

**CITY OF LAKEWAY  
ORDINANCE NO. 2019-05-15-01**

**AN ORDINANCE OF THE CITY OF LAKEWAY, TEXAS  
AMENDING THE CITY OF LAKEWAY CODE OF  
ORDINANCES CHAPTER 2, ARTICLE 2.04 BY  
ADOPTING NEW PROVISIONS UNDER DIVISIONS 1 -  
6; AND PROVIDING FOR: AMENDMENT; REPEALER;  
SEVERABILITY; EFFECTIVE DATE; AND PROPER  
NOTICE & MEETING.**

**WHEREAS,** the Lakeway City Council, pursuant to the City of Lakeway's Home Rule Charter, Section 3.15 (Ordinances in General), may adopt or amend any ordinance that is for the good of the City; and

**WHEREAS,** pursuant to the Lakeway City Charter, Section 3.13 (Rules of Procedure), the Council shall, by ordinance, determine its own rules and order of business, in conformity with the Charter and the laws of the State of Texas; and

**WHEREAS,** the City Council has the authority to establish a Board of Ethics pursuant to Section 7.05 of the Lakeway City Charter; and

**WHEREAS,** pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS,** pursuant to Texas Local Government Code, Section 51.072, the City has full power of local self-government, and may exercise the authority incident to local self-government; and

**WHEREAS,** Pursuant to Texas Local Government Code, Section 54.004, the City may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and

**WHEREAS,** the City Council had a meeting and a public hearing on May 20<sup>th</sup>, 2019 and recommended approval; and

**WHEREAS,** the City Council finds that the proposed amendment of Chapter 2, Article 2.04 of its Code of Ordinances is reasonable, necessary, and proper for the good government of the City of Lakeway.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Lakeway, Texas:

**SECTION 1.** That the findings contained in the preamble of this ordinance are incorporated herein as if fully set forth within the body of this ordinance.

**SECTION 2.** This ordinance is adopted under the authority of the Constitution and

laws of the State of Texas, particularly Chapter 51 of the Local Government Code, pursuant to which the City has general authority to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

**SECTION 3.** The purpose of this Ordinance is to codify and amend the structure, objectives, duties, and procedure of the City of Lakeway's Board of Ethics.

**SECTION 4.** Chapter 2, Article 2.04 of the City of Lakeway Code of Ordinances is hereby amended to read in accordance with *Attachment "A,"* which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code of Ordinances and any struck-through text shall be deleted from the Code, as indicated on *Attachment "A."* Text not underlined has not been changed or relocated.

**SECTION 5.** "That this Ordinance is cumulative of all provisions of ordinances and of the City Code of Lakeway, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed."

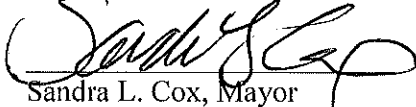
**SECTION 6.** Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**SECTION 7.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

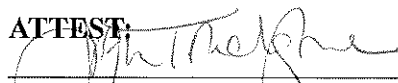
**SECTION 8.** This Ordinance shall be effective immediately upon passage and publication.

**PASSED & APPROVED** this, the 20<sup>th</sup> day of May 2019, by the City Council of Lakeway, Texas.

**CITY OF LAKEWAY:**

  
Sandra L. Cox, Mayor

**ATTEST:**

  
Jo Ann Touchstone, City Secretary



**CITY OF LAKEWAY**

**CODE OF ORDINANCES**

**CHAPTER 2: ADMINISTRATION AND PERSONNEL**

**ARTICLE 2.04 CODE OF ETHICS**

**ARTICLE 2.04 CODE OF ETHICS**

**Division 1. General Provisions and Administration**

**Sec. 2.04.001 Introduction**

(a) Title. This Article, and all additional ordinances passed in the future and specifically made a part hereof, shall be collectively known and cited as the Code of Ethics.

(b) Authority. This Code of Ethics (the "Code") is enacted pursuant to the authority of sections 2.01, 7.01 and 11.05 of the City's home rule charter.

(c) Applicability. This Code applies to the Mayor, City Councilmembers, Commissioners, Employees, Municipal Officers, Vendors, Applicants, and Volunteers.

