

CITY OF MARBLE FALLS

ARTICLE IX. CODE OF ETHICS

Sec. 2-261. Definitions.

The terms used in this article shall have the following meanings:

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

Candidate. This term has the meaning assigned by section 251.001, Election Code.

City official means the mayor, every member of the city council, the city manager, the city secretary, the city attorney, the city engineer and all members of any commission, committee, or board appointed by the city council or the mayor.

Confidential information means any information that a city official would be privy to because of the official's position but otherwise is not available to the public under the provisions of the Texas Public Information Act (VTCA Government Code, ch. 552).

Conflict disclosure statement means the Texas Ethics Commission disclosure statement form required by VTCA, ch. 176 of the Local Government Code.

Conflict of interest questionnaire means the Texas Ethics Commission conflicts of interest form required by VTCA, ch. 176 of the Local Government Code.

Economic benefit means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Economic interest means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than five thousand dollars (\$5,000.00). Service by a city official as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an economic interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in the securities or other assets unless the city official participates in the management of the fund. A city official does not have an economic interest in a matter if the economic impact on the city official is indistinguishable from the impact on the public or on the particular group affected by the matter.

Family member means the spouse, parent or child, and the parents of a spouse, city official, or appointee.

Gift means a favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust.

Income means economic benefit received.

Indirect ownership means an equity interest in a business entity where the interest is held through a series of business entities, some of which own interests in others.

Property means real estate, personal items, equipment, goods, crops, livestock, or an equitable right to income from real estate, personal items equipment, goods, crops, or livestock.

Second degree of consanguinity or affinity is defined through a chart in subsection 2-262(c)(4).

Source of income means any business entity, employment, investment, or activity which earned or produced income, including interest, dividends, royalties or rents, which has been paid to or for the credit of a city official, candidate, or family member or which would be taxable to said city official, candidate, or family member under the United States Internal Revenue Code, as amended, even though not actually paid or credited.

Substantial interest means an interest in a business entity by a city official and/or a family member.

- (1) Owns ten (10) percent or more of voting stock or shares of the business entity;
- (2) Owns ten (10) percent or more or fifteen thousand dollars (\$15,000.00) or more of the fair market value of the business entity; or
- (3) If funds received from the business entity exceed ten (10) percent or more of the person's gross income for the previous year.

A city official has a substantial interest in real property if he, his parent, or child or, if married, his spouse or his spouse's parent, controls or has an interest in the property and the interest has a market value of two thousand five hundred dollars (\$2,500.00) or more.

Third degree of consanguinity is defined through a chart in subsection 2-262(c)(4).

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-262. Standards of conduct.

(a) General provisions.

- (1) No city official may disclose any confidential information gained through the official's position concerning property, operations, policies, or affairs of the city, for gain or advantage in an economic interest of the city official or the persons identified in subsection (c)(2)b. below.
- (2) No city official may use the official's position or city-owned facilities, equipment, supplies, or resources of the city for gain in an economic interest of the city official, for a political campaign of the official, or for any of the persons identified in subsection (c)(2)b. below. A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the city for purposes of this section due to the administrative difficulty and cost involved in recapturing the discount or award for the city.
- (3) Except as specifically authorized by city ordinance, no city official may appear before the body of which the official is a member to represent the city official or any person identified in subsection (c)(2)b. below. The city official may designate and be represented by a person of the official's choice in any such matter.

