

Part II. - Ethics Review Complaint Process

Sec. 2-35. - Definitions.

The term "ethics laws" includes this Code of Ethics, the City Charter, and Chapters 171 and 176 of the Texas Local Government Code.

The term "~~ethica~~ethics violation" ~~includes violations~~means a violation of any ethics laws.

The term "member" means a member of those enactments, the ethics review board.

Sec. 2-36. - Structure of the ethics review board.

- (a) *General.* There is hereby established an independent ethics review board, which shall have the powers and duties specified in the City Charter, City Code (Ethics Code), and other powers and duties prescribed by ordinance.
- (b) *Composition.* The ethics review board shall consist of eight members. ~~The mayor nominated and each member of the city council shall nominate one member of the board. Each nominee must be confirmed by a majority of city council members consistent with the City Charter.~~ Nomination and confirmation of ~~board~~ members shall be conducted at separate open meetings of the city council.
- ~~(c) *Terms of office.* Initial board appointments shall be made so that terms are staggered, with four members to serve an initial term of two years and four members to serve an initial term of three years, determined after appointment by lottery. Subsequent appointments~~

(c) *Terms of office.* Appointments shall be for a term of two years beginning on the day after the expiration of the preceding full term. No member ~~of the board~~ shall serve for more than three full terms.
- (d) *Qualifications.* Members ~~of the board~~ shall have good moral character and shall be residents of the city. No member ~~of the board~~ shall be:
 - (1) A salaried city official or employee;
 - (2) An elected public official;
 - (3) A candidate for elected public office;
 - (4) An officer of a political party;
 - (5) A campaign treasurer, campaign manager, officer or other policy or decision-maker for the campaign of any candidate for elected public office;
 - (6) Campaign treasurer, campaign manager, officer or other policy or decision-maker for any political action committee as defined in the Texas Election Code; or
 - (7) ~~A member of~~Serving on any other city board or commission ~~other than the ethics review board;~~
 - ~~(8) A member of or any other board or commission for on~~ which the member's position is appointed by city council.
- (e) *Removal.* Members ~~of the ethics review board~~ may be removed from office ~~for cause~~ by a majority of the city council only upon a finding, after a public hearing at which the member ~~was~~is provided with the opportunity to be heard. ~~Grounds for removal include: failure to satisfy, or to continue to satisfy, the qualifications set forth in subsection (d);, that the member: (1) has engaged in gross misconduct in office, (2) is guilty of substantial neglect of duty; gross misconduct in office; inability, (3) has committed a violation of ethics laws, or (4) is unable~~ to discharge the powers or duties of

~~office; or violation of any provision in this code of ethics. A member automatically vacates his or a her position upon the failure to satisfy the qualifications set forth in subsection (d) or conviction of a felony or or a plea of nolo contendere to a crime of moral turpitude or any felony.~~

- (f) *Vacancies.* The city council shall fill any vacancy on the board by a person who will serve the remainder of the unexpired term. The nomination ~~to fill a vacancy shall be made by the member of city council (or his or her successor) who had nominated the person whose successor is to be selected to fill the vacancy~~ and confirmation process shall be the same as utilized for the original appointment.
- (g) *Recusal.* A member ~~of the ethics review board~~ shall recuse himself or herself from any ~~case~~ matter in which, ~~because of familial relationship, employment, investments, or otherwise,~~ his or her impartiality might reasonably be questioned. ~~A board, as determined by a majority vote of the board conducted by secret ballot. A~~ member may not participate in ~~official~~ action on any complaint:

(1) That the member initiated;

~~(2) That involves the member of city council who nominated him or her for a seat on the ethics review board; or~~

~~(3) or~~

(2) During the pendency of an indictment or information charging the member with ~~any felony or a misdemeanor offense, or after a finding of guilt of such an offense, involving moral turpitude or any felony.~~

If ~~the number of board~~ more than three members ~~who are recused from a case is so large that an ethics panel cannot be constituted, as provided for in section 2-40 (Ethics panel);~~ matter, the mayor shall nominate a sufficient number of ad hoc members so that the easeboard can ~~be heard~~ achieve quorum in order to meet to consider said matter. Ad hoc members of the ethics review board must be confirmed by a majority vote of the city council and serve only for the case in question.

- (h) *Chair and vice-chair.* Each year, the board shall meet and elect a chair and a vice-chair from among its members, who will serve one-year terms and may be re-elected. The chair or ~~a majority~~ any three members of the board may call a meeting of the board. The chair shall preside at meetings of the ethics review board and performing other administrative duties. The vice-chair shall assume the duties of the chair in the event of a vacancy in that position.

~~(i) *Panels.* Each year, at the time of the election of a chair and vice chair, the chair will also make panel assignments. In the event of vacancies or absences, the chair may make reassignments as needed so that each panel has no fewer than three members of the board.~~

~~(j) *Reimbursement.* The members of the ethics review board (i) *Reimbursement.* Members shall not be compensated but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.~~

Sec. 2-37. - Jurisdiction and powers.

