city official or employee shall not:

(1) solicit, accept, or engage in concurrent outside employment that could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties; or

(2) personally provide services for compensation, directly or indirectly, to a person or organization that is requesting an approval, investigation, or determination from the body or department of which the official or employee is a member.

(b) Exception. The restriction in Subsection (a) does not apply to outside employment of a city official if the employment is the official's primary source of income.

(c) Other rules. The general rule stated in Subsection (a) of this section applies in addition to all other rules relating to outside employment of city officials and employees, including requirements for obtaining prior approval of outside employment as applicable.

(d) Public utility corporations. An employee of the city may accept employment from a public utility corporation enjoying the grant of a franchise, privilege, or easement from the city if:

(1) the employee is to perform the duties of a security guard for the public utility corporation;

(2) the employment is approved by the employee's department head;
and

(3) the employment does not conflict with his or her duties as an employee of the city.

SEC. 12A-9. PUBLIC PROPERTY AND RESOURCES.

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

- (1) pursuant to duly adopted city policies; or
- (2) to the extent and according to the terms that those resources are generally available to the public.

SEC. 12A-10. POLITICAL ACTIVITY.

(a) City officials. In any election, except his or her own, a city official shall not:

- (1) use the prestige of the city official's position with the city on behalf of a candidate, political party, or political committee, except that a city official is not prohibited from lending his or her name so long as the office held with the city is not mentioned in connection with the endorsement;
- (2) serve as the designated campaign treasurer for a candidate under the Texas Election Code; or
- (3) solicit or receive contributions for a candidate, political party, or political committee, except that a city official is not prohibited from serving on a steering committee to plan a program of solicitation and listing the member's name without reference to the office held when the committee as a whole is listed.

(b) Employees.

(1) The purpose of this subsection is to implement the order of the United States District Court for the Northern District of Texas in Hickman vs. City of Dallas, 475 F. Supp 137 (N.D. Tex. 1979), by delineating those portions of Chapter III, Section 17(c) of the city charter that may continue to be enforced.

(2) An employee of the city immediately forfeits employment with the city if the employee:

- (A) becomes a candidate for election to the Dallas city council;
- (B) becomes a candidate for nomination or election in a partisan election for public office within a county in which the city of Dallas resides, or in a partisan election for a public office, the constituency of which includes all or part of a county in which the city of Dallas resides;

(C) becomes a candidate for nomination or election to an elective public office where the holding of that office will conflict with the full and proper discharge of the employee's duties with the city; or

(D) is a managerial or supervisory city employee and becomes a candidate for nomination or election to an elective public office of an entity having direct or indirect contractual relations with the city that involve the employee's department.

(c) Influencing subordinates. A city official or employee shall not, directly or indirectly, induce or attempt to induce any city subordinate of the official or employee to:

(1) participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or

(2) refrain from engaging in any lawful political activity.

A general statement merely encouraging another person to vote does not violate this subsection.

(d) Paid campaigning. A city official or employee shall not directly or indirectly accept anything of value for political activity relating to an item pending on the ballot, if the official or employee 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 or employee receives in return for providing information on an item pending on the ballot.

(e) 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.

(f) Elections. A city employee shall not use the prestige of his or her position with the city on behalf of any candidate, political party, or political committee.

(g) Charter provisions. A city official or employee shall comply with the provisions governing political activity set forth in Chapter XVI, Section 16 of the city charter, as those provisions have been judicially interpreted in Wachsman v. City of Dallas, 704 F.2d 160 (5th Cir. 1983).

(h) Public property and resources. Limitations on the use of public property and resources for political purposes are imposed by Section 12A-9 of this chapter.

SEC. 12A-11. ACTIONS OF OTHERS.

(a) Violations by other persons. A city official or employee shall not knowingly assist or induce, or attempt to assist or induce, any person to violate any provision of this chapter.

(b) Using others to engage in forbidden conduct. A city official or employee shall not violate any provision of this chapter through the acts of another.

SEC. 12A-12. PROHIBITED INTERESTS IN CONTRACTS.

(a) Charter restrictions relating to financial interests in city contracts. A city official or employee shall comply with the restrictions on financial interests in city contracts as set forth in Chapter XXII, Section 11 of the city charter.

