

## ORDINANCE NO. \_\_\_\_\_

An ordinance amending Chapter 12A, “Code of Ethics,” of the Dallas City Code; clarifying and simplifying language regarding gifts, conflicts of interest, reporting requirements, and other provisions; updating definitions; clarifying the exceptions to the rule on gifts; adding a substantial interest in business entity conflict of interest; providing that abstention from participation in a matter is not required if the majority of a body reports a similar conflict; providing restrictions on substantial interest in a business entity to city employees; providing that the rules against impermissible financial interest in discretionary contracts or sales during service with the city do not apply to volunteers on a committee or task force formed by a board or commission; requiring a disclosure for those who were paid to work on councilmember campaigns when representing interests before the city council; providing an offense for disclosing confidential information; providing a reporting chart; prohibiting campaign/political consultants from lobbying councilmembers for one year following an election; providing that the inspector general shall not commence or continue an investigation involving alleged conduct that is the subject of pending civil or criminal litigation; requiring complaints against the inspector general be investigated and prosecuted by outside counsel; providing that respondents may retain outside counsel once an information is filed by the inspector general; providing for random assignment of ethics advisory panel members for evidentiary hearings; amending the standard of proof to be a preponderance of the evidence; providing updated subpoena processes for the inspector and ethics advisory

commission; updating hearing procedures; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

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

SECTION 1. That Chapter 12A, “Code of Ethics,” of the Dallas City Code is amended to read as follows:

**“CHAPTER 12A**

**CODE OF ETHICS**

**ARTICLE I.**

**DECLARATION OF POLICY AND DEFINITIONS.**

**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) except as provided in the Dallas City Charter, no city official or employee shall 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 the city official's or employee's 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. The city council further believes that an employee or 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 employee or elected or appointed official should exemplify include the following:

- (1) Commitment beyond self.
- (2) Obedience and commitment to the law.
- (3) Commitment to the public good.
- (4) Respect for the value and dignity of all individuals.
- (5) Accountability to the public.
- (6) Truthfulness.
- (7) Fairness.
- (8) Responsible application of resources.

(c) Application.

(1) To implement the purpose and principles of conduct in this section, the city council has determined that it is advisable to enact this code of ethics for all city officials, employees, and persons doing business with the city, to serve as a standard for official conduct and as a basis for discipline.

(2) 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.

(3) 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.

(d) No cause of action. This section is a statement of purpose and principles only. Nothing in this section may be used to create a cause of action 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 agreement or

understanding that the parties expect to be carried out.

(2) 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.

(3) ~~[Reserved.~~

(4) 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.

(4[6]) BENEFIT means anything reasonably regarded as monetary gain or monetary advantage, including a personal benefit to any other person in whose welfare the beneficiary has a direct and substantial interest. Monetary gain or advantage includes, but is not limited to, gain or advantage in the form of money, services, goods, and financial or business relationships.

(5[7]) BUSINESS ENTITY means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other legal entity [~~recognized by law~~], except that the term does not include a governmental entity.

(6[8]) CITY means the city of Dallas, Texas.

(7[9]) CITY COUNCIL MEMBER or MEMBER OF THE CITY COUNCIL means all members of the Dallas city council, including the mayor.

(8[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 business 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.

(C) This definition does not apply to the term "client" when used in Article V (lobbyist regulations).

(9[11]) CODE OF ETHICS or ETHICS CODE means this chapter.

(10[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;

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

(D) any research, opinions, work product, investigative reports, advice, recommendations, reasoning, or conclusions in a draft document concerning city business or city policy that has not yet been released to the public in accordance with established city procedures.

(11[13]) 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.

(12[14]) DISCRETIONARY CONTRACT means any contract other than one that by law must be awarded on a competitive bid basis.

(13[15]) DOING BUSINESS WITH THE CITY means any person, either individually or on behalf of an entity, who submits a bid or proposal, or negotiates or enters into any city contract, whether or not the contract is required by state law to be competitively bid.

(14[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.

(15[17]) DONATION means a voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary value (such as the rendition of services or the forbearance of collection on a debt) to the city, unless consideration of equal or greater value is received by the donor.

(16[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.

(17[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.

(18[20])FORMER CITY OFFICIAL OR EMPLOYEE means a person who has left service as a city official or employee.

(19[21])GIFT means a voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary 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.

(20[22])INFORMATION means a written statement filed with the ethics advisory commission by the inspector general alleging violation(s) of the code of ethics and contains the name of the respondent, the city rule or city code or city charter provision alleged to have been violated, the place where the violation is alleged to have been committed, the date of the alleged violation, and a description of the violation.

(21) KNOWINGLY or WITH KNOWLEDGE. A person acts “knowingly” or “with knowledge” regarding 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 or should be reasonably certain to cause the result.

(22[23])OFFICIAL or CITY OFFICIAL includes the following persons, except when used in Article V (lobbyist regulations):

- (A) City council members.
- (B) Municipal judges.
- (C) The city manager, the chief of staff, assistant city managers, and chiefs.
- (D) The city auditor and the first assistant city auditor.
- (E) The city attorney, the first assistant city attorney, and the inspector general.
- (F) The city secretary and the first assistant city secretary.
- (G) All department directors.
- (H) Members of all boards, commissions, 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.

(~~J~~[~~K~~]) The chief financial officer.

(~~K~~[~~L~~]) For purposes of Chapter 12A only, a volunteer on committees or task forces formed by boards or commissions.

(~~23~~[~~24~~])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.

(~~24~~[~~25~~])OFFICIAL CAPACITY or OFFICIAL DUTIES means acting, or actions relating to matters, within the scope of employment or office, or under the official or employee's control or supervision.

(~~25~~[~~26~~])OFFICIAL INFORMATION includes information gathered pursuant to the power or authority of city government.

(~~26~~[~~27~~])PARTNER includes any partner in a general partnership, limited partnership, or joint venture.

(~~27~~[~~28~~])PERISHABLE FOOD OR BEVERAGES are consumable products, such as packaged foods, delivered fresh foods, including baked goods and edible gift baskets, sealed beverages, and floral arrangements.

(~~28~~[~~29~~])PERSONAL BENEFIT means any benefit knowingly solicited, accepted, or agreed to be accepted by another for the purpose of influencing how a city official or employee performs or refrains from performing an official action.

(~~29~~[~~30~~])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.

(~~30~~[~~31~~])RELATIVE means a current or former spouse, domestic partner, child, stepchild, brother, sister, parent or stepparent, or a person claimed as a dependent on the city official or employee's latest individual federal income tax return.

(~~31~~[~~32~~])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.

(~~32~~~~[33]~~)SOLICITATION. “Solicitation” of subsequent employment or a subsequent business opportunity includes any form of proposal or negotiation relating to employment or a business opportunity.

## ARTICLE II.

### CODE OF CONDUCT; ACTIONS OF OTHERS; AND ETHICS COMMITMENTS.

#### Division 1. Code of Conduct.

##### SEC. 12A-3. FIDUCIARY DUTY.

A city official and employee, in the performance of his or her [~~that person’s~~] official duties, shall fulfill his or her [~~that person’s~~] fiduciary duty to the city.

##### SEC. 12A-4. STANDARDS OF BEHAVIOR; STANDARDS OF CIVILITY.

(a) Standards of behavior. City officials and employees shall, when acting in the performance of their official duties, comply with the following standards of behavior:

(1) To conduct themselves and to operate with integrity and in a manner that merits the trust and support of the public.

(2) To uphold all applicable laws and regulations to protect and enhance the city's ability to accomplish its mission.

(3) To treat others with respect, doing for and to others what the official or employee would have done for and to himself or herself in similar circumstances.

(4) To responsibly manage [~~be a responsible steward of the~~] taxpayer resources.

(5) To take no actions that could benefit the official or employee personally, or his or her relative, to the detriment [~~at the unwarranted expense~~] of the city, avoiding even the appearance of a conflict of interest, and to always exercise [~~prudence and~~] good judgment [~~at all times~~].

(6) 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.



(7) To strive for personal and professional growth to improve effectiveness at work [~~as an employee or elected or appointed official~~].

(b) Standards of civility. City officials and employees shall, when acting in the performance of their official duties, comply with [~~to~~] the following standards of civility in their interactions with city officials, city employees, residents, and persons doing business with the city:

(1) City officials and employees shall accord [~~the utmost~~] respect and courtesy to each other, city officials, city employees, residents, and persons doing business with the city.

(2) City officials and employees shall not make comments or take actions that are abusive; belligerent; crude; derogatory; impertinent; [~~personal attacks upon the character, integrity, or motives of others;~~] profane; slanderous; [~~or~~] threatening; or involve personal attacks upon the character, integrity, or motives of others.

(3) City officials and employees shall preserve order and decorum in meetings in accordance with Robert's Rules of Order and the applicable rules of procedure of the city council, board, or commission.

(4) City officials shall treat city employees as professionals and [~~specifically~~] shall not:

- (A) interfere with the work of city employees.
- (B) impair the ability of city employees to implement city [~~council~~] policies.
- (C) influence city employees in the making of recommendations or decisions.
- (D) [~~criticize a city employee's performance in public.~~
- (~~E~~) berate nor admonish city employees.

(5) City officials shall work through the city manager, city secretary, city attorney, city auditor, or inspector general, and the applicable department director to obtain information or request assistance with projects, rather than contacting city employees directly. This provision does not apply to professional and administrative assistants to the mayor and city council.

(6) Because independent advice from boards and commissions is essential to the public decision-making process, city council members shall not:

- (A) use their position to influence the deliberations or decisions of boards and commissions.

(B) appoint city council office staff members to boards and commissions.

(C) demand that board or commission members vote as requested by the city council member or threaten board or commission members with removal.

This paragraph does not prohibit city council members from receiving information from or providing information to a board or commission member, working together with board and commission members on projects, or expressing their opinions to board and commission members.

#### **SEC. 12A-5. ANTI-DISCRIMINATION.**

Excluding anyone from our community based on their race, ethnicity, color, age, religion, marital or parental status, sex, sexual orientation, gender identity and expression, genetic characteristics, national origin, disability, military or veteran status, political opinions or affiliations, or any other legally protected characteristic or status diminishes us and compromises our ability to fulfill our mission. Discrimination against others based on any of these factors, or any other legally protected classifications, is prohibited. Discriminatory harassment and other offensive acts include any conduct, whether verbal, visual, or physical, that creates an abusive and hostile work environment, or that has the purpose or effect of interfering with an employee's work performance or development.

#### **SEC. 12A-6. RETALIATION PROHIBITED.**

A person commits an offense if he or she retaliates against another ~~[any person]~~ for filing a complaint, or for testifying, assisting, or participating, in any manner, in a proceeding or hearing under this chapter.

#### **Division 2. Actions of Others.**

#### **SEC. 12A-7. OTHER PERSONS.**

(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.

(c) 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 violate any provision of this chapter.

#### **SEC. 12A-8. DUTY TO REPORT VIOLATIONS.**

~~[Duty to report violations.]~~ A p[P]erson[s] subject to this chapter shall immediately report any conduct that the person knows to be a violation of this chapter to the inspector general. Failure

to report a violation of this chapter is a violation of this chapter. Any person who knowingly fails to report a violation of this chapter shall be subject to sanctions described in this chapter. For purposes of this section, a report made to the inspector general's Fraud, Waste, or Abuse hotline is ~~will be~~ considered a report under this section.

### **Division 3. Ethics Commitments.**

#### **SEC. 12A-9. ETHICS TRAINING.**

(a) All new city officials and new city employees shall receive ethics training within 30 days after being appointed to office or hired by the city. All current city officials and current city employees shall receive ethics training on an ongoing basis ~~but~~ at least every two years.

(b) All city officials who are leaving city service shall receive ethics information concerning requirements for former city officials before the city official ends their city service. All city employees who are terminating their employment shall receive ethics information concerning requirements for former city employees before the city employee ends their employment with the city.

(c) The inspector general shall provide all lobbying registrants with ethics information within 30 days after registration. Each registrant shall provide their individual lobbyists with a copy of the ethics information.

(d) The chief integrity officer shall draft a statement for the office of procurement services relating to the applicability of this chapter to persons doing business with the city and to city officials and city employees who work with persons doing business with the city. The director of the office of procurement services shall publish on the city's website the statement from the chief integrity officer ~~[information as to how this chapter applies to consultants or contractors and to city officials and city employees who work with consultants or contractors]~~.

(e) This ethics training and information required by this section shall be made available in a format and medium as determined by the chief integrity officer. The chief integrity officer, in coordination with the city manager, city auditor, and city secretary's liaisons, shall structure ethics training and information to ensure that participants have the necessary knowledge to accomplish the statement of purpose in this chapter and comply with all applicable ethics laws. City officials and employees must demonstrate such knowledge by passing any required ethics training.

(f) Failure to receive ethics training, documents, or notices required by this section does not waive that person's duty to comply with this chapter ~~[code of ethics]~~ or waive enforcement of this chapter.

#### **SEC. 12A-10. DISSEMINATION OF CODE OF ETHICS.**

(a) Within 30 days after starting their position, every new city official or employee

must be given a copy or a link to this chapter. The inspector general or the city attorney shall provide a copy of this chapter to every city official. The city manager, city attorney, city secretary, city auditor, park and recreation director, inspector general, civil service director, and employees' retirement fund administrator shall provide a copy of this chapter to every city employee under their supervision. Each city official and employee shall acknowledge, in writing, that the official or employee received a copy or link to 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 or a link to the chapter has ~~[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-11. ETHICS PLEDGE.**

All city officials, upon ~~[before]~~ their appointment, shall sign the following ethics pledge and file it with the city secretary:

"I have received a copy of Dallas City Code Chapter 12A, "Code of Ethics." I have read and understand the Code of Ethics. I understand that the Code of Ethics is binding on me, and therefore I agree to comply with the Code of Ethics. I understand that the Code of Ethics imposes restrictions on present city officials, former city officials, lobbyists, and persons doing business with the city. I agree to participate in periodic ethics training. I agree to seek advice from the City Attorney's Office when necessary to ensure compliance with the Code of Ethics. I agree that I will not violate the C[e]ode of E[e]thics, participate in violations of the Code of Ethics, or fail to report violations of the Code of Ethics. I understand that violation of the Code of Ethics, participation in a violation of the Code of Ethics, and failure to report a violation of the Code of Ethics may result in severe consequences."

