

# EXIBHIT 1

## ARTICLE 1.02 ADMINISTRATION

### Division 6. Code of Ethics

#### Sec. 1.02.122 Purpose

It is hereby declared to be the policy of the City that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the City; that no officer shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person's duties in the public interest; that public office not be used for personal gain; and that the City Council at all times shall be maintained as a nonpartisan body. To implement such a policy, the City Council deems it advisable to enact a Code of Ethics for officials, as defined herein, whether elected or appointed, paid or unpaid, 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, the overriding interest being that such officers of the City shall at all times strive to avoid even the appearance of impropriety.

#### Sec. 1.02.123 Title; Application

- (a) This Division and Sections 1.02.122 – 1.02.130 shall be known as the Code of Ethics.
- (b) This Code of Ethics shall apply to all officials as defined in herein, including all City boards, committees or commissions, but does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those employees who may serve on a City board, committee or commission) nor to independent contractors of the City.
- (c) This Code of Ethics applies to the conduct or actions of public officers, as defined herein, which occurs in whole or in part after the date of adoption of this Code of Ethics.
- (d) This Code of Ethics applies to officers only while such persons hold such position or office.

#### Sec. 1.02.124 Definitions

The following words, terms, and phrases, when used in this Code of Ethics, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Benefit* means anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

*Business entity* means any person, entity, corporation (whether for-profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the City. Business entity also includes any business entity that represents a party conducting or seeking to conduct business with the City.

*City* means the City of McLendon-Chisholm, Texas.

*City Council* means the governing body of the City.

*Confidential information* means any information to which an official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. Confidential information includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

*Contract* means any lease, claim, account or demand against or agreement with any entity or person, whether express or implied, executed or executory, oral or written.

*Corporation* means any corporation that has a board of directors appointed in whole or in part by the City Council that is operating under the direct authority of or subject to the direct control of the City Council.

*Employee* means any person employed by the City, including those individuals on a part-time or internship basis, but does not include independent contractors.

*Gift* means anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions which are regulated by federal, state, and/or local laws or ordinances.

*Knowingly* means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the 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 the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

*Officer or official* means any member of the City Council and any appointed member of a City board, commission or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the City Council. Such term includes but is not limited to the members of the City Planning and Zoning Commission and the Zoning Board of Adjustment.

*Relative* means any person related to an officer within the second degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law, grandparents, grandchildren, sisters and brothers of the officer.

*Special privileges* means a right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

*Substantial interest* means (i) the ownership of ten (10) percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten (10) percent or more, or fifteen thousand dollars (\$15,000.00) or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten (10) percent of the person's gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company in an amount less than fifteen thousand dollars (\$15,000.00) does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of two thousand five hundred dollars (\$2,500.00) or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.) An officer is considered to have a substantial interest under this Code of Ethics if a relative has a substantial interest under this Code of Ethics.

### **Sec. 1.02.125 Standards of Conduct**

No officer of the City shall:

- (a) Participate in a vote or decision on any matter in which the officer has a substantial interest.
- (b) Represent or appear in behalf of private interests of others before the City Council, or any agency, board, commission, corporation, or committee of the City, nor shall represent any private interests of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is, or might be, an adverse party. The restrictions of this section

do not prohibit an officer who is the president, vice president or officer of a home owners association from appearing before the City Council, or any agency, board, commission, or committee of the City, to represent such homeowners association, except that no such officer or relative of such officer shall appear before the City Council or agency, board, commission or committee of the City of which such officer is a member.

- (c) Accept any gift from any person that might reasonably tend to influence such officer in the discharge of such person's official duties. The prohibition against gifts shall not apply to:
- (1) A lawful campaign contribution;
  - (2) An honorarium in consideration for services unless the officer would not have been asked to provide the services but for the officer's position;
  - (3) Meals, lodging and transportation in connection with services rendered by the officer at a conference, seminar or similar event that is more than merely perfunctory;
  - (4) Complimentary copies of trade publications and other related materials;
  - (5) Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
  - (6) Any gift which would have been offered or given to the person if such person was not an officer or employee of the City;
  - (7) A non-cash item with a value less than fifty dollars (\$50.00);
  - (8) Tee shirts, caps and other similar promotional material;
  - (9) Meals, transportation and lodging in connection with a seminar or conference at which the officer is providing services;
  - (10) Gifts on account of kinship or a personal, or professional, or business relationship independent of the officer's status;
  - (11) Complimentary attendance at political or charitable fund raising events;  
and
  - (12) Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public events.

- (d) Use such person's official position to secure special privileges or benefits for such person or others.
- (e) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.
- (f) Disclose confidential information, including information related to the filing or processing of a complaint against an officer or employee except as required for the performance of official duties.
- (g) Engage in any outside activities which will conflict with or will be incompatible with such person's official position or duties as an officer of the City.
- (h) Use City supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official City business, unless otherwise provided for by law, ordinance or City policy.
- (i) Act as a surety on any official bond required for any officer or employee of the City, or for a business that has a contract, work or business with the City.