(b) Additional restrictions relating to city contracts. An official or employee may not, while in the service or employment of the city, either individually or as the officer or principal of a private business entity:

(1) submit a bid or proposal, on behalf of the official or employee or on behalf of a private business entity, to make any city contract, whether or not the contract is required by state law to be competitively bid; or

(2) negotiate or enter into any city contract, on behalf of the official or employee or on behalf of a private business entity, whether or not the contract is required by state law to be competitively bid.

(c) Exceptions. The restrictions contained in Subsections (a) and (b) of this section do not apply to a member of:

(1) a board that functions only in an advisory or study capacity and that does not have the power to make findings as to the rights of specific parties; or

(2) a board of a nonprofit development corporation that acts as an instrumentality of the city.

ARTICLE III.

FORMER CITY OFFICIALS AND EMPLOYEES.

SEC. 12A-13. 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:

- (1) any disclosure that is no longer confidential government information;
- (2) the confidential reporting of illegal or unethical conduct to authorities designated by law; or
- (3) any disclosure, not otherwise prohibited by law, in furtherance of public safety.

SEC. 12A-14. SUBSEQUENT REPRESENTATION.

(a) Representation by a former city council member or former board or commission member. A person who was a member of the city council, a board or commission, or another city body shall not represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) for a period of one year after the termination of his or her official duties:

- (1) before the city council or that board, commission, or body;
- (2) unless the board, commission, or body of which the former city official or employee was a member is only advisory in nature:
 - (A) before city staff having responsibility for making recommendations to, or taking any action on behalf of, the city council or that board, commission, or body; or
 - (B) before a board, commission, or other city body that has appellate jurisdiction over the board, commission, 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 before the city. A former city official or employee shall not represent for compensation any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) before the city for a period of one year 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, commission, or other city body. For purposes of this subsection, “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) Representation in litigation adverse to the city. A former city official or employee shall not, absent consent from the city, represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) 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 one in which the former city official or employee personally participated prior to termination of his or her official duties or is a matter substantially related to such a matter.

(d) Statement or implication of inappropriate influence. In connection with the representation of private interests, 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.

SEC. 12A-15. DISCRETIONARY CONTRACTS.

(a) Impermissible interest in discretionary contract or sale. Within one year after the termination of official duties, a former city official or employee shall not have any financial interest, direct or indirect, in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or service. Any violation of this subsection, with knowledge, express or implied, of the person or corporation contracting with the city will render the contract involved voidable by the city manager or the city council. This subsection applies only to contracts or sales made on a discretionary basis and not to contracts or sales made on a competitive bid basis.

(b) Additional restrictions. A former city official or employee may not, within one year after leaving the service or employment of the city, either individually or as the officer or principal of a private business entity:

(1) submit a proposal, on behalf of the official or employee or on behalf of a private business entity, to make any city contract that is not required by state law to be competitively bid; or

(2) negotiate or enter into any city contract that is not required by state law to be competitively bid.

(c) Prior participation in negotiation or award of contract and disclosure requirements. A former city official or employee may not, within one year after the termination of official duties, perform work on a compensated basis relating to a discretionary contract, if he or she personally participated in the negotiation or awarding of the contract. A former city official or employee, for one year after 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 any discretionary contract with the city.

(d) Exceptions. The prohibitions of Subsections (a), (b), and (c) do not apply to:

(1) a contract for the personal services of a former city official or employee;

(2) a member of a board or commission that is only advisory in nature; or

(3) the provision of goods, facilities, or services by the city to a former city official or employee pursuant to duly adopted city policies and on nonnegotiable terms generally available to the public.

ARTICLE IV.

IDENTIFICATION OF PERSONS REPRESENTED BEFORE CITY.

SEC. 12A-16. APPEARANCE BEFORE CITY COUNCIL, BOARDS, COMMISSIONS, AND OTHER CITY BODIES.

A person who appears before the city council, a city board or commission, or any other city body shall identify himself or herself and give his or her business or residence address.

SEC. 12A-17. REPRESENTATION OF OTHERS.

A person who represents, orally or in writing, the interests of another person (other than his or her spouse, minor children, or domestic partner) before the city council, a city board or commission, another city body, or a city official or employee shall disclose the identity of the person represented.

ARTICLE V.

PARTICIPATION IN ETHICS VIOLATIONS.

