

CITY OF IRVING

COUNCIL RESOLUTION NO. RES-2014-278

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WHEREAS, the Mayor duly appointed a Council committee to review and make recommendations regarding the ethics policies of the City; and

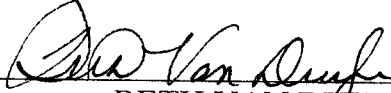
WHEREAS, the committee reviewed the policies and made recommendations to update the current policies and add thereto more specific rules and enforcement capabilities; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

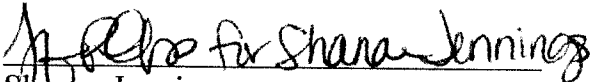
SECTION I. THAT the City Council hereby approves the attached Irving Ethics Code.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

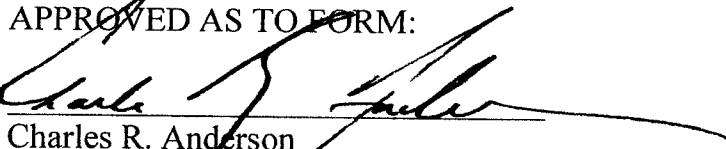
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,  
on August 7, 2014.

  
BETH VAN DUYNÉ  
MAYOR

ATTEST:

  
Shanae Jennings  
City Secretary

APPROVED AS TO FORM:

  
Charles R. Anderson  
City Attorney



# IRVING ETHICS CODE

## ***PREAMBLE***

The proper operation of democratic government requires that public and appointed officials be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain or to benefit a select few; and that the public have confidence in the integrity of its government.

## ***PURPOSE***

To aid in achieving the goals listed in the preamble, this code is adopted by the Irving City Council to establish minimum rules and standards of conduct for elected officials of the City of Irving, Texas, and for their appointed board, commission and special committee members, contractors and consultants. This document is intended to provide concise but general guidelines for ethics compliance.

Further, the City Attorney's Office will establish a procedure to brief members of the City Council, appointed board members, committee members and commission members on applicable Texas state law and Irving City ordinances regarding conflicts of interest and Irving ethics policies.

Included in the Ethics Code is an Appendix for definitions, state laws and other applicable City policies (e.g., travel, purchasing, conflict of interest statute).

# ARTICLE I ETHICS CODE OF CONDUCT

## Section 1.01 General

Every member, applicant, or candidate for the city council, appointed board member, committee member, and commission member (also referred to as "City officials") should:

- (1) Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the citizens. Be honest in thought and deed, and endeavor to conduct both personal and public life in a manner that creates respect for the public office and the City of Irving.
- (2) Refrain from any activity or action that may hinder the member's ability to be objective and impartial on any matter coming before the council, board, commission, or committee.
- (3) Not accept, offer, or solicit any benefit, favor, gift, privilege, or service that might reasonably tend to influence the member in the discharge of official duties, that the member has reason to believe is being offered with the intent to influence the member's official conduct, or that is in exchange for the member's decision, opinion, recommendation, vote, or other exercise of discretion as a City official.
- (4) Endeavor to keep the community informed on municipal affairs and encourage citizen participation in City affairs.
- (5) Honor the Executive Confidentiality privileges granted by the State of Texas and believe that personal gain by use of confidential information is unethical. Agree not to promulgate, distribute, pass-on, or in any way make public any information received in Executive Sessions where the information has not been released to the general public.
- (6) Be dedicated to friendly and courteous relationships with the public, with staff, and with other council committee members, and seek to improve the image of public service.
- (7) Be constantly mindful of the welfare of others. Be committed to improve the quality of life for the individual and the community, and be dedicated to the faithful stewardship of the public trust.
- (8) Never use the elected or appointed position for personal gain or as a forum, vehicle, or instrument to attack, intimidate, or pressure any group or individual.
- (9) Avoid placing (and avoid the appearance of placing) one's own self-interest or any third-party interest above that of the City.
- (10) Not abuse their position by improperly using their position or the City's staff, services, equipment, materials, resources, or property for their personal or third-party gain or pleasure, and shall not represent to third parties that their authority extends any further than that which it actually extends.
- (11) Not engage in or facilitate any discriminatory or harassing behavior directed toward City staff, other board members, officers, directors, meeting attendees, exhibitors, advertisers, sponsors, suppliers, contractors, or others in the context of activities relating to the City.