(Ordinance 2013-08-19-01, sec. 2.04.1, adopted 8/19/13)

**Sec. 2.04.002 Policy declaration**

It is hereby declared to be the policy of the City that the proper operation of democratic municipal government requires that public Officials be independent and impartial; that the governmental decisions and policy be made in the proper channels of the governmental structure; that no Official should have any interest in, or conflict with the proper discharge of public duties; and that public office should not be used for personal gain. To implement such a policy, the City Council deems it advisable to adhere to a Code of Ethics to serve not only as a guide for official conduct of the City's Officials, Vendors, and Applicants, but also as a basis for discipline for those who do not comply with its terms. (Ordinance 2013-08-19-01, sec. 2.04.2, adopted 8/19/13)

**Sec. 2.04.003 Other law**

The provisions contained in this Code are separate from and in addition to any regulations enacted in the City's personnel policies and state or federal law. Nothing herein shall preclude the City from pursuing enforcement of any applicable state and federal laws. (Ordinance 2013-08-19-01, sec. 2.04.42, adopted 8/19/13)

**Sec. 2.04.004 Definitions**

In this Code, unless the context otherwise requires, these terms are defined as follows:

Applicant. Any person seeking approval of a permit, variance, or other form of approval or municipal authorization from the City.

Commission. A City-created citizen advisory board, standing committee, or Commission.

Commissioner. An appointed member of a Commission.

Councilmember. The mayor or members of the City Council, whether elected or appointed.

Employee. Any person employed by the City as evidenced by the City's payroll records, including municipal officers. For the purposes of the enforcement and interpretation of this Code only, the term "Employee" also includes independent contractors or seasonal (temporary) employees.

Final Determination. A determination by the Board on any Advisory Opinion, Complaint, Ethical Determination, Waiver, or Dismissal.

Financial Interest. An economic interest in the form of ownership of stock, ownership of real property, employment relationship, independent contractor relationship, party status in a judicial proceeding, or party status in an administrative law proceeding. This interest is shared among relatives within the 1st degree by consanguinity (blood or adoption) and affinity (marriage).

Municipal Officer. A City employee or appointee who holds a position identified in Article IV of the City Charter.

Official. A Commissioner, Councilmember, Employee, Municipal Officer, or Volunteer.

Party. A named plaintiff, defendant, petitioner or respondent in a legal matter, or related to a plaintiff, defendant, petitioner or respondent within the 1st degree by consanguinity (blood or adoption) and affinity (marriage).

Person. Any natural person, agency, association, company, corporation or partnership.

Preliminary Report. A written assessment regarding the application of this Code to a particular situation or behavior as alleged in a Complaint or a request for an Advisory Opinion or Waiver, including findings and recommendations, which is submitted by a subcommittee for the Board's consideration.

Reprimand. A public and formal censure or severe reproof administered to a Person in fault by the Board of Ethics for a violation of this Code.

Subject. A Person alleged in a Complaint to have committed a violation of this Code.

Vendor. Any Person having, or seeking the approval or extension of, an agreement, contract, or work order with the City. This definition does not apply to citizens with contracts to receive City services.

Volunteer. A Person providing services to the City or acting on behalf of the City who is appointed by the Mayor and confirmed by the City Council.

(Ordinance 2013-08-19-01, sec. 2.04.43, adopted 8/19/13)

**Secs. 2.04.005--2.04.030 Reserved**

## **Division 2. Standard of Conduct of Officials**

### **Sec. 2.04.031 General prohibitions**

(1) Gifts. It is a violation of this Code for an Official to accept any gift or favor from any Person that might reasonably tend to influence the Official in the discharge of public duties, or grant in the discharge of municipal operations, any improper favor, service, or thing of value. This prohibition does not apply to:

- (A) Items cumulatively valued at fifty dollars (\$50.00) or less per calendar year;
- (B) Honorary items, such as plaques, trophies, ribbons, and floral arrangements;
- (C) Entertainment in the form of food, beverages, travel or spectator events at which the recipient is a guest accompanying the host cumulatively valued at fifty dollars (\$50.00) or less per calendar year; or
- (D) Donations made to the City as an entity for use on city property or for City events that have been pre-approved by the City Manager.
- (E) Nothing herein shall be construed to apply this provision to campaign

donations.

