HDV
6-25-09
Item No. 4

2009-06-25-0553

AN ORDINANCE

ADOPTING AMENDMENTS TO THE SAN ANTONIO CITY CODE CHAPTER 2, ARTICLE III (CITY ETHICS CODE) AND CHAPTER 2, ARTICLE VII (MUNICIPAL CAMPAIGN FINANCE CODE)

* * * * *

WHEREAS, the City Council passed and approved Ordinance Number 88874 on November 19, 1998, adopting the city's Code of Ethics, codified in Chapter 2, Article III of the City Code establishing standards of conduct for present and former city officials and employees, persons doing business with the City, and lobbyists;

WHEREAS, the City Council approved Ordinance No. 99538 on August 5, 2004 amending Chapter 2 of the City Code to adopt a new Article VII, the Municipal Campaign Finance Regulations establishing limitations on political contributions to councilmembers and candidates for City Council;

WHEREAS, the City Council recognizes that there is a public perception that a relationship exists between political contributions and access to elected officials. To diminish the perceived or actual connection between contributions, gifts and influence, the City Council has reviewed and considered revisions to the Campaign Finance Code and Ethics Code as proposed by the Office of the Mayor, the City Council Governance Committee and the Ethics Review Board; ***NOW THEREFORE,***

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City's Municipal Campaign Finance Regulations, as codified in Chapter 2, Article VII of the City Code is amended as set forth in Attachment A.

SECTION 2. The City's Ethics Code, as codified in Chapter 2, Article III of the City Code is amended as set forth in Attachment B.

SECTION 3. This ordinance shall be effective ten days after passage. The changes in the City Code's ethics and campaign finance provisions reflected in this ordinance apply only to events taking place on or after the effective date of this ordinance. Any events occurring before the effective date of this ordinance are governed by the City Code provisions in effect on that date of that event. The prior versions of the Code are continued in effect for that purpose. The Office of the City Clerk is directed to publish notice of these amendments as required by law.

PASSED AND APPROVED this 25th day of June, 2009.

MAYOR

ATTEST: _____
City Clerk

APPROVED AS TO FORM: _____
City Attorney

Attachment A

SAN ANTONIO CITY CODE
CHAPTER 2, ARTICLE VII

CITY OF SAN ANTONIO
MUNICIPAL CAMPAIGN FINANCE REGULATIONS
JANUARY 13, 2005 EDITION

June 19, 2009 Redline

Proposed Changes in Red

Notes/Commentary in BLUE

SAN ANTONIO CITY CODE

ARTICLE VII. MUNICIPAL CAMPAIGN FINANCE REGULATIONS

DIVISION 1. GENERAL

SEC. 2-300 STATEMENT OF POLICY

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 this Campaign Finance Code to promote public confidence and, it is hoped, a greater degree of citizen participation in the electoral process.

Sec. 2-301 Definitions

(a) Contribution Cycle: The following constitute separate contribution cycles:

1) 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;
2) for a candidate or a specific-purpose political action committee (SPAC) formed for the purpose of supporting a candidate in a run-off election after the regular municipal election, beginning the day after the regular municipal election, and ending on the date of the run-off election;
3) the post-election contribution cycle begins on the day after the regular municipal election or the day after the run-off election, as applicable, until June 30 of the calendar year before the next regular municipal election.

(b) Under Texas Election Code, Section 251.001, a "contribution" means a direct or indirect transfer of money, goods, or 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 this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision.

The term "contribution" does not include a loan made in the 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.

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

(1) bears the usual and customary interest rate of the lending institution for the category of loan involved;
(2) is made on a basis that assures repayment;
(3) is evidenced by a written instrument; and
(4) is subject to a due date or amortization schedule.

(d) 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.

DIVISION 2. CONTRIBUTION LIMITS

Sec. 2-302 Limitation Of Political Contributions To Candidates or Officeholders For Mayor Or Council and Specific-Purpose Political Action Committees.

(a) A candidate for district office on the City Council or City Council officeholder may not accept more than $500.00 in political contributions from any individual or single entity per contribution cycle.

(b) A candidate for Mayor or Mayoral officeholder may not accept more than $1000.00 in political contributions from any individual or single entity per contribution cycle.

(c) A specific-purpose political action committee (SPAC) registered with the City of San Antonio and formed for the purpose of supporting a candidate for district office on the City Council or City Council officeholder may not accept more than $500.00 in political contributions from any individual or single entity per contribution cycle.

(d) A specific-purpose political action committee (SPAