

## CODE OF ETHICS

### SECTION 1 STATEMENT OF PURPOSE

It is essential in a democratic system that the public has confidence in the integrity, independence, and impartiality of the elected officials who act on their behalf in government. For the purpose of promoting confidence in the government of the City of Hondo, and thereby enhancing the city's ability to function effectively, this code of ethics is adopted. The code establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to city officials and employees and others whose actions inevitably affect public faith in city government, such as former city officials and employees, candidates for public office, persons doing business with the city, and lobbyists. By prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this code of ethics will further the legitimate interests of democracy.

### SECTION 2 DEFINITIONS

As used in this code of ethics, the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise or more specific definitions set forth elsewhere in this code apply:

*Acceptance.* "Acceptance" of an offer of subsequent employment or business opportunities includes legally binding contracts and all informal understandings that the parties expect to be carried out.

*Affiliated.* Business entities are "affiliated" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent business entity.

*Affinity.* Relationship by "affinity" (by marriage) is defined in Sections 573.024 and 573.025 of the Texas Government Code.

*Before the City.* Representation or appearance "before the city" means before the City Council; before a board, commission, or other city entity; or before a city official or employee.

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

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

*City.* "City" means the city of Hondo.

*City Official.* The term "official" or "city official" includes the following persons the Mayor, members of the City Council, Municipal Court Judges, Magistrates, City Attorney, Assistant City Attorney and Municipal Court Prosecutor.

*Confidential Government Information.* “Confidential government information” includes all information held by the city that is not available to the public under the Texas Open Records Act and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, regardless of whether disclosure violates the Act.

*Consanguinity.* Relationship by “consanguinity” (by blood) is defined in Sections 573.022 and 573.023 of the Texas Government Code.

*Discretionary Contract.* “Discretionary contract” means any contract other than those that by law must be awarded on a low or high qualified bid basis.

*Economic Interest.* “Economic interest” includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a city official or employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund.

*Employee.* The term “employee” or “city employee” is the City Manager, Assistant City Manager or any department director of any city department or any other employee designated by the City Manager.

*Former City Official or Employee.* A “former elected official” or “former employee” is a person whose city duties terminate on or after the effective date of this code.

*Gift.* “Gift” means a voluntary transfer of property (including the payment of money) or the conferral of a benefit having pecuniary value (such as the rendition of services or the forbearance of collection on a debt), unless the donor receives consideration of equal or greater value.

*Indirect Ownership.* A person “indirectly owns” 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.

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

*Official Action.* “Official action” includes:

- (1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an official or employee’s duties, and

(2) Any failure to act, if the official or employee is under a duty to act and knows that inaction is likely to affect substantially an economic interest of the official or employee or any person or entity listed in Subsections 1(a)(2) through (9) of Part B.

*Official Information.* “Official information” includes information gathered pursuant to the power or authority of city government.

*Personally and Substantially Participated.* The requirement of having “personally and substantially participated” in a matter is met only if the individual in fact exercised discretion relating to the matter. The fact that the person had responsibility for a matter does not by itself establish that the person personally and substantially participated” in the matter.

*Representation.* “Representation” encompasses all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally or informally serves as an advocate for private interests. Lobbying, even on an informal basis, is a form of representation. Representation does not include appearance as a witness in litigation or other official proceedings.

*Solicitation.* “Solicitation” of subsequent employment or business opportunities includes all forms of proposals and negotiations relating thereto.

## **RULES FOR PRESENT CITY OFFICIALS AND EMPLOYEES**

### **SECTION 3 IMPROPER ECONOMIC BENEFIT**

(a) **General Rule.** To avoid the appearance and risk of impropriety, an official or employee shall not take any official action that he or she knows is likely to affect substantially the economic interests of:

- (1) The official or employee;
- (2) His or her parent, child, spouse, or other family member within the second degree of consanguinity or affinity;
- (3) His or her outside client;
- (4) A member of his or her household;
- (5) The outside employer of the official or employee or of his or her parent, child, or spouse;
- (6) A business entity in which the official or employee knows that any of the persons listed in Subsections (a)(1) or (a)(2) holds an economic interest;
- (7) A business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; or
- (8) A person or business entity:
  - (A) from whom, within the past twelve months, the official or employee, or his or her spouse, directly or indirectly has (i) solicited, (ii) received and not rejected, or (iii) accepted an offer of employment; or

(B) with whom the official or employee, or his or her spouse, directly or indirectly is engaged in negotiations pertaining to business opportunities.