- (a) *Jurisdiction.* The ethics review board shall have jurisdiction to investigate and make findings and conclusions concerning:
- (1) An alleged violation of the ethics code enacted from time to time by ordinance;
 - (2) An alleged violation of regulations governing lobbying enacted from time to time by ordinance; and

- (3) An alleged violation of the City Charter, provided, however, that the ethics review board has no jurisdiction to find or conclude that a city officer or employee has forfeited his or her office or position.

~~(b) Limitations.~~ The board shall not have any authority to consider any ~~alleged violation or complaint that occurred~~ filed more than one year ~~prior~~ after the occurrence or event giving rise to the ~~date of the filing of the~~ complaint.

~~(bc)~~ *Termination of city official's or employee's duties.* The termination of a city official's or employee's duties does not affect the jurisdiction of the ethics review board with respect to alleged violations occurring prior to the termination of official duties.

~~(ed)~~ *Powers.* The ethics review board has the power:

- (1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances pertaining to the code of ethics, including lobbying regulations;
- (2) To meet as often as necessary to fulfill its responsibilities;
- ~~(3) To designate panels with the power to render decisions on complaints on behalf of the board;~~
- ~~(4)~~—To request from the city manager the assignment of staff necessary to carry out its duties;
- ~~(5)~~ (4) To review, index, maintain on file, and dispose of sworn complaints;
- ~~(6)~~ (5) To make notifications, extend deadlines, and conduct investigations, both on referral or complaint;
- ~~(7)~~ (6) To compel the production of sworn testimony, witnesses and evidence;
- ~~(8)~~ (7) To recommend cases for prosecution by appropriate authorities and agencies;
- ~~(9) To enforce its decisions by assessing civil fines and other sanctions authorized by ordinance;~~
- ~~(10)~~ (8) To request the city attorney to provide an independent counsel to advise and represent the board, when appropriate or necessary to avoid a conflict of interest;
- ~~(11)~~ (9) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
- ~~(12)~~ (10) To prepare an annual report and to recommend to the city council needed or desirable changes in ordinances under its jurisdiction;
- ~~(13)~~ (11) To exercise such other powers and duties as may be established by ordinance.

Sec. 2-38. — Requirements of Complaints.

- (a) ~~*Filing Complainant.*~~ Any person ~~(including a member of the ethics review board or its staff, acting personally or on behalf of the board)~~ who believes that there has been a violation of the ethics ~~code~~ laws may file a sworn complaint with the city secretary.

~~A complaint filed in good faith is qualifiedly privileged. A person who knowingly makes a false statement in a complaint, or in proceedings before the ethics review board, is subject to criminal prosecution for perjury or civil liability for the tort of abuse of process.~~

- (b) ~~*Form Contents.*~~ A complaint filed under this section must be in writing and ~~under oath~~ must state on its face an allegation that, if true, constitutes a violation of a law administered and enforced by the board, and must set forth in simple, concise, and direct statements:

- (1) The name of the complainant;
- (2) The street or mailing address and the telephone number of the complainant;
- (3) The name of each person complained about;
- (4) The position or title of each person complained about;
- (5) The nature of the alleged violation, including, if possible, the specific provision of the ~~code of~~ ethics laws alleged to have been violated; and
- (6) Statement of the facts constituting detailing the alleged violation and the dates on which or period of time in which the alleged violation occurred; ~~and.~~

~~(7)~~ (c) *Attachments. A complaint shall be accompanied by:*

- (1) All documents or other material available to the complainant that are relevant to the allegation; 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 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; ~~and~~

~~The complaint must be accompanied by an~~ (2) 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 the ethics [code] are true and correct.~~ If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(d) *Assistance. The city secretary shall provide information to persons who inquire about the process for filing a complaint.* ~~The complaint must state on its face an allegation that, if true, constitutes a violation of a law administered and enforced by the board.~~

~~(e) *Frivolous complaint.*~~

- ~~(1) For purposes of this section, a "frivolous complaint" is a sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.~~
- ~~(2) By a vote of at least two thirds of those present, the board may order a complainant to show cause why the board should not determine that the complaint filed by the complainant is a frivolous complaint or, alternatively, may assign the complaint to an ethics panel for further proceedings consistent with this section.~~
- ~~(3) In deciding if a complaint is frivolous, the board or ethics panel will be guided by the Texas Rules of Civil Procedure, Rule 13, and interpretations of that rule, and may also consider:~~
 - ~~a. The timing of the sworn complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the respondent is a candidate or is involved with a candidacy, if any;~~
 - ~~b. The nature and type of any publicity surrounding the filing of the sworn complaint, and the degree of participation by the complainant in publicizing the fact that a sworn complaint was filed with the board;~~
 - ~~c. The existence and nature of any relationship between the respondent and the complainant before the complaint was filed;~~