- (4) No city official may act as surety for any person or business entity that has a contract with the city, or as a surety on any bond required by the city for a city official.
 - (5) These general provisions do not prohibit a city official from representing the city official's interest in the city official's owner-occupied homestead before any city body, except the body of which the official is a member.
- (b) *Gifts.* No city official may solicit or accept any contribution, gift, or economic benefit that is offered or given with the intention of influencing the judgment or discretion of such official; or given in consideration of the favorable exercise of the official's judgment or discretion in the past.
- (c) *Conflict of interest.*
- (1) *Substantial interest.* No city official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the property or business entity.
 - (2) *Economic interest.*
 - a. No city official may vote on or participate in any decision-making process on a matter requiring filing of a conflicts disclosure statement if the official has an economic interest in the outcome of the matter under consideration.
 - b. To avoid the appearance and risk of impropriety, a city official may not take any official action that the official knows is likely to affect the economic interests of:
 - 1. The city official's parent, child, stepchild, spouse, or other family member within the second degree of consanguinity or affinity or a client of the city official;
 - 2. An employer of the city official, the official's parent, child, step-child, or spouse;
 - 3. A business entity for which the city official serves as an officer or director or serves in any policy-making position;
 - 4. A person or business entity from whom, within the past twelve (12) months, the city official or the official's spouse, directly or indirectly, received an economic benefit;
 - 5. A person or business entity from whom, within the past twelve (12) months, the city official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.
- (3) *Conflicts disclosure statement and recusal.*
 - a. A city official shall file a sworn conflicts disclosure statement with the city secretary whenever a person or entity has contracted the city or is considering doing business with the person or entity and the city official has received or will receive an economic benefit in or with the person or

entity or if the person or entity has given to the city official gifts that have a value in the aggregate of more than two hundred fifty dollars (\$250.00) in the twelve-month period preceding the date the city official becomes aware that the city has a contract with such person or entity or that the city is considering doing business with such person or entity. The city official shall file the conflicts disclosure statement with the city secretary no later than 5:00 p.m. on the seventh business day after the date the city official becomes aware of the facts that require the filing of the statement.

- b. A city official commits an offense if the city official knowingly fails to file the conflicts disclosure statement. An offense under the above subsection (3)a. above is a Class C misdemeanor.
- c. The city secretary shall accept and file any and all city official conflict disclosure statements and any vendor conflict of interest questionnaires.
- d. The city secretary shall maintain a list of city officials and shall make that list available to the public and any person who any be required to file a conflicts of interest questionnaire.
- e. a city official having a substantial interest in the outcome of a matter under consideration shall disclose that the official has a substantial interest and recuse himself/herself immediately from voting and from the discussion of the matter. The city official shall also promptly file an affidavit with the city secretary disclosing the nature and extent of the conflict, and the affidavit shall be included in the official minutes of the body.

(4) *Consanguinity and affinity.*

Affinity Kinship (Marriage) Relationships

TABLE INSET:

1st Degree	2nd Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

Consanguinity (Blood) Relationships

TABLE INSET:

1st Degree	2nd Degree	3rd Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother

1st Degree	2nd Degree	3rd Degree
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt

- (5) *Budget matters.* The city council shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the city council has a substantial interest. The member of the city council that has the substantial interest may not participate in the separate vote.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-263. Interest in property acquired with public funds.

- (a) *Disclosure of interest in property.* A city official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within ten (10) days before the date on which the property is to be acquired by purchase or condemnation.
- (b) *Affidavit.* The affidavit must:
- (1) State the name of the city official;
 - (2) State the city official's office, public title, or job designation;
 - (3) Fully describe the property;
 - (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
 - (5) State the date when the person acquired an interest in the property;
 - (6) Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and
 - (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the county clerk of the county in which the city official resides and the county clerk of each county in which the property is located.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-264. Nepotism.

- (a) *Prohibition.*
- (1) A city official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from city funds or fees of office if:

- a. The individual is related to the city official within the third degree by consanguinity (blood or adoption) or the second degree by affinity (marriage); or
 - b. The city official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within the third degree by consanguinity (blood or adoption) or the second degree by affinity (marriage).
- (2) A city official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from city funds or fees of office if:
- a. The individual is related to another public official within the third degree by consanguinity (blood or adoption) or the second degree by affinity (marriage); and
 - b. The appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within the third degree by consanguinity (blood or adoption) or the second degree by affinity (marriage).

(b) *Exceptions.*

- (1) The prohibitions in subsection (a) do not apply to:
- a. An appointment to the office of a notary public or to the confirmation of that appointment;
 - b. An appointment or employment of a personal attendant by an officer of the city for attendance on the officer who, because of physical infirmities, is required to have a personal attendant; or
 - c. Any other appointment excepted under VTCA, ch. 573, Government Code.
- (2) The prohibition in subsection (a)(1) does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
- a. The individual is employed in the position immediately before the election or appointment of the city official to whom the individual is related in a prohibited degree; and
 - b. That prior employment of the individual has been continuous for at least two (2) years.
- (3) If, under subsection (b)(2), an individual continues in a position, the city official to

whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-265. Honorariums.