(2) Special treatment. It is a violation of this Code for an Official to use a municipal position to secure or grant any special consideration, treatment, exemptions or advantage to the Official, or to any Person, that is not available to the general public. This prohibition does not apply to nonmonetary, honorary gestures, such as designated parking for Officials invited as special guests at civic events.

(3) Information. It is a violation of this Code for an Official to disclose confidential or privileged information that could adversely affect the property, fiscal affairs, or litigation interests of the City, nor use any information gained by reason of being an Official for one's own personal gain or benefit or for the private interest of others.

(4) Financial Interest. It is a violation of this Code for an Official to transact any business on behalf of the City in an official capacity regarding any business entity or real property in which the Official has a Financial Interest.

(5) Compensation. It is a violation of this Code for an Official to directly receive any fee or compensation for municipal services from any source other than the City.

(6) Resources. It is a violation of this Code for an Official to use City supplies, equipment, facilities or personnel for any purpose other than the conduct of official City business, unless done so in accordance with a program made available to the general public.

(7) Misrepresentation. It is a violation of this Code for an Official to misrepresent the Official's identity when communicating with any Person regarding matters pending before the City, issues of City business, or City elections. This prohibition does not apply to Officials engaged in law enforcement activities. (Ordinance 2017-07-17-01 adopted 7/17/17)

**Sec. 2.04.032 Representation**

(a) City Councilmember, Commissioner, or Employee. It is a violation of this Code for a City Councilmember, Commissioner, or Employee to represent another Person before the City Council or a Commission. It is also a violation of this Code for a City Councilmember or Employee to represent any private interest of others in any action or proceeding involving the City, or participate on behalf of others in any litigation to which the City might be a party, or to accept any retainer or compensation that is

contingent upon a specific action taken by the City.

(Ordinance 2013-08-19-01, sec. 2.04.4, adopted 8/19/13)

**Sec. 2.04.033 Concurrent employment**

It is a violation of this Code for an Employee to accept other employment or engage in outside consulting as an independent contractor if such activities are incompatible with the full and proper discharge of the Employee's municipal duties and responsibilities with the City, or which might impair the Employee's independent judgment in the performance of municipal duties. It is conduct incompatible with this Code for an Employee to represent or accept employment from any Person engaged in a judicial or administrative proceeding adverse to the City, or to accept employment with a Vendor. Incompatible conduct may be waived in writing by the City Manager. (Ordinance 2013-08-19-01, sec. 2.04.5, adopted 8/19/13)

**Sec. 2.04.034 Subsequent employment**

It is a violation of this code for an employee to, within one (1) year of leaving the city's employment, accept employment or engage in consulting as a contractor representing any person before the city council, or any commission in matters related to the particular field of endeavor or area of interest involved in such person's services to the city. (Ordinance 2013-08-19-01, sec. 2.04.6, adopted 8/19/13)

**Sec. 2.04.035 Reserved**

**Sec. 2.04.036 Confidentiality**

(a) The administration of this Code will be handled in a discrete and professional manner and conducted in compliance with the Texas Open Meetings Act and the Texas Public Information Act. It is a violation under this Code and an offense under the Texas Public Information Act to publicly disclose the City's confidential information.

**Secs. 2.04.037 Retaliation**

For the purposes of this section, "retaliation" is defined as the use or threat to use any authority or influence to affect any harmful action against another Person related to their participation in or before the Board. It is a violation of this Code for an Official, Subject, or anyone acting on an Official's, or Subject's behalf, to retaliate against:

(1) Any Person who in good faith brings a Complaint or request for an Advisory Opinion to the Board;

- (2) Any witness giving a statement or other evidence to the Board; or
- (3) Any member of the Board of Ethics.