### **ARTICLE III.**

#### **CONFLICTS OF INTEREST.**

#### **SEC. 12A-12. GIFTS.**

(a) General rules.

(1) A city official or employee shall not solicit, accept, or agree to accept any gift, favor, benefit, or service that:

(A) reasonably tends to influence or reward official conduct; or

(B) the city official or employee knows is intended to influence or reward the discharge of official duties.

(2) A person or business entity shall not knowingly offer any gift or benefit to a city official or employee that:

(A) reasonably tends to influence or reward official conduct; or

(B) the person or business entity knows is intended to influence or reward the discharge of official duties.

(3) Except as provided in Subsection (f), a city official or employee shall not accept cash, a cash equivalent open loop gift card (including a Visa or Mastercard gift card), check, or negotiable instrument from any person or representative of a person or entity who does business with or is seeking to do business with the city. In this paragraph, OPEN LOOP means a general-purpose charge card that can be used anywhere that brand of card is accepted and does not include closed loop gift cards that can only be used at a specific merchant listed on the card.

(4) Employees must comply with departmental rules regarding gifts, if any. If a conflict ~~[of interest]~~ exists between this chapter and a departmental rule, the stricter rule or regulation controls.

(5) A city official or employee who receives an unsolicited benefit or gift that he or she is not allowed to accept or does not wish to accept to avoid any appearance of impropriety, may donate the item to the city, ~~[or]~~ another governmental entity that has the authority to accept the item, or to a ~~[recognize]~~ tax-exempt charitable organization formed for educational, religious, or scientific purposes. A city official or employee who donates an unsolicited benefit or gift may notify the inspector general on a form approved by the inspector general that provides the city official or employee's name, the gift donated, and the entity to which the city official or employee donated the unsolicited benefit or gift.

(b) Exceptions. For purposes of this chapter, the following are not considered reportable gifts ~~[Subsection (a) does not include]~~:

(1) reimbursement of reasonable expenses for travel in accordance with the city's ordinances, administrative directives, and this section;

(2) a public award or reward in recognition of public service or professional achievement, if 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;

(5) admission, regardless of value, to an event that a city official or employee is invited to, is offered tickets to, or is participating in relating to their official duties or responsibilities, including gathering information about a current or potential city supported program;

(6) tickets, meals, travel, lodging, and entertainment accepted by a city official or employee in accordance with ~~this~~ Subsections (c) and (d);

(7) ~~items~~ ~~gifts~~ having a nominal value (a noncash value of less than \$50.00) accepted by a city official or employee from a resident or person or entity doing, or seeking to do, business with the city if a city official or employee does not receive cumulative ~~items~~ ~~gifts~~ from a single source in a calendar year of more than \$50.00 or plaques, caps, key rings, mugs, tee shirts, fresh cut flowers given at public appearances, or perishable food and beverages infrequently given.

(8) A ceremonial or protocol gift given to a city official or employee on behalf of the city, provided that any ceremonial or protocol gift given to:

(A) a city official valued over \$300.00 ~~is~~ ~~must be~~ delivered to the city manager as a donation to the city, or

(B) an employee ~~is~~ ~~must be~~ delivered to the city manager within 30 days after receipt as a donation to the city.

(9) Gifts from a relative or a person with whom the city official or employee has a personal, professional, or business relationship independent of the city official or employee's status with the city.

(c) Honorarium, meals, travel, lodging, and entertainment.

(1) A city official or employee may not solicit, accept, or agree to accept any honorarium (cash payment or in-kind gift, except a plaque) in consideration for services that a city official or employee would not have been requested to provide but for his or her official position or duties.

(2) A city official may ~~not~~ accept meals, travel, lodging, or entertainment if:

(A) the city official ~~or employee~~ is a guest; and

(B) the donor or host is present at the meal, travel, lodging, or entertainment ~~[(meals, lodging, travel, or entertainment from a person who does business or is seeking to do business with the city when the donor host is not present is prohibited)]~~.

(3) An employee may accept meals, travel, lodging, or entertainment relating to a conference, seminar, trade show, or event that is related to the employee's job duties. Attendance must be approved in accordance with the city's Administrative Directive on travel, and costs ~~[-Costs]~~ must be reasonable.

(d) Tickets.

(1) When receiving complimentary tickets, city officials and employees must evaluate whether the tickets are a gift in violation of Subsection (a).

(2) City officials and employees may receive tickets to a fundraiser or charity event that benefits a city facility or program, subject to availability and in the sole discretion of an event sponsor. These tickets may not be sold or transferred, except to another city official or employee.

(3) Councilmembers and board and commission members may receive complimentary annual memberships, individual or family, to city owned facilities that are operated or managed by a non-profit entity on behalf of the city.

(4) City officials may receive tickets to city owned facilities that are operated by a non-profit entity, such as the State Fair, Arboretum, Dallas Museum of Art, Dallas Summer Musicals, South Dallas Cultural Center, and the Latino Cultural Center, subject to availability and in the sole discretion of an event sponsor, and either the city official or their spouse, domestic partner, or significant other must be in attendance at the event. These tickets may not be sold or transferred, except to the city official's spouse, domestic partner, or significant other to another city official or employee.

(5) Councilmembers and board and commission members may request tickets to events at city owned facilities that are operated or managed by a for-profit entity over which city council does not have oversight responsibilities, such as American Airlines Center, but councilmembers and board and commission members are required to purchase these tickets at face value.

(6) City officials and department directors may accept blocks of promotional complimentary tickets to events for distribution, in accordance with any requirements by the event sponsor, to the general public, including constituents, to encourage attendance of the general public at city facilities, programs, and events.

(7) City officials and employees may accept discount tickets if the tickets are provided to all councilmembers, an entire department or office, or the entire city.

(e) Reporting. Except as provided in this chapter, c[~~C~~]ity officials and employees must report gifts, including tickets, meals, travel, lodging, or entertainment in accordance with applicable state law and the city's reporting requirements in Article VI.

(f) 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-13. PERSONAL BENEFIT TO OTHERS.**

(a) Personal benefits to others. To avoid the appearance and risk of a conflict of interest, a city official or employee shall not use his or her official position or office, to take or refrain from taking, official action that he or she knows will result in a personal benefit for any of the following persons or entities:

(1) a relative of the city official or employee;

(2) a person with whom the city official or employee has a financial or business relationship, including but not limited to:

(A) an outside employer business of the city official, employee, or their relative, or someone who works for such outside employer of business;

(B) a client or substantial customer of the city official, employee, or their relative (SUBSTANTIAL means an amount exceeding 10 percent of the city official, employee, or their relative's income for the previous year);

(C) a debtor or creditor of the city official, employee, or their relative;

or

(D) a person or business entity with whom the city official or employee, has, directly or indirectly, within the past 12 months,

(i) engaged in negotiations pertaining to a business opportunity,

or

(ii) solicited an offer of employment, received, and not rejected an offer of employment, or accepted an offer of employment.

(b) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (a) shall follow the recusal and disclosure requirements in Section 12A-24 of this chapter.

(c) Exceptions. A personal benefit does not include:

(1[A]) salaries, compensation, or employee benefits when the salaries, compensation, or employee benefits are not given in exchange for a city employee's or city official's official action or lack of action;

(2[B]) campaign or political contributions that are made and reported in accordance with state law;

(3[C]) hospitality extended for a purpose unrelated to the official business of the city;

(4[D]) a public award or reward in recognition of public service or professional achievement, if the award or reward is reasonable in light of the occasion;

(5[E]) gifts or other ceremonial symbols of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official



capacities;

(6[F]) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;

(7[G]) complimentary copies of trade publications; and

(8[H]) anything of value received as a devise, bequest, or inheritance.

(d) Municipal management district boards. The restrictions and requirements of this section do not apply to a member of a municipal management district board.

#### **SEC. 12A-13.1. SUBSTANTIAL INTEREST IN BUSINESS ENTITY.**

(a) If a city official or employee has a substantial interest in a business entity or in real property, the city official or employee shall file in accordance with Section 12A-24, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a specific economic effect on the value of the property, distinguishable from the effect on the public.

(b) For purposes of this section, a person has a substantial interest if:

(1) in a business entity:

(A) the city official or employee owns 10 percent or more of the voting stock or shares of 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

(B) funds received by the city official or employee from the business entity exceed 10 percent of the person's gross income for the previous year.

(2) in real property, the city official or employee's interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(c) A city official or employee is considered to have a substantial interest under this section if a relative of the city official or employee has a substantial interest under this section.

#### **SEC. 12A-14. MISCELLANEOUS CONFLICTS OF INTEREST.**

(a) Special rules.

(1) Acquisition of interest in impending or decided matters. A city official or employee shall not acquire an interest (economic or otherwise) in any matter;

(A) if the official or employee knows that the interest will be affected by upcoming [~~impending~~] official action of the city.

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

~~(2[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~~].

~~(3[4]) Benefits to previous employers.~~ A city official or employee may not, within 12 months of beginning their [~~entering city~~] employment or service with the city, award a contract or participate in a matter benefiting a person or business entity that formerly employed the city official or employee.

~~(4[5]) Area of notification conflict.~~

(A) General. A city official or employee shall [~~may~~] not take official action on, or otherwise participate in, a matter if the city official or employee has an ownership interest, a lease, or other economic interest in a property within the area of notification listed in:

(1) Sections 51A-1.105(a) and (b) (zoning and board of adjustment applications);

(2) Section 51A-4.701 (authorized zoning cases);

(3) Sections 51A-9.201 and 51A-9-202 (thoroughfare realignments, state or county thoroughfare improvements).

For purposes of this paragraph, 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.

(B) Recusal and disclosure. A city official or employee who has an ownership interest, a lease, or other economic interest in a property within the area of notification in [~~whose conduct would violate~~] Subparagraph (A) of this paragraph shall follow [~~adhere to~~] the recusal and disclosure requirements in Section 12A-24 of this chapter.

(b) Board of directors of a reinvestment zone.

(1) 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:

(A) own property within that reinvestment zone; and

(B) participate in discussions and voting on matters before the board of directors that may indirectly affect the member's property within the reinvestment zone, but must follow [adhere to] the recusal and disclosure requirements in Section 12A-24 on matters before the board of directors that may directly affect the member's property in the reinvestment zone.

(2) For purposes of this subsection, a matter directly affects a member's property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the member's property.

(c) City officials and employees serving in policymaking positions for business entities at the direction of the city. The restrictions and requirements of Section 12A-24 of this chapter do not apply to a city official or employee serving as an officer or director or in any other policymaking position for a business entity when taking official action on behalf of the city on matters concerning that business entity, if the city official or employee:

(1) was appointed by the mayor, city council, or city manager to represent the city as an officer or director or in any other policymaking position for the business entity; and

(2) has no substantial economic interest in the business entity or in the matter on which the action is being taken as defined in Texas Local Government Code Section 171.002<sub>2</sub>, as amended.

(d) Municipal management district boards. The restrictions and requirements of this section do not apply to a member of a municipal management district board.

## **SEC. 12A-15. DONATIONS.**

(a) Purpose and procedures.

(1) Donations of money, real estate, products, and services to the city allow residents to make valuable contributions to city programs and should be encouraged. Persons and business entities making donations should not, however, expect any reward, reciprocal benefit, or influence.

(2) Donations must be documented to ensure transparency of government, enable measurement of the value and usefulness of the donation, and allow for audits of donations.

(3) For long-term or complex projects and projects involving professional services, an agreement must be drafted to document the scope of goods or services to be donated and to document which party retains ownership of intellectual property. If a donation will lead to city expenditures, expenditures must follow the procurement process if required by city code or state law.

(b) General rule.

(1) A city official, employee, or department shall not solicit, accept, or agree to accept any donation to the city of money, real estate, products, or services that:

(A) reasonably tends to influence or reward official conduct; or

(B) the city official, employee, or department knows is intended to influence or reward the discharge of official duties.

(2) A person or business entity shall not knowingly offer any donation to the city of money, real estate, products, or services that:

(A) reasonably tends to influence or reward official conduct; or

(B) the person or business entity knows is intended to influence or reward the discharge of official duties.

(c) Reporting. City officials, employees, and departments receiving a donation to the city shall report the donation in compliance with Article VI.

(d) Exceptions. This section does not apply to gifts made to a city official or employee in compliance with Section 12A-12. This section does not apply to exceptions to the gift rules.

**SEC. 12A-16. NEPOTISM.**

(a) Appointment or employment of relatives.

(1) A city official or employee shall not appoint, or take any action to influence the appointment of, his or her [~~that person's~~] relative to a quasi-judicial board or commission within the city.

(2) A city council member shall not appoint any fellow city council member's relative to the ethics advisory commission or to any quasi-judicial board or commission within the city.

(3) A city official or employee shall not appoint or employ, or take any action to influence the appointment or employment of, his or her relative to any position of employment within the city.

(b) Supervision of relatives. In addition to the nepotism restrictions of Section 34-5(d) of the city code for employees, no city official shall be permitted to be the immediate supervisor of his or her relative.

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

#### **SEC. 12A-17. CONFIDENTIAL INFORMATION.**

(a) Improper access. A city official or employee shall not use his or her position to access [~~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 subsection [~~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.

(c) Disclosure of a closed meeting. A city official or employee shall not knowingly disclose to a member of the public the certified agenda, the recording, or the discussion had within a meeting that was lawfully closed to the public, unless the disclosure is made with lawful authority.

(d) Penalty. A person commits an offense if he or she discloses confidential information in violation of Subsections (b) or (c).

#### **SEC. 12A-18. REPRESENTATION OF PRIVATE INTERESTS.**

(a) Representation before the city.

(1) General rule.

(A) Representation for compensation. A city official or employee shall not represent, for compensation, any person, group, or entity (other than themselves or the city official's or employee's relative) 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.