- (a) *Prohibition.* A city official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the city official would not have been requested to provide but for the city official's official position or duties.
- (b) *Exception.* This section does not prohibit a city official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the city official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-266. Gifts.

- (a) *Prohibition.*
 - (1) A city employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the city employee knows to be subject to regulation, inspection, or investigation by the city employee or the city.
 - (2) A city employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the city employee knows to be in his custody or the custody of the city.
 - (3) A city employee or a city official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the city shall not solicit, accept, or agree to accept any benefit from a person the city employee or city official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.
 - (4) A city employee or city official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any benefit from a person the city employee or city official knows is interested in or likely to become interested in any matter before the city employee or city official or tribunal.
- (b) *Donation of unsolicited gift.* A city employee or city official who receives an unsolicited benefit that the city employee or city official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization

formed for educational, religious, or scientific purposes.

(c) *Exceptions.* The prohibitions set out in this section do not apply to:

- (1) A fee prescribed by law to be received by a city employee or city official or any other benefit to which the city employee or city official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a city employee or city official;
- (2) A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or
- (3) A benefit to a city employee or city official required to file a statement under VTCA, ch. 572, Government Code, or a report under VTCA Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - a. The benefit and the source of any benefit in excess of fifty dollars (\$50.00) is reported in the statement; and
 - b. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or the city;
- (4) A political contribution as defined by VTCA Title 15, Election Code;
- (5) An item with a value of less than fifty dollars (\$50.00), excluding cash or a negotiable instrument as described by Section 3.104, Business and Commerce Code;
- (6) An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law; or
- (8) Any gift or benefit otherwise excepted under VTCA, § 36.10, Penal Code.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-267. City records.

(a) *Prohibition:* City official or city employee shall not:

- (1) Knowingly make a false entry in, or false alteration of, a city record;
- (2) Make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine city record;
- (3) Intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a city record;
- (4) Possess, sell, or offer to sell a city record or a blank city record form with intent that it be used unlawfully;
- (5) Make, present, or use a city record with knowledge of its falsity; or

- (6) Possess, sell, or offer to sell a city record or a blank city record form with knowledge that it was obtained unlawfully.
- (b) *Exception.* It is an exception to the application of subsection (a)(3) of this section that the governmental record is destroyed pursuant to legal authorization or transferred under VTCA, § 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of VTCA, Subtitle C, Title 6, Local Government Code.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-268. Misuse of official information.

- (a) *Prohibition.*
 - (1) A city employee or city official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
 - a. Acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
 - b. Speculate or aid another to speculate on the basis of the information; or
 - c. As a city official or city employee coerce another into suppressing or failing to report that information to a law enforcement agency.
 - (2) A city employee or city official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
 - a. The city official or city employee has access to by means of his office or employment; and
 - b. Has not been made public.
- (b) *Definition.* In this section, "information that has not been made public" means any information to which the public does not generally have access, and/or that is prohibited from disclosure under VTCA, ch. 552, Government Code.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-269. Ethics review commission.

- (a) The ethics review commission (the "commission") has jurisdiction over ethics complaints as described in this article involving city officials and city employees.
- (b) The commission is to be composed of five (5) members each serving a two-year term. The city council shall appoint each member to the commission. If a vacancy occurs on the commission, the city council shall appoint a person to fill the unexpired term. Each commission member shall take an oath of office comparable to that taken by city council members. Ethics commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the city's policy.