- ~~d. If respondent is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the respondent;~~
- ~~e. Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and~~
- ~~f. Any evidence of the complainant's motives in filing the complaint.~~
- ~~(4) Notice of an order to show cause shall be given to the complainant, with a copy to the respondent, and shall include:~~
 - ~~a. An explanation of why the complaint appears to be frivolous; and~~
 - ~~b. The date, time, and place of the hearing to be held under this section.~~
- ~~(5) Before making a determination that a sworn complaint is a frivolous complaint, the board or ethics panel shall hold a hearing at which the complainant may be heard; the complainant may be accompanied by counsel retained by the complainant.~~
- ~~(6) By a record vote of at least two-thirds of those present after the hearing under subsection (5) of this section, the board or ethics panel may determine that a complainant filed a frivolous complaint and may recommend sanctions against that complainant.~~
- ~~(d) Sanctions for filing frivolous complaints.~~
 - ~~(1) Before imposing a sanction for filing a frivolous complaint, the board shall consider the following factors:~~
 - ~~a. The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;~~
 - ~~b. The sanction necessary to deter future violations; and~~
 - ~~c. Any other matters that justice may require.~~
 - ~~(2) The board may impose the following sanctions:~~
 - ~~a. A civil penalty of not more than \$500.00.~~
 - ~~b. Imposition of attorneys' fees incurred by the respondent of the frivolous complaint;~~
 - ~~c. Any other sanction permitted by law.~~
 - ~~(3) The board may notify the appropriate regulatory or supervisory agency for their appropriate action. This may include a referral to a criminal investigation agency or prosecution entity for investigation of perjury.~~

~~(e~~

Sec. 2-39. Handling of complaints.

- (a) Confidentiality. No member, city official or employee shall reveal information relating to the filing or processing of a complaint except as required for the performance of official duties. ~~Ex parte communications by members of the ethics review board are prohibited by section 2-40(d). All papers relating to a pending complaint are confidential.~~
- ~~(1) Except as otherwise provided by this section, all information relating to a sworn complaint known to or in the possession of the board is confidential. The board and its staff shall not communicate any information about a sworn complaint, including whether or not a complaint has been filed, to any person other than the respondent, the complainant, and a witness or~~

~~potential witness identified by the respondent, the complainant, or another witness or potential witness.~~

~~(2) Information otherwise confidential under this section may be disclosed by entering it into the record of a formal hearing or ethics review board proceeding.~~

~~(3) Requests for information pertaining to complaints shall be responded to in compliance with the Texas Public Information Act or the Texas Open Meetings Act.~~

~~(f)(b) Notification to the ethics review board of complaint filing.~~ A copy of a complaint that fully complies with Section 2-38 shall be promptly forwarded by the city secretary to the ~~ethics compliance officer~~members, the city attorney, and to the respondent(s), ~~even if the complaint fails to meet the filing requirements of subsection (b) above. A complaint that is not sworn as required by subsection (b)(7) shall not be forwarded by the city secretary to the ethics compliance officer, but shall be returned to the complainant.~~ The respondent(s) shall also be provided with a copy of the ethics rules and shall be informed:

- (1) That, within 14 days of receipt of the complaint, he or she may file a sworn response with the city secretary, who shall forward said response to the city attorney and the ethics review board;
- (2) That failure to file a response does not preclude the ethics review board from adjudicating the complaint;
- (3) That a copy of any response filed by the respondent(s) will be provided by the city secretary to the complainant, who may, within seven days of receipt, ~~respond~~reply by sworn writing filed with the city secretary, a copy of which shall be provided by the city secretary to the city attorney, the ethics review board, and the respondent(s);
- (4) That the complainant(s) or respondent(s) may request a hearing; and;
- (5) That city officials and employees have a duty to cooperate with the ethics review board, pursuant to section 2-~~40(e)~~41.

~~Upon receipt, the city secretary shall forward the response to the ethics compliance officer and the compliance officer shall forward to the ethics review board.~~

~~(g) Assistance. The city secretary shall provide information to persons who inquire about the process for filing a complaint.~~

Sec. 2-~~39~~40. - Ethics compliance officer.

(a) ~~City attorney's office.~~Appointment. The city attorney shall, ~~upon~~after receiving from the filing city secretary a copy of a filed complaint, recommend to the appointment of an ethics review board no fewer than three (3) independent outside attorneys, who ~~does~~do not otherwise represent the city in any pending matter, to serve as the ethics compliance officer for the city: in the handling of said complaint. The ethics review board shall appoint, by majority vote of the members present, one of the recommended attorneys as such ethics compliance officer at the board's first meeting after being notified by the city secretary of the filing of a complaint.

(b) The ethics compliance officer shall:

- (1) ~~Receive and~~Be promptly ~~transmit to~~provided by the ~~ethics review board~~ complaint city attorney copies of the subject complaint and any response and ~~responses~~reply filed with the city secretary;
- (2) Investigate, marshal, and present to the ethics review board the evidence bearing upon a complaint;

- (3) Act as legal counsel to the ethics review board in the handling of the subject complaint;
- (4) Issue advisory opinions ~~to at the request of the~~ city ~~officials and employees manager, the city attorney, or any member of the city council~~, about the requirements imposed by the ethics laws; and
- (5) Be responsible for the training and education of city officials and employees with respect to their ethical responsibilities;
- (6) Review complaints for legal sufficiency;
- (7) Recommend ~~acceptance or rejection of~~ action upon complaints made to the ethics review board; and
- (8) Request additional information from a complainant as needed.