(B) Representation without compensation. A city official or employee who is a member of a board, commission, or body shall not represent any person, group, or entity before:

- (i) that city official's or employee's board, commission, or body;
- (ii) city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or body; or
- (iii) a board, commission, or 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.

(2) Exceptions. The restrictions in this subsection do not apply to:

(A) A person who is a city official only because that person is an appointed member of a board, commission, or body, may represent for compensation a person, group, or entity before the city so long as the representation is not before the board, commission, or body that the person is a member.

(B) If the representation is before a board, commission, or body, of which the city official or employee is a member, that is only advisory in nature.

(C) An employee who is a duly designated representative of an association of municipal employees may represent that association before the city if otherwise permissible by state law.

(D) A member of a municipal management district board.

(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 city official's or employee's position for the purpose of advancing private interest; or

(B) state or imply that the city official or employee can influence city action on any basis other than the merits.

(4) Campaign disclosure.

(A) Applicability.

(1) A person who was paid to participate in a sitting councilmember's most recent city council campaign and who represents themselves, their client, their employer, or another third party before the city council must disclose that participation.

(2) A person who represents before the city council the interests

of a person who was paid to participate in a sitting councilmember's most recent city council campaign must disclose that participation.

(B) Disclosure requirement. Campaign participation must be disclosed verbally immediately after stating his or her name and address at the podium during the city council meeting where the representation is taking place.

The most recent campaign includes both the campaign for the general election and the runoff election, if applicable.

(b) 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 that person is an appointed member of a board, commission, or body, shall not represent any person, group, or entity (other than themselves or their relative) 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 a city official only because that person is an appointed member of a board, commission, or body shall not represent any person, group, or entity (other than themselves or their relative) 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 (b)(1) and (b)(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.

(c) 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.

~~[(d) Municipal management district boards. The restrictions stated in Subsection (a) do not apply to a member of a municipal management district board.]~~

## **SEC. 12A-19. 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, an investigation, or a determination from the body or department of which the official or employee is a member.

(b) Exception. The restrictions stated in Subsection (a) do not apply to:

(1) outside employment of a city official if the employment is the official's primary source of income; or

(2) a member of a municipal management district board.

(c) Other rules. The general rule stated in Subsection (a) 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 the:

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

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

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

#### **SEC. 12A-20. PUBLIC PROPERTY AND RESOURCES.**

(a) 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).

(b) A city council member shall not use, request, or permit the use of city facilities, personnel (including city employees), equipment, or supplies for any campaign expenditure, campaign contribution, political advertising, or campaign communication as defined in Title 15, "Regulating Political Funds and Campaigns," of the Texas Election Code, as amended, and Texas Ethics [~~Election~~] Commission rules, regulations, and opinions.

(c) City officials and employees may not apply for or obtain an incentive offered by the city, including grants, loans, tax abatements, and tax credits, unless the incentive is available to the general public, the application is evaluated under the same criteria that apply to the general public, and the incentive is subject to the same terms and conditions that apply to the general public.

#### **SEC. 12A-21. POLITICAL ACTIVITY.**



(a) City officials. In any election, except the city official's 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 in connection with:

(A) an endorsement, a city official (who is a city official only because that person is an appointed member of a board, commission, or body) is not prohibited from lending the city official's name so long as the office held with the city is not mentioned;

(B) any election ordered by the City of Dallas on a proposition or measure, a city council member is not prohibited from lending the city official's name and official city title; and

(C) any election for public office, a city council member is not prohibited from lending the city council member's name and office held.

(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 city official's [~~member's~~] name without reference to the office held when the committee as a whole is listed.

(b) Employees. A city employee may become a candidate for public office. A city employee may not be disciplined, including termination, solely because the city employee becomes a candidate for public office. The city employee must, however, still fulfill all the duties and responsibilities associated with their city employment.

(c) Influencing subordinates. A city official or employee shall not, directly<sup>[7]</sup> 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,<sup>2</sup> 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. For purposes of this subsection, "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 in Chapter XVI, Section 16 of the city charter.

(h) Public property and resources. Limitations on the use of public property and resources for political purposes are imposed by Section 12A-20 of this chapter.

## **SEC. 12A-22. PROHIBITED INTERESTS IN CONTRACTS.**

(a) Charter restrictions relating to financial interests in city contracts. Except as provided in Section 12A-20(c), a [A] city official or employee shall comply with the restrictions on financial interests in city contracts in Chapter XXII, Section 11 of the city charter [~~except as provided in Section 12A-20(e)~~]. The restrictions on financial interests in a city contract in Chapter XXII, Section 11 of the city charter do not apply to a nominee or member of a city board or commission except as provided in Subsection (b) [~~below~~] and Section 12A-20(c).

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

(1) submit a bid or proposal 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 whether or not the contract is required by state law to be competitively bid.

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

(1) board, [~~or~~] commission, or body that is advisory only;

(2) committees or task forces formed by boards or commissions;

(3) board of a nonprofit development corporation that acts as an instrumentality of the city; or

(4[3]) municipal management district board.

(d) Restrictions relating to the first year of employment. During the first year of city service, a city official or employee shall not participate in the making or awarding of a contract or attempt to use their official position to influence a city decision relating to a contract if a party to

the contract is a person or entity by whom the city official or employee was employed within one year before beginning city service.

**SEC. 12A-23. EX PARTE COMMUNICATIONS.**

No person shall, directly or indirectly, communicate with any city official of any quasi-judicial city board or commission regarding [~~as to~~] any adjudicative matter that is, or may reasonably be expected to be, pending before the board or commission, unless a full disclosure of the communication is simultaneously made available to every other party to the matter. This prohibition does not apply to any communication by a city employee with the city board or commission in the performance of the city employee's official duties.

**SEC. 12A-24. RECUSAL AND DISCLOSURE.**

(a) General rule. A city official or employee whose conduct or action on a matter would violate any section in Articles II and III of this chapter must recuse themselves. 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 other persons likely to consider the matter; and

(2) promptly<sup>[7]</sup> file with the city secretary a written statement disclosing the conflict of interest.

(b) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (a):

(1) A supervised employee shall promptly bring that person's 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 that person's conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring that person's conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring that person's conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring that person's conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, inspector general and administrative municipal judge shall promptly bring that person's conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose that member's conflict to the board or commission of which that person 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 that member's conflict to the city council and shall not be present during any discussion or voting on the matter.

(c) Exception to the recusal requirement. If a city official is required to file and does file a written statement disclosing a conflict of interest under Subsection (a), the official is not required to abstain from further participation in the matter requiring the written statement if a majority of the members of the city council, a board or commission, or another city body of which the official is a member is composed of persons who are likewise required to file and who do file written statements of similar interest on the same official action.

## ARTICLE IV.

### FORMER CITY OFFICIALS AND EMPLOYEES.

#### SEC. 12A-25. CONTINUING CONFIDENTIALITY.

(a) Improper disclosure or use. 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.

(b) Disclosure of a closed meeting. A former city official or employee shall not knowingly disclose to a member of the public the certified agenda, the recording, or the discussion had within a meeting that was lawfully closed to the public, unless the disclosure is made with lawful authority.

#### SEC. 12A-26. 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 relative) 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 relative) 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, ~~for a duration of one year after completing his or her service with the city [absent consent from the inspector general]~~, represent any person, group, or entity (other than himself or herself or his or her relative) 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 can influence city action on any basis other than the merits.

## **SEC. 12A-27. DISCRETIONARY CONTRACTS.**

(a) Impermissible financial interest in discretionary city contract or sale. 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. 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 discretionary contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or services. Any violation of this subsection, with knowledge, express or implied, of the person or corporation contracting with the city, ~~will~~ renders the contract involved voidable by the city manager or city council.

(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 discretionary city contract; or

(2) negotiate or enter into any discretionary city contract.

(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 with the city 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, or body that is advisory only; ~~or~~

(3) a volunteer on a committee or task force formed by a board or commission;

or

(4) 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, including renting a recreational space.

(e) Waivers. The prohibitions of Subsections (a), (b), and (c) may be waived by the city council, after a review of the specific circumstances, for a person who is considered a former official because he or she was a member of a board or commission that is more than advisory in nature.

## **SEC. 12A-28. RESTRICTIONS ON LOBBYING.**

(a) A city council member shall be prohibited from registering as a lobbyist and from lobbying city council members, or any city department, board, or commission, for one year after leaving service with the city.

(b) A city official other than a city council member who is a member of a board or commission shall be prohibited from registering as a lobbyist and lobbying that board or commission for one year after the city official's service on that board or commission has ended.

(c) A city employee, including city employees who are city officials, shall be prohibited from registering as a lobbyist and from lobbying city council members, or any city department, board, or commission, for one year after leaving employment with the city.

(d) Nothing in this section prohibits a person from lobbying on behalf of another government agency if they are employed by that governmental agency.

## **ARTICLE V.**

### **LOBBYISTS.**

#### **SEC. 12A-29. DEFINITIONS.**

In this article, unless specifically provided otherwise:

(1) CITY OFFICIAL means:

- (A) The mayor and city council members.
- (B) The city manager, assistant city managers, and chiefs.
- (C) The city attorney, first assistant city attorney, and inspector general.
- (D) The city secretary and first assistant city secretary.
- (E) The city auditor and first assistant city auditor.
- (F) Municipal judges.
- (G) All department directors.
- (H) City of Dallas appointed members to the following boards and

commissions:

- (i) Board of adjustment and board of adjustment alternate members.
- (ii) Building inspection advisory, examining, and appeals board.
- (iii) City plan commission.
- (iv) Civil service board and civil service board adjunct members.
- (v) Community development commission.
- (vi) Dallas area rapid transit board.
- (vii) Dallas-Fort Worth international airport board.

- (viii) Ethics advisory commission.
- (ix) Fire code advisory and appeals board.
- (x) Housing finance corporation board.
- (xi) Landmark commission and landmark commission alternate members.
- (xii) All local government corporation boards.
- (xiii) All municipal management district boards.
- (xiv) Park and recreation board.
- (xv) Permit and license appeal board.
- (xvi) All reinvestment zone boards.

(2) CLIENT.

(A) "Client" means any person on whose behalf lobbying is conducted. If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist.

(B) In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(C) In the case of a limited liability company, limited partnership company, or similar entity, the client includes the managers and general partners, but does not include the non-managing members or limited partners.

(D) In the case of affiliated business entities, the client includes the parent entity and each subsidiary with a direct economic interest in a municipal question and on whose behalf the municipal question is being lobbied but does not include any other subsidiaries or entities whose only involvement in the municipal question or lobbying activities is being under the common control or ownership structure of the parent entity.

(3) COMPENSATION.

(A) "Compensation" means any money, service, facility, or other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying.

(B) "Compensation" does not include:



(i) a payment made to any individual regularly employed by a person if:

(aa) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and

(bb) lobbying activities are not part of the individual's regular responsibilities to the person making the payment; or

(ii) any amounts previously reported under Section 12A-33 of this article.

(C) If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if, for the purpose of evading the obligations imposed under this article, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities.

(D) Compensation that has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first.

#### (4) EXPENDITURE.

(A) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make an expenditure, regardless of whether such contract, promise, or agreement is legally enforceable.

(B) "Expenditure" does not include:

(i) an amount paid to any individual regularly employed by a person if:

(aa) the amount paid to the individual is ordinarily paid regardless of whether the individual engages in lobbying activities; and

(bb) lobbying activities are not part of the individual's regular responsibilities to the person making the payment; or

(ii) the cost of photocopying city documents, if those costs are the only expenditures made by the person in question on lobbying activities.

(C) The date on which an expenditure is incurred is determined according to generally accepted accounting principles.

(5) GIFT has the same meaning as in Section 12A-2.

(6) IMMEDIATE FAMILY means a spouse, a domestic partner, and dependent children.

(7) LOBBYIST means a person who engages in lobbying, whether directly or indirectly [~~through the acts of another~~]. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.

(8) LOBBY or LOBBYING.

(A) “Lobby or lobbying” means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend<sup>[5]</sup> or not recommend, vote for or against, or take or refrain from taking action on any municipal question.

(B) “Lobby or lobbying” does not include a communication:

(i) merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure<sup>[5]</sup> that does [~~and~~] not attempt<sup>[ing]</sup> to influence a city official;

(ii) made by a public official or employee (including, but not limited to, an official or employee of the city of Dallas) acting in his or her official capacity;

(iii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iv) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;

(v) made at a meeting open to the public under the Texas Open Meetings Act;

(vi) made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(vii) made in writing as a petition for official action and required to be a public record pursuant to established city procedures;

(viii) made in an oral or written response narrowly tailored to address an oral or written request by a city official for specific information;

(ix) the content of which is compelled by law;

(x) made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

(xi) made on behalf of an individual with regard to that individual's employment or benefits;

(xii) made by a fact witness or expert witness at an official proceeding; or

(xiii) made by a person solely on behalf of that individual, his or her spouse or domestic partner, or his or her minor children.

(9) LOBBYING FIRM means:

(A) a self-employed lobbyist;

(B) a person who has one or more employees that are lobbyists on behalf of a client or clients other than that person; or

(C) a person who has one or more employees that are lobbyists on the person's behalf and the person is the client.

(10) MUNICIPAL QUESTION means a public policy issue of a discretionary nature that is pending before, or that may be the subject of action by, the city council or any city board or commission. The term includes, but is not limited to, proposed actions or proposals for action in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term does not include the day-to-day application, administration, and execution of city programs and policies such as permitting, platting, and design approval matters related to or in connection with a specific project or development.

(11) PERSON means an individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

(12) PUBLIC SUBSIDY MATTER means any of the following:

(A) A tax abatement.

(B) A housing tax credit.

(C) An historic development tax abatement.

(D) Federal grant money administered by the city.

(E) Tax increment financing.

(F) An economic development grant or loan.

(G) The direct sale or lease of city-owned or city-controlled real property excepted from complying with the notice and bidding requirements of Texas Local Government Code Section 272.001(a) or other law.

(13) REGISTRANT means a person required to register under this article.