- (1) *Terms of commissioners.* At the council meeting which creates the commission two (2) commissioners shall be selected to serve an initial one-year term and three (3) commissioners shall be selected to serve an initial two-year term. Thereafter, all members' terms shall be three (3) years. The city council may by majority vote remove a commissioner with or without cause. Any commissioner who misses three (3) consecutive meetings within a twelve-month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the commission. This section shall not apply to a commissioner who applied for and received an excused absence from the commission chairperson prior to the meeting(s) at issue. Any commissioner who no longer resides within the corporate boundaries of the city is deemed to have automatically vacated his/her position on the commission.
- (2) *Commission officers.* From among its members the commission shall elect its officers, those being the chairperson, vice-chairperson, and secretary. Officers shall be elected for terms of one (1) year. The chairperson shall preside over all meetings and may vote. If the chairperson fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. If the chairperson and vice-chairperson are absent, any commissioner may be appointed by the remaining members of the commission to preside over the meeting.
- (3) *Qualifications.*
 - a. Commission members must be registered voters who are residents of the city.
 - b. No member of the ethics commission may be:
 1. A city official, city employee or spouse of a city official or city employee;
 2. A candidate for elected public office;
 3. Anyone having an economic interest with any city official or city employee;
 4. Anyone who has been a paid campaign worker or political consultant for any city council or mayoral candidate; or
 5. A convicted felon.
- (b) The ethics review commission shall have the authority to review and investigate complaints filed in accordance with this article and issue a written finding of the commission's determination when appropriate.
- (c) Service on the ethics review commission does not preclude a member from filing a complaint with the commission. The commission member filing the complaint must recuse himself/herself from the commission procedure.
- (d) The ethics review commission makes recommendations to the city council regarding revisions and changes to this article.
- (e) The ethics review commission may seek any necessary assistance from the city council and city manager regarding financial support needed to carry out the commission's duties.

- (f) The commission shall determine its rules and procedures, to be submitted in writing for approval of the city council. The commission shall establish, amend and rescind its procedures and maintain proper records of its proceedings and its opinions. The commission shall meet as often as necessary to fulfill its responsibilities but must meet at least once a year to review this Code Ethics.
- (g) The commission shall have the power to investigate, request and gather evidence necessary to determine if a violation has occurred. The commission shall have the power to enforce the provisions of this article, including recommending to the city council the prosecution of alleged violators. Nothing in this article shall be construed, however, to prevent complainants, including the city, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (h) The commission shall receive from the city such administrative support as reasonably necessary to carry out the duties of the commission and shall assist the commission with maintenance of its records in compliance with the city's records retention schedule.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-270. Role of the city attorney.

- (a) The city attorney serves as legal counsel to the ethics review commission. When complaints are filed relating to the mayor, city council members, city manager, or city attorney, independent legal counsel may be utilized to advise the commission and take part in its proceedings.
- (b) The city attorney serves as ethics advisor to city officials and city employees. As ethics advisor, the city attorney is available to respond confidentially to inquiries relating to the ethics ordinance (this article) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a city official or city employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The city attorney shall receive all sworn complaints and provide a copy and a preliminary review of the complaint to the commission for action. The preliminary review does not advise on the merits of a complaint.
- (d) If a complainant alleges a violation by the city attorney, the complaint must be filed with the chairperson of the ethics commission, with a copy to the mayor and the city manager.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-271. Complaint process.

- (a) *Filing.*
 - (1) Any city official, city employee, or eligible voter of the city who believes that there has been a violation of this article may file a sworn complaint. A complaint alleging a violation of this article must meet the requirements herein and must be filed with the city secretary. A complaint alleging a violation of this article by the

city attorney must also be filed with the persons named in section 2-270. A complaint must be filed within one (1) year from the date of the alleged violation.

- (2) *Required contents of a complaint.* An ethics complaint must be in writing and under oath and must set forth in simple, concise, and direct statements the following:
 - a. The name of the complainant;
 - b. The street or mailing address and the telephone number of the complainant;
 - c. The name of the person who allegedly committed the violation;
 - d. The position or title of the person who allegedly committed the violation;
 - e. The nature of the alleged violation, including, if possible, the specific rule or provision of this article alleged to have been violated;
 - f. A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:
 1. Documents or other material available to the complainant relevant to the allegation;
 2. A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents; if known; and
 3. A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
 - g. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.
 - (3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this article.
 - (4) Upon request, the city secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.
- (b) *Confidentiality and ex parte communications.*
- (1) No city official or city employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
 - (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).
 - (3) After a complaint has been filed, and during the consideration of a complaint by

the commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission. This provision does not prevent a member of the commission to consult with the city attorney regarding procedural and legal issues.