- (12) Not solicit or accept gifts, gratuities, free trips, campaign contributions, honoraria, personal property, or any other item of value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to the City.
- (13) Not disclose locations and scopes of specific real estate projects to any person or organization for or with the intent of financial gain.

**Section 1.02 Non-applicable**

Section 1.01 does not apply to food, lodging, transportation, or entertainment accepted as a guest or other benefits which are allowed by applicable state law.

**ARTICLE II ETHICS POLICY**

**Section 2.01 Board Appointments**

- (a) The City Council will make all board and commission appointments consistent with the provisions of this Ethics Policy.
- (b) The City Council will not appoint any person to a board or commission if such appointment would violate this Ethics Policy.
- (c) The City Council shall remove any appointee whose service is found to be in conflict with this Ethics Policy.

**Section 2.02 Lobbyists**

- (a) **Persons Required to Register as Lobbyists.** Except as provided herein below, a person or entity who engages in lobbying must register with the City Secretary if:
  - (1) With respect to any client, the person or entity engages in lobbying activities for compensation in excess of \$500 for any single engagement or \$2,000 for all engagements in a given calendar year; or
  - (2) The person or entity expends monies for lobbying activities in excess of \$1,000 in a calendar year.
- (b) **Registration.**
  - (1) Separate Registrations. A person or entity required to register as a lobbyist must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form.

- (2) Initial Registration. An initial registration form relating to a client must be filed by a person required to register within 90 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant City officials, prior to official City action relating to the subject matter of the lobbying activity.
- (3) Subsequent Annual Registration. Subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.
- (4) Consolidated Registration for Firms/Organizations. An individual, firm, or organization that registers as a lobbyist and that employs agents or employees who engage in lobbying activity on behalf of the registrant's clients may include the agents or employees within the registrant's initial and annual registration, by identifying the agents or employees and disclosing lobbying activity.
- (5) Required Disclosures. Initial or subsequent registration shall be on a form prescribed by the City Secretary.
- (6) Ethics Code Briefing. During the registration process, the City Secretary's Office shall offer a briefing to each new registrant on this section of the Ethics Policy and each shall be provided with information regarding the lobbyist provisions of the Ethics Policy.
- (7) Record Retention. The City Secretary shall retain lobbyist registration records on file for period of not less than five (5) years. During this time, these records shall be open for public inspection. After a lobbyist registration record has been on file for five (5) years, the City Secretary may dispose or destroy such record.
- (c) **Appearances.** Each person who lobbies or engages another person to lobby before the City Council or a City board or commission shall orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether he or she is registered as a lobbyist.
- (d) **Exception.** An engineer, architect, or other person or firm who represents a property owner in a planning or zoning matter and signs a City application relating to such matter is not a lobbyist for purposes of this policy.

### **Section 2.03 Political Campaigns - Endorsement Limits, Staff and/or Contractor imitations, Contribution Limits or Restrictions**

- (a) Limitations on the political activities of City officials are imposed by state law and the City Charter and are incorporated into this provision by reference. In addition, the following ethical restrictions apply:

(1) Influencing Subordinates.

- A) A City official shall not, directly or indirectly, induce or attempt to induce any City subordinate of the official to participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue.
- B) A City official shall not prevent any City subordinate from engaging in any lawful political activity while off-duty.
- C) A general statement merely encouraging another person to vote does not violate this rule.

(2) Campaign Contribution Limits.