**SEC. 12A-30. PERSONS REQUIRED TO REGISTER AS LOBBYISTS.**

(a) Except as provided by Section 12A-31, a person must register with the city secretary if the person:

(1) receives compensation of \$200 or more in a calendar quarter for lobbying;

(2) receives reimbursement of \$200 or more in a calendar quarter for lobbying;

or

(3) lobbies as the agent or employee of a person who:

(A) receives compensation of \$200 or more in a calendar quarter for lobbying; or

(B) receives reimbursement of \$200 or more in a calendar quarter for lobbying.

(b) A lobbying firm that is not required to register under Subsection (a) of this section may register as a lobbyist with the city secretary if the lobbying firm has two or more [~~than one~~] employees who are [~~is~~] required to register under Subsection (a). A lobbying firm that chooses to register all of its employees as lobbyists under this subsection [~~for all of its employees that are lobbyists~~], instead of having them register individually, will be deemed [~~to be~~] a “registrant” and “a person required to register” for all purposes of this article and will be subject to all requirements, procedures, and penalties applicable to a “registrant” and “person required to register,” as those terms are used in this article.

(c) An attorney who is representing a client must register as a lobbyist if the attorney meets the compensation or reimbursement standards of Subsection (a). A law firm employing two or more [~~whose~~] attorneys [~~would be~~] required to register as lobbyists under this section [~~provision~~] may register as a lobbying firm instead of registering the individual attorneys.

(d) A person who is representing an association of city employees or an association of former city employees must register as a lobbyist if the person meets the compensation or reimbursement standards of Subsection (a) or if the person is representing the association on a pro bono basis.

**SEC. 12A-31. EXCEPTIONS.**

(a) The following persons are not required to register or file an activity report under this article:

(1) A person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating to municipal questions, provided that the person does not engage in other activities that require registration under this article. This exception does not apply if a person's relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

(2) A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions.

(3) A governmental entity and its officials and employees, provided the communications relate solely to subjects of governmental interest concerning the governmental entity and the city.

(4) A person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a city official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a city official and the person then engages in additional lobbying of the same official or other city officials with respect to that municipal question.

(5) A person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with city officials who do not vote on or have final authority over any municipal question involved.

(6) An agent or employee of a lobbying firm or other registrant, provided that the lobbying firm or other registrant files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(7) An individual who engages in lobbying, but who does not receive compensation or reimbursement for lobbying with respect to any client.

(8) A neighborhood association, crime watch group, or homeowners association or its members when lobbying on a municipal question that affects the group or association as a whole.

(b) If, after notification by the city secretary that registration is required, a person shall,

within 14 days of the date of notification:

(1) ~~[file claims an exception under this section, that person shall]~~ file an affidavit with the city secretary stating the basis for an [the] exception under this section; or

(2) register as required by this article ~~[within 14 days after the date of notification. If, after notification by the city secretary that registration is required, the person determines that registration is required, the person must register within 14 days after the date of notification].~~

## **SEC. 12A-32. REGISTRATION.**

(a) Initial registration. A person required to register as a lobbyist under this article shall file a separate registration for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. If the registrant is not an individual, an authorized officer or agent of the registrant must file the form. An initial registration form relating to a client must be filed by a person required to register under this article within five days after the start of lobbying activity for that client, except that initial registration of a client in a zoning case must be filed within five days after the zoning application is filed with the city. In no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant city officials, prior to official city action relating to the subject matter of the lobbying activity.

(b) Subsequent annual registration. Subsequent registration forms must be filed annually by January 15 for each client for whom a registrant previously filed or was required to file an initial registration form in the prior registration year if lobbying activities are still being conducted or will foreseeably be conducted for the client during the new registration year.

(c) Required disclosures. An initial or subsequent registration must be filed on the form and in the manner prescribed by the city secretary and must include, to the extent applicable, the following information:

(1) The full name, telephone number, permanent address, and nature of the business of:

(A) the registrant;

(B) the client;

(C) any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;

(D) any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or who, in whole or in major part, plans, supervises, or controls the registrant's lobbying activities on behalf of the client;

(E) any lobbying firm for which the registrant is an agent or employee with respect to the client; and

(F) each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client.

(2) A statement of all municipal questions on which the registrant:

(A) has lobbied for the client in the calendar quarter in which the registration is filed and in the three months preceding the filing of the registration, including the name of each city official contacted by the registrant on behalf of the client with regard to each municipal question and the type of contact made with the city official (in person, telephone call, letter, [Ø] electronic mail, etc.); or

(B) will foreseeably lobby for the client in the calendar quarter in which the registration is filed and in the three months following the filing of the registration.

(3) If the municipal question relates to a zoning case, the name of each city official contacted and the type of contact made (in person, telephone call, letter, [Ø] electronic mail, etc.) by the registrant on behalf of the client from the time the registrant began lobbying activities relating to the zoning case until the time the registrant filed a registration for the client in compliance with this section.

(4) Disclosure of any employment or arrangement to lobby for the client on a contingent fee basis.

(5) A list of any positions held by the registrant as a city official or city employee, as those terms are defined in Section 12A-2, during the 24 months preceding the filing of the registration.

(6) A statement that, by filing the registration, the registrant swears or affirms under penalty of perjury that, to the best of the registrant's knowledge, all information contained in the registration is true and correct and that the registration is complete and includes all information required to be disclosed under this article.

(7) If the registrant is a former city official or employee, a statement that, by filing the registration, the registrant swears or affirms that, to the best of the registrant's knowledge, the registrant's lobbying activities have not violated and will not foreseeably violate Article III of this chapter, which governs former city officials and employees.

(d) Fee. At the time of filing an initial or subsequent annual registration, a registrant shall pay to the city an annual registration fee of \$300. A separate registration fee is not required for each additional client registered during a registration year. All lobbyist registration fees must be deposited into a separate account within the general fund, which account must be used to offset the costs of administering the city's lobbyist registration program and the costs of handling disclosure filings.

**SEC. 12A-33. ACTIVITY REPORTS.**

(a) Required disclosures. Except as provided in Section 12A-31 of this article, each registrant shall file with the city secretary a report concerning the registrant's lobbying activities for the prior calendar quarter. The report for the preceding calendar quarter must be filed not earlier than the first day or later than the 15th day of April, July, October, or January, or on the date registration is required, whichever comes later. A registrant must file a report for each client [~~from whom, or with respect to whom,~~] the registrant received compensation from [~~of,~~] or expended[~~ed,~~] monies for lobbying during the prior calendar quarter. [~~The report for the preceding calendar quarter must be filed not earlier than the first day or later than the 15th day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later.~~] If the registrant is not an individual, an authorized officer or agent of the registrant shall file the report [~~form~~]. The report must be filed on the form and in the manner prescribed by the city secretary and must include, with respect to the previous calendar quarter, to the extent applicable, the following information:

(1) The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed pursuant to Section 12A-32.

(2) A list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions.

(3) Disclosure of any employment or arrangement to lobby for the client on a contingent fee basis.

(4) The name of each city official contacted by the registrant on behalf of the client with regard to a municipal question and the type of contact made with the city official (in person, telephone call, letter, [~~or~~] electronic mail, etc.).

(5) A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client.

(6) Cumulative lobbying expenditures of over \$5,000 in a calendar quarter, separated into the following categories:

- (A) Advertising and publications.
- (B) Compensation to other than full- time employees.
- (C) Reimbursement to others.
- (D) Personal sustenance, lodging and travel, if reimbursed.



(E) Other expenses.

(7) Gifts, benefits, and expenditures that have a cumulative value of more than \$25 that are made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant, or by anyone acting on behalf of the registrant, in any calendar quarter must be itemized by item, date, city official, actual cost, and circumstances of the transaction. Pursuant to Section 12A-35(i), ~~t~~[F]he total aggregate value of all gifts, benefits, and expenditures for each city official shall not exceed \$300 per lobbyist, per calendar year.

(8) Each exchange (itemized by date, business entity and address, city official, amount, and nature of transaction) of money, goods, services, or anything of value by the registrant, or by anyone acting on behalf of the registrant, with any business entity in which the registrant knows or should know that a city official has a financial interest, directly or indirectly. For purposes of this paragraph, financial interest includes legal or equitable interest in land, chattels, intangibles, and property rights having more than a de minimus value.

For purposes of this paragraph, "exchange" does not include a routine purchase from a commercial business establishment, if the city official in question is neither aware, nor likely to become aware, of the transaction.

(9) The name and position of each city official or member of a city official's immediate family who is employed by the registrant.

(10) A statement that, by filing the report, the registrant swears or affirms under penalty of perjury that, to the best of the registrant's knowledge, all information contained in the report is true and correct and that the report is complete and includes all information required to be reported under this article.

(b) Information required to be provided to registrant. Each person about whose activities a registrant is required to report by Subsection (a) shall provide a full account of such activities to the registrant at least five days before the registrant's report is due to be filed.

(c) Preservation of records. Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required under this section for two years after the date the report containing such items is filed.

(d) No activity or changes. No quarterly activity report is required if there is no activity during the preceding calendar quarter and there are no other changes to items required to be reported.

#### **SEC. 12A-34. NON-REGISTRANT DISCLOSURE STATEMENTS.**

(a) Non-registrant disclosure statement required for zoning cases. Any applicant, property owner, or purchaser with a property under contract who lobbies a city council member or a member of the city plan commission on a municipal question relating to a zoning case that will affect the property shall file a non-registrant disclosure statement in accordance with this section.

An initial non-registrant disclosure statement must be filed within five days after the applicant, property owner, or purchaser contacts a city council member or member of the city plan commission for lobbying purposes. This paragraph only applies to lobbying contacts made after the application for the zoning case is filed with the city.

(b) Required information. A non-registrant disclosure statement must be filed on the form and in the manner prescribed by the city secretary. If the applicant, property owner, or purchaser with a property under contract is not an individual, an authorized officer or agent of that person shall file the non-registrant disclosure statement. The non-registrant disclosure statement must include, to the extent applicable, the following information:

(1) The full name, telephone number, permanent address, and nature of the business of:

(A) the applicant;

(B) the property owner; and

(C) the purchaser with a property under contract.

(2) The full name, telephone number, permanent address, and nature of the business of the person filing the non-registrant disclosure statement, if different from the applicant, property owner, or purchaser.

(3) The address of the property that is the subject of the designated zoning case.

(4) A description of the designated zoning case.

(5) The name of each city council member or city plan commission member contacted by the applicant, property owner, or purchaser relating to a zoning case and the type of contact made (in person, telephone call, letter, [✕] electronic mail, etc.).

(6) A statement that, by filing the non-registrant disclosure statement, the filer swears or affirms under penalty of perjury that, to the best of the filer's knowledge, all information contained in the non-registrant disclosure statement is true, correct, and complete and includes all information required to be disclosed under this section.

(c) Quarterly disclosure statements. Lobbying contacts on a zoning case made after an initial non-registrant disclosure statement is filed must be reported by the applicant, property owner, or purchaser with a property under contract in quarterly non-registrant disclosure statements. A quarterly non-registrant disclosure statement must be filed on the form and in the manner prescribed by the city secretary and must include, with respect to the previous calendar quarter, to the extent applicable, the same information required in Subsection (b). The non-registrant disclosure statement for the preceding calendar quarter must be filed not earlier than the first day or later than the 15th day of April, July, October, or January.

(d) No fee. No fee will be charged for filing a non-registrant disclosure statement under this section.

(e) Exceptions. This section does not apply to:

(1) an applicant, property owner, or purchaser with a property under contract who is currently registered with the city as a lobbyist and filing activity reports in accordance with this article; or

(2) a neighborhood association, crime watch group, or homeowner's association or its members when lobbying on a municipal question that affects the group or association as a whole.

## **SEC. 12A-35. RESTRICTED ACTIVITIES.**

(a) False statements. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not [~~intentionally or~~] knowingly:

(1) make any false or misleading statement of fact to any city official; or

(2) [~~knowing a document to contain a false statement,~~] cause a copy of a [~~such~~] document containing a false statement to be received by a city official without notifying the [~~such~~] official, in writing, of the truth.

(b) Failure to correct erroneous statement. A registrant who learns that a statement contained in a registration form or activity report filed by the registrant during the past three years is false shall correct that statement by written notification to the city secretary within 30 days of learning of the falsehood.

(c) Personal obligation of city officials. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any city official under personal obligation to such lobbyist or person.

(d) Improper influence. A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

(e) False appearances. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a city official in the name of a [~~and~~] fictitious person, or in the name of any real person unless the real person consents [~~except with the consent of such real person~~].

(f) Prohibited representations. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or

indirectly, orally or in writing, that the person can control or obtain the vote or action of any city official.

(g) Lobbying by bidders and proposers on city contracts and public subsidy matters.

(1) Bidders and proposers on city contracts.

(A) A person responding to a request for bids or request for proposals on a city contract shall not lobby a city council member regarding the bid or request for proposal either directly or indirectly (through a representative, employee, or agent) from the time the advertisement or public notification of the request for bids or request for proposals is made until the time the contract is awarded by the city council.

(B) A city council member shall not discuss a request for bids or a request for proposals on a city contract either directly (with the person or entity submitting the bid or proposal) or indirectly (with a lobbyist, representative, employee, or agent of the person or entity submitting the bid or proposal) from the time the advertisement or public notification of the request for bids or request for proposals is made until the time the contract is awarded by the city council. The department issuing the request for bids or request for proposals shall forward to all city council members any protest received and any response to that protest before city council considers awarding that city contract.

(2) Public subsidy matters.

(A) A person applying for or requesting a public subsidy matter shall not lobby a city council member either directly or indirectly (through a representative, employee, or agent) from the time a complete application or request is accepted until the applicant or requestor is notified that the public subsidy matter will not be placed on a city council agenda or the public subsidy matter is approved or denied by city council.

(B) A city council member shall not discuss an application or request for a public subsidy matter either directly (with the person or entity submitting the application or request) or indirectly (with a lobbyist, representative, employee, or agent of the person or entity submitting the application or request) from the time a complete application or request is accepted until the applicant or requestor is notified that the public subsidy matter will not be placed on a city council agenda or the public subsidy matter is approved or denied by city council.