~~At least once each year, the city attorney shall cause to be distributed to each city official and employee a notice setting forth the duties of the ethics review board and the procedures for filing complaints. The city attorney shall also ensure that such notices are posted in prominent places in city facilities.~~

~~(b)~~

- (c) *Exculpatory evidence.* The ethics compliance officer shall disclose to the ethics ~~panel~~ review board and provide to the person charged with violating the ethics code evidence known to the ethics compliance officer tending to negate guilt or mitigate the seriousness of the offense, in the reasonable judgment of the ethics compliance officer.

Sec. 2-40. ~~Ethics panel~~ 41. - Complaint review and investigation.

- (a) ~~Assignment to an ethics panel. A complaint received by the ethics review board from the ethics compliance officer shall be promptly assigned to an ethics panel consisting of five or more members of the board in the case of a level 1 or level 2 complaint, or three or more members of the board in the case of a level 3 complaint, who shall have the full power to investigate and dispose of the complaint. A complaint shall be categorized by level prior to its assignment to an ethics panel as one of the following: level 1—complaints likely bearing the potential of criminal sanction, level 2—complaints not likely to bear potential criminal sanction and level 3—complaints subject to determination as a frivolous complaint. Each ethics panel shall be constituted according to procedures established by the board. Any member of an assigned ethics panel who recuses himself or herself shall be replaced by another member of the board according to established procedures if that is necessary to ensure that the panel has at least five members or three members, depending on the level of the complaint. The identity of the members of the ethics panel shall be revealed to the person charged in the complaint who, for good cause, may request the recusal of any member of the panel.~~ Investigation. The ethics review board may direct the ethics compliance officer to investigate the allegations in the complaint or the board may choose to conduct its own investigation by holding hearings as provided in Section 2-42
- (b) *Notice of charges.* The ~~ethics panel~~ board shall consider whether the facts of the case establish a violation of any provision in the ethics laws, regardless of which provisions, if any, were identified in the complaint as having been allegedly violated. However, before the ~~ethics panel~~ board may find a violation of a particular rule, the respondent must be on notice that compliance with that rule is in issue and must have an opportunity to respond. Notice is conclusively established: by: (1) if the complaint alleged that the rule was violated; (2) if compliance with the rule is raised by the a member ~~of the board~~ or the ethics compliance officer as a disputed issue at a hearing before the ~~ethics panel~~ board; or if the board or the ethics compliance officer provides the respondent with

written notice of the alleged violation ~~and a 14 day period within which to respond in writing to the charge.~~

- (c) *Scheduling of a hearing.* Regardless of whether the complainant or the respondent requests a hearing, the ~~ethics panel~~board has discretion to decide whether to hold a hearing.
- (d) *Ex parte communications.* It is a violation of this code:
 - (1) For the complainant, the respondent, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in ex parte communication about the subject matter of a complaint with a member of the ethics ~~panel, any other member of the ethics~~ review board; or any ~~known~~ witness to the violation(s) alleged in the complaint; or
 - (2) For a member ~~of an ethics panel or any other member of the ethics review board~~ to:
 - a. Knowingly entertain an ex parte communication prohibited by subsection (1) of this rule; or
 - b. Communicate directly or indirectly with any person, ~~other than a member of the ethics review board, its staff, except at a board proceeding~~ or the ethics compliance officer, about any issue of fact or law relating to the complaint.
- (e) *Duty to cooperate.* All city officials and employees shall cooperate with the ethics review board and shall supply requested testimony or evidence to assist it in carrying out its charge. Failure to abide by the obligations imposed by this subsection is a violation of this code of ethics.
- (f) *Extension of deadlines.* A complainant or respondent who fails to meet a deadline to submit a filing with the ethics review board may file a request for the board to accept late filing. The complainant or respondent must include within the request a statement of good cause in order for the board to grant the request. ~~The assigned panel may grant a request to accept a late filing for good cause in its sole discretion.~~
- (g) *Timeliness of notices or submissions.* When the ethics code requires a notice or other document to be submitted or otherwise given to a person or to the ethics review board, the requirement is met in a timely fashion if the document is sent to the person or the board by first-class mail or certified mail addressed with postage or handling charges prepaid and it bears a post office cancellation mark indicating a date within the time required to provide notice or to submit a document, unless another method of submission is expressly required.
- ~~(h) In the event a complaint has been categorized as a level 1 complaint, the ethics panel may seek the assistance of the League City Police Department for investigative purposes.~~(h) In the event a complaint alleges conduct that constitutes a criminal offense, the board may by majority vote abate the ethics complaint process and forward the matter to the appropriate law enforcement agency. Such abatement shall end at the conclusion of the criminal justice process, at which time the board may resume its adjudication of the complaint. All deadlines imposed by this division shall be tolled during such abatement.

Sec. 2-~~41~~42. – Hearings.

