

ARTICLE 1-13. CODE OF CONDUCT

Sec. 1-13-1. Policy.

It is the policy of the City of Coppell that all elected and appointed city officials and employees shall act and conduct themselves so as to give no occasion for distrust of their integrity, impartiality or their dedication to the best interest of the City of Coppell and the public trust which they hold.

The citizens of Coppell have a right to expect that all public officials and employees will conduct themselves in a manner that will tend to preserve public confidence in, and respect for, the government they represent.

The public confidence and respect can best be promoted if all public officials and employees, whether paid or unpaid, whether elected or appointed, will uniformly treat all citizens with courtesy, impartiality, fairness and equality under the law and avoid both actual and potential conflicts between their private self-interest and the public trust.

The purpose of this Code is to establish general guidelines for standards of conduct for all officers of the city by directing conduct which is incompatible with the best interests of the city, and by directing disclosure by officers of private financial or other interests in matters affecting the city.

This Code is not intended to interfere with city policies or management decisions vested within the discretion of city officers. Moreover, recognizing that public service is time consuming and can involve complex matters, this Code is not intended to scrutinize or penalize an honest misgiving or inadvertent mistake.

(Ord. No. 96752)

Sec. 1-13-2. Definitions.

When used in this article words of one gender include the other gender and the following terms shall have the meanings respectively ascribed to them in this section:

Benefit means anything reasonably regarded as economic gain or economic advance, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

Business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business is conducted.

Confidential information includes privileged statements or communications, whether express or implied, oral or written, between the city officers and employees and their attorneys, work product of the city attorney or other attorneys representing the city, its officers and employees, and city records, documents and other information not subject to public disclosure or dissemination by law.

Employee means any person employed by the city, including those individuals on a part time basis, but does not include an independent contractor, or city councilmember.

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 when the person is aware that the conduct is reasonably certain to cause the result.

Official or officer means the mayor, any member of the city council, an appointed official, excluding the city manager, and any appointed member of a board, commission, or committee established by ordinance, charter, state law or otherwise, on a temporary or permanent basis excluding those boards, commissions or entities not operating under the direct authority, or subject to the direct control of the city council.

Prima facie means evidence exists sufficient to establish a party's claim, and which if not rebutted or contradicted, will remain sufficient.

Relative means any person related to an officer or employee within the first degree by consanguinity or affinity and shall include a spouse, father, mother, son, daughter, brother or sister.

(Ord. No. 96752)

Sec. 1-13-3. Employees.

The standards of conduct for employees of the city are governed by in the employee policy and procedure handbook and other personnel procedures adopted by the city. All complaints that an employee has violated these standards shall be referred to the director of the city department where the employee works.

(Ord. No. 96752)

Sec. 1-13-4. Standard of conduct for officers.

No officer of the city nor a relative of an officer shall knowingly:

- A. Have a 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, or rights or interest in any land, materials, supplies, or service.

The "financial interest" contemplated under this section and under the City Charter requires that the officer receive an actual financial benefit from the transaction with the city. An actual financial benefit from the transaction shall not include:

- (1) An ownership in the entity transacting business with the city where the ownership interest is less than ten percent,
 - (2) Compensation as an employee, officer, or director of the entity transacting business with the city where such compensation is not affected by the entity's transaction with the city.
- B. Participate in a vote or decision on any matter in which the officer has a direct or indirect "financial interest," or in which a relative of the officer has a direct or indirect "financial interest." An investment or ownership in a publicly held company in an amount less than \$5,000.00 does not constitute a prohibited "financial interest" under this article.
- C. Advocate, or appear on behalf of the private interest of others, during their term of office or for 12 months following expiration, dismissal or resignation before the board, commission or committee of which the officer is a member, or before the city council or any other board or agency of the city.
- D. Accept or solicit any money, property, service or other thing of value, by way of gift, favor, loan or otherwise, which the officer knows, or should know, is being offered or given with the intent to unlawfully influence the exercise or performance of such person's official duties, or in return for having exercised or performed official duties. The prohibition against gifts or favors shall not apply to:
- (1) An occasional non-pecuniary gift less than \$50.00 in value; or
 - (2) An award publicly presented in recognition of public service; or

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- (3) An occasional meal, breakfast, lunch or dinner, where public business is discussed; or
 - (4) Tee shirts, caps and other similar promotional material; or
 - (5) Any gift which would have been offered or given to the officer if such person was not an officer.

Discounts, or food coupons, are not things of value belonging to the government for purposes of this article due to the administrative difficulty and cost involved in recapturing the discount or award for a governmental entity.