(3) City council meetings. This subsection does not prohibit a bidder or proposer from speaking at the city council meeting where the award of the contract is considered.

(h) Campaign managers, campaign treasurers, and campaign/political consultants. A person who served as a campaign manager, ~~or~~ campaign treasurer, or campaign/political consultant for a person who was elected as a city council member may not (either personally or through a representative, employee, or agent) lobby a city council member or a city official for one year after the date of the city council election. For purposes of this subsection,

(1) a [A] “campaign manager” is any person who directs the day-to-day operations of the campaign or determines the campaign’s strategies or policies [~~of the campaign~~];

(2) a “campaign treasurer” is the person designated as a campaign treasurer for a candidate under the Texas Election Code; and

(3) a “campaign/political consultant” is a person who is paid by a candidate, or who is paid by another person or entity on behalf of and with the knowledge of the candidate, to provide political advice to the candidate during the campaign. A “campaign/political consultant” does not include attorneys who provide only legal services, accountants who provide only accounting services, professional fundraisers, or pollsters who provide only polling services.

(i) Limits on gifts, benefits, and expenditures. A lobbyist shall not confer gifts, benefits, and expenditures upon a city official exceeding a total aggregate value of \$300 per lobbyist, per calendar year.

#### **SEC. 12A-36. IDENTIFICATION OF CLIENTS.**

(a) Appearances. Each person who lobbies or engages another person to lobby before the city council or before a city board or commission identified in Section 12A-29(1)(H) shall orally identify himself or herself and any client he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether he or she is registered as a lobbyist under this article.

(b) Oral lobbying contacts. Any person who makes an oral lobbying contact with a city official shall, at the beginning [~~time~~] of the lobbying contact, state whether the person is registered under this article and identify each client on whose behalf the lobbying contact is made.

(c) Written lobbying contacts. Any registrant who makes a written lobbying contact (including an electronic communication) with a city official shall identify each client on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

#### **SEC. 12A-37. TIMELINESS OF FILING REGISTRATIONS, ACTIVITY REPORTS, AND NON-REGISTRANT DISCLOSURE STATEMENTS.**

(a) A registration, an activity report, or a non-registrant disclosure statement filed by first-class United States mail or by common or contract carrier is timely if:

(1) it is properly addressed with postage and handling charges prepaid;

(2) it bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that filing period or before that filing deadline; and

(3) it was in fact received by the city secretary.

(b) A registration, an activity report, or a non-registrant disclosure statement filed electronically is timely if it is time and date stamped as having been received by the city's server by 5:00 p.m. on the last day permitted for filing [~~the particular registration, report, or statement under this article~~].

#### **SEC. 12A-38. ADMINISTRATION.**

The city secretary shall:

(1) provide guidance and assistance on requirements for lobbyist registration, activity reports, and non-registrant disclosure statements and develop common standards, rules, and procedures for compliance with this article;

(2) coordinate with the inspector general to review registrations, activity reports, and non-registrant disclosure statements for completeness and timeliness;

(3) maintain filing, coding, and cross-indexing systems to carry out the purposes of this article, including:

(A) a publicly available list identifying all lobbyists and lobbying firms registered with the city and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this article;

(4) on a quarterly basis, provide an updated list of all registered lobbyists and lobbying firms, and their clients, to the inspector general, the city council, the city manager, the city attorney, the city auditor, the administrative municipal judge, all department heads, and all chairs of boards and commissions identified in Section 12A-29(1)(H) [~~of this article~~];

(5) make available for public inspection and copying at reasonable times the registrations, activity reports, and non-registrant disclosure statements filed under this article; and

(6) retain registrations, activity reports, and non-registrant disclosure statements in accordance with the Local Government Records Act (Title 6, Subtitle C, Texas Local Government Code, as amended).

#### **SEC. 12A-39. VIOLATIONS; PENALTY.**

(a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

- (b) An offense under this article is punishable by a criminal fine not to exceed \$500.

## ARTICLE VI.

### REPORTING REQUIREMENTS.

#### SEC. 12A-40. FINANCIAL DISCLOSURE REPORT.

- (a) Who must file.

(1) Designated 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):

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

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

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

(iii) Business development corporation board.

(iv) City plan and zoning commission.

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

(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.

(xii) Landmark commission and landmark commission alternate members.

(xiii) Park and recreation board.

- (xiv) Permit and license appeal board.
- (xv) All reinvestment zone boards.
- (xvi) All municipal management district boards.
- (B) The first assistant city attorney.
- (C) The inspector general.
- (D) The city auditor and city secretary, and their first assistants.
- (E) Assistant city managers and chiefs.
- (F) Municipal judges.
- (G) Chief financial officer.

(2) The mayor, city council members, the city attorney, the city manager, and candidates for city council. The mayor, each city council member, the city attorney, the city manager, and each candidate for a place on the city council are required to file with the city secretary verified financial statements complying with Chapter 145 of the Texas Local Government Code, as amended~~[, and are not subject to the provisions of Subsections (b) through (g)].~~

(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)(1).

(B) REPORTING PARTY means a city official or employee filing a financial disclosure report as required under Subsection (a)(1).

(2) Each financial disclosure report must be on a form provided by the Office of the Inspector General 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 \$300 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 non-profit 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 exact street address or, if no street address is ascertainable, by 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; 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.

(M) Identification of the source of each gift or accumulation of gifts from one source of more than \$300 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. Quarterly reports required under this article can be used to meet this requirement. This requirement does not include:

(i) a gift received from a relative, 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 inspector general 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) 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 with the city secretary [~~Office of the Inspector General~~], and shall provide the officials and employees with the appropriate forms to be completed;

(B) provide forms to all new city council appointees 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;

(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) 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-41. SHORT FORM ANNUAL REPORT.**

A person who is required to file an annual financial disclosure report under Section 12A-40(a)(1) may fulfill those filing obligations by submitting a short sworn statement on a form provided by the inspector general to the city secretary. A person is eligible to submit a short statement, 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. The annual filing date of the short form annual report is the same as that for the financial disclosure report in Section 12A-40(d).

## **SEC. 12A-42. GIFT REPORTING.**

### **(a) General.**

(1) All c[€]ity officials and employees must file a disclosure statement on a quarterly basis, for all reportable gifts received in each three-month period in a calendar year, subject to the reporting exceptions below. City officials and employees required to file an annual Financial Disclosure Report, under Section 12A-40, may use it as the first quarter's disclosure statement.

(2) All disclosure statements must be filed in an electronic format with the city secretary. Disclosure statements must include the:

- (A) date of the gift;
- (B) identity of the person or entity giving [~~making~~] the gift;
- (C) name of the city official or employee receiving the gift;
- (D) a description of the gift; and
- (E) the estimated monetary value of the gift.

(3) City officials and employees are not required to report gifts with a monetary value of less than \$300, except that reporting is required for gifts from a single source in a single year with a cumulative value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less.

(4) City officials and employees are not required to report gifts from a relative or person with whom the city official or employee has a personal, professional, or business relationship, unless the gift is accepted in the city official or employee's official capacity as described in Section 12A-2(25).

(b) Reporting of gifts over \$300. The mayor, city council members, the city attorney, the city manager, and [A] city officials and employees required to file a financial disclosure report under Section 12A-40 [of this chapter] shall also report all gifts of \$300 or more in the financial disclosure report.

(c) Additional requirements for city officials in S[ubs]ection 12A-40(a). The mayor, city council members, the city attorney, the city manager, and designated c[~~E~~]ity officials listed in S[~~ubs~~]ection 12A-40(a) who have received no reportable gifts must file a quarterly gift report acknowledging that no reportable gifts were received.

(d) Additional departmental reporting requirements. Employees must file this disclosure statement in addition to any departmental requirements.

#### **SEC. 12A-43. DONATIONS.**

(a) City officials, employees, and departments receiving a donation to the city of money, real estate, products, or services shall report the donation to the city secretary and the city manager or the city manager's designee on a form to be provided by the city manager or the city manager's designee. The report must include:

- (1) the date of the donation;
- (2) the identity of the person or business entity making the donation;
- (3) the city official, employee, or department receiving the donation;
- (4) a description of the donation;
- (5) the estimated monetary value of the donation;
- (6) the intended use of the donation; and
- (7) the actual use and disposition of the donation.

Reports of all donations, subject to the exceptions below, received in each three-month period in a calendar year, are required to be submitted to the city secretary on a quarterly basis. The report must be filed with the city manager or the city manager's designee within 30 days after receipt of the donation. This report is required in addition to any other documentation required for the donation.

(b) The individual or department that receives the donation is responsible for reporting the donation.

(c) Reporting is not required for donations to the city of money, real estate, products, or services with a monetary value of less than \$1,000, except that reporting is required for donations from a single source in a single year with a cumulative value of \$1,000 or more.

#### **SEC. 12A-44. TRAVEL REPORTING REQUIREMENTS.**

(a) Except as provided in Section 12A-12(b), a[~~A~~]ny person 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, received in each three-month period in a calendar year (quarterly), must file with the city secretary (except subordinates of the city manager, who shall also file with the city manager) on a quarterly basis, 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) 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.

(c) All employees must file this disclosure statement in addition to any departmental requirements.

**SEC. 12A-45. 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.

**SEC. 12A-45.1. REPORTING REQUIREMENTS CHART.**

<u>REPORT</u>	<u>WHO REPORTS</u>	<u>DUE DATE</u>	<u>SUBMITTED TO</u>
<p><b><u>Financial Disclosure Report</u></b></p> <p><u>Section 12A-40</u></p>	<p>1. <u>City of Dallas appointed members to the following boards, commissions, and committees:</u></p> <ul style="list-style-type: none"> <li>a. <u>Board of Adjustment and Board of Adjustment Alternate Members</u></li> <li>b. <u>Building Inspection Advisory, Examining, and Appeals Board</u></li> <li>c. <u>Business Development Corporation Board</u></li> </ul>	<p><u>Annual Filing Date: 5:00 p.m., April 30th</u></p> <p><u>* 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.</u></p>	<p><b><u>City Secretary</u></b></p>

	<ul style="list-style-type: none"> <li>d. <u>City Plan and Zoning Commission</u></li> <li>e. <u>Civil Service Board and Civil Service Board Adjunct Members</u></li> <li>f. <u>Community Development Commission</u></li> <li>g. <u>Dallas Area Rapid Transit Board</u></li> <li>h. <u>Dallas-Fort Worth International Airport Board</u></li> <li>i. <u>Ethics Advisory Commission</u></li> <li>j. <u>Fire Code Advisory and Appeals Board</u></li> <li>k. <u>Housing Finance Corporation Board</u></li> <li>l. <u>Landmark Commission and Landmark Commission Alternate Members</u></li> <li>m. <u>Park and Recreation Board</u></li> <li>n. <u>Permit and License Appeal Board</u></li> <li>o. <u>All Reinvestment Zone Boards</u></li> <li>p. <u>All Municipal Management District Boards</u></li> </ul> <ul style="list-style-type: none"> <li>2. <u>First Assistant City Attorney</u></li> <li>3. <u>Inspector General</u></li> <li>4. <u>City Auditor and City Secretary, and their First Assistants</u></li> <li>5. <u>Assistant City Managers and Chiefs</u></li> <li>6. <u>Municipal Judges</u></li> <li>7. <u>Chief Financial Officer</u></li> </ul>	<p>* <u>The Inspector General 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.</u></p>	
<p><b><u>Financial Statement Report</u></b></p>	<ul style="list-style-type: none"> <li>1. <u>Mayor</u></li> <li>2. <u>City Council Members</u></li> <li>3. <u>City Attorney</u></li> <li>4. <u>City Manager</u></li> </ul>	<p><u>Annual Filing Date for the Mayor, City Council Members, City</u></p>	<p><b><u>City Secretary</u></b></p>

<p><u>Texas Local Government Code Chapter 145</u></p>	<p><u>5. Candidates for a Place on the City Council</u></p>	<p><u>Attorney, and City Manager – 5:00 p.m., April 30th</u></p> <p><u>Filing Date for Candidates for a Place on City Council, not later than the earlier of:</u></p> <ol style="list-style-type: none"> <li><u>1. The 20th day after deadline for filing an application for a place on the ballot of an election; or</u></li> <li><u>2. The fifth day before the date of the election.</u></li> </ol> <p><u>* When the deadline falls on a Saturday, Sunday, or an official national or state holiday, 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 an official national or state holiday.</u></p> <p><u>* The City Attorney or City Manager may request the City Secretary to grant an extension of not more than 60 days for filing the statement.</u></p>	
<p><b><u>Short Form Annual Report</u></b></p> <p><u>Section 12A-41</u></p>	<p><u>A person who is required to file an annual financial disclosure report may fulfill those filing obligations by submitting a short sworn statement if there have been no changes in the information disclosed by that person in a complete financial disclosure</u></p>	<p><u>Annual Filing Date: 5:00 p.m., April 30th</u></p> <p><u>* When the deadline falls on a Saturday or Sunday, or on an official city holiday as</u></p>	<p><b><u>City Secretary</u></b></p>



	<p><u>report filed within the past five years.</u></p>	<p><u>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.</u></p>	
<p><b><u>Gift Reporting</u></b></p> <p><u>Section 12A-42</u></p>	<p><u>City officials and city employees who are not required to file an annual financial disclosure report:</u></p> <ol style="list-style-type: none"> <li><u>1. Not required to report gifts with a monetary value of less than \$300, except that reporting is required for gifts from a single source in a single year with a cumulative value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less.</u></li> <li><u>2. Must also follow departmental reporting requirements for gifts.</u></li> </ol> <p><u>City officials and city employees who are required to file an annual financial disclosure report:</u></p> <ol style="list-style-type: none"> <li><u>1. Received gifts with a monetary value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less.</u></li> <li><u>2. May use the annual financial disclosure report as the first quarter's disclosure statement.</u></li> <li><u>3. Must also follow departmental reporting requirements for gifts.</u></li> </ol> <p><u>The Mayor, City Council Members, City Attorney, City Manager, and City Officials and Employees under Section 12A-40(a) are required to report:</u></p> <ol style="list-style-type: none"> <li><u>1. Gifts of \$300 or more in the</u></li> </ol>	<p><u>Disclosure statement must be filed on a quarterly basis, for all reportable gifts received in each three-month period in a calendar year.</u></p>	<p><b><u>City Secretary (electronic format)</u></b></p>