**(b) Recusal and Disclosure.** A city official or employee whose conduct would otherwise violate Subsection (a) must recuse himself or herself. From the time that the conflict is, or should have been recognized, he or she shall:

- (1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and
- (2) Promptly file with the City Secretary the appropriate form for disclosing the nature and extent of the prohibited conduct.
- (3) A department director or Assistant City Manager shall promptly bring the conflict to the attention of the City Manager, who will then, if necessary, reassign responsibility for handling the matter to another person.
- (4) City Manager shall promptly bring the conflict to the attention of the Mayor.

#### **SECTION 4 UNFAIR ADVANCEMENT OF PRIVATE INTERESTS**

**(a) General Rule.** A city official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons.

**(b) Special Rules.** The following special rules apply in addition to the general rule:

- (1) **Acquisition of Interest in Impending Matters.** An official or employee shall not acquire an interest in, or affected by, any contract, transaction, zoning decision, or other matter, if the official or employee knows, or has reason to know, that the interest will be directly or indirectly affected by impending official action by the city.
- (2) **Reciprocal Favors.** An official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person, directly or indirectly.
- (3) **Appointment of Relatives.** An official or employee shall not appoint or employ or vote to appoint or employ any relative within the third degree of consanguinity or affinity to any office or position of employment within the city.
- (4) **Supervision of Relatives.** No official or employee shall be permitted to be the immediate supervisor of a relative within the third degree of consanguinity or affinity. Department heads are responsible for enforcing this policy. If an employee, by reason of marriage, promotion, reorganization, or otherwise, is placed into an immediate supervisory relationship with a relative, one of the employees will be reassigned or other appropriate arrangements will be made for supervision.

**(c) Recusal and Disclosure.** A city official or employee whose conduct would otherwise violate Subsection (b)(3) shall adhere to the recusal and disclosure provisions.

## **SECTION 5 GIFTS**

**(a) General Rule.** A city official or employee shall not solicit, accept, or agree to accept any gift or benefit:

- (1) That reasonably tends to influence or reward official conduct; or
- (2) That the official or employee knows or should know might reasonably be perceived as tending to influence or reward the discharge of official duties.

**(b) Special Applications.** Subsections (a) (1) and (a) (2) do not include:

- (1) A gift to an official or employee relating to a special occasion, such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and recipient;
- (2) Reimbursement of reasonable expenses for travel authorized in accordance with city policies;
- (3) A public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;
- (4) A scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants; or
- (5) Admission to an event in which the official or employee is participating in connection with official duties.

**(c) Campaign Contribution Exception.** The general rule stated in Subsection (a) does not apply to a campaign contribution made pursuant to the Texas Election Code.

**(d) Gifts to Closely Related Persons.** A city official or employee shall take reasonable steps to persuade a parent, spouse, child, or other relative within the second degree of consanguinity or affinity, not to solicit, accept, or agree to accept any gift or benefit that reasonably tends to influence or reward the city official's or employee's official conduct, or that the official or employee knows or should know might reasonably be perceived as tending to influence or reward the city official's or employee's discharge of official duties.

## **SECTION 6 CONFIDENTIAL INFORMATION**

**(a) Improper Access.** A city official or employee shall not use his or her position to secure official information about any person or entity for any purpose other than the performance of official responsibilities.

**(b) Improper Disclosure or Use.** A city official or employee shall not intentionally or knowingly disclose any confidential information gained by reason of said official or employee's position concerning the property, operations, policies or affairs of the city. This rule does not prohibit:

- (1) any disclosure that is no longer confidential by law; or

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- (2) the confidential reporting of illegal or unethical conduct to authorities designated by law.

## **SECTION 7 REPRESENTATION OF PRIVATE INTERESTS**

**Representation Before the City.** A city official or employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the city. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

## **SECTION 8 CONFLICTING OUTSIDE EMPLOYMENT**

(a) **General Rule.** An elected city official or employee shall not solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties.

(b) **Special Application.** The following special rule applies in addition to the general rule: An elected official or employee shall not provide services to an outside employer related to the official's or employee's city duties.

## **SECTION 9 PUBLIC PROPERTY AND RESOURCES**

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except: pursuant to duly adopted city policies, to the extent and according to the terms that those resources are lawfully available to the public or in accordance with state law.

## **SECTION 10 ACTIONS OF OTHERS**

(a) **Violations by Other Persons.** A city official or employee shall not knowingly assist or induce, or attempt to assist or induce, any person to violate any provision in this code of ethics.