At any hearing held by ~~an~~the ethics ~~panel~~review board during the investigation or disposition of a complaint, the following rules apply:

- (1) *General rules.* ~~At least three members~~A quorum of the ~~ethics panel~~board must be present for the hearing. Any member ~~of the ethics panel~~ who is not present ~~ceases to be a member of the ethics panel and~~ may not participate in the disposition of the case. All witnesses must be sworn and all questioning of witnesses shall be conducted by the members ~~of the ethics panel~~ or the

ethics compliance officer. The ~~ethics panelboard~~ may establish time limits and other rules relating to the participation of any person in the hearing. ~~No person may be held to have violated the ethics laws unless a majority of the ethics panel so finds by a preponderance of the evidence. The panel may also elect to bring a complaint to the board in its entirety to hear the matter as a panel of the whole board.~~

- (2) *Evidence.* The ~~ethics panelboard~~ shall rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs. The ~~ethics panelboard~~ shall further abide by the following:
 - a. The ~~panelboard~~ shall hear evidence relevant to the allegations; and
 - b. The ~~panelboard~~ shall not consider hearsay unless it finds the nature of the information is reliable and useful.
- (3) *The person charged.* The person charged in the complaint has the right to attend the hearing, the right to make a statement, the right to present witnesses, ~~and the right to be accompanied by legal counsel or another advisor, and the right to cross-examine or have his legal advisor cross-examine any witness questioned by the board or the ethics compliance officer.~~ Only legal counsel to the person charged in the complaint may advise that person during the course of the hearing, but may not speak on his or her behalf, except with the permission of the ~~ethics panelboard~~. The time permitted for presentation will be at the discretion of the board.
- (4) *The complainant.* The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the complainant may advise the complainant during the course of the hearing, but may not speak on behalf of the complainant, except with the permission of the ~~ethics panelboard~~. Witnesses may not be presented by the complainant, except with the permission of the ~~ethics panelboard~~.

Sec. 2-~~42~~43. - Disposition.

- (a) *Written ~~opinion~~decision.* The ethics ~~panel~~review board shall issue a written decision within ~~90~~180 days after the filing of a complaint. The ~~ethics panelboard~~ shall state in ~~a written opinion~~ its decision the board's findings of fact and conclusions of law. The written ~~opinion~~decision shall ~~either declare:~~
 - (1) ~~Dismiss~~That the complaint is unfounded; or
 - (2) ~~Upon finding that~~That by a preponderance of the evidence there has been a violation of the ethics laws:
 - A. ~~Impose sanctions in accordance with these regulations; or,~~
 - B. ~~Recommend criminal prosecution and/or civil remedies, in accordance with this section; or~~
 - C. ~~state why no remedial action is imposed or recommended.~~

If the ~~ethics panelboard~~ determines that a violation has occurred, the ~~opinion~~decision shall identify ~~in writing~~ the particular rule or rules violated. If the complaint is ~~dismissed~~declared unfounded, the grounds for the ~~dismissal~~declaration shall be set forth in the ~~opinion~~. ~~The failure of the ethics panel to comply within the above time limits may result in the charge being dismissed for want of prosecution. Prior to such dismissal, the complainant will be given notice and an opportunity to request continuance~~decision.

- (b) *Sanctions.* If the board finds that an ethics violation occurred, the board shall in its decision impose one of the ~~actions~~sanctions set forth in Section 2-44 and may make one or more of the recommendations set forth in Section 2-45.

- (b)—(c) *Notification.* Copies of the ~~opinion~~board's decision shall be forwarded to the complainant, the person charged in the complaint, the ethics compliance officer, and any member of the ethics review

board who did not participate in the disposition of the case. A copy of the opinion shall also be forwarded to the city secretary, who shall make it available as authorized by law.

- ~~(c) *Recommendations.* A recommendation for criminal prosecution shall be forwarded to the appropriate law enforcement agency. A recommendation of civil remedies shall be forwarded through the ethics compliance officer to the city council for action.~~
- (d) *Similar charges barred.* If the complaint is dismissed because the evidence failed to establish a violation of the ethics laws, the ethics review board shall not entertain any other similar complaint based on substantially the same evidence.

Sec. 2-44. Sanctions for ethics violation.

(a) The board may impose the following sanctions in its decision that an ethics violation was committed:

- (1) *Letter of notification.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of notification when the board finds that a violation of the code of ethics was clearly unintentional or inadvertent. The letter must advise the person to whom it is directed of any steps to be taken to avoid future violations.
- (2) *Letter of admonition.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of admonition when the board finds that the violation of the code of ethics was minor and/or may have been unintentional or inadvertent.
- (3) *Letter of reprimand.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of reprimand when the board finds that the person has intentionally or knowingly violated the code of ethics.
- ~~(e4) *Referral to ethics training.* Upon finding of violation of the ethics code, the ethics review board may recommend that a city official or employee attend ethics code training.~~

(b) Factors relevant to sanctions.

- ~~(1) *General violations (non-reporting violations).* In deciding whether which sanction to recommend or impose, in the case of a violation of the ethics law, criminal prosecution and/or civil remedies, the ethics panel review board shall take into account relevant considerations, including, but not limited to, the following:~~
 - ~~A.(1) The culpability of the person charged in the complaint;~~
 - ~~B.(2) The harm to public or private interests resulting from the violation;~~
 - ~~C.(3) The necessity of preserving public confidence in the conduct of local government;~~
 - ~~D.(4) Whether there is evidence of a pattern of disregard for ethical obligations; and~~
 - ~~E.(5) Whether remedial action has been taken that will mitigate the adverse effect of the violation.~~

~~Sec. To impose or recommend sanctions for a first violation of the ethics code, other than a letter of notification, a letter of admonition, letter of reprimand or a referral to training, the board must find by a preponderance of the evidence that the person acted knowingly.~~