- E. Use such person's official position or knowledge from the official position to secure special privileges or exemptions for the purpose of achieving monetary gain for such person or others.
- F. 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.
- G. Disclose or reveal any information, or the contents of any discussion, considered during an executive session or closed meeting conducted pursuant to the Texas Open Meetings Act, Tex. Gov't. Code, Chapter 551, as amended, held by the city council, any city agency, board, commission, committee, or department except as may be authorized by a majority vote of that body.
- H. Disclose confidential information.
- I. Directly or indirectly use any confidential information which was gained by reason of such person's official position for such person's own personal gain or benefit or for the benefit of others. Disclose or reveal any information or the contents of any discussion which would violate the provisions of the Texas Public Information Act, Tex. Gov't Code Chapter 552, as amended, or the Texas Open Meetings Act, Tex. Gov't Code Chapter 551, as amended.
- J. Knowingly engage in any outside activities which will conflict, or be incompatible with, such person's position as an officer of the city.
- K. Accept other employment incompatible with the full and proper discharge of such person's duties and responsibilities with the city, or which might impair the officer's independent judgment in the performance of public duty.
- L. Receive any fee or compensation for services as an officer of the city from any source other than the city, except as may otherwise be provided by law. This shall not prohibit an officer of the city from performing the same or other services for a private organization that such person performs for the city if there is no conflict with such person's duties and responsibilities.
- M. Use city supplies, equipment or facilities for any purpose other than for the conducting of official city business, unless otherwise provided for by law, ordinance or city policy.

(Ord. No. 96752; Ord. No. 2014-1370, § 1 , 2-25-14)

Sec. 1-13-5. Additional standard of conduct for councilmembers.

- A. In any zoning matter which may appear before the city council, any city councilmember who has a financial interest in any property within 200 feet of the zoning request shall disclose the existence of such interest to other councilmembers, and thereafter abstain from voting in the matter, and refrain from attempting to influence the vote of any other councilmember.
- B. In the event that any matter comes before the city council involving directly or indirectly the interest of a present business client/customer of any city councilmember or the interest of a person or entity who has been a business client/customer of any councilmember within the prior 12 months and funds received by the

councilmember, or the entity for which the councilmember is employed, from the past/present business client/customer amount to the sum of \$5,000.00 or more in gross income during such 12 month period, and such fact is known to the councilmember, then that councilmember shall disclose the existence of such interest to the other councilmembers, and thereafter abstain from voting in the matter, and refrain from attempting to influence the vote of any other councilmember.

- C. No councilmember 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.
- D. With the exception of those proceedings allowed under this article, councilmembers shall not personally appear in their own behalf before the city council, or any board, commission or committee, but may designate, and be represented by, a person of their choice in any such personal matter.
- E. No city councilmember shall act as an advocate, or appear on behalf of, private interest of others during their term of office or for 12 months following the expiration, dismissal or resignation from office before any agency of the city, or any city board, commission or committee, nor shall such person be an advocate or appear on behalf of any private interest of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city might be a party.

(Ord. No. 96752; Ord. No. 2014-1370, § 2 , 2-25-14)

Sec. 1-13-6. Disclosure of interest.

All officers, whether elected or appointed, who have a prohibited "financial interest" in any matter pending before the city, shall disclose such interest to other members of the city council, committee, commission or board, of which they are a member, and shall refrain from further discussion of the matter; shall not be physically present when the subject is discussed in an executive session; and, shall not vote on or participate further therein in any manner.

(Ord. No. 96752)

Sec. 1-13-7. Complaint procedure.

- A. All complaints that an officer has violated the code of conduct outlined in this article shall be made in writing, sworn to before a notary public, and filed with the city secretary. Such complaints shall describe in detail the act or acts complained of and which of the following specific section(s) of the code of conduct alleged to have been violated: Sections 1-13-4 or 1-13-5. A general complaint lacking in detail or failing to identify one or more of the aforementioned sections will not be considered sufficient to invoke the procedures set forth herein and anonymous complaints shall not be considered. Complaints relating to an officer shall thereafter immediately be referred for legal review to the special counsel who shall initially review the complaint to determine if the complaint contains sufficient detail and alleges a violation of the code of conduct.
- B. The special counsel shall be a resident of the city and licensed to practice law in the State of Texas; and shall not be in arrears in the payment of taxes or other liability to the city, or have been a party to or represented any party to any litigation involving and/or with adverse interests to the city. The special counsel shall be selected on a rotation basis from an eligibility list of attorneys established by the city council for these purposes; said attorney shall have all the powers of investigation as are given to the city council by reason of the City Charter.

