

ARTICLE 1.12 CODE OF ETHICS

Sec. 1.12.001 Statement of Purpose.

Accepting a position as a public official and/or employee carries with it the acceptance of trust that the official/employee will work to further the public interest; maintaining that public trust is critical to the continued operation of good government. In addition, public decision-making should be open and accessible to the public at-large. To preserve the public trust, there are five principles to which public officials and/or employees should adhere: (i) a public official and/or employee represent and work towards the public interest and not towards private or personal interests, (ii) a public official and/or employee should accept and maintain the public trust to the degree that preserves and enhances the public's confidence in their public officials and/or employees, (iii) a public official and/or employee should exercise leadership in the form that consistently demonstrates behavior that reflects the public's trust, (iv) a public official and/or employee should recognize the proper role of all government bodies and the relationships between various government bodies and (v) a public official and/or employee should always demonstrate respect for others and for other positions.

Sec. 1.12.002 Definitions.

For the purpose of this Code of Ethics, the following words and phrases shall have the meanings ascribed to them by this section.

Advisory Board shall mean a board, commission or committee of the City that functions only in an advisory or study capacity.

Business Entity shall mean a sole proprietorship, partnership, firm, corporation, association, holding company, jointstock company, receivership, trust or any other entity recognized by law.

Employee shall mean any person employed by the City of Iowa Park, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

Knowingly shall mean a person acts knowingly, or with knowledge, with respect to the nature of his/her conduct or to circumstances surrounding his/her conduct when he/she is aware of the nature of his/her conduct or that the circumstance exist. A person acts knowing or with knowledge, with respect to a result of his/her conduct when he/she is aware that his/her conduct is reasonably certain to cause the result.

Officer shall mean any member of the City Council, the Planning and Zoning Commission, the Board of Adjustment, the governing bodies of the Economic and Community Development Corporations and any member of a board, commission, task force or committee established by ordinance, resolution, charter or state law that has final approval authority over any application, permit, license or other City approvals provided however; no members of an advisory board shall be deemed an officer of the City.

Substantial Interest shall mean:

- A. A person has a substantial interest in the business entity if:
- (1) the interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent (10%) or more or five thousand dollars (\$5,000.00) or more of fair market value of the business entity (see Section 171.002, Texas Local Government Code); or
 - (2) funds received by the person from the business entity exceed ten percent (10%) of the person's gross income for the previous year (see Section 171.002, Texas Local Government Code); or
 - (3) the person holds a position of member of the board of directors or other governing board of the business entity; or
 - (4) the person serves as an elected officer of the business entity; or
 - (5) the person is an employee of the business entity; or
 - (6) the person is a creditor, debtor or guarantor of the business entity in the amount of five thousand dollars (\$5,000.00) or more; or
 - (7) property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount of five thousand dollars (\$5,000.00) or more.
- B. A person does not have a substantial interest in a business entity if:
- (1) the person has been designated by the City Council to serve as a member of the board of directors or other governing board of a business entity; and
 - (2) the person receives no remuneration, either directly or indirectly, for his/her service on such board; and
 - (3) the primary nature of the business entity is either charitable, non-profit or governmental.
- C. A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of two thousand five hundred dollars (\$2,500.00) or more (see Section 171.002, Texas Local Government Code).
- D. A person has a substantial interest under this ordinance if the person's spouse or a person related to the person in the first degree by consanguinity or affinity has a substantial interest under this ordinance

(see Section 171.002, Texas Local Government Code). A person is related in the first degree of consanguinity to his/her father, mother, brother, sister, son or daughter. A person is related in the first degree of affinity to his/her father-in-law, mother-in-law, brother's spouse, sister's spouse, son-in-law or daughter-in-law.

Sec. 1.12.003 Standards of Conduct.