- ~~(2) *Reporting requirement violations.* To impose sanctions, other than a letter of notification, a letter of admonition, letter of reprimand or a referral to training, for untimely or incomplete submission of reports required by the ethics code, the board must determine by a preponderance of the evidence that the person knowingly failed:~~

~~A. To file the report on time; or~~

~~B. To include in the report information that is required to be included.~~

~~Failure to submit a required report or an amended report after receipt of notice of noncompliance by the city secretary's office, the city attorney's office or the ethics review board may be considered evidence of a knowing failure to comply with reporting requirements.~~

~~Upon finding a second or subsequent untimely or incomplete submission of reports within a two-year period of time, the board may issue a letter of reprimand regardless of whether the second or subsequent violation was made knowingly by the filer.~~

~~(f) Civil sanctions for ethics code violations. The following civil remedies may be recommended or imposed by an ethics panel which finds that the ethics code has been violated:~~

2-45. Recommendations for additional remedies.

(a) The board may make the following recommendations in its decision that an ethics violation was committed:

(1) *Disciplinary action.* ~~Employees who violate~~If the ethics review board finds that an employee of the city has violated this code of ethics may, the board may recommend to the city manager that such employee be disciplined in accordance with city personnel rules and procedures. ~~Other city officials 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 or body authorized by law to impose such remedies. Disciplinary action under this section may be imposed in addition to any other penalty or remedy contained in this code of ethics or any other law. The ethics review board may refer a violation to the city manager or his or her designate for disciplinary action in accordance with any applicable personnel rules;~~

~~(2) Suit for damages or injunctive relief. This code of ethics has been enacted not only to further the purposes stated herein, but 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 ethics code 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. The ethics review board may refer a violation of the ethics code to the city attorney's office for consideration of a suit by the city for damages or injunctive relief.~~

~~(3)~~ (2) *Disqualification from contracting or lobbying.*

A. If the ethics review board finds that any person (including business entities and nonprofit entities) has intentionally or knowingly violated any provision of the ethics code, the ethics review board may recommend to the city council that the person be prohibited from entering into any contract with the city or prohibited from lobbying on behalf of clients before the city for a period not to exceed three years.

B. It is a violation of this code of ethics:

(i) For a person ~~debarred~~disqualified from entering into a contract with the city to enter, or attempt to enter, into a contract with the city during the period of disqualification from contracting; or

(ii) For a city official or employee to knowingly assist a violation of subsection (B)(i) of this rule.

- C. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.
 - D. A business entity or nonprofit entity may be disqualified from contracting based on the conduct of an employee or agent, if the conduct occurred within the scope of the employment or agency.
- (43) *Recommendation to void or ratify contract.* If the ethics review board finds that there has been a violation of any provision that is related to the awarding of a contract, the ethics ~~panel must review board may~~ vote on whether to recommend to the city council that the contract be ratified or voided. Such action shall not affect the imposition of any penalty or remedy contained in this code of ethics or any other law.
- ~~(5) *Civil fine.* b) The ethics review board may impose upon any person, whether or not an official or employee of the city, who violates any provision of this code of ethics a fine not exceeding \$500.00. Each day after any filing deadline imposed by this article for which any required statement has not been filed, or for which a statement on file is incorrect, misleading, or incomplete, constitutes a separate offense.~~
- ~~(6) *Letter of notification.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of notification when the board finds that a violation of the code of ethics was clearly unintentional or inadvertent. The letter must advise the person to whom it is directed of any steps to be taken to avoid future violations.~~
- ~~(7) *Letter of admonition.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of admonition when the board finds that the violation of the code of ethics was minor and/or may have been unintentional or inadvertent.~~
- ~~(8) *Letter of reprimand.* The ethics review board may issue to any person, whether or not an official or employee of the city, a letter of reprimand when the board finds that the person has intentionally or knowingly violated the code of ethics.~~
- ~~(9) *Referral to ethics training.* Upon finding of violation of the ethics code, the ethics review board may require a city official or employee to attend ethics code training.~~
- ~~(g) *Criminal prosecution.* An ethics panel may recommend to the appropriate law enforcement agency criminal prosecution under the Texas Penal Code or under Chapter 171 of the Texas Local Government Law. Any person who files a false sworn statement under any provision of this article is subject to criminal prosecution for perjury under the laws of the State of Texas.~~
- ~~(h) *Reconsideration.* Within five business days of receiving the final opinion of the ethics review board, the complainant or respondent may request the ethics review board to reconsider its decision. The request must be filed with the office of the city secretary. Within 15 days after filing with the city secretary, the originally assigned panel shall review the request for reconsideration. If the panel concludes reconsideration is warranted, it shall bring the request within another 15 days to the full board for decision on whether to grant reconsideration. If the full board grants reconsideration, the board may then order further proceedings in accordance with the provisions of this code.~~
- ~~(i) *Council action.* City council shall dispose of a recommendation from the ethics review board within ninety (90) days of receiving such recommendation. The recommendation(s) of the ethics review board may be accepted, rejected, modified, or recommitted to said board for further action or clarification. Failure to take action within specified time limits may result in the charge being dismissed for want of prosecution. Prior to such dismissal, the complainant will be given notice and an opportunity to request continuance of the action.~~