(Ordinance 2015-02-17-02, att. A, adopted 2/17/15)

**Secs. 2.04.038–2.04.060 Reserved**

### **Division 3. Standards of Conduct of Vendors and Applicants**

#### **Sec. 2.04.061 General prohibitions**

It is a violation of this Code for a Vendor or applicant to give any gift or favor to any Official, or Employee that might reasonably tend to influence the Official, or Employee in the discharge of official duties, or yield any improper favor, service, or thing of value. This prohibition does not apply to:

- (1) Items cumulatively valued at fifty dollars (\$50.00) or less per calendar year;
- (2) Honorary items, such as plaques, trophies, ribbons, and floral arrangements; or
- (3) Entertainment in the form of food, beverages, travel or spectator events at which the donor is a guest accompanying the Official cumulatively valued at fifty dollars (\$50.00) or less per calendar year.

(Ordinance 2013-08-19-01, sec. 2.04.7, adopted 8/19/13)

**Secs. 2.04.062–2.04.090 Reserved**

### **Division 4. Disclosures and Abstention**

**Sec. 2.04.091 Reserved**

#### **Sec. 2.04.092 Disclosure of Financial Interest**

(a) Financial Interest disclosures required pursuant to this Code must be filed with the City Secretary. The City Secretary shall distribute Financial Interest disclosures filed by non-Employees to the Mayor, Chairperson of the Board of Ethics, City Manager, and Chairperson of the Commission upon which the Official sits, as applicable. The City Secretary shall distribute Financial Interest disclosures filed by Employees to the Chairperson of the Board of Ethics and the City Manager.

(b) Disclosures filed pursuant to this division are public records that are available



in accordance with the Texas Public Information Act.

(c) City Councilmembers and Commissioners shall disclose a Financial Interest in any matter pending before a body upon which the Official serves to the Board of Ethics on a form prescribed by the City Secretary.

(d) Employees shall disclose a Financial Interest in any matter pending before the Employee within the scope of their employment to the Employee's supervisor and the Board of Ethics on a form prescribed by the City Secretary.

(e) Volunteers shall disclose a Financial Interest in any matter pending before the Volunteer within the scope of their position with the City to the Board of Ethics on a form prescribed by the City Secretary.

(Ordinance 2013-08-19-01, sec. 2.04.9, adopted 8/19/13)

**Sec. 2.04.093 Disclosure violations**

(a) It is a violation of this Code for an Official to fail to file a disclosure required by this Code or to falsify a disclosure required by this Code.

(b) Before a Complaint for failure to file a disclosure required by this division is referred to the Board of Ethics, the City Secretary shall notify the Subject and provide the Subject with seven (7) business days to submit the required disclosure. If the disclosure is timely submitted, the Complaint shall be administratively dismissed by the City Secretary.

(Ordinance 2013-08-19-01, sec. 2.04.10, adopted 8/19/13)

**Secs. 2.04.096–2.04.120 Reserved**

**Sec. 2.04.121 Abstention Required**

(a) In the event that a Financial Interest arises under this Code in a matter pending before a body upon which an Official serves or in a matter pending before an Employee, the Official must abstain from deliberation and action on the matter.

(b) If a majority of the members of the body upon which they serve also files disclosures of Financial Interests, Officials are not required to abstain from deliberations.

(Ordinance 2013-08-19-01, sec. 2.04.13, adopted 8/19/13)

**Secs. 2.04.122–2.04.150 Reserved**

## **Division 5. Board of Ethics**

### **Sec. 2.04.151 Creation and purpose**

A Board of Ethics (herein the "Board") shall be maintained as a Commission of the City.

### **Sec. 2.04.152 Membership and appointment**

- (a) The Board consists of seven (7) members.
- (b) The Board is composed of one member appointed by the Mayor, and one member appointed by each City Councilmember.
- (c) Eligibility for membership on the Board is as specified in the Charter.
- (d) The Board shall be presided over by the Chairperson who shall be selected by Mayor. The term of office of the Chairperson shall run concurrently with the term of the Mayor. The Chairperson retains the right to vote on matters before the Board and may appoint a Vice Chairperson to serve at the Chairperson's discretion.

