

RESOLUTION NO. 2012-12-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS, APPROVING AND ADOPTING A CODE OF ETHICS AND CONDUCT FOR CITY COUNCIL MEMBERS; PROVIDING THAT THIS RESOLUTION SHALL BE CUMULATIVE OF ALL RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Weston, Texas is a Type A general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the city they serve; and

WHEREAS, governmental decisions and policy should be made in the proper channels of the governmental structure and that no City Council member should have a substantial interest, financial or otherwise, 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 or her duties in the public interest; and

WHEREAS, the office of City Council member is a position of public trust imposing the duty of a fiduciary on the officeholder; and

WHEREAS, public office holders are prohibited from using their public position for personal gain; and

WHEREAS, the public should have confidence in the integrity of its government; and

WHEREAS, to instill and safeguard such values, the City Council deems it advisable to enact this Code of Ethics and Conduct for all City Council members, which shall serve as a guide for official conduct of the City's public servants.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS, THAT:

SECTION 1.

The findings set out in the preamble to this resolution are hereby in all things approved.

SECTION 2.

That the following Code of Ethics and Conduct is hereby adopted:

**“CITY OF WESTON
CODE OF ETHICS AND CONDUCT**

Section 2-1. Purpose.

It is hereby declared to be the policy of the City that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the City; that no City Council member shall permit a substantial interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person’s duties in the public interest; that public office not be used for personal gain; and that the City Council at all times shall be maintained as a nonpartisan body. To implement such a policy, the City Council deems it advisable to enact a Code of Ethics and Conduct for City Council members, as defined in this Resolution, to serve as a guide for official conduct of the City's public servants, the overriding interest being that such officers of the City shall at all times strive to avoid even the appearance of impropriety.

Section. 2-2. Title; application.

This Resolution shall be known as the City of Weston Code of Ethics and Conduct.

- a. This Code of Ethics and Conduct shall apply to all City Council members.
- b. This Code of Ethics and Conduct does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those who may serve on a City board, committee or commission) nor to independent contractors of the City. The standards of conduct for employees are governed by the City of Weston Personnel Policies.
- c. This Code of Ethics and Conduct applies to the conduct or actions of City Council members, which occurs in whole or in part after the date of adoption of this Resolution.
- d. This Code of Ethics and Conduct applies to City Council members only while such persons hold such office.

Section. 2-3. Definitions.

The following words, terms, and phrases, when used in this Resolution, shall have the meanings ascribed to them in this Resolution, except where the context clearly indicates a different meaning.

Benefit means anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the City Council member has a direct and substantial interest.

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

City means the City of Weston, Texas.

City Council means the governing body of the City.

Confidential information means any information to which a City Council member has access in such person's official capacity, which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. Confidential information includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

Contract means any lease, claim, account or demand against or agreement with any entity or person, whether express or implied, executed or executory, oral or written.

Employee means any person employed by the City, including those individuals on a part-time or internship basis, but does not include independent contractors.

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

Relative means any person related to a City Council member within the first degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law of the City Council member.

Special privileges means a right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

Substantial interest shall have the meaning ascribed to it in Section 171.002 of the Texas Local Government Code, as amended. A City Council member is considered to have a substantial interest under this Code of Ethics and Conduct if a Relative of the City Council member has a substantial interest under this Code of Ethics and Conduct. A copy of Section 171.002 of the Texas Local Government Code, governing the existence of a substantial interest, is attached to this ordinance as Exhibit "A" for reference purposes only.

Section 2-4. Standards of conduct.

No City Council member shall:

- a. Participate in a vote or decision on any matter in which the City Council member has a substantial interest.