No councilor, board member, officer or employee, directly or indirectly or by others on his/her behalf or his/her request or suggestion, shall:

- (a) engage in any private business, transaction or employment, or have any substantial interest therein, which is incompatible or in conflict with the proper and impartial discharge of his/her duties on behalf of the City;
- (b) represent any private party before the public body on which the official sits or over which the official has appointment or budgetary powers;
- (c) disclose without authorization or use to further a personal interest, confidential information acquired in the course of his/her official duties;
- (d) grant or influence the granting of any special consideration, advantage or favor, to any person, group, firm or corporation, beyond that which is the general practice to grant or make available to the public at-large;
- (e) with the exception of occasional, non-pecuniary gifts, accept anything of economic value such as money, service, gift, loan gratuity, favor or promise thereof for the purpose and intent of which is to influence any such councilor, board member, officer or employee of the City in the exercise of his/her official judgment, power or authority;
- (f) make personal use of staff, vehicles, equipment, materials or property of the City except in the course of his/her official duties or as duly authorized by the proper City councilor, board member, officer or employee;
- (g) participate in the appointment, vote for appointment or discussion of any appointment of an immediate family member or business associate or use his/her position, directly or indirectly, to effect the employment status of an immediate family member or business associate to any City office or position, paid or unpaid;
- (h) receive or have any financial interest in any sale to the City of any real estate when such financial interest was received under circumstances which would lead a reasonable person to expect that the City intended to purchase, condemn or lease said real estate.

Sec. 1.12.004 Ex-Parte Communications.

In any such quasi-judicial matter (e.g. personnel decisions, condemnation proceedings, zoning rules, matters involving the issuance of a permit or approval) or the award of a contract before the Council, Board, Commission or Committee, a public councilor, board member or officer sitting on such Council, Board, Commission or Committee, shall not, outside of that Council, Board, Commission or Committee, communicate with or accept a communication from a person for which there are reasonable grounds for believing to be a party to the matter being considered, if such communication is designed to influence the councilor's, board member's or officer's action on that matter. If such communication should occur, the councilor, board member or officer shall disclose it at an open meeting of the Council, Board, Commission or Committee prior to its consideration of the matter.

Sec. 1.12.005 Disclosure of Interest and Recusal Procedures.

Whenever a matter comes before the Council, Board, Commission or Committee, as to which any conflict of interest standard, as prescribed in Section 1.12.003 of this Code of Ethics, applies to one of its members, the following provisions shall apply:

- (a) A councilor, board member, officer or employee shall disclose the existence of any substantial interest in a business entity or real property involved in any decision pending before such councilor, board member, officer or employee, or the body of which the councilor, board member, officer or employee is a member. To comply with this subsection, a councilor, board member or officer, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Section 171.004 of the Texas Local Government Code or, if not so required, shall publicly disclose in the official records of the governing body or to the City Secretary, the nature of the interest. To comply with this subsection, an employee of the City shall notify his/her superior in writing of the nature of any substantial interest he/she may have in a business entity or real property that would be affected by an exercise of discretionary authority by such employee and such superior shall assign the matter to another employee.
- (b) Following such disclosure, such councilor, board member or officer shall not participate in any consideration, discussion or vote on the matter before the Council, Board, Commission or Committee. If the councilor, board member or officer wishes to address the issue at an open public meeting, said councilor, board member or officer may participate as a member of the public. During deliberation and vote on the matter, the councilor, board member or officer may participate as a

member of the public. The councilor, board member or officer may attend an executive session to discuss the matter at the invitation of the Council, Board, Commission or Committee, if such attendance complies with the statutory requirements of the Open Meetings Act.

- (c) The councilor, board member or officer shall not, during any part of the Council, Board, Commission or Committee meeting pertaining to the matter requiring the disclosure, represent, advocate on behalf of or otherwise act as the agent of the person or business entity in or with which the councilor, board member or officer has such an interest or relationship.
- (d) The foregoing shall not be construed as prohibiting the councilor, board member or officer from testifying as to factual matters at a hearing of the City Council, the Planning and Zoning Commission, the Board of Adjustment, either Boards of the Economic and Community Development Corporations or any other board, commission or committee.

Sec. 1.12.006 Advisory Opinions.