SEC. 12A-18. PARTICIPATION IN ETHICS VIOLATIONS.

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 violative of this chapter.

ARTICLE VI.

FINANCIAL DISCLOSURE.

SEC. 12A-19. FINANCIAL DISCLOSURE REPORT

(a) Who must file.

(1) City officials and designated city employees. Before initially accepting appointment or assuming the duties of office, and annually thereafter, the following city officials and employees shall file with the city secretary a complete, sworn financial disclosure report complying with Subsection (b) of this section:

(A) City council members.

(B) City of Dallas appointed members to the following boards, commissions, and committees:

alternate members. (i) Board of adjustment and board of adjustment

board. (ii) Building inspection advisory, examining, and appeals

(iii) Business development corporation board.

(iv) City plan and zoning commission.

members. (v) Civil service board and civil service board adjunct

(vi) Community development commission.

(vii) Dallas area rapid transit board.

(viii) Dallas-Fort Worth international airport board.

(ix) Ethics advisory commission.

(x) Fire code advisory and appeals board.

(xi) Housing finance corporation board.

alternate members. (xii) Landmark commission and landmark commission

(xiii) Park and recreation board.

(xiv) Permit and license appeal board.

(xv) All reinvestment zone boards.

(xvi) Urban rehabilitation standards board and urban rehabilitation standards board alternates.

(C) The city manager, city attorney, city auditor, and city secretary, and their first assistants.

(D) Assistant city managers.

(E) Municipal judges.

(2) Candidates for city council. A non-incumbent candidate for a place on the city council shall, within 10 days from the date of filing as a candidate, file with the city secretary a complete, sworn financial disclosure report complying with Subsection (b) of this section.

(b) Contents of financial disclosure report.

(1) For purposes of this subsection:

(A) FAMILY MEMBER means a spouse, domestic partner, or dependent of an official or employee required to file a financial disclosure report under Subsection (a) of this section.

(B) REPORTING PARTY means an official or employee filing a financial disclosure report as required under Subsection (a) of this section.

(2) Each financial disclosure report must be on a form provided by the city secretary and must contain all of the following information:

(A) Name of the reporting party.

(B) Name of each family member of the reporting party.

(C) Names under which the reporting party and his or her family members do business.

(D) Names of the employers of the reporting party and his or her family members.

(E) Identification of each source of income amounting to more than \$1,000 received in the preceding calendar year by the reporting party or a family member.

(F) Identification of each business entity (including self-employment in the form of a sole proprietorship under a personal or assumed name) in which the reporting party or a family member has an investment of more than \$1,000 at the fair market value at the time of the financial disclosure report, which investment must be described in the financial disclosure report.

(G) Identification of each nonprofit entity or business entity in which the reporting party or a family member is a partner, manager, director, officer, or board member, or serves in any other policymaking position.

(H) Identification of any business entity that the reporting party knows is a partner, parent, or subsidiary business entity of a business entity owned, operated, or managed by the reporting party or a family member.

(I) Identification of any person or business entity from whom, within the previous calendar year, the reporting party or his or her spouse or domestic partner, directly or indirectly, has:

- (i) received and not rejected an offer of employment; or
- (ii) accepted an offer of employment that is binding or expected by the parties to be carried out.

(J) Identification (by street address, legal, or lot-and-block description) of all real property located within the State of Texas in which the reporting party or a family member has a leasehold interest; a contractual right to purchase; or an interest as fee simple owner, beneficial owner, partnership owner, joint owner with an individual or corporation, or owner of more than 25 percent of a corporation that has title to the real property. The following property is not required to be disclosed:

- (i) Property used as a personal residence of a peace officer.
- (ii) Property over which the reporting party has no decision power concerning acquisitions or sales.
- (iii) Property held through a real estate investment trust, mutual fund, or similar entity, unless the reporting party or a family member participates in the management of the trust, fund, or entity.

(K) Identification of persons or entities to whom the reporting party or a family member owes an unsecured debt of more than \$5,000, but not including debts for:

- (i) money borrowed from a relative within the second degree of consanguinity or affinity; or
- (ii) revolving charge accounts.

(L) Identification of all persons or entities who owe the reporting party or a family member an unsecured debt of more than \$5,000, but not including debts owed by relative within the second degree of consanguinity or affinity.