~~(j) *Appeals.* A decision of the ethics review board is final unless the person aggrieved by the decision appeals to the state district court in Galveston County no later than 30 days after the date the board renders the decision. An appeal of a board decision is initiated by filing a verified petition setting forth the specific points of error alleged. The district court shall review an appeal under this section under the substantial evidence rule and shall base its decision on the court's review of the record of the hearing before the board.~~

~~If the decision of the ethics review board is not supported by substantial evidence, the district court may reverse or affirm the board's decision in whole or in part, or may modify the board's decision if substantial rights of the aggrieved person have been prejudiced. Costs of an appeal may not be assessed against the board, individual board members, or the City of League City.~~

~~Sec. 2-43. *Petition for declaratory relief.*~~

~~Any city official or employee against whom public allegations of ethics or campaign finance violations have been made in the media or elsewhere shall have the right to file a sworn statement with the city secretary affirming his or her innocence, and to request the ethics review board to investigate and make known its findings, and make any relevant recommendations concerning the issue.~~

Sec. 2-46. Reconsideration.

(a) A person found by the board pursuant to the procedures set forth in this division to have committed an ethics violation shall have the right to file a request for reconsideration if:

(1) the request is filed with the city secretary no later than twelve (12) months after the board issued its decision that the person committed an ethics violation; and

(2) the request details newly discovered evidence that:

A. is relevant and material to the ethics violation;

B. was not available to the board in the original proceeding, and

C. could reasonably be expected to have affected the outcome in the original proceeding.

(b) A request for reconsideration that complies with (a) shall be handled by the board in the same manner as a complaint of an ethics violation. The board's written decision at the conclusion of the process may:

(1) rescind the written decision in the original proceeding and substitute a determination that the original complaint is unfounded;

(2) modify the original decision to impose a lesser sanction; or

(3) uphold the original decision.

Sec. 2-4744. - Annual report.

The ethics review board shall prepare and submit an annual report to the mayor and city council detailing the activities of the board during the prior year. The format for the report shall be designed to maximize public and private understanding of the board's operations, and shall include a summary of the

content of ethics opinions issued by the board and a listing of current city lobbyists based on information gathered by the board from records on file with the city secretary. The report may recommend changes to the text or administration of this code of ethics. The city ~~attorney~~secretary shall ~~take reasonable steps to ensure wide dissemination and availability~~maintain a copy of the annual report of the ethics review board ~~for the public's review.~~

Sec. 2-48. ~~Sec. 2-45.~~ Public records and open meetings.

Except as otherwise provided in this Part II, records relating to an alleged violation of the ethics ~~laws, or the preparation of an ethics opinion requested by a person who asked for anonymity, shall not~~law~~shall~~ be ~~open~~subject to the ~~public and shall be treated as information that is excepted from public disclosure as required or permitted under the~~ Texas ~~Open Records~~Public Information Act ~~or other law.~~ Meetings and other proceedings of the ethics review board shall be conducted in compliance with the Texas Open Meetings Act. ~~will be conducted in compliance with the Texas Open Meetings Act.~~

~~Sec. 2-46.~~ Other obligations.

~~This ethics code 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.~~

~~Sec. 2-47.~~ Effective date.

~~This article shall be effective January 1, 2010.~~

Sec. 2-49. ~~Sec. 2-48.~~ Distribution and training.

- ~~(a) Prior to the effective date of this code of ethics, and periodically thereafter as appropriate, the city attorney or designated ethics compliance officer shall provide information about the code to every official and employee of the city, and copies of the code shall be made readily available to city officials, employees, and the public. Within 30 days after entering upon the duties of his or her position, every new official or employee shall be furnished with information about this code of ethics. The failure of any person to receive a copy of this code shall have no effect on that person's duty to comply with this code or on the enforcement of its provisions. Upon appointment to a board or commission, such official shall be provided with a copy of the ethics code.~~
- ~~(b) The city attorney or designated ethics compliance officer,~~(a) The city attorney shall promulgate a notice setting forth the duties of the ethics review board and the procedures for filing complaints to be posted in prominent places in city facilities.
- (b) The city attorney in consultation with the ethics review board, shall develop educational materials and conduct educational programs for the officials and employees of the city on the provisions of this code of ethics, City Charter, and Chapters 171 and 176 of the Texas Local Government Law. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.

~~Sec. 2-49.~~ Reserved.

PART III. - CAMPAIGN FINANCE

Sec. 2-50. - Statement of policy.

(a) *General.* It is essential in a democratic system that the public has confidence in the integrity, independence, and impartiality of those who are elected to act on their behalf in government. There is a public perception that a relationship exists between substantial contributions and access to elected officials. To diminish the perceived or actual connection between contributions and influence, the city adopts these municipal campaign finance provisions to promote public confidence and, it is hoped, a greater degree of citizen participation in the electoral process. These campaign finance provisions do not affect any elected official's obligation to comply with all elements of the Texas Election Code and/or any other applicable state law.

(b) *Definitions.*

(1) *Contribution:* A "contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit, including a loan described by the Texas Election Code.