	<p><u>financial disclosure report in addition to the quarterly report.</u></p> <p>2. <u>If no reportable gifts were received, must file a quarterly gift report acknowledging that no reportable gifts were received.</u></p> <p><u>No one is required to report gifts from a relative or person with whom the city official or employee has a personal, professional, or business relationship, unless the gift is accepted in the city official or employee’s official capacity.</u></p> <p><u>*See Section 12A-12(b) for gifts that are not considered reportable gifts.</u></p>		
<p><b><u>Donations</u></b></p> <p><u>Section 12A-43</u></p>	<p><u>City Officials, city employees, and city departments:</u></p> <p>1. <u>Reporting is not required for donations to the city of money, real estate, products, or services with a monetary value of less than \$1,000, except that reporting is required for donations from a single source in a single year with a cumulative value of \$1,000 or more.</u></p> <p>2. <u>The donation report must be filed in addition to any other documentation required for the donation.</u></p>	<p><u>Donations must be reported to the city secretary on a quarterly basis, received in each three-month period in a calendar year.</u></p> <p><u>Donations must be reported to the city manager within 30 days after receipt of the donation.</u></p>	<p><b><u>City Secretary</u></b> <u>(quarterly)</u></p> <p><b><u>City Manager</u></b> <u>(within 30 days of receipt of the donation)</u></p>
<p><b><u>Travel Reporting</u></b></p> <p><u>Section 12A-44</u></p>	<p><u>Any person 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</u></p>	<p><u>Travel must be reported on a quarterly basis in each three-month period in a calendar year.</u></p>	<p><b><u>City Secretary</u></b></p> <p><u>Subordinates of the City Manager shall also file with the City Manager.</u></p>

	<u>refreshments paid for by a person or entity other than a public agency.</u>		
--	--	--	--

**ARTICLE VII.**

**LEGAL COUNSEL.**

**SEC. 12A-46. CITY ATTORNEY’S OFFICE.**

(a) The city attorney’s office shall act as the legal counsel to the ethics advisory commission.

(b) If the ethics advisory commission 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.

**SEC. 12A-47. DIVISION OF THE INSPECTOR GENERAL.**

(a) Powers and duties. Supervised by the city attorney to lead the Division of the Inspector General in the City Attorney’s Office, the inspector general serves as an independent investigative authority in regard to ethics and official misconduct. The inspector general has the following powers and duties:

(1) Seek out and initiate investigations into misconduct involving ethics, fraud, waste, abuse, and corruption of city officials, city employees, and persons doing business with the city.

(2) Receive and investigate complaints and anonymous tips alleging:

(A) violations of the laws, ordinances, and rules in Section 12A-50(a)(2); and

(B) fraud, waste, abuse, and corruption within the city.

(3) Submit quarterly reports to the ethics advisory commission, the city council, the city auditor, and the city manager detailing the findings of investigations completed by the inspector general.

(4) Prosecute alleged or suspected violations of the laws, ordinances, and rules in Section 12A-50[26](a)(2) before the ethics advisory commission and recommend appropriate disciplinary action.

(5) Issue subpoenas in accordance with Paragraph (b)(2) [~~for the attendance of~~

~~witnesses or the production of documents or other evidence that the inspector general deems necessary for an investigation into an alleged or suspected violation following the procedures outlined in Section 12A-26(d)].~~

(6) Make recommendations to the ethics advisory commission that complainants are vexatious and recommend appropriate sanctions for vexatious complainants.

(7) Issue advisory opinions to city officials and city employees in accordance with Subsection [12A-45](d).

(8) Supervise a chief integrity officer to administer and manage the Integrity Officer Program.

(9) Investigate and enforce claims of retaliation in violation of this chapter.

(b) Investigations [initiated by the inspector general].

(1) Except as provided in this subsection, t[F]he inspector general has broad authority to initiate investigations, either as the result of a tip received, or upon observing suspicious conduct or documentation. Investigations initiated by the inspector general shall be treated as complaints received by the inspector general, following the same complaint process in Section [Article] 12A-52[49].

(2) For the purpose of conducting investigations authorized by this chapter, the inspector general shall subpoena witnesses and compel the production of books, papers, and other evidence material in the same manner as is prescribed by the laws of this state for compelling the attendance of witnesses and production of evidence in the corporation court. A person receiving a subpoena in accordance with this section may, before the return date specified in the subpoena, petition the corporation court for a motion to modify or quash the subpoena. Refusal to appear or to produce any document or other evidence after receiving a subpoena pursuant to this paragraph is a violation of this chapter subject to sanctions as described in Section 2-9 of the Dallas City Code.

(3) The inspector general shall not commence or continue an investigation involving alleged conduct that is the subject of pending civil or criminal litigation, and shall instead postpone such investigation pending:

(A) the conclusion of any claim or civil litigation involving the alleged conduct; and

(B) if grand jury proceedings are anticipated, the conclusion of all grand jury proceedings relating to the alleged conduct.

(c) Quarterly reports. The inspector general shall submit quarterly reports to the ethics advisory commission, the city council, the city auditor, and the city manager detailing the findings and conclusions of all completed investigations, whether initiated by the inspector general or

initiated as a result of a formal complaint or anonymous tip. The report shall summarize all completed investigations, including dismissals, approved settlement agreements, and the disposition of prosecutions. For investigations that have been dismissed, the reports shall not include the names of complainants or of persons investigated by the inspector general.

(d) Advisory opinions.

(1) Confidential advisory opinions.

(A) Issuance. By written request to the chief integrity officer or city attorney [~~inspector general~~], any city official or employee may request a confidential advisory opinion regarding whether his or her own proposed actions or conduct would violate this chapter. The attorney assigned to draft the advisory opinion [~~inspector general~~] shall make all reasonable efforts to issue the advisory opinion within 10 business days after receipt of the request. The city attorney [~~inspector general~~], for good cause shown, may decline to issue the opinion.

(B) Reliance. A person who reasonably and in good faith acts in accordance with a confidential advisory opinion [~~issued by the inspector general~~] may not be found to have violated this chapter by engaging in conduct approved in the opinion, if:

- (i) the person requested the issuance of the opinion;
- (ii) the request for an opinion fairly and accurately disclosed all relevant facts necessary to render the opinion; and
- (iii) the person waives the attorney-client privilege with respect to the written advisory opinion.

(C) Pending confidential advisory opinions. Whenever a confidential advisory opinion [~~from the inspector general~~] has been requested regarding the proposed actions or conduct of a[~~n~~] city official or employee, no action may be taken by the ethics advisory commission or inspector general regarding those particular actions or conduct until the city attorney or chief integrity officer [~~inspector general~~] issues the confidential advisory opinion. Any time limits that the inspector general is required to follow in processing an ethics complaint regarding those particular actions or conduct will be extended to allow for the city attorney or chief integrity officer [~~inspector general~~] to issue the advisory opinion.

(2) General advisory opinions.

(A) Publishing. The inspector general, chief integrity officer, or city attorney may publish written general advisory opinions to serve as guidance to city officials and employees.

(B) Reliance. A person who reasonably and in good faith acts in accordance with a general advisory opinion published by the inspector general, chief integrity officer, or city attorney may not be found to have violated this chapter.

(e) Integrity Officer Program.

(1) Purpose.

(a) The Integrity Officer Program provides support to city departments and offices by ensuring that city employees and persons doing business with the city comply with the Code of Ethics and adhere to all ethical standards and reporting requirements.

(b) The city manager, city secretary, and city auditor shall designate a liaison to assist the chief integrity officer with ethics training and the Chief Integrity Program.

(2) Chief integrity officer. The inspector general shall supervise a chief integrity officer to coordinate with city departments and offices to provide training related to integrity, transparency, and accountability within city government. The duties of the chief integrity officer shall include, but not be limited to, the following:

(A[1]) Administer and manage the Integrity Officer Program under the supervision of the inspector general.

(B[2]) Develop and implement training programs and other communication with city officials, city employees, and persons doing business with the city that reinforce ethical conduct and the requirements of the code of ethics.

(C[3]) Assist the city attorney, inspector general, ethics advisory commission, and city manager on matters of ethics, including proposing amendments to the Code of Ethics and drafting confidential and general advisory opinions.

(D[4]) Notify all city departments and offices of any significant amendments to the Code of Ethics.

(E[5]) Annually distribute a plain-language guide to the Code of Ethics to all city officials, employees, and registered lobbyists.

(F[6]) Assist the inspector general in the enforcement of the Code of Ethics.

(G[7]) Promote a culture of ethics within the city.

**SEC. 12A-48. OUTSIDE LEGAL COUNSEL.**

(a) Ethics advisory commission. An independent outside attorney, who does not otherwise represent the city, ~~or~~ a city official, or an employee in his or her official capacity, 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.

(b) City official or employee charged in a complaint.

(1) Once an information is filed by the inspector general with the ethics advisory commission, a [A] city official or employee named as the respondent in the information [charged in a complaint] may retain an independent outside attorney, who does not otherwise represent the city, [or] a city official, or an employee in his or her official capacity, approved by the city attorney to serve as the person's legal counsel for a particular case.

(2) If a city official or employee charged in a complaint retains an independent outside attorney from an approved list provided by the city attorney, the city will pay the reasonable and necessary fees not to exceed the median hourly rate from the most recent State Bar of Texas salary survey for the Dallas-Fort Worth-Arlington metropolitan statistical area, as well as the reasonable costs of that attorney from the time the inspector general files the complaint with the ethics advisory commission through the conclusion of the evidentiary hearing. The ethics advisory commission shall review the invoice submitted by outside counsel and determine whether the fees and costs are reasonable and necessary in accordance with this paragraph.

(3) If the ethics advisory commission finds that the city official or employee committed a violation of this chapter, the city official or employee shall reimburse the city for the fees and expenses of an [that] attorney retained under Paragraph (2).

(c) Complaints filed against employees within the Division of the Inspector General. If a complaint is filed against the inspector general or any employee within the Division of the Inspector General, the city attorney shall retain an independent outside attorney, who does not otherwise represent the city, a city official, or the inspector general in his or her official capacity to investigate the complaint to its conclusion in accordance with Article IX.

## ARTICLE VIII.

### ETHICS ADVISORY COMMISSION.

#### SEC. 12A-49. ETHICS ADVISORY COMMISSION - CREATION; COMPOSITION, TERMS, AND QUALIFICATIONS.

(a) Creation and composition. There is hereby created the ethics advisory commission, to be composed of 15 members appointed by the city council as a whole. The mayor shall appoint the chair, and the full city council shall appoint two vice\_chairs. Regular meetings of the

commission shall be attended by a quorum of the entire 15-member commission.

(b) Evidentiary hearing panels.

(1) Once an information has been submitted to the commission for an evidentiary hearing [~~For purposes of hearing and adjudicating ethics complaints~~], the city secretary shall select hearing panel members on a random basis, subject to availability, to hear and adjudicate the information [~~divide the commission into panels of five members each~~]. The panel chair shall meet a special qualification requirement and shall act as the presiding officer of the panel. Hearing panels must include at least one other member meeting the special qualifications requirements [~~and vice chairs shall act as presiding officers of the evidentiary hearing panels~~]. Only one panel may hear and adjudicate a particular ethics complaint. If a case is withdrawn and subsequently refiled, it must be returned to the panel to which it was originally assigned.

(2) The city secretary shall randomly assign commissioners to evidentiary hearing [~~ethics complaints to be heard and adjudicated to a~~] panels, except that:

(A) an information [~~ethics complaint~~] in which the complainant or respondent is a city council member shall not be heard or adjudicated by a [~~the~~] panel whose membership includes the commissioner nominated by that city council member; and

(B) the city secretary shall make reasonable efforts to select commissioners who did not sit on the most recent evidentiary hearing panel [~~at least two members meeting the special qualifications must be assigned to each five member panel~~].

(3) To the greatest extent practicable, the panels must reflect the geographic and ethnic diversity of the city.

(c) Terms of office. Each member of the commission shall be appointed for a two-year term beginning on October 1 of each odd-numbered year. All members shall serve until their successors are appointed and qualified.

(d) Qualifications.

(1) Except as provided in this article, each member of the ethics advisory commission shall meet the requirements of Chapter 8 of the city code. Additionally, at least six members of the ethics advisory commission must meet a minimum of one of the following special qualifications:

(A) Possess a juris doctorate degree from an institution accredited by the American Bar Association [~~of higher learning~~].

(B) Formerly served as a Justice of the Peace.

(C) Currently or formerly employed as a professor or instructor at an institution of higher learning in the following disciplines:



- (i) Ethics.
- (ii) Criminal justice.

(D) Currently or formerly employed as an ethics officer, or similar position, in a public or private organization, aligning the practices of that organization with the stated ethical standards of the organization or enforcing the ethical standards or codes of the organization.

(2) At least two members meeting the special qualifications must be assigned to each five-member panel.

(3) No member of the commission may be:

- (A) a city official or the relative of a city official;
- (B) a city employee or the relative of a city employee;
- (C) an elected public official;
- (D) a candidate for elected public office;
- (E) a person who, for compensation, represents the private interests of others before the city council;
- (F) a paid campaign worker or a political consultant of a current city council member; or
- (G) a current or former member of a bar association who has had his or her law license suspended or revoked.

**SEC. 12A-50. JURISDICTION AND POWERS.**

(a) Jurisdiction.

(1) The ethics advisory commission shall have jurisdiction to review and make findings concerning any alleged violation of the laws, ordinances, and rules listed in Paragraph (2) by any person subject to those laws, ordinances, or rules, including but not limited to current city officials and employees, former city officials and employees, and persons doing business with the city.