(M) Identification of the source of each gift or accumulation of gifts from one source of more than \$250 in estimated fair market value received by the reporting party or a family member, or received by a person for the use or benefit of the reporting party or a family member, within the preceding calendar year and the estimated fair market value of each gift. This requirement does not include:

(i) a gift received from a relative within the second degree of consanguinity or affinity, if given on account of kinship, or from a domestic partner, if given on account of personal relationship;

(ii) a gift received by will, by intestate succession, or as distribution from an inter vivos or testamentary trust established by a spouse, domestic partner, or ancestor;

(iii) gifts received among and between fellow city officials and city employees;

(iv) a lawful campaign or officeholder contribution reported as required by Chapter 254 of the Texas Election Code; and

(v) admission to an event in which the reporting party is participating in connection with official duties.

(c) Open records. A financial disclosure report is an open record subject to the Texas Open Records Act and must be maintained in accordance with the Local Government Records Act.

(d) Annual filing date. An annual financial disclosure report filed by an official or employee who is required to report must be received by the city secretary by 5:00 p.m. on April 30. When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the city council, the deadline for receipt by the city secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or official city holiday. The city secretary may for good cause grant an extension of time in which to file a report upon written request submitted in advance of the deadline. The extension may not exceed 15 days.

(e) Reporting periods. Each initial or annual financial disclosure report filed by an individual designated in Subsection (a)(1) of this section, and each report filed by a candidate for the city council, must disclose information relating to the prior calendar year.

(f) City secretary.

(1) The city secretary shall:

(A) prior to January 15 of each year, notify all city officials and employees designated in Subsection (a)(1) of their obligation to file financial disclosure reports and provide the officials and employees with the appropriate forms to be completed;

(B) provide forms to all new city council appointees and to persons filing for election to the city council, and advise them of reporting requirements and deadlines;

(C) provide guidance and assistance on the reporting requirements for persons required to file financial disclosure reports and develop common standards, rules, and procedures for compliance with this article;

(D) review reports for completeness and timeliness;

(E) maintain filing, coding, and cross-indexing systems to carry out the purpose of this article and maintain a publicly available list of all persons required to file a financial disclosure report;

(F) make the reports filed under this article available for public inspection and copying at reasonable times; and

(G) upon determining that a person who is required to file a financial disclosure report has failed to do so timely or has filed incomplete or unresponsive information:

(i) notify the person by certified mail that failure to file or correct the filing within 15 days after the original deadline is a violation of this chapter; and

(ii) publicly announce to the city council the names of those who have not timely or completely filed a financial disclosure report and to whom the notification is being sent.

(2) The failure of the city secretary to provide any notification required by Subsection (f)(1) of this section does not bar appropriate remedial action, but may be considered on the issue of culpability.

(g) In addition to other remedies and penalties set forth in this chapter, a violation of this section is punishable by a criminal fine not to exceed \$500.

SEC. 12A-20. SHORT FORM ANNUAL REPORT.

A person who is required to file an annual financial disclosure report may fulfill those filing obligations by submitting a short sworn statement on a form provided by the city secretary, if there have been no changes in the information disclosed by that person in a complete financial disclosure report filed within the past five years. The short statement must indicate the date of the person's most recently filed complete financial disclosure report and must state that there have been no changes in that information.

SEC. 12A-21. TRAVEL REPORTING REQUIREMENTS.

(a) Any person listed in Subsection (d) of this section who, in connection with his or her official duties, accepts a trip or excursion to a location greater than 50 miles from the city that involves 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 (except subordinates of the city manager, who shall file with the city manager) before embarking on the travel (time permitting), or not more than seven days after the travel is concluded, a disclosure statement identifying:

- (1) the name of the sponsor of the trip or excursion;
- (2) the name of the person or entity paying for the trip or excursion, if different from the sponsor;
- (3) the places to be visited; and
- (4) the purpose and dates of the travel.

(b) The city manager shall, within 10 working days after the travel is concluded, file with the city secretary the information listed in Subsection (a) that has been filed with the city manager's office by affected subordinates of the city manager.

(c) Nothing in this section authorizes personnel reporting to the city manager to violate policies and procedures established by the city manager regarding travel request authorizations.

