

ORDINANCE NO. 088-039

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, PROVIDING DEFINITIONS; PROVIDING A POLICY; PROVIDING STANDARDS OF CONDUCT; PROHIBITING CONFLICT OF INTEREST; PROVIDING FOR RECEIPTS; PROHIBITING ACCEPTING EMPLOYMENT FROM ENTITY REGULATED BY CITY; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That Chapter 2 of the Code of Ordinances, Town of Addison, Texas, is hereby amended to add Secs. 2-2 through 2-7 to read as follows:

Sec. 2-2. Definitions. As used in this article, the following words shall have the meanings herein ascribed to them:

"Board" means a board, commission or committee which is established by City ordinance, City Charter interlocal contract or state law and any part of whose membership is appointed by the City Council.

"Business Entity" or "Entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust or any other Entity recognized in law.

"City" or "Town" means the Town of Addison, Texas.

"Employee" means a person employed or paid a salary by the City on a full-time basis excluding officers as that term is defined hereinafter.

"Incidental Interest" means an interest in a person, Entity or property which is not a substantial interest and which has insignificant value, or which

would be affected only in a de minimis fashion by a decision. This chapter does not establish dollar limits on the terms "insignificant value" and "de minimis," which shall have their usual meanings and be subject to interpretation on a case by case basis.

"Interest" or "Benefit" means anything reasonably regarded as economic gain or economic advantage, other than Incidental or Remote Interests. The term applies to the Official and also to any person who is related to such Official within the second degree by consanguinity or affinity.

"Officer" means the Mayor and members of the City Council.

"Official" means Officers, Employees and members of any Board which is established by City ordinances, City Charter, interlocal contract, or state law and any part of whose membership is appointed by the City Council.

"Remote Interest" means an interest of a person or Entity, including an Official who would be affected in the same way as the general public. The interest of a councilmember in the property tax rate, general City fees, City utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.

Sec. 2-3. Policy.

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

(1) Officials be independent, impartial and responsible only to the people of the City;

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

(3) no Official have any Interest, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest;

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

(5) the City Council at all times be maintained as a nonpartisan body; and

(6) Officials fully comply with state statutes, as amended, concerning conflicts of interest.

(b) To implement this policy, the City Council has determined that it is advisable to enact this code of ethics for all Officials, whether elected or appointed, paid or unpaid, advisory or administrative, to serve not only as a guide for official conduct of the City's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

Sec. 2-4. Standards of conduct. No Official shall:

(a) accept or solicit any money, property, service or other thing of value by way of gift, favor, loan or otherwise which he knows or should know is being offered or given with the intent to unlawfully influence said person in the discharge of official duties, or in return for having exercised or performed official duties;

(b) use his official position to secure special privileges or exemptions for himself or others;

(c) grant any special consideration, treatment or advantage to a person or organization beyond that which is available to every other person or organization (this shall not prohibit the granting of fringe benefits to City Employees as a part of their contract of employment or as an added incentive to the securing or retaining of Employees);

(d) disclose information that could adversely affect the property or affairs of the City, or directly or indirectly use any information understood to be confidential which was gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others;

(e) transact any business on behalf of the City in his official capacity with any Entity with which he is an officer, agent or member or in which he has an Interest. In the event that such a circumstance should arise, then he shall make known his interest, and:

(1) in the case of an Officer or Board member, refrain from discussing the matter at any

time with the members of the body of which he is a member or any other body which will consider the matter and abstain from voting on the matter; or

(2) in the case of an Employee, turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further to do with the matter involved;

(f) accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the City, or which might impair his independent judgment in the performance of his public duty;

(g) personally provide services for compensation, directly or indirectly, to a person, Entity or organization who is requesting an approval, investigation, or determination from the body or department of which the Officer or Employee is a member. This restriction does not apply to outside employment of an Officer if the employment is the Officer's primary source of income.