(b) **Using Others to Engage in Forbidden Conduct.** A city official or employee shall not violate the provisions of this code of ethics through the acts of another.

## **SECTION 11 COMPLIANCE WITH LAWS, CITY CHARTER AND CITY ORDINANCES**

This code of ethics is cumulative of and supplemental to applicable state and federal laws, City Charter and City Ordinances. Compliance with the provisions of this code shall not excuse or relieve any person from any obligation imposed by state and federal laws, City Charter and City Ordinances regarding ethics, or any other issue addressed herein. Specifically, provisions in the City Charter addressing prohibitions and conduct by City Officials and employees must still be adhered to even if not addressed in this code. Even if a city official or employee is not prohibited from taking official action by this code of ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

## **FORMER CITY OFFICIALS AND EMPLOYEES**

### **SECTION 12 CONTINUING CONFIDENTIALITY**

A city official or employee shall not use or disclose confidential government information acquired during service as an official or employee. This rule does not prohibit:

- (a) any disclosure that is no longer confidential by law; or
- (b) the confidential reporting of illegal or unethical conduct to authorities designated by law.

### **SECTION 13 SUBSEQUENT REPRESENTATION**

(a) **Representation by a Former Board Member.** A person who was a member of a city board shall not represent any person, group, or entity for a period of two (2) years after the termination of his or her official duties:

- (1) before that board or body;
- (2) before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board or body.

(b) **Representation Before the City.**

- (1) A former elected city official or employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the city for a period of two (2) years after termination of his or her official duties. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- (2) In connection with the representation of private interests before the city, a former city official or employee shall not state or imply that he or she is able to influence city action on any basis other than the merits.

### **SECTION 14 DISCRETIONARY CONTRACTS**

(a) **Impermissible Interest in Discretionary Contract or Sale.** This section applies only to contracts or sales made on a discretionary basis, and not to contracts or sales made on a competitive bid basis. Within one (1) year of the termination of official duties, a former elected city official or employee shall not have a financial interest, direct or indirect, in any discretionary contract with the City, and shall not be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or service. Any violation of this Section, with the knowledge, expressed or implied, of the individual or business entity contracting with the Council shall render the contract involved voidable by the City Manager or the Council. A former city official or employee has a prohibited "financial interest" in a discretionary contract with the city, or in the sale to the city of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

- (1) The former officer or employee;
- (2) His or her parent, child, or spouse;
- (3) A business entity in which the former officer or employee, or his or her parent, child or spouse, directly or indirectly owns:
  - (A) ten (10) percent or more of the voting stock or shares of the business entity, or
  - (B) ten (10) percent or more of the fair market value of the business entity.

**(b) Prior Participation in Negotiation or Awarding.** A former city official or employee may not, within two (2) years of the termination of official duties, perform work on a compensated basis relating to a discretionary contract, if he or she personally and substantially participated in the negotiation or awarding of the contract. A former city official or employee, within two (2) years of termination of official duties must disclose to the City Manager immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary contract.

#### **ENFORCEMENT MECHANISMS**

In addition to other remedies provided by law, the following remedies are available with respect to violations of this code of ethics:

#### **SECTION 15 DISCIPLINARY ACTION**

Employees who engage in conduct that violates this code may be notified, warned, reprimanded, suspended, or removed from office or employment by the appointing authority, or by a person authorized to impose such remedies.

#### **SECTION 16 DAMAGES AND INJUNCTIVE RELIEF**

This code of ethics has been enacted not only to further the purposes stated in Section 1, but also to protect the City and any other person from any losses or increased costs incurred by the City or other person as a result of the violation of these provisions. It is the intent of the City that this legislative enactment can and should be recognized by a court as a proper basis for a civil cause of action for damages or injunctive relief based upon a violation of its provisions, and that such forms of redress should be available in addition to any other penalty or remedy contained in this code of ethics or any other law.

#### **SECTION 17 CIVIL FINE**

Any person, whether or not an official or employee of the city, who violates any provision of this code of ethics is subject to a fine not exceeding five hundred dollars (\$500).

## **ADMINISTRATIVE PROVISIONS**

### **SECTION 18 OTHER OBLIGATIONS**

This code of ethics is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this code shall not excuse or relieve any person from any obligation imposed by state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Even if a city official or employee is not prohibited from taking official action by this code of ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

### **SECTION 19 EFFECTIVE DATE**

This ordinance shall be effective June 1, 2008.

### **SECTION 20 SEVERABILITY**

If any provision of this code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this code which can be given effect without the invalid or unconstitutional provision or application.