(d) The following persons are required to report under this section:

- (1) City council members.
- (2) The city manager, city attorney, city secretary, and city auditor, and their first assistants.
- (3) Municipal judges.
- (4) Members of boards and commissions.
- (5) Assistant city managers.
- (6) Department directors and their assistants, including the civil service director, the park and recreation director, and their assistants.

SEC. 12A-22. ITEMS RECEIVED ON BEHALF OF THE CITY.

A city official or employee who accepts on behalf of the city any item by way of gift or loan valued over \$250 shall, within 30 days after the acceptance of the gift or loan, report that fact and deliver the item to the city manager, who shall have the item appropriately inventoried as city property.

SEC. 12A-23. VIOLATION OF REPORTING REQUIREMENTS.

Failure to timely file a report required under this article is a violation of this chapter, as is the filing of a report with incorrect, misleading, or incomplete information.

ARTICLE VII.

ETHICS ADVISORY COMMISSION.

SEC. 12A-24. ETHICS ADVISORY COMMISSION - CREATION; COMPOSITION, TERMS, AND QUALIFICATIONS.

(a) Creation and composition. There is hereby created the ethics advisory commission, to be composed of seven members appointed by the city council as a whole. The mayor shall appoint the chair, and the full city council shall appoint the vice chair.

(b) Terms of office. All members of the commission will be appointed for an initial term to expire on September 1, 2001. All subsequent appointments will be made in August of each odd-numbered year for a two-year term beginning on September 1. All members shall serve until their successors are appointed and qualified. Notwithstanding the term limits established for city boards in Section 8-1.5(a) of the city code, the city council shall appoint and reappoint members to the ethics advisory commission in a manner that will provide the commission with a mix of both existing members and new members.

(c) Qualifications. Each member of the ethics advisory commission shall meet the requirements of Chapter 8 of the city code, except as specifically provided otherwise in this article. Additionally, no member of the commission may be:

- (1) a city official or the spouse or domestic partner of a city official;
- (2) a city employee or the spouse or domestic partner of a city employee;
- (3) an elected public official;

- (4) a candidate for elected public office;
- (5) a person who, for compensation, represents the private interests of others before the city council; or
- (6) a paid campaign worker or a political consultant of a current city council member.

SEC. 12A-25. JURISDICTION AND POWERS.

(a) Jurisdiction. The ethics advisory commission shall have jurisdiction to review and make findings concerning any alleged violation of this chapter by any person subject to those provisions, including but not limited to current city officials and employees, former city officials and employees, and persons doing business with the city, if a complaint is filed within one year after the date of the alleged violation. The commission may not consider any alleged violation that occurred before January 1, 2001 or more than one year before the date of the filing of a complaint.

(b) Termination of city official's or employee's duties. The termination of a city official's or employee's duties does not affect the jurisdiction of the ethics advisory commission with respect to alleged violations occurring prior to the termination of the official's or employee's official duties.

(c) Powers. The ethics advisory commission has the following powers only:

(1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations in a manner and form consistent with this article.

(2) To meet as often as necessary to fulfill its responsibilities.

(3) To request from the city manager through the city council the appointment of such staff as is necessary to carry out the duties of the commission.

(4) To review, index, maintain on file, and dispose of sworn complaints.

(5) To make findings of fact as necessary for the disposition of a complaint.

(6) To make notifications, extend deadlines, and conduct investigations.

(7) Such other powers as are specifically granted in this chapter.

SEC. 12A-26. COMPLAINTS.

(a) Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a sworn complaint, under the penalty of perjury, with the city secretary. The complaint must:

(1) identify the person or persons who allegedly committed the violation;

(2) provide a statement of the facts on which the complaint is based;

(3) to the extent possible, identify the ethics provision or provisions allegedly violated; and

(4) identify sources of evidence, if any, that the complainant recommends should be considered by the ethics advisory commission.

(b) Confidentiality. No city official or employee shall reveal information relating to the filing or processing of a complaint, except as required for the performance of official duties. *Ex parte* communications by or to members of the ethics advisory commission are prohibited by Section 12A-27(c) of this chapter. All papers and communications relating to a complaint must be treated as confidential to the extent allowed by law.

(c) Notification. The city secretary shall promptly forward a copy of a complaint to the chair of the ethics advisory commission and to the person charged in the complaint. The person charged in the complaint shall have the opportunity to submit a sworn statement, together with such other information he or she feels is relevant.