- (a) Where any councilor, board member, officer or employee has a doubt as to the applicability of any provision of this Code of Ethics to a particular situation, or as to the definition of terms used herein, he/she may apply to the City Attorney, by way of the City Manager, for an advisory opinion. The councilor, board member, officer or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicability of provisions of said Code of Ethics before such advisory opinion is made.
- (b) Until amended or revoked, any advisory opinion shall be binding on the City, the City Council and the City Attorney in any subsequent actions concerning the councilor, board member, officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

Sec. 1.12.007 Reporting of Ethics violation.

- (a) The City Council shall have the primary responsibility for the enforcement of this Code of Ethics. Said Council may direct the City Attorney to investigate or prosecute any apparent violation of this Code or it may employ or appoint any qualified attorney to investigate or prosecute any violation or series of violations of this Code by one or more persons. At the direction of the City Council, the attorney shall have the power to investigate any complaint, to initiate any suit and to prosecute any action on behalf of the City where such action is appropriate.

- (b) Any person who believes that a violation of any portion of the Code of Ethics has occurred, may file a complaint with the City Council who may then proceed as provided in subsection (a) above however; nothing in this Code shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

Sec. 1.12.008 City of Iowa Park Ethics Commission.

- (a) If the City Attorney finds merit to the reported ethics violation and the measure does not call for prosecution through civil or criminal court, the Council may use an Ethics Commission to provide a recommendation on the question if and what level of discipline should be applied to the offending councilor, board member, officer or employee.
- (b) The City of Iowa Park Ethics Commission shall consist of five (5) members, all of whom shall be citizens of the City of Iowa Park and serve without compensation. The five-member Commission shall be chosen by the City Council in a manner that ensures fair and unbiased representation from members of the general public who have no connection with the person under investigation nor with the facts. The City Attorney shall furnish the Ethics Commission whatever legal assistance necessary in carrying out its functions. The Ethics Commission shall select one of its members as a chairperson and one as a secretary; said secretary does not have to be one of the five appointed Ethics Commission members.
- (c) The Ethics Commission will report their recommendation for disposition to the City Council.
- (d) During all stages of any investigation or proceeding conducted under this subsection, the person whose activities are under investigation shall be entitled to be represented by counsel of his own choosing.
- (e) The person under investigation or his representative shall have an adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses, establish all pertinent facts and circumstances and question or refute any testimony or evidence.
- (f) Upon conclusion of the hearing, the Ethics commission shall file its recommendation within five (5) working days in writing signed by all participating Commission members and refer the matter to the City Council for its consideration.

Sec. 1.12.009 Penalties, Forfeited Position, Exemptions; Injunctions.

- (a) Except where otherwise provide by State law, it is not the intent of this Code of Ethics that violations therefore be subject to criminal penalties.

- (b) Whenever the City Council has determined that any councilor, board member, officer or employee has violated any provision of said Code of Ethics, such councilor, board member, officer or employee shall be subject to discipline.
- (c) The City Council may apply levels of discipline to the councilor, board member, officer or employee ranging from private consultation, admonishment, censure and reprimand. The Council may also choose to have the board member or officer forfeit their seat however; this level of discipline can not be used on elected Council members.
- (d) The City Council may exempt from provisions of this Code of Ethics any conduct found to constitute a violation by a councilor, board member, officer or employee if it finds that the enforcement of this Code with respect to such conduct is not in the public interest.
- (e) Any contract or transaction which was the subject of an official act or action of the City in which there is an interest prohibited by this Code or which involved the violation of a provision of this Code, shall be voidable at the option of the City Council.

Sec. 1.12.010 Distribution of Code of Ethics.

The City Secretary shall cause a copy of this Code of Ethics to be distributed to every councilor, board member, officer and employee of the City within thirty (30) days after the enactment of said Code. Each councilor, board member, officer and employee thereafter elected or appointed shall be furnished a copy of said Code of Ethics before entering upon the duties of his/her office or position and shall sign a written statement acknowledging receipt of the copy of the Code of Ethics.