(c) *Notification.*

- (1) A copy of a complaint which meets the requirements of this section shall be promptly forwarded by the city secretary to the city attorney and to the person charged in the complaint.
- (2) The person alleged in the complaint to have violated this article shall be provided with a copy of the ethics ordinance (this article) and informed that:
 - a. Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the city secretary;
 - b. Failure to file a response does not preclude the city attorney from processing the complaint;
 - c. A copy of any response to a complaint must be provided by the city secretary to the complainant, who may within seven (7) days respond by sworn writing filed with the city secretary, who shall provide a copy of the sworn writing to the person charged in the complaint.
- (3) City officials and city employees have a duty to cooperate with the city attorney, pursuant to this section.
- (4) All members of the commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-272. Hearing process.

(a) *Preliminary hearing.*

- (1) As soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, the commission shall conduct a preliminary hearing. The purpose of the preliminary hearing is to determine whether there are reasonable grounds to believe that a violation of this article has occurred.
- (2) The complainant and the city official or city employee named in the complaint have the right of representation by counsel.
- (3) Statements at a preliminary hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The city official or city employee named in the complaint shall have the

opportunity to respond but is not required to attend or make any statement. The official may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the official agrees that a violation has occurred, the commission may consider the appropriate sanction.

- (6) Only members of the commission may question the complainant, the independent counsel for the commission, or the city official or city employee named in the complaint.
 - (7) At the conclusion of the preliminary hearing one of the following actions shall be taken:
 - a. If the commission does not determine that there are reasonable grounds to believe that a violation of this article has occurred, the complaint shall be dismissed.
 - b. If the commission determines that there are reasonable grounds to believe that a violation of this article has occurred, it shall schedule a final hearing.
 - c. If the city official or city employee has agreed that a violation has occurred, the commission may proceed with the preliminary hearing to determine the appropriate sanction.
- (b) *Final hearing.*
- (1) A final hearing shall be held as expeditiously as possible following the determination by the commission that there are reasonable grounds to believe that a violation of this article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The commission may grant two postponements, not to exceed fifteen (15) days each, upon the request of the city official or city employee named in the complaint.
 - (2) If a complaint proceeds to a final hearing, the commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the commission's duties or exercise of its powers, including its powers of investigation.
 - (3) The issue at a final hearing is whether a violation of this article has occurred. The commission shall make its determination based on the evidence in the record. All witnesses shall make their statements under oath. If the commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person named in the complaint, and the city secretary. The city secretary shall deliver a copy of the findings to the city council, the city manager and the city attorney.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-273. Sanctions and violations.

- (a) If the commission determines that a violation of this article has occurred, it shall

- consider appropriate sanctions. The commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the commission determines that a violation has occurred, it may impose the following sanctions.
 - (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional. The letter of notification shall advise the city official or city employee of any steps to be taken to avoid future violations.
 - (2) A letter of admonition is the appropriate sanction when the commission finds the violation is minor.
 - (3) A letter of reprimand is the appropriate sanction when the commission finds a serious violation has been committed.
 - (4) A letter of censure is the appropriate sanction when the commission finds that a serious violation has occurred or more than one (1) serious violation or repeated serious violations of this article have been committed.
 - (c) Copies of all sanction letters issued by the commission under this section shall be sent to the city council.
 - (d) In addition, when the seriousness of the violation warrants, the commission may recommend to the city council the suspension or removal from office of any official serving in a city-appointed position.
 - (e) Except with regard to violations of VTCA, chs. 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any city official or city employee as designated herein of one or more of the provisions of this article shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

(Ord. No. 2005-O-8A, § 2, 9-25-2005)

Sec. 2-274. Distribution and proof of compliance.

The city secretary shall make available to each new city official designated in this article, a copy of the text of this article; VTCA, chs. 171 and 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex. Gov. Code ch. 551); and the Texas Public Information Act (Tex. Gov. Code ch. 552) (collectively referred to in this section as the "Ethics Statutes").

(Ord. No. 2005-O-8A, § 2, 9-25-2005)