(d) False accusations and responses. The city secretary shall, in writing, advise the person filing the complaint that falsely accusing someone of a violation of this chapter may result in criminal prosecution of anyone who knowingly makes a false accusation. The city secretary shall, in writing, advise the person charged in the complaint that falsely responding to a complaint may result in criminal prosecution of anyone who knowingly makes a false response.

(e) Summary dismissal.

(1) Within 21 days after receipt of a complaint, either the chair or vice chair, selected on a rotational basis, and two commission members, selected by lot by the city secretary, shall make a preliminary finding as to whether or not the complaint states a claim under this chapter and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this chapter.

(2) If the preliminary finding is that the complaint does not state a claim under this chapter or does not have just cause, based upon the statements and evidence submitted, the complaint must be dismissed. A determination that a complaint be dismissed can only be made upon the affirmative vote of at least two of the three preliminary panel members. Written notice of the dismissal must be sent to both the person who made the complaint and the person about whom the complaint was made, identifying the reason or reasons for dismissal.

(3) The chair is recused from serving on a preliminary panel for any complaint filed against the mayor, except that the chair may participate in discussions and voting on a complaint against the mayor when it is being considered by the commission as a whole. If the chair, the vice chair, or both are unable to serve on a preliminary panel, the appropriate number of ethics commission members shall be selected by lot by the city secretary as substitutes on the panel. The preliminary panel must always have three members.

SEC. 12A-27. HEARING PROCEDURES.

(a) Evidentiary hearing. If a complaint is not summarily dismissed under Section 12A-26(e), it will be pursued further at a hearing before the ethics advisory commission. Not less than 10 days before the hearing, the commission shall, 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 preliminary panel.

(b) Notice of charges. Before the commission may find that a violation of a particular provision of this chapter 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 the 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 10-day period within which to respond in writing to the charge.

(c) Ex Parte communications. It is a violation of this chapter for:

(1) the complainant, the person charged in the complaint, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in any *ex parte* communication about the subject matter of a complaint with a member of the ethics advisory commission; or

(2) a member of the ethics advisory commission to:

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

(B) knowingly communicate, directly or indirectly, with any person, other than a member of the commission, its staff, or its legal counsel, about any issue of fact or law relating to the complaint.

SEC. 12A-28. HEARING RULES.

(a) Hearings on complaints. The rules contained in this section apply to all hearings of the ethics advisory commission on complaints not summarily dismissed under Section 12A-26(e).

(b) General rules. A determination that a violation of this chapter has occurred can be made only upon an affirmative vote of at least three-fifths of the commission members present and voting, otherwise the complaint must be dismissed. A finding that a violation occurred must be supported by clear and convincing evidence. "Clear and convincing evidence" means that measure or degree of proof that produces in a person's mind a firm belief or conviction as to the truth of the allegations sought to be established.

(c) Procedural rules. A quorum of four commission members must be present for a hearing. Any member of the commission who is not present at a hearing on a complaint may not participate in any discussion, voting, or disposition regarding the complaint. All witnesses must be sworn, and the members of the ethics advisory commission or its legal counsel shall conduct questioning of witnesses. The commission is not bound by the rules of evidence and may establish time limits and other rules relating to the participation of any person in the hearing, subject to Subsections (d) and (e) of this section.

(d) Rights of the person charged. The person charged in the complaint has the right to attend the hearing, the right to make a statement, the right to present and cross-examine witnesses, and the right to be represented by legal counsel or another advisor.

(e) Rights of the complainant. The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel or another advisor. The legal counsel or other advisor to the complainant may advise the complainant during the course of the hearing, but may not speak on behalf of the complainant, except to represent the complainant while testifying. The complainant may not present or cross-examine witnesses, except with the permission of the commission.

SEC. 12A-29. DISPOSITION OF COMPLAINT.

(a) Written decision. The ethics advisory commission shall make all reasonable efforts to issue a written decision within 45 days after receipt of a complaint. The commission shall state its findings in the written decision. The written decision must either:

(1) dismiss the complaint, with the grounds for dismissal set forth in the decision; or

(2) find that there has been a violation of this chapter and identify in the decision the particular provision or provisions violated.