- A) A candidate running for a single member place shall not accept a campaign contribution or contributions from an individual or a political committee which exceed \$10,000 in value.
- B) A candidate running for Mayor or an at-large place shall not accept a campaign contribution or contributions from an individual or a political committee which exceed \$25,000 in value.
- C) These limits shall apply to each election or run-off election but are not cumulative from election to election. A run-off election shall be treated as a separate election for purposes of this section.
- D) This section does not apply to contributions made to a candidate's own campaign by the candidate, the candidate's spouse, or a person related to the candidate by blood or marriage.

(3) Prohibited Campaign Contributions. For purposes of this section, campaign contributions shall include both direct campaign contributions and any loan(s) to a candidate. Therefore, all campaign limit amounts are cumulative. Individuals or entities seeking discretionary contracts, the legal signatories for discretionary contracts, any immediate family member of these individuals, or attorneys, lobbyists, or other consultants retained to assist in seeking discretionary contracts are prohibited from making campaign contributions to City Council candidates while such contract is pending, active, or under consideration by the City Council.

## Section 2.04 Rules for Contractors

(a) **Disclosure of Parties, Owners, and Closely Related Persons.** For the purpose of assisting the City in the enforcement of provisions contained in this Ethics Policy, an individual or entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract on a form provided by the City, if known:

- (1) The identity of any individual who would be a party to the discretionary contract;

- (2) The identity of any entity that would be a party to the discretionary contract and the name of:
  - A) Any individual or entity that would be a subcontractor on the discretionary contract; and
  - B) Any individual or entity that is known to be a partner or a parent entity of any individual or entity who would be a party to the discretionary contract, or any subsidiary entity that is anticipated to be involved in the execution of the contract; and
- (3) The identity of any lobbyist, attorney, or consultant employed for purposes relating to the discretionary contract being sought by any individual or entity who would be a party to the discretionary contract.
- (b) An individual or entity seeking a discretionary contract is required to supplement this filing on a form provided by the City in the event there is any change in the information required of the individual or entity under this subsection. The individual or entity seeking a discretionary contract must supplement this filing before the discretionary contract is the subject of Council action, and no later than five (5) business days after any change about which information is required to be filed.

#### **Section 2.05 Representation of Private Interests**

- (a) **Representation Before the City by a Member of the Board.** A City official who is a member of a board or other City body shall not represent any person, group, or entity:
  - (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; or
  - (3) Before a board or other City body which has appellate jurisdiction over the board or body of which the City official is a member, if any issue relates to the official's official duties.
- (b) **Representation for Compensation Before the City by City Officials.**
  - (1) General Rule. A City official shall not represent for compensation any person, group, or entity, other than himself or herself, or a member of their immediate family, 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.
  - (2) Exception for Board Members. The rule stated in subsection b(1) does not apply to a person who is classified as a City official only because he or she is an appointed member of a board or other City body.



(c) **Representation in Litigation Adverse to the City.**

- (1) Officials. A City official shall not represent any person, group, or entity, other than himself or herself, or a member of their immediate family, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City.

**Section 2.06 Constitutional Rights**

Nothing in this article shall be construed to prohibit or interfere with any person's rights guaranteed by the United States and Texas Constitutions.

**ARTICLE III ENFORCEMENT - COMPLAINT FILING, REVIEW, AND RESOLUTION**

**Section 3.01 Filing a Complaint**

Any person who believes that there has been a violation of Article II of the Ethics Policy may file a sworn complaint with the City Secretary to allege such violation. A complaint filed under this section with the City Secretary must be in writing and under oath 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 (respondent);
- (4) The position or title of each person complained about;
- (5) The nature of the alleged violation, including the specific provision of Article II of the Ethics Policy alleged to have been violated;
- (6) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and
- (7) 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.

The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of Article II of the Ethics Policy. 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.

The complaint must state on its face an allegation that, if true, constitutes a violation of Article II of the Ethics Policy.

### **Section 3.02 Complaint Review**

A copy of a complaint shall be promptly reviewed by the City Secretary and if the complaint substantially complies with the filing requirements, the complaint shall be forwarded to the City Council and the respondent(s). If the complaint does not substantially comply with the filing requirements, the City Secretary shall return the complaint to the complainant with a letter explaining the defects in the complaint, with a copy to the respondent(s).