### **Sec. 2.04.153 Powers and duties**

- (a) The Board of Ethics has jurisdiction over all matters pertaining to the interpretation, enforcement, and proposed amendment of the City's Code of Ethics, including making Final Determinations based on Complaints, requests for Advisory Opinions, and requests for Waivers. In making a Final Determination, the Board may consider and determine the application of this Code to a purported situation or behavior as alleged in a Complaint or request duly submitted under this Code, and may conduct inquiries. In connection with a complaint determination, the Board shall issue a Final Determination in writing and may issue sanctions, as provided by this Code. The Board may, at its discretion, facilitate educational opportunities for those persons subject to and responsible for compliance and enforcement of the Code.
- (b) Upon request, the City Attorney shall attend meetings of the Board, including executive sessions, to advise the Board and perform such other duties, as instructed by the Chairperson.
- (c) The Chairperson may request that the City Council retain an independent attorney to represent the Board. Independent counsel may attend any meeting of the Board to advise the Board or to perform any other duties as instructed by the Chairperson.

### **Sec. 2.04.154 Terms and vacancies**

A Board member's term shall coincide with the term of the appointing Councilmember. If a board member resigns or becomes ineligible to hold office, the Mayor or City Councilmember who appointed the vacating Board member may appoint a successor. The successor shall serve out the remainder of the unexpired term. The vacation of office by a City Councilmember does not render the corresponding appointed Board member ineligible to serve the remainder of the Board member's term.

**Sec. 2.04.155 Meetings**

- (a) Meetings shall be held as needed, as called by the Chairperson or any two (2) Board members.
- (b) Meeting agendas shall consist of items requested by the Chairperson or any two (2) Board members.

**Sec. 2.04.156 Quorum**

A quorum of five (5) members shall be necessary for the Board to conduct business.

**Sec. 2.04.157 Minutes**

The City Secretary or an assistant City Secretary shall attend all Board meetings and shall prepare minutes of all proceedings. In the absence of the City Secretary or an assistant City Secretary, the Board Chairperson shall designate a member of the Board to prepare minutes of such proceedings.

**Sec. 2.04.158 Removal**

A Board member may be removed by majority vote of the City Council upon:

- (1) Recommendation by the majority of the Board upon finding the member violated the code; or
- (2) Finding by the City Council that the Board member neglected the member's duties.

**Sec. 2.04.159 Rules of Board**

The Board may adopt, amend, and rescind rules of procedure to carry out the provisions of this Code. Such rules shall be consistent with this Code and other applicable law.

(Ordinance 2013-08-19-01, sec. 2.04.25, adopted 8/19/13)

**Division 6. Advisory Opinions and Waivers**

**Sec. 2.04.160 Advisory opinions**

- (a) The Board is authorized to issue Advisory Opinions.
- (b) Advisory Opinions are written rulings regarding the application of this Code to a particular situation or behavior. Advisory Opinions can only be issued in response to the receipt of a written request from any Official filed with the City Secretary.
- (c) Requests for Advisory Opinions satisfying the requirements of this section shall be referred by the City Secretary to the Board Chairperson, who shall appoint a Subcommittee to issue a Preliminary Report regarding its request.
- (d) The Board and Subcommittee are authorized to conduct inquiries into the facts provided in an Advisory Opinion, as needed. Such inquiry may include interviewing the Persons involved, taking witness statements, and requesting and reviewing any documentation, including books, papers, records, or any other evidence necessary for the Board to perform its duties.

(Ordinance 2013-08-19-01, sec. 2.04.27, adopted 8/19/13)

**Sec. 2.04.161 Waivers**

- (a) The Board is authorized to grant Waivers of the restrictions imposed by this Code.
- (b) Waivers are approved exceptions from the restrictions imposed by this Code.
- (c) Requests for Waivers must be filed with the City Secretary, who shall refer the request to the Board Chairperson. The Board Chairperson shall appoint a Subcommittee to issue a Preliminary Report regarding this request.
- (d) To grant a Waiver, the Board must determine in writing that:
  - (1) The public interest would be better served by the Waiver of such prohibition; or
  - (2) The application of such prohibition would work a hardship on the Person involved and any detriment to the City would be negligible.

(Ordinance 2013-08-19-01, sec. 2.04.28, adopted 8/19/13)

**Division 7 Complaint Determinations**

**Sec. 2.04.162 Complaints**

- (a) Complaints are allegations that an Official, Applicant, or Vendor violated this

Code.