(b) Notification. Copies of the findings and decision must be forwarded to the complainant, the person charged in the complaint, the city attorney, and any member of the ethics advisory commission who did not participate in the disposition of the complaint. A copy of the findings and decision must also be forwarded to the city secretary, who shall make it available to the public as authorized by law.

(c) Similar charges barred. If the complaint is dismissed because the evidence failed to establish a violation of this chapter, the ethics advisory commission shall not entertain any other similar complaint based on substantially the same evidence.

SEC. 12A-30. REFERRAL OF MATTER FOR APPROPRIATE ACTION; RECOMMENDATION OF SANCTIONS.

(a) If the ethics advisory commission determines that a violation of this chapter has occurred, it shall take the following actions:

(1) If the complaint involved a current employee under the jurisdiction of the city manager, city attorney, city auditor, city secretary, civil service director, park and recreation director, or employees' retirement fund administrator, the matter will be referred respectively to the city manager, city attorney, city auditor, city secretary, civil service director, park and recreation director, or employees' retirement fund administrator.

(2) If the complaint involved the civil service director, the park and recreation director, or the employees' retirement fund administrator, the matter will be referred respectively to the civil service board, the park board, or the board of trustees of the employees' retirement fund.

(3) If the complaint involved the city manager, city attorney, city auditor, city secretary, or a municipal judge, the matter will be referred to the city council.

(4) If the complaint involved a city council member, a board or commission member, a former city official, or a former city employee, the matter will be referred to the city council.

(b) When referring a matter under Subsection (a), the ethics advisory commission may recommend the following sanctions:

(1) Letter of notification. A letter of notification may be recommended when the commission finds that a violation of this chapter was clearly unintentional or when the action or conduct found to have been a violation of this chapter was performed by the official or employee in reliance on a public written opinion of the city attorney. A letter of notification must advise the official or employee to whom the letter is directed of any steps to be taken to avoid future violations.

(2) Letter of admonition. A letter of admonition may be recommended when the commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.

(3) Reprimand. A reprimand may be recommended when the commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.

(4) Removal or suspension from office. Removal from office or suspension from office may be recommended when the commission finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter. The commission may include the length of any suspension in its recommendation.

(5) Miscellaneous. The commission may recommend any enforcement remedy or penalty authorized under Article VIII of this chapter.

SEC. 12A-31. PETITION FOR DECLARATORY RULING.

Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere has the right to file a sworn statement with the city secretary affirming his or her innocence, and to request the ethics advisory commission to review the allegations and make known its findings.

SEC. 12A-32. LEGAL COUNSEL.

(a) City attorney's office. The city attorney's office shall act as the legal counsel to the ethics advisory commission. Additionally, the city attorney's office shall:

(1) issue advisory opinions to city officials and employees about the requirements imposed by this chapter and other ethics laws; and

(2) train and educate all city officials and employees with respect to their ethical responsibilities.

(b) Outside legal counsel. An independent outside attorney, who does not otherwise represent the city, may be appointed by the city council, at the recommendation of the city attorney, to serve as legal counsel to the ethics advisory commission for a particular case whenever:

(1) a complaint is filed relating to:

(A) an alleged violation of this chapter by a city council member; or

(B) an alleged violation of this chapter by a city employee who is a department director or of higher rank;

(2) the ethics advisory commission requests such an appointment; or

(3) the city attorney requests such an appointment for good cause shown.

SEC. 12A-33. OPINIONS ISSUED BY THE CITY ATTORNEY.

(a) Requests by city officials and employees. By written request to the city attorney, any city official or employee may request an advisory opinion regarding whether his or her own proposed actions or conduct would violate this chapter. A department director may also make a written request to the city attorney for an advisory opinion regarding proposed actions or conduct of his or her employees. The city attorney shall make all reasonable efforts to issue a written advisory opinion within 30 days after receipt of the request. The city attorney, for good cause shown, may decline to issue a written advisory opinion.

(b) Reliance. A person who reasonably and in good faith acts in accordance with a written advisory opinion issued by the city attorney may not be found to have violated this chapter by engaging in conduct approved in the advisory opinion, if:

(1) the person requested the issuance of the opinion;

(2) the request for an opinion fairly and accurately disclosed all relevant facts necessary to render the opinion; and

(3) the person waives the attorney-client privilege with respect to the written advisory opinion.