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- C. The special counsel performing the legal review shall provide a written report to the city council as soon as possible but not later than 30 days after the day of assignment unless an extension is granted by a majority of the eligible councilmembers.
- (1) The special counsel may contact the complainant, interview witnesses and examine any documents necessary for the report. The special counsel may contact the city attorney or city secretary as necessary for assistance.
 - (2) When the special counsel receives a vague complaint or one lacking in detail, the special counsel shall contact the complainant to request a written clarification. If the complainant fails to provide the special counsel with written clarification, or if after written clarification is provided, it is the opinion of the special counsel that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the code of conduct, the matter shall be considered concluded and a report shall be submitted in accordance with the procedural guidelines for special counsel. If the special counsel determines that a criminal violation may exist, the special counsel shall refer the matter to the appropriate law enforcement agency. If the special counsel determines that the complaint alleges a violation of the code of conduct by an officer and sufficient evidence exists for a prima facie case, the report shall be referred to the conduct review board. A hearing shall be held by the conduct review board to review the referred complaint.
- D. The conduct review board shall be comprised of the mayor, the mayor pro tem, and three registered voters chosen from a list of citizens who have submitted their names to the city secretary to serve on the conduct review board. No citizen who is in arrears in the payment of any taxes or other liability due the city or who has been a party to litigation involving and/or with adverse interests to the city is eligible to serve on the conduct review board. The mayor, or the mayor pro tem in the mayor's absence, shall serve as the board chairperson. In the event the complaint concerns the mayor or mayor pro tem, such person or persons shall be replaced by a member of the city council drawn by lot. In the event the mayor and mayor pro tem are replaced, the senior councilmember shall serve as the chairperson.
- E. A request for participation of citizens who are registered voters to serve on the conduct review board, and licensed attorneys to serve as special counsel, shall be placed in the city's official newspaper. Applications for such participation shall be filed with the city secretary at the same time the city council seeks applicants for other boards and commissions. Applicants shall be interviewed in the manner adopted by the city for the interviewing of applicants for all boards and commissions.
- F. All hearings of the conduct review board shall be conducted in accordance with the administrative procedures for the code of conduct review board as adopted by the board, and as follows:
- (1) The conduct review board shall have all of the powers of investigation including subpoena power as are given to the city council by reason of the City Charter. The board may request, and if necessary subpoena, witnesses, books, records or any documents which relate to the allegations or complaint. The chairperson shall issue any subpoenas requested for relevant and necessary witnesses or other evidence. The refusal of the chairperson to issue any subpoena may be reconsidered by the conduct review board.
 - (2) An officer shall have the right to be represented by counsel, to call, examine and cross-examine witnesses and present evidence.
 - (3) The conduct review board shall review the complaint referred by the special counsel and receive evidence from the officer, or any other person, as the board deems necessary. Hearings of the board are closed to the public in accordance with applicable state law. The board shall vote and announce its decision in open session.
 - (4) The board, upon completion of any hearing, shall render a decision in writing to the city attorney and the officer involved within 20 days, either determining no violation occurred, or setting forth

requirements for voluntary compliance. In the event that voluntary compliance is not obtainable, action consistent with this section may be taken.

- (5) The chairperson, on behalf of the board, shall direct the presentation of evidence and examine witnesses as necessary to bring out all the facts relating to the referred complaint. The chairperson shall preserve order, determine the time and location for any hearings, recess or adjourn the board, as necessary, and administer oaths to witnesses.
- (6) The city attorney shall serve as a legal advisor to the board on legal and procedural matters but shall not be a voting member.
- (7) The city secretary or designated representative shall give timely notice of the time and place for hearings of the board to all participants, including the affected official, board members, city attorney, the complainant, and any witnesses as applicable. The city secretary shall prepare and keep minutes of the hearings of the board in accordance with applicable state law. The city secretary shall ensure that the site for the hearing is adequate and in good order.

(Ord. No. 96752)

Sec. 1-13-8. Limitations.

A person must bring a complaint that an officer has violated the code of conduct outlined in this article not later than two years after the day the complained of act or acts occurred.

(Ord. No. 96752)

Sec. 1-13-9. Violations.

- A. The failure of an officer to comply with, or the violation by an officer of, one or more of the standards of conduct in this article may constitute grounds for expulsion, reprimand, or removal from office to the extent allowed by law.
- B. A person commits an offense by making a false entry in the code of conduct complaint form or makes a false statement under oath in the code of conduct complaint form. A violation of the foregoing is punishable under Chapter 37 of the Texas Penal Code, as amended.

(Ord. No. 95752)