(b) Complaints must be filed with the City Secretary.

(c) To be actionable, a Complaint must:

(1) Be in writing and contain the Complainant's name, address, and phone number;

(2) Be signed and sworn by the Complainant and accompanied by a notarized affidavit in the form provided by the City Secretary; and

(3) Be filed within one (1) year of the conduct giving rise to the allegation. If evidence later became known that reasonably could not have been discovered within the one-year period, a Complaint may be filed within one (1) year of the date such evidence reasonably could have been discovered.

(d) Complaints satisfying the requirements of sections (c)(1), (2), and (3) above shall be referred by the City Secretary to the Board Chairperson, who shall either:

(1) Recommend to the Board that the Complaint be dismissed on the grounds that the Board previously addressed the conduct alleged in the Complaint, determined it not to be a violation of this Code, and previously issued an Advisory Opinion, Waiver, or Complaint Determination; or

(2) Appoint a Subcommittee to issue a Preliminary Report regarding the Complaint.

(Ordinance 2018-07-16-08 adopted 7/16/18)

**Sec. 2.04.163 Notices**

(a) The Subject of a Complaint and all Persons named in the Complaint will be given a copy of the Complaint within three (3) business days of the Complaint having been filed.

(b) The Subject of a Complaint will be given notification of any scheduled Board meeting at which the Complaint will be addressed at least five (5) business days before the meeting.

(c) Agendas of Board meetings will be posted in compliance with the Texas Open Meetings Act.

(Ordinance 2017-07-17-01 adopted 7/17/17)

**Sec. 2.04.164 Inquiry**

The Board and Subcommittees are authorized to conduct inquiries into allegations of

violations of this Code, including interviewing the Subject, taking witness statements, and requesting and reviewing any documentation, including books, papers, records, or any other evidence necessary for the Board to perform its duties.

(Ordinance 2013-08-19-01, sec. 2.04.24, adopted 8/19/13)

**Sec. 2.04.165 Preliminary Report**

(a) Before the Board considers a Complaint, a Subcommittee comprising three (3) Board members appointed by the Board Chairperson will evaluate the matter and submit a Preliminary Report to the Board Chairperson pursuant to the process in subsection (f).

(b) In response to a Complaint, the Preliminary Report shall:

State whether the Complaint alleges a violation of a provision of the Code; or

State whether the Complaint fails to state a violation under this Code and warrants dismissal by the Board.

(c) If the Preliminary Report states that the Complaint alleged a violation of a provision of the Code, the Preliminary Report shall include in a recommendation to the Board of either a finding that a violation occurred, further consideration by the full Board, or dismissal of the Complaint. The recommendation must be based on whether reasonable grounds exist demonstrating that a violation of the Code occurred. In making this recommendation, the Subcommittee may rely upon the allegations within the Complaint, accompanying evidence, and any facts revealed during an inquiry conducted by the Subcommittee, if any.

(d) Subcommittee meetings are not posted or open to the public. Attendance at Subcommittee meetings is limited to the three Board members appointed to the Subcommittee and the City Attorney or independent counsel, if one is appointed.

(e) The three Board members in attendance will choose among themselves one member to serve as acting Chairperson. The acting Chairperson is responsible for writing the Preliminary Report, and may seek clerical assistance from the City Secretary or guidance from the City Manager, City Attorney, or independent counsel, if one is appointed.

(f) The Subcommittee's acting Chairperson shall file the Preliminary Report to the City Secretary, who shall disseminate it to the Board Chairperson, Board members,

City Attorney, City Manager, the Subject of the Complaint, and the Complainant within three (3) business days of the submission.

(g) The Chairperson, following dissemination of the Preliminary Report, shall place the Preliminary Report on a future Board meeting agenda.