(c) Pending city attorney opinions. Whenever an advisory opinion from the city attorney has been requested regarding the actions or conduct of an official or employee, no action may be taken by the ethics advisory commission regarding those particular actions or conduct until the city attorney issues the advisory opinion. Any time limits that the ethics advisory commission is required to follow in processing an ethics complaint regarding those particular actions or conduct will be extended to allow for the city attorney to issue the advisory opinion.

SEC. 12A-34. ANNUAL REPORT.

The ethics advisory commission shall prepare and submit an annual report to the city council detailing the activities of the commission during the prior year. The format for the report must be designed to maximize public and private understanding of the commission's operations. The report may recommend changes to the text or administration of this chapter. The city secretary shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethics advisory commission.

ARTICLE VIII.

**ENFORCEMENT, CULPABLE MENTAL STATE,
AND PENALTIES.**

SEC. 12A-35. GENERAL.

The remedies contained in this article are available whenever the ethics advisory commission finds a violation or violations of this chapter.

SEC. 12A-36. CULPABLE MENTAL STATE.

To commit a violation under any provision of this chapter, a person must have acted or failed to act knowingly or with knowledge.

SEC. 12A-37. DISCIPLINARY ACTION.

(a) An employee who fails to comply with this chapter or who violates this chapter may be disciplined in accordance with city personnel rules and procedures. Where no specific appeal procedure is otherwise prescribed, an appeal by an employee will be to the trial board.

(b) If a city council member fails to comply with this chapter or violates this chapter, the matter must be decided by the city council in accordance with the city charter.

(c) If a member of a board or commission fails to comply with this chapter or violates this chapter, the matter must be decided by the city council in accordance with the city charter.

SEC. 12A-38. PROSECUTION FOR PERJURY.

Any person who knowingly files a false sworn statement under this chapter is subject to criminal prosecution for perjury under the laws of the State of Texas.

SEC. 12A-39. DISQUALIFICATION FROM CONTRACTING.

(a) Any person who has been found by the ethics advisory commission to have intentionally or knowingly violated any provision of this chapter may be prohibited by the city council from entering into any contract with the city for a period of two years.

(b) It is a violation of this chapter:

(1) 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

(2) for a city official or employee to knowingly assist in a violation of Subsection (b)(1) of this section.

(c) Nothing in this section prohibits any person from receiving a city service or benefit, or from using a city facility, according to the same terms generally available to the public.

(d) A business entity may be disqualified from contracting with the city based on the conduct of the entity's employee or agent, if the conduct occurred within the scope of employment or agency with the entity.

SEC. 12A-40. CITY ATTORNEY ACTION.

If the city council determines that a person has violated this chapter, the city council may direct the city attorney to initiate whatever legal action is necessary, including but not limited to injunctive relief.

ARTICLE IX.

ADMINISTRATIVE PROVISIONS.

SEC. 12A-41. OTHER ETHICAL OBLIGATIONS.

(a) This chapter is cumulative of and supplemental to all applicable provisions of the city charter, other city ordinances, and state and federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by the city charter, other city ordinances, or state or federal laws or regulations.

(b) Even if a city official or employee is not prohibited from taking official action by this chapter, action may be prohibited by duly promulgated personnel rules.

SEC. 12A-42. DISSEMINATION OF CODE OF ETHICS.

(a) Before January 1, 2001, and periodically thereafter as appropriate, the city secretary shall provide a copy of this chapter to every city official, and the city manager, city attorney, city secretary, city auditor, park and recreation director, civil service director, and employees' retirement fund administrator shall provide a copy of this chapter to every city employee under each's supervision. Within 30 days after entering upon the duties of his or her position, every new city official or employee must be furnished with a copy of this chapter. Each city official and employee shall acknowledge, in writing, the receipt of a copy of this chapter. Copies of this chapter must be made readily available to the public.

(b) The failure of any person to receive a copy of this chapter will have no effect on that person's duty to comply with this chapter or on the enforcement of the provisions of this chapter.

SEC. 12A-43. EXPIRATION AND REVIEW OF CODE OF ETHICS.

This chapter expires on January 1, 2005, unless reenacted, with or without amendment, prior to that date. Not later than 90 days before this expiration date, the city council shall consider whether or not this chapter should be reenacted, amended, or allowed to expire.