The term "contribution" does not include a loan made in the ordinary due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made, or an expenditure required to be reported under V.T.C.A., Government Code § 305.006.

(2) A loan is deemed to be made in the ordinary due course of business if it:

- a. Bears the usual and customary interest rate of the lending institution for the category of loan involved;
- b. Is made on a basis that assures repayment;
- c. Is evidenced by a written instrument; and
- d. Is subject to a due date or amortization schedule.

(3) Terms not defined in this chapter but defined in the Texas Election Code shall have the meanings assigned to them in the Texas Election Code.

Sec. 2-51. - Rules of disclosure.

(a) A candidate for office or current officeholder seeking re-election on the city council of the City of League City, Texas, whether opposed or unopposed, shall, in addition to any other campaign finance disclosures required by the Texas Election Code, file with the office of the city secretary of the City of League City on or before 9:00 a.m. on the Thursday immediately preceding the regular election date, or in the case of a runoff election, on or before 9:00 a.m. on the Thursday immediately preceding the runoff election date, a complete written disclosure of all campaign contributions received by the candidate or officeholder during the contribution cycle which corresponds to such election date or runoff election date. For the purposes of a regular election date, the term "contribution cycle" shall have the meaning affixed under subsection 2-52(a)(1)a. below. For the purposes of a runoff election date, the term "contribution cycle" shall have the meaning affixed under subsection 2-52(a)(1)b. below.

(b) The reports required by subsection (a) above shall include only such contributions which are not otherwise disclosed in a campaign finance disclosure required by the Texas Election Code and will describe, on forms to be made available by the city secretary, the amount of each contribution or the value and nature of any in-kind contribution, as well as the name and address of the individual or political committee making the contribution, and the date of the contribution.

- (c) Upon receipt of such reports, the city secretary shall ensure that the reports are posted on the city's website on or before 12:00 p.m. on the Friday immediately preceding the regular election date, or in the case of a runoff election, on or before 12:00 p.m. on the Friday immediately preceding the runoff election date.
- (d) In addition to the reports outlined above, the city secretary shall, within 24 hours of their respective receipt, post on the city's website full and complete copies of all campaign finance reports required to be filed by candidates or officeholders with the city secretary under the Texas Election Code.
- (e) In addition to the reports required above, a candidate for office, including a current officeholder seeking re-election, on the city council of the City of League City, Texas, shall file with the office of the city secretary, within 30 days of becoming a candidate, a report that discloses the candidate's:
 - (1) Work history for the preceding 25 years or since age 21, whichever is shorter, detailing each place of employment, a description of each position held, and that position's responsibilities;
 - (2) Educational background, including all institutions of higher education attended and any degrees obtained therefrom;
 - (3) Holding of licenses or certifications to engage in a particular profession, trade, or craft;
 - (4) Convictions for any crime of moral turpitude or any offense higher than a class C misdemeanor, along with the candidate's date of birth and driver's license number; and
 - (5) Three professional references.
- (f) All members of the city council in office at the time of adoption of subsection (e) shall file the reports required herein within 30 days of said adoption. All members of the city council shall have the duty to update the reports required by subsection (e) within 30 days of any change to the information previously disclosed.
- (g) The city secretary shall forward a copy of all reports filed pursuant to subsection (e) to the city attorney, who shall verify or cause to be verified the criminal record of each person who filed a report. Any information contained in the reports that is confidential under any law shall not be subject to disclosure under the Texas Public Information Act, and any public request for such confidential information shall be sent to the office of the Attorney General of the State of Texas for a determination of the city's obligation to disclose.
- (h) The failure of a person to file or update the report required in subsection (e) shall not render the person ineligible to hold any elective office nor subject the person to any penalties or sanctions, except the city secretary shall maintain for public inspection a list of all persons who have failed to file a report required by subsection (e).

Sec. 2-52. - Conflicts of interest.

(a) *Definitions.*

- (1) *Contribution cycle:* The following constitute separate contribution cycles:
 - a. The pre-election contribution cycle begins on July 1 of the calendar year before the date of the regular municipal election, and ends on the date of the regular municipal election;
 - b. For a candidate or officeholder in a runoff election after the regular municipal election, beginning the day after the regular municipal election and ending on the date of the runoff election;
 - c. The post-election contribution cycle begins on the day after the regular municipal election or the day after the runoff election, as applicable, until June 30 of the calendar year before the next regular municipal election.

(b) *Conflicts of interest, generally.*

- (1) A city councilperson~~;~~ or mayor ~~in case of a tie,~~ shall abstain from participation in discussion of and any vote on a matter, and shall file an affidavit stating the nature and extent of his or reason for abstention in a matter, when an action on the matter by the city council will have a special economic effect on a person or entity that is distinguishable from its effect on the public where the city councilperson or mayor received campaign contributions exceeding \$1,000.00 in the aggregate from such person or entity during the contribution cycles which correspond to the regular or runoff election date for the councilperson's or mayor's current term of office.
- (2) For the purposes of this subsection, the term "contribution" shall have the meaning assigned to it under subsection 2-50(b).
- (3) A city official who is required to abstain from participation in a matter under this section or under state law shall leave the room where the meeting is held during any discussion of, and vote on, the matter.

Secs. 2-53—2-60. - Reserved.