(Ordinance 2017-07-17-01 adopted 7/17/17)

**Sec. 2.04.166 Board Determination and Hearing Process**

(a) The Board shall review and consider the Preliminary Report and determine whether to accept the recommendation of the Subcommittee as the Board Determination, based on the allegations of the Complaint and evidence submitted by the Complainant, any inquiry conducted by the Subcommittee, and the Board's deliberations. The Board Chairperson shall submit the Board Determination to the City Secretary, who shall disseminate it to the Board members, City Attorney, City Manager, the Subject of the Complaint, and the Complainant within three (3) business days of the Board Determination.

(1) If the Board Determination is adverse to the Subject, the Subject may request a final hearing in writing within ten (10) business days of the Board Determination. The Board Determination that a violation occurred becomes a Final Determination at the expiration of ten (10) business days if the Subject does not request a Final Hearing. The Board Determination that a violation did not occur is a Final Determination upon its issuance.

(2) The written request for a final hearing must include a summary of the evidence that the Subject intends to introduce under oath at the final hearing.

(b) As soon as reasonably possible, the Board shall conduct a Final Hearing requested pursuant to this subsection on any Complaint that is not dismissed. The Board may grant continuances of this hearing upon the request of the Board, the Subject, or the Complainant.

(c) At the final hearing, the Board may request witnesses to attend and testify, administer oaths and affirmations, take evidence, ask questions of the Subject, Complainant, and witnesses, and request the production of books, papers, records, or other evidence needed for the performance of the Board's duties or exercise of its powers, including the powers of investigation and inquiry. Failure to comply with these requests becomes part of the material to be considered by the Board in making

its Final Determination.

(d) The Subject and Complainant may make a statement to the Board. The Board may determine the amount of time allotted for this statement. The Subject and Complainant may have attorneys present. The Subject, Complainant, and their attorneys are not permitted to cross-examine one another or witnesses at the hearing. However, the Subject, Complainant, or their attorneys may submit questions for the witnesses to the Board Chairperson for the Board's consideration. Members of the Board may question any witness.

(e) The issue at a Final Hearing is whether a violation of this Code has occurred. The Board shall make its Final Determination based on the evidence in the record. If the Board determines that a violation has occurred, it shall state its Final Determination in writing, identify the particular provision(s) of this Code which have been violated, if any, and within ten (10) business days submit the Final Determination to the City Secretary. The City Secretary shall send the Final Determination by U.S.P.S. first class mail, return receipt requested, and electronically if possible, to the Complainant and Subject within five (5) business days of the submission.

**Sec. 2.04.167 Reconsideration**

A Subject may request that the Board reconsider a Final Determination. To be actionable, a request for reconsideration must:

- (1) Be written and signed;
- (2) Be filed with the City Secretary within ten (10) business days of the mailing or electronic distribution of the Final Determination by the City Secretary; and
- (3) Contain new information that was not readily available prior to the Board's issuance of the Final Determination.

(Ordinance 2013-08-19-01, sec. 2.04.32, adopted 8/19/13)

**Secs. 2.04.168 to 2.04.180 Reserved**

**Sec. 2.04.181 Sanctions Upon Certain Officials**

(a) Board action. Upon issuance of a Final Determination on a Complaint, the Board may impose the following sanctions on an Official who is not an Employee:

- (1) Verbal reprimand issued orally in open session; or



(2) Written reprimand.

(b) Board recommendations to City Council. In addition to any direct action taken by the Board, the Board may make a recommendation to the City Council. With respect to Officials who are not Employees, upon issuance of a Final Determination, the Board may recommend to the City Council, as applicable, the following sanctions:

- (1) Verbal reprimand issued orally in open session;
- (2) Written reprimand;
- (3) Suspension in the form of a temporary cessation of duties;
- (4) Forfeiture of office or position;
- (5) Conditioning of any sanction upon an order directing compliance with specific provisions of this Code of Ethics;
- (6) Designation of the Subject as ineligible for hiring to any employment position or appointment to Commission membership; and/or
- (7) Instruction that the City prosecutor refers the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

(c) City Council Action. Upon receipt of an Ethical Determination, the City Council may impose the following sanctions upon an Official who is not an Employee:

- (1) Verbal reprimand issued orally in open session;
- (2) Written reprimand;
- (3) Suspension in the form of a temporary cessation of duties;
- (4) Forfeiture of office or position;
- (5) Conditioning of any sanction upon an order directing compliance with specific provisions of this Code of Ethics;
- (6) Designation of the Subject as ineligible for hiring to any employment position or appointment to Commission membership; and/or
- (7) Instruction that the City prosecutor refers the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

(d) Sanctions described in subsections (b)(3) – (b)(6) and (c)(3)-(c)(6) do not apply to City Councilmembers.