**Sec. 1.02.126 Additional Standards**

- (a) No member of the City Council who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the City Council.
- (b) With the exception of those proceedings allowed under this Code of Ethics, no member of the City Council shall personally appear in such member's own behalf before the City Council, or any City board, commission, corporation or committee but may designate and be represented by a person of such member's choice in any such personal matter.
- (c) No member of the City Council, the City Planning and Zoning Commission, or Zoning Board of Adjustment shall participate in, or vote on, any land use matter in which such officer has a substantial interest in any real property within two hundred (200) feet of the real property that is the subject of the land use matter. For purposes of this section "land use matter" shall mean zoning, plat approval, site plan or other development approvals or permits, variances or exceptions. The term "land use matter" does not include studies or similar matters that are for the benefit of the City and which are not unique to real property within two hundred (200) feet of the real property that is the subject of the land use matter, in which the officer has a substantial interest.

**Sec. 1.02.127 Disclosure of Substantial Interest**

Any officer who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the officer is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest, and shall abstain from further participation in such matter. The affidavit shall be on a form provided by the City and must be filed with the record keeper for such body, board, commission, corporation or committee.

### **Sec. 1.02.128 Complaints Against Officer**

- (a) All complaints or allegations of a violation of this Code of Ethics against an officer shall be made in writing on a form provided by the City, sworn to before a notary public, and filed of record with the City Secretary. Such complaint shall describe in detail the act or acts complained of and the specific section(s) of this Code of Ethics alleged to have been violated. A general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein; and anonymous complaints shall not be considered. The City Secretary shall provide a copy of the complaint to the affected officer and the City Council in executive session. The City Council will make an initial determination as to validity of the complaint and make the decision whether to conduct an investigation. The City Council shall provide a response, regardless of the initial determination, to the complainant and the affected public officer within five (5) business days of the decision. If an investigation is to proceed, the complaint may be referred to the City Attorney to conduct the investigation. The affected officer may file a written response to the complaint within seven (7) business days after the complaint is filed with the City Secretary, who shall forward the response, if any, to the City Attorney.
- (b) The City Attorney shall submit a written report to the City Council as soon as possible but not later than the second regular City Council meeting after the receipt of the complaint, unless an extension is granted by a majority of the non-implicated City Council members. The City Attorney may contact the complainant, interview witnesses and examine any documents necessary for the report. The investigation report should explain in detail all facts, findings, and conclusions in support of the City Attorney's opinion as to whether or not a violation of this Code of Ethics occurred. When the City Attorney receives a vague complaint or one lacking in detail, the City Attorney shall contact the complainant to request a written clarification. If the complainant fails to provide the City Attorney with written clarification, a written report to that effect shall be submitted to the City Council. If the City Attorney determines that a criminal violation may exist, a written report to that effect shall also be submitted to the City Council.
- (c) The City Council shall consider the complaint and the investigation report in executive session and shall determine whether the complaint against the affected

officer requires further action. If no further action is required, the affected officer and the complainant will be notified. If the City Council determines that further action is required, the affected officer may request that the complaint be considered in a public meeting. At such meeting, the City Attorney shall present a written report to the City Council describing the nature of the complaint and the City Attorney's findings and conclusions as to a possible violation of this Code of Ethics. The affected officer shall have the right to a full and complete hearing before the City Council with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated City Council members in attendance shall conduct a hearing and review the complaint. The City Council may reject the complaint or take action authorized under Section 1.02.129, Violations.

- (d) If the City Council determines, after a properly held executive session or after the public hearing described in subsection (c) above, that the affected officer has violated the provisions of this Code of Ethics, such announcement must be made in a meeting which is open to the public. No action or decision to sustain the complaint shall be made except in a meeting which is open to the public.
- (e) The City Council may appoint outside legal counsel, or may direct the City Attorney to appoint outside legal counsel, or the City Attorney in the City Attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the City Attorney under subsection (b) and (c) of this Section.
- (f) A complaint or allegation of a violation of this Code of Ethics may only be made against an officer while such person holds such position or office. A complaint made against an officer pursuant to this Code of Ethics shall be processed and resolved even if such person resigns from, or ceases to hold such position or office, prior to resolution of the complaint.

#### **Sec. 1.02.129 Violations**

The City Council may take any one or more of the following actions concerning a complaint:

- (1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.
- (2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations.
- (3) Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification.

- (4) Issue a reprimand when a violation has been committed knowingly or intentionally.
- (5) Remove from office a non-elected officer for a serious or repeated violation of this Code of Ethics. Any such removal shall be, to the extent by and allowed, in compliance with any applicable state law and/or City Ordinance.
- (6) Pass a resolution of censure or a recommendation of removal when the City Council finds that a serious or repeated violation of this Code of Ethics has been committed intentionally by a member of the City Council.

**Sec. 1.02.130 Interpretation of Content**

Any officer may request and the City Attorney shall issue a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this Code of Ethics as it affects such person.

**Secs. 1.02.131 - 1.02.150      Reserved.**