- b. Represent or appear on behalf of private interests of others before the City Council nor represent any private interests of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is, or might be, an adverse party. The restrictions of this section 2-4 (b) do not apply to a relative of a City Council member.
- c. Accept a gift from any person that might reasonably tend to influence such City Council member in the discharge of such person's official duties. The prohibition against gifts shall not apply to the following cases, when unsolicited and not offered or accepted in exchange for any action or inaction on the part of a City Council member:
 - 1. An item that has a value of less than \$50, excluding cash or a negotiable instrument;
 - 2. A gift conferred by a City Council member's family or by a personal friend, if there is an independent relationship that is not related to the status or work of the City Council member;
 - 3. A gift conferred by a professional or business contact if there is an independent relationship that is not related to the status or work of the City Council member;
 - 4. A fee that is provided by law that a City Council member is lawfully entitled to receive for performing some function (e.g., jury duty fee), other than his or her official function as a public servant;
 - 5. A benefit given in honor or appreciation to a City Council member who is required to file a campaign finance report under Title 15 of the Texas Election Code or to file a personal financial disclosure statement under Chapter 572 of the Texas Government Code. This benefit must be used solely to defray expenses that accrue in the performance of duties or activities in connection with the office. The expenses must be non-reimbursable by the City. The benefit and the source of any benefit in excess of \$50 must be reported by the City Council member in his or her campaign finance report or personal financial disclosure statement;
 - 6. Political Contributions as defined by Title 15 of the Texas Election Code; and
 - 7. Lodging, transportation and meals in connection with a seminar or conference in which the City Council member renders a substantive service.
- d. Use such person's official position to secure special privileges or benefits for such person or others.

- e. Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.
- f. Disclose confidential information.
- g. Use City supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official City business, unless otherwise provided for by law.
- h. Act as a surety on any official bond required for any officer or employee of the City, or for a business entity that has a contract, work or business with the City.

Section 2-5. Additional standards.

No member of the City Council shall participate in or vote on any land use matter in which such officer has a substantial interest in any real property within two hundred (200) feet of the real property, which is the subject of the land use matter. For purposes of this section 2-5 “land use matter” shall mean zoning, plat approval, site plan or other development approvals or permits, variances or exceptions. The term “land use matter” does not include studies or similar matters that are for the benefit of the City and which are not unique to real property within two hundred (200) feet of the real property, which is the subject of the land use matter, in which the City Council member has a substantial interest.

Section 2-6. Disclosure of substantial interest.

A City Council member who has a substantial interest in any matter pending before the City Council shall, before a vote or decision on such matter, file an affidavit stating the nature and extent of the substantial interest with the office of the City Secretary and shall abstain from further participation in such matter. A copy of the affidavit is attached hereto as Exhibit “B” to this Resolution and the form shall be maintained on file with the office of the City Secretary.

Section 2-7. Violations.

The City Council may investigate any allegation or complaint received that a member of the City Council has violated this Code of Ethics and Conduct and take any one (1) or more of the following actions concerning a complaint:

1. Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.
2. Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the City Council member of any steps to be taken to avoid future violations.
3. Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification.

4. Issue a written reprimand when a violation has been committed knowingly or intentionally.
5. Pass a resolution of censure when the City Council finds that a serious or repeated violation of this Code of Ethics and Conduct has been committed knowingly or intentionally by a member of the City Council.
6. If the City Council determines that a violation of any criminal law has occurred by one of its members, it shall deliver its findings to the Collin County District Attorney's office for further investigation. Individual members of the City Council shall fully cooperate with any investigation conducted by the Collin County District Attorney's office, including with any possible indictment and criminal prosecution sought. The City Council, as the governing body, shall also actively support and encourage the prosecution of any crime committed by one of its members.

Section 2-8. Interpretation of content.

Any City Council member may request and the City Attorney shall issue, a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this Code of Ethics and Conduct as it affects such person.”

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this resolution are severable, and if any phrase, clause sentence, paragraph or section of this resolution shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this resolution, since the same would have been enacted by the City Council without the incorporation in this resolution of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

This resolution shall be cumulative of all provisions of resolutions of the City of Weston, Texas, as amended, except where the provisions of this resolution are in direct conflict with the provisions of such resolutions, in which event the conflicting provisions of such resolutions are hereby repealed.

SECTION 5.

This resolution shall become effective after its passage and adoption by the City Council.

PASSED AND APPROVED this 11th day of December, 2012.

Patti Harrington
Patti Harrington, Mayor

ATTEST:

Kay Lokey
Kay Lokey, City Secretary