(h) receive any fee or compensation for his services as an Officer or Employee of the City from any source other than the City, except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a public or private organization that he performs for the City if there is no conflict with his City duties and responsibilities.

(i) In the case of a member of the City Council or an Employee, personally represent, or appear in behalf of, the private interests of others:

(a) before the City Council or any City Board or department;

(b) in any proceeding involving the City; or

(c) in any litigation to which the City is a party.

(j) in the case of a Board member, personally represent or appear in behalf of, the private interests of others:

(a) before the Board of which he is a member;

(b) before the City Council;

(c) before a Board which has appellate jurisdiction over the Board of which he is a member; or

(d) in litigation to which the City is a party if the interests of the person being represented are adverse to the City and the subject of the litigation involves the Board on which the Board member is serving or the department providing support services to that Board.

(k) use his official position or City-owned facilities, personnel, equipment, supplies, vehicles, printing facilities, postage facilities, long-distance telephone services or any other resources for private purposes, personal advantage, pecuniary gain for such Official or for others or for any political campaign for himself or others;

(l) use the prestige of his position with the City in behalf of any political party;

(m) knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the City ordinances, rules or regulations or the achievement of official City programs;

(n) engage in any dishonest or criminal act or any other conduct prejudicial to the government of the City or that reflects discredit upon the government of the City;

(o) make false reports to the City concerning attendance at meetings, expense accounts or for any other act which would entitle him to remuneration or reimbursement.

Sec. 2-5. Prohibition on conflict of interest. An Official may not participate in a vote or decision on a matter affecting a person, Entity or property in which the Official has an Interest; in addition, an Official who serves as a corporate officer or member of the board of directors of a nonprofit Entity which is not appointed by the City Council may not participate in a vote or decision regarding funding by or through the City for the Entity. Where the interest of an Official in the subject matter of a vote or decision is Remote or Incidental, he may participate in the vote or decision and need not disclose the interest.

Sec. 2-7. Accepting employment from an Entity regulated by City prohibited. An Employee in a position which involves significant reporting, decision-making, advisory, regulatory or supervisory responsibility who leaves the service or employment of the City shall not, within six (6) months after leaving that service or employment, seek or accept employment from an Entity which had appeared for formal action or decision before the body of which such Employee was a member or which had been subject to the Employee's regulation or inspection during such Employee's employment with the City.

SECTION 2. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

SECTION 4. (a) The failure of any Officer or Employee to comply with this article or the violation of one or more of the standards of conduct set forth in this article, which apply to him, shall constitute grounds for expulsion, reprimand, removal from office or discharge; in addition, such failure to comply is an offense and the violator shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty of fine only not to exceed the sum of Four Hundred and no/100 Dollars (\$400.00) for each offense, and each and every day such

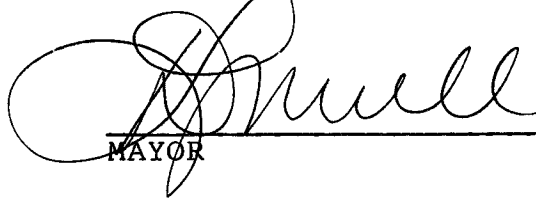
offense is continued shall constitute a new and separate offense.

(b) In the case of an Employee of the City, disciplinary action and appeals therefrom shall be in conformance with applicable procedures established by the City Charter and personnel rules and regulations. In the case of a City Councilman, the matter shall be decided by a vote of two-thirds of the entire membership of the City Council. In the case of members of Boards, the matters shall be decided by the City Council. The decision of these bodies shall be final in the absence of bias, prejudice or fraud.

SECTION 5. The fact that the present code of Ordinances does not provide for standards of conduct, and therefore is inadequate to properly safeguard the general public health and safety, creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

DULY PASSED by the City Council of the Town of Addison, Texas, this the 13th day of September, 1988.

APPROVED:

  
MAYOR

ATTEST:

  
CITY SECRETARY

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