(2) The ethics advisory commission may consider violations of the following laws, ordinances, and rules:

- (A) Section 8-22, “Board Members,” of Article V, “Code of Conduct,”

of Chapter 8, “Boards and Commissions,” of the Dallas City Code;

(B) Chapter 12A, “Code of Ethics, ” of the Dallas City Code;

(C) Chapter 15A, “Elections, ” of the Dallas City Code, except to the extent that Chapter 15A is administered and enforced by the Texas Ethics Commission;

(D) the second sentence of Chapter XVI, Section 16(a) of the city charter, which reads “No officer or employee of the city shall directly or indirectly, in any way be required to contribute to any political campaign, political party, organization which supports candidates for public office, or for any partisan political purpose whatsoever”;

(E) Chapter XXII, Section 11, “Financial Interest of Employee or Officer Prohibited,” of the city charter;

(F) Chapter XXIV, Section 1, “No Officer or Employee to Accept Gift, Etc., From Public Utility,” of the city charter;

(G) Chapter IV, Section 5(b)(5), “Districts and Redistricting,” of the city charter;

(H) Texas Local Government Code Chapter 145, “Financial Disclosure by and Standards of Conduct for Local Government Officers,” as amended;

(I) Texas Local Government Code Chapter 171, “Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments,” as amended;

(J) Texas Local Government Code Chapter 176, “Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information,” as amended;

(K) Section 212.017, “Conflict of Interest; Penalty,” of Texas Local Government Code Chapter 212, “Municipal Regulation of Subdivisions and Property Development,” as amended;

(L) conflicts of interest and gift regulations applicable to local government recipients of federal grants, including Subsection (c) of Section 200.318 of Title 2 of the Code of Federal Regulations, as amended; and

(M) any other city rule or city code or city charter provision pertaining to the ethical conduct of city officials or employees.

(b[3]) Statute of limitations. The commission may not consider any alleged or suspected violation that occurred more than one year before the date of the filing of a complaint or more than one year before the initiation of an investigation by the inspector general. The inspector general Amend Chapter 12A (Code of Ethics) – Page 66 DRAFT

shall not accept, process, or investigate any complaint that is filed more than one year after the date of the alleged or suspected violation. This statute of limitations is tolled during any time an investigation is halted due to ongoing criminal or civil litigation in accordance with Section 12A-47(b)(2).

(c[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.

(d[e]) Powers. The ethics advisory commission has only 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 and dispose of informations [~~complaints~~] brought by the inspector general.

(5) To make findings of fact as necessary for the disposition of an information [~~complaint~~].

(6) To approve, reject, or modify settlement agreements between the inspector general and respondents [~~persons that are the subject of a complaint~~].

(7) To review invoices submitted by outside council and determine whether the legal fees and costs are reasonable and necessary in accordance with Section 12A-48(b).

(8) To make notifications and extend deadlines within the jurisdiction of the ethics advisory commission.

(9[8]) To advise and make recommendations to the city council concerning the city's ethics code and ethics policies.

(10[9]) To make determinations that complainants are vexatious, make findings of facts, and sanction persons who are deemed vexatious complainants.

(11[0]) Such other powers as are specifically granted in this chapter or by the city council.

(e[d]) Subpoenas.

(1) The ethics advisory commission has the power to issue subpoenas in accordance with Section 2-8 to compel [for] the attendance of witnesses and the production of testimony and evidence. [or subpoenas for the production of documents or other evidence] that the ethics advisory commission deems necessary for an evidentiary hearing. The ethics advisory commission may issue a subpoena only after a written request to appear or provide documents or other evidence has not been complied with and after consultation with the city attorney.

(2) At least 14 working days before the hearing, each party may file with the city secretary a request for subpoena of witnesses and documents, in accordance with this subsection:

(A) The request for subpoena of witnesses and documents must include:

(i) the name and address of each witness to be subpoenaed;

(ii) if documents are being subpoenaed, the specific identification of books, papers, documents, or other tangible things sought to be subpoenaed.

(B) The party requesting the subpoena shall notify the subpoenaed witness of postponements, rescheduling, and appearance times.

(C) Either party may object to a subpoena request within seven working days after receiving notice of the subpoena request. Objections to subpoenas must be in writing, submitted to the city secretary, and copied to the opposing party, who has three working days after receipt of the objections to respond in writing to the substantive reasons for the objection.

(D) The city secretary shall forward the written objections and the response to the objections, if any, to the ethics advisory commission panel chair for resolution. If the panel chair is unavailable, the objections must be ruled upon by his or her designee, who shall be a member of the hearing panel.

(E) Each party shall organize and number the responsive information (“the released documents”) before turning it over to the city secretary. The released documents must be provided within an amount of time determined by the panel chair or, if no objections are filed, in an amount of time determined by the city secretary. The city secretary shall provide a complete copy of the released documents to both parties of the hearing, at the expense of the party who issued the subpoena for the documents.

(F) The individual picking up the released documents must sign for the produced information. The requesting party has three working days to submit, in writing, any objections to the completeness of the released documents. The producing party has three working days to respond, in writing, to the substantive reasons for the requesting party’s objections. The city secretary shall maintain one complete copy of the released documents, to allow the panel chair to fully assess and rule on any objections to the completeness of compliance with the subpoena.

(G) The city secretary shall forward the objections and any response to the objections to the panel chair for resolution. If the panel chair is unavailable, the objections will be ruled upon by his or her designee, who shall be a member of the hearing panel.

(H) Decisions rendered by the panel chair (or his or her designee, if applicable) regarding subpoenas or responsive information are final and are not subject to further appeal.

(I) After all decisions have been rendered by the panel chair regarding the scope of documents to be released pursuant to a subpoena, the city secretary shall provide a complete copy of the released documents to both parties of the hearing, at the expense of the party who issued the subpoena for the documents. [A party to an ethics complaint (either the complaining party or the party complained against) may request that the ethics advisory commission issue a subpoena. The ethics advisory commission may issue the requested subpoena for good cause upon a showing of the need for the witness, documents, or other evidence. The ethics advisory commission may refuse the requested subpoena upon a finding that good cause does not exist.

~~(3) A person may object to a subpoena within seven working days after receiving the subpoena. Objections to subpoenas must be in writing and submitted to the city secretary, and copied to the party who requested the subpoena, if any. The party who requested the subpoena shall have three working days after receipt of the objections to respond in writing to the city secretary. The ethics advisory commission shall rule on the objection. Failure to object to a subpoena waives any objection to the subpoena.]~~

(3[4]) Refusal to appear or to produce any document or other evidence after receiving a subpoena pursuant to this section is a violation of this chapter subject to sanctions as described in Section 2-9 of the Dallas City Code.

## **SEC. 12A-51. 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 IX.**

### **ETHICS COMPLAINTS, INVESTIGATIONS, AND EVIDENTIARY HEARINGS.**

## **SEC. 12A-52. ETHICS COMPLAINTS AND INVESTIGATIONS.**

(a) Filing a complaint. Any person may file a complaint with the inspector general on a form provided by the inspector general, if the complainant, either at the time the alleged violation of this chapter occurred or at the time the complaint is submitted, [who] is a resident of the city, a

person doing business or attempting to do business with the city, or a city official or employee, and the complainant [~~either at the time the alleged violation of this chapter occurred or at the time the complaint is submitted, who~~] believes there has been a violation of this chapter [~~may file a complaint with the inspector general on a form provided by the inspector general~~]. The inspector general will receive and investigate all complaints. To the greatest extent possible, the complaint should contain the following information and items:

(1) The name, address, email address, and telephone number of the complainant.

(2) The name, address (if known), email address (if known), and telephone number (if known) of each person who allegedly committed the violation (the respondent(s)).

(3) A statement of the facts on which the complaint is based, including the exact date or dates of the alleged violation.

(4) Identification of the ethics laws, ordinances, and rules allegedly violated, using either a citation to the applicable section or a description containing substantially the same language as the ethics laws, ordinances, and rules (if known).

(5) Copies of the documents or other evidence, if any, referenced in the complaint or in the complainant's possession that support the complaint attached to the complaint. If a complainant submits evidence in an electronic, mechanical, or other format that the inspector general cannot duplicate or display, the inspector general shall request that the complainant [~~person to~~] provide the evidence in a format that the office can duplicate or display.

(6) The names, addresses, email addresses, and telephone numbers (if known) of witnesses, if any, that can offer testimony in support of the complaint.

(7) Other sources of evidence, if any, that the complainant recommends should be considered by the inspector general [~~and the ethics advisory commission~~].

(8) An affidavit in which the complainant swears or affirms, under the penalty of perjury, that:

(A) the complaint states a violation of this chapter;

(B) the complaint is not being presented for any improper purpose, such as to harass, cause unnecessary delays, or needlessly increase the cost of defense to the person charged in the complaint; and

(C) either:

(i) all information submitted in and with the complaint is true and correct; or

(ii) to the best of the complainant's knowledge, ~~[formed after an inquiry reasonable under the circumstances,]~~ the factual contentions in the complaint are supported by credible evidence submitted in and with the complaint.

(b) ~~[Notification. The inspector general shall promptly forward a copy of a complaint to the person charged in the complaint. The person charged in the complaint shall have the opportunity to submit a sworn statement to the inspector general, together with such other information that person believes is relevant.~~

~~(e)]~~ Investigations and findings by the inspector general.

(1) Investigations. ~~[Upon receiving a complaint, t]~~The inspector general shall initiate an investigation to determine if a credible allegation ~~[probable cause]~~ exists to move the complaint to the ethics advisory commission for an evidentiary hearing. ~~["Probable cause" exists when there is a reasonable basis to believe that a violation occurred.]~~ During the investigation, the inspector general may interview witnesses and gather and inspect documents and other evidence relevant to the allegations ~~[complaint]~~.

(2) Dismissals. The inspector general shall dismiss complaints where the evidence does not substantiate a credible allegation ~~[probable cause]~~.

(3) Recommendations of settlement agreements.

(a) Except as provided in this paragraph, i~~[f]~~ a settlement agreement is reached between the inspector general and the respondent ~~[person subject to a complaint]~~, the inspector general's report shall include a recommendation that the complaint be settled according to the terms negotiated with and approved by the respondent ~~[person charged in the complaint]~~. The settlement agreement must include the agreed-upon final sanction, if any. The inspector general shall brief the ethics advisory commission on the settlement agreement at the commission's next regular meeting. The ethics advisory commission may ~~[may approve the settlement agreement by a majority vote or]~~ reject or modify the settlement agreement by a 3/4 vote of the commission or approve the settlement agreement by a simple majority vote at the commission's next regular meeting. If the settlement is not modified or rejected at the commission's next regular meeting, the settlement is deemed approved. If the settlement agreement is rejected by the ethics advisory commission or modified in a way not approved by the respondent ~~[person subject to the complaint]~~, the information ~~[complaint]~~ shall be scheduled for an evidentiary hearing in accordance with Paragraph (4) ~~[Section 12A-51]~~.

(b) This paragraph does not apply to current city employees as the disciplinary process is governed by personnel rules, regulations, and procedures.

(4) ~~[Recommendations of p]~~Prosecution. If the inspector general finds that there exists a credible allegation ~~[is probable cause]~~ that a violation occurred and a settlement agreement has not been reached, the inspector general~~'s report]~~ shall file an information with the ethics advisory commission. Once the commission receives the information, the city secretary's office shall select a panel of the commission and schedule the evidentiary hearing. The inspector

general shall prosecute ~~[include a recommendation that]~~ the complaint ~~[be prosecuted]~~ before ~~the~~ [a] panel ~~[of the ethics advisory commission for an evidentiary hearing]~~ in accordance with Section 12A-53~~[+]~~.

(c) Notification to respondent. Once the inspector general completes an investigation and finds that the complaint is substantiated, the inspector general shall promptly forward a copy of the complaint to the respondent. The inspector general shall notify the respondent of the opportunity to attend a settlement conference.

(d) Confidentiality of complaints and investigations.

(1) No city official or employee shall reveal information relating to a complaint or investigation until it has been made public by the inspector general, except as required for the performance of official duties or as required by law.

(2) *Ex parte* communications by or to members of the ethics advisory commission are prohibited by Section 12A-53~~[+]~~(b) of this chapter.

(3) All papers and communications relating to a complaint or investigation are confidential unless required to be made public under the Public Information Act (Chapter 552, Texas Government Code) or other applicable law.

(e) Compliance with investigations. City officials and employees shall cooperate with inspector general investigations.

(f) False accusations and responses. The inspector general shall, in writing, advise all witnesses interviewed during an ethics investigation that falsely accusing someone of a violation of this chapter may result in criminal prosecution of anyone who knowingly makes a false accusation. The inspector general 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.

## **SEC. 12A-53. HEARING PROCEDURES.**

(a) Rules of procedure. ~~Evidentiary hearings must be conducted in accordance with this section and the rules of procedure adopted by the ethics advisory commission. [Evidentiary hearing. After a complaint is filed with referred to the ethics advisory commission by the inspector general for an evidentiary hearing, the city secretary shall assign the complaint to a panel of the ethics advisory commission for disposition and schedule the hearing. Not less than 10 days before the hearing, the inspector general shall, by certified mail or personal service, give written notice of the hearing to the person about whom the complaint was made. If a person entitled to notice under this subsection consents in writing, the inspector general may give written notice by facsimile, email, or first class U.S. mail. The notice must state the specific provision or provisions of this chapter alleged to have been violated, as determined by the inspector general's investigation and report to the ethics advisory commission.]~~



(b) Ex p[~~P~~arte communications. It is a violation of this chapter for:

(1) the complainant, a witness, the respondent, the inspector general [~~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 or information 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 (b)(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 or information.

#### **[~~SEC. 12A-54.~~ 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 or settled.]~~

(c[b]) Burden of proof [~~General rules~~]. A determination that a violation of this chapter has occurred can be made only upon a concurring vote of at least 3/4 of the members of a panel. A finding that a violation occurred must be supported by a preponderance of the [~~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.~~]

(d[e]) Procedural rules. A quorum of four commission panel members must be present for a hearing. Any member of the commission who is not present at a hearing where testimony is given on a complaint may not participate in any discussion, voting, or disposition regarding the complaint. All witnesses must be sworn before any testimony is presented to the panel. The panel [~~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 (e) and (f).

(e[d]) Role of the inspector general. In prosecuting the complaint, the inspector general may make a statement and present and cross-examine witnesses.