(Ordinance 2013-08-19-01, sec. 2.04.36, adopted 8/19/13)

**Sec. 2.04.182 Sanctions Upon Municipal Officers**

(a) Board Action. Upon issuance of a Final Determination on a Complaint, the Board may impose the following sanctions on a Municipal Officer:

- (1) Verbal reprimand issued orally in open session; or
- (2) Written reprimand.

(b) Board recommendations to City Council. In addition to any direct action taken by the Board, the Board may make a recommendation to the City Council. With respect to Municipal Officers, upon issuance of a Final Determination, the Board may recommend to the City Council, as applicable, the following sanctions:

- (1) Verbal reprimand issued orally in open session; or
- (2) Written reprimand.
- (3) Any other sanction within the purview of the City Council.

(c) City Council Action. Upon receipt of a Final Determination, the City Council may impose the following sanctions upon a Municipal Officer:

- (1) Verbal reprimand issued orally in open session; and/or
- (2) Written reprimand.
- (3) Any other sanction within the purview of the Council.

(Ordinance 2013-08-19-01, sec. 2.04.39, adopted 8/19/13)

**Sec. 2.04.183 Sanctions Upon Employees**

(a) Board action. Upon issuance of a Final Determination on a Complaint, the Board may impose the following sanctions on an Employee who is not a Municipal Officer:

- (1) Verbal reprimand issued orally in open session; or
- (2) Written reprimand.

(b) Board recommendations to City Manager. In addition to any direct action taken by the Board, the Board may make a recommendation to the City Manager, as applicable, for the following sanctions:

- (1) Verbal reprimand issued orally in open session;

- (2) Written reprimand;
- (3) Suspension in the form of a temporary cessation of duties;
- (4) Forfeiture of office or position;
- (5) Conditioning of any sanction upon an order directing compliance with specific provisions of this Code;
- (6) Designation of the Subject as ineligible for hiring to any employment position or appointment to commission membership; and/or
- (7) Instruction that the city prosecutor refer the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

(c) All of the corrective measures provided in this Code for the Board and the City Council are available for the City Manager with respect to Employees, and Officials appointed by the City Manager, subject to the Charter and any personnel policies enacted by the City. Nothing herein shall be construed to limit or negate the ability of the City Manager to make independent determinations and take separate action regarding Employee compliance with this Code. (Ordinance 2013-08-19-01, sec. 2.04.40, adopted 8/19/13)

**Sec. 2.04.184 Sanctions Upon Vendor**

(a) Board Action. Upon issuance of a Final Determination, the Board may impose the following sanctions on a Vendor:

- (1) Verbal reprimand issued orally in open session; or
- (2) Written reprimand.

(b) Board recommendations to Council. In addition to any direct action taken by the Board, upon issuance of a Final Determination, the Board may make a recommendation to the City Council for Vendors, as applicable, the following sanctions:

- (1) Verbal reprimand issued orally in open session;
- (2) Written reprimand;
- (3) Declaration that a Vendor is ineligible to provide goods or services to the City for one (1) year; and/or
- (4) Instruction that the city prosecutor refers the matter to state or federal law

enforcement agencies, as may be appropriate, for possible violations of state or federal law.

(c) City Council Action. Upon receipt of a Final Determination, the City Council may impose the following sanctions upon Vendors:

- (1) Verbal reprimand issued orally in open session;
- (2) Written reprimand;
- (3) Declaration that a Vendor is ineligible to provide goods or services to the City for one (1) year; and/or
- (4) Instruction that the city prosecutor refer the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

**Sec. 2.04.185 Eligibility**

Removal of an Official for violation of this Code shall render the Person ineligible to be a Commissioner or Employee of the City for one (1) year.

(Ordinance 2013-08-19-01, sec. 2.04.41, adopted 8/19/13)