### **Section 3.03 Hearing**

The respondent(s) shall also be provided with a copy of the complaint and shall be informed that the complainant(s) or respondent(s) may indicate their availability for a hearing; and upon receipt, the City Secretary shall forward the response to the City Council. The City Council may request an agenda item, in accordance with Section 5.1 of the City Council Rules of Procedures, for a complaint that substantially complies with the filing requirements.

## **ARTICLE IV DEFINITIONS**

**Discretionary contract:** A contract between the City of Irving and any other entity which is awarded on a basis other than competitive bidding and which exceeds \$100,000 in City payments. The term discretionary contract does not include a contract subject to Section 252.022(a)(7) of the Texas Local Government Code (sole source), a cooperative purchase made pursuant to Subchapter F, Chapter 271 of the Texas Local Government Code, or an Interlocal Agreement entered into with another governmental entity pursuant to Chapter 791 of the Texas Government Code.

**Campaign contribution:** Has the same meaning as provided in Section 251.001 of the Texas Election Code and includes money, goods, services, loans, or any other thing of value given the candidate's campaign or treasurer.

**Political committee:** Has the same meaning as provided for that term in Section 251.001 of the Texas Election Code.

**Lobby or Lobbying:** Except as provided below, any oral or written communication (including an electronic communication) to a City official, made directly or indirectly, by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term lobby or lobbying does not include a communication:

- (1) Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;
- (2) Made by a public official or employee (including, but not limited to, an official or employee of the City of Irving) acting in his or her official capacity;
- (3) Made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

- (4) Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
- (5) Made at a meeting open to the public under the Open Meetings Act;
- (6) Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
- (7) Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;
- (8) Made in writing to provide information in response to an oral or written request by a City official for specific information the content of which is compelled by law;
- (9) Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
- (10) Made on behalf of an individual with regard to that individual's employment or benefits;
- (11) Made by a fact witness or expert witness at an official proceeding; or
- (12) Made by a person solely on behalf of that individual, or their immediate family.

**Lobbyist:** A person who engages in lobbying, whether directly or through the acts of another. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.

## **ARTICLE V      APPENDIX FOR STATE LAWS AND OTHER POLICIES (REFERENCES, E.G., TRAVEL, PURCHASING, CONFLICT OF INTEREST STATUTE, OPEN MEETINGS, FINANCIAL FILINGS, ETC.)**

### **Texas Local Government Code**

*Ch. 145—Personal Financial Statements*

*Ch. 171—Conflict of Interest*

*Ch. 176—Financial Disclosure in Contracts*

*Ch. 252—Purchasing and Contracting Authority*

### **Texas Government Code**

*Ch. 551—Open Meetings Act*

*Ch. 552—Public Information Act*

*Ch. 553—Disclosure of Ownership in Property*

Ch. 573—Nepotism

**Texas Election Code**

Ch. 253—Campaign Finance

**Texas Penal Code**

Ch. 36—Bribery and Corrupt Influence

§ 36.02. Bribery

§ 36.03. Coercion of Public Servant or Voter

§ 36.04. Improper Influence

§ 36.05. Tampering with Witness

§ 36.06. Obstruction or Retaliation

§ 36.07. Acceptance of Honorarium

§ 36.08. Gift to Public Servant by Person Subject to His Jurisdiction

§ 36.09. Offering Gift to Public Servant

Ch. 37—Perjury and Other Falsification

§ 37.10. Tampering With Governmental Record

Ch. 39—Abuse of Office

§ 39.02. Abuse of Official Capacity

§ 39.03. Official Oppression

§ 39.04. Violations of the Civil Rights of Person in Custody; Improper Sexual Activity With Person in Custody

§ 39.05. Failure to Report Death of Prisoner

§ 39.06. Misuse of Official Information

**City of Irving Policies**

Personnel

Purchasing

Travel