(f[e]) Rights of the respondent [~~person charged~~]. The respondent [~~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 represent themselves or be represented by legal counsel or another advisor. If the respondent does not attend the hearing to provide a defense, the hearing panel may proceed with the hearing to final determination.

(g[f]) Rights of the complainant. The complainant has the right to attend the hearing.

**SEC. 12A-54[2]. DISPOSITION OF COMPLAINT.**

(a) Written decision. The ethics advisory commission panel shall make all reasonable efforts to issue a written decision within 20 days after the conclusion of an evidentiary hearing. 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. Within 10 days after issuing a written decision, the ethics advisory commission panel shall forward copies of the written [~~findings and~~] decision to [~~the complainant,~~] the respondent [~~person charged in the complaint~~], the city attorney, the city council, the inspector general, the person or body to whom the particular complaint must be referred for sanctions, 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 by a panel of the ethics advisory commission 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.

**ARTICLE X.**

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

**SEC. 12A-55[3]. GENERAL.**

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

**SEC. 12A-56[4]. VIOLATIONS; PENALTY.**

A person who violates any of the laws, ordinances, and rules listed in Section 12A-50[48](a)(2), or who fails to perform an act required of the person by any of the laws, ordinances, and rules listed in Section 12A-50[48](a)(2), commits a violation of this chapter.

**SEC. 12A-57[5]. 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-58[56]. 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 sanction ~~[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 sanction ~~[matter]~~ must be decided by the city council in accordance with the city charter.

(d) If the civil service director, the park and recreation director, or the employees' retirement fund administrator fails to comply with this chapter or violates this chapter, they may be disciplined in accordance with the personnel rules and the sanction ~~[matter]~~ must be decided by their respective boards.

(e) If the city manager, city attorney, city auditor, city secretary, or a municipal judge fails to comply with this chapter or violates this chapter, they may be disciplined in accordance with the personnel rules and the sanction ~~[matter]~~ must be decided by the city council.

(f) If a former city official or former city employee fails to comply with this chapter or violates this chapter, the sanction ~~[matter]~~ must be decided by the city council.

(g) If a person who is not a current or former city official or a current or former city employee fails to comply with this chapter or violates this chapter, the sanction ~~[matter]~~ must be decided by city council.

(h) Settlement agreements approved by the ethics advisory commission must include the final sanction, if any.

## **SEC. 12A-59[7]. SANCTIONS.**

(a) In determining sanctions based on a recommendation of the ~~[inspector general and the]~~ ethics advisory commission, the person or entity imposing the sanction shall take into consideration the recommendation of the ~~[inspector general, the]~~ ethics advisory commission and the following factors:

- (1) The culpability of the person charged.
- (2) The harm to public or private interests resulting from the violation.
- (3) The necessity of preserving public trust in the city.
- (4) Whether there is evidence of a pattern of disregard for ethical standards.

(5) Whether remedial action has been taken that will mitigate the adverse

effects of the violation.

(b) For current city employees, the sanctioning person shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The sanctioning person may require a city employee to attend ethics training. When recommending a referral to ethics training, the ethics advisory commission shall include in the recommendation the manner and quantity of training based on the type and severity of the violation.

(2) Referral for damages or injunction. The sanctioning person may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The sanctioning person may refer the violation to the Dallas Police Department, if the sanctioning person [entity] finds that the violation warrants criminal prosecution.

(c) For the civil service director, the park and recreation director, or the employees' retirement fund administrator, the sanctioning entity shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The sanctioning entity may require the person to attend ethics training. When recommending a referral to ethics training, the ethics advisory commission shall include in the recommendation the manner and quantity of training based on the type and severity of the violation.

(2) Referral for damages or injunction. The sanctioning entity may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The sanctioning entity may refer the violation to the Dallas Police Department, if the sanctioning entity finds that the violation warrants criminal prosecution.

(d) For the city manager, city attorney, city auditor, city secretary, or a municipal judge, the city council shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The city council may require the person to attend ethics training. When recommending a referral to ethics training, the ethics advisory commission shall include in the recommendation the manner and quantity of training based on the type and severity of the violation.

(2) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution.

(e) For a city council member, a board or commission member, a former city official, or a former city employee, the city council may impose any of the following sanctions:

(1) Letter of notification. The city council may issue a letter of notification if the city council finds that a violation of this chapter was clearly unintentional. A letter of notification must advise the person of any steps to be taken to avoid future violations.

(2) Letter of admonition. The city council may issue a letter of admonition if the city council finds that the violation of this chapter was minor, but where the circumstances call for a more substantial response than a letter of notification.

(3) Referral to ethics training. The city council may require a current city official to attend ethics training. When recommending a referral to ethics training, the ethics advisory commission shall include in the recommendation the manner and quantity of training based on the type and severity of the violation.

(4) Reprimand. The city council may issue a reprimand if the city council finds that a violation of this chapter was not minor and was committed intentionally or through reckless disregard of this chapter.

(5) Resolution of censure. The city council may adopt a resolution of censure if the city council finds that a serious or repeated violation of this chapter has been committed intentionally or through reckless disregard of this chapter and the violation substantially threatens the public trust.

(6) Voiding of prior actions. The city council may, to the extent allowed by law, void any prior city council or city board or commission action that approved any decision, agreement, award, or contract if the action was taken as a result of a violation of this chapter and the interests of the city require voiding of the prior action.

(7) Suspension from office. The city council may suspend a current city official other than a city council member from office for a period determined by the city council if the city council finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter. Any proceedings for suspension of a current city official shall be in compliance with the city charter and state law.

(8) Removal from office. The city council may remove a current city official, including a city council member, from office if the city council finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter and future violations are likely to occur. Any proceedings for removal of a current city official from office shall be in compliance with the city charter and state law.

(9) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(10) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution.

(f) For a person who is not a current or former city official or a current or former city employee (e.g., lobbyists, people doing business with the city, resident), the city council may impose any of the following sanctions:

(1) Letter of notification. The city council may issue a letter of notification if the city council finds that a violation of this chapter was clearly unintentional. A letter of notification must advise the person of any steps to be taken to avoid future violations.

(2) Letter of admonition. The city council may issue a letter of admonition if the city council finds that the violation of this chapter was minor, but where the circumstances call for a more substantial response than a letter of notification.

(3) Reprimand. The city council may issue a reprimand if the city council finds that a violation of this chapter was not minor and was committed intentionally or through reckless disregard of this chapter.

(4) Resolution of censure. The city council may adopt a resolution of censure if the city council finds that a serious or repeated violation of this chapter has been committed intentionally or through reckless disregard of this chapter and the violation substantially threatens the public trust.

(5) Disqualification from contracting or lobbying. The city council may, to the extent allowed by law, prohibit the person from entering into contracts with the city or from lobbying before the city on behalf of clients. The scope and duration of the disqualification shall be determined by the city council.

(6) Voiding of prior actions. The city council may, to the extent allowed by law, void any prior city council or city board or commission action that approved any decision, agreement, award, or contract if the action was taken as a result of a violation of this chapter and the interests of the city require voiding of the prior action.

(7) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(8) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution.

**SEC. 12A-60[58]. PROSECUTION FOR PERJURY.**

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

**SEC. 12A-61[59]. INTERFERENCE WITH AN INVESTIGATION.**

A person commits an offense if the person interferes with any investigation of an alleged violation of this chapter in any manner, including seeking to persuade or coerce others to withhold their cooperation.

**SEC. 12A-62[0]. 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).

(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-63[4]. VEXATIOUS COMPLAINANTS.**

(a) Definition. A vexatious complainant is someone who persistently files ethics complaints without having sufficient grounds for doing so. Vexatious complainants file complaints that [~~are meant~~]:

(1) [~~to~~] abuse the investigative process of the inspector general; [~~or~~]

(2) [~~to~~] harass, annoy, cause delay or detriment to a person subject to a complaint; [~~or~~]

(3) are repeatedly baseless and without merit; or

(4) are filed for a political or other wrongful purpose.

(b) Report and recommendation of the inspector general. If the inspector general credibly ~~[has probable cause to]~~ suspects a person of being a vexatious complainant, the inspector general shall submit a report to the ethics advisory commission chair detailing the facts supporting the inspector general's position and requesting a hearing on the matter.

(c) Stay of complaints ~~[Effect of order to show cause].~~ Once the inspector general has submitted a vexatious complainant report to the ethics advisory commission, the inspector general shall not accept or process another complaint from the complainant until the commission has determined whether the complainant is a vexatious complainant.

(d) Notification. The inspector general shall promptly forward a copy of the report to the complainant with instructions detailing the response and hearing procedures.

(e) Response. The complainant shall have the opportunity to submit a sworn response, together with such other information the complainant ~~[he or she]~~ believes is relevant. The response must be submitted to the inspector general within 10 days after the date that the complainant was sent the inspector general's report. Copies of all information provided to the inspector general by the complainant ~~[or the person charged in the complaint]~~ must be distributed to the ethics advisory commission within 10 days after the inspector general receives the information.

(f) Format of evidence. If a complainant submits evidence in an electronic, mechanical, or other format that the inspector general cannot duplicate or display, the inspector general shall request the complainant provide the evidence in a format that the inspector general can duplicate or display. If the complainant fails to provide the evidence to the city inspector general in a format that the inspector general can duplicate or display within seven days after the inspector general has made a request, then the evidence may not be presented to or considered by the ethics advisory commission when making its determination.

(g) Evidentiary hearing. The ethics advisory commission shall hold a hearing to determine whether the complainant ~~[complaint]~~ is a vexatious complainant ~~[frivolous complaint]~~. Not less than 10 days before the hearing, the inspector general shall, by certified mail or personal service, give written notice to the complainant of the date, time, and place of the hearing. If the complainant consents in writing, the inspector general may give written notice by facsimile, email, or first class U.S. mail.

(h) Ex p[~~P~~]arte communications. It is a violation of this section for:

(1) the complainant, the inspector general, 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 an evidentiary hearing under this section with any 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 (h)(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 an evidentiary hearing under this section.

(i) Hearing procedures ~~[rules]~~. Unless otherwise provided in this section, the procedures ~~[rules]~~ for hearings in Section 12A-53~~[2]~~ apply to hearings conducted in accordance with this section.

(j) Rights of the complainant. The complainant 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.

(k) Standard of review. In determining whether a complainant ~~[complaint]~~ is a vexatious complainant, the ethics advisory commission may consider the inspector general's report and additional evidence of:

(1) the timing of the complaints with respect to when the facts supporting the alleged violations became known or should have become known to the complainant;

(2) the nature and type of any publicity surrounding the filing of the complaints;

(3) the existence and nature of any relationship between the persons charged in the complaints and the complainant before the complaints were filed;

(4) whether the complainant knew or reasonably should have known that the allegations in the complaints were groundless or without merit; and

(5) the complainant's motives in filing the complaints, including whether or not the complaints were meant:

(~~A~~[1]) to abuse the investigative process of the inspector general; ~~[or]~~

(~~B~~[2]) to harass, annoy, cause delay or detriment to a person subject to a complaint; or

(~~C~~[3]) for a political or other wrongful purpose.

(l) Determination. A determination that a complainant is a vexatious complainant may be made only upon an affirmative vote of three-fifths of all commission members present and voting. Otherwise, the complainant is not deemed a vexatious complainant. A finding that a complainant is vexatious must be supported by a preponderance of the ~~[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.]~~ The commission's determination that a complainant is not a vexatious complainant does not affect the prior decision of the inspector general to dismiss the complainant's prior complaints.

(m) Sanction for being deemed a vexatious complainant.

(1) If a complainant [~~claimant~~] is determined to be a vexatious complainant, the ethics advisory commission, may prohibit the complainant from filing another complaint alleging one or more violations of this chapter for up to:

(A) two years after the date of the commission's determination that the complainant [~~complaint~~] is a vexatious complainant, if the commission had not determined within the preceding five years that the complainant [~~complaint~~] was a vexatious complainant; or

(B) four years after the date of the commission's determination that the complainant [~~complaint~~] is a vexatious complainant, if the commission had determined within the preceding five years that the complainant [~~complaint~~] was a vexatious complainant.

(2) When determining whether and for how long to prohibit a complainant who has been deemed a vexatious complainant from filing another complaint under this chapter, the ethics advisory commission shall consider the following factors:

(A) The seriousness of the potential consequences to the persons charged in the groundless complaints and the extent and gravity of the abuse, harassment, and delay resulting from the filing of groundless complaints.

(B) The sanction necessary to deter future violations, including number of groundless complaints filed and whether there are any mitigating circumstances.

(C) Any other matters that justice may require.

(3) If the ethics advisory commission prohibits the complainant from filing another complaint for a specific amount of time under Subsection (m)(1), the inspector general shall not accept or process another complaint alleging one or more violations of this chapter from the complainant during the time that the complainant is prohibited from filing a complaint.

(4) The inspector general may notify the appropriate regulatory or supervisory agency of the findings and determination of the ethics advisory commission, including referring its findings and determination to a criminal investigation agency or prosecution entity for investigation of a violation of a state or federal law.

(n) Written decision. If the ethics advisory commission determines that a complainant is a vexatious complainant and imposes a sanction, it shall make all reasonable efforts to issue a written decision within 15 days after the hearing. The commission shall state its findings in the written decision.

(o) Notification. Within 10 days after issuing a written decision, the ethics advisory commission shall forward copies of the findings and decision to the complainant, the city attorney, the city secretary, the city council, and any member of the commission who did not participate in the disposition of the matter. The city secretary shall make copies of the findings and decision

available to the public as authorized by law.

**ARTICLE XI.**

**ADMINISTRATIVE PROVISION.**

**SEC. 12A-64[2]. CITY COUNCIL REVIEW.**

This entire chapter shall be reviewed by city council every two years in even-numbered years beginning in January 2024, and every other January thereafter.”

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That Chapter 12A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That except for Article IX, this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained. Article IX shall take effect 45 days after the start date of the inspector general.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, Interim City Attorney

By \_\_\_\_\_  
Assistant City Attorney

Passed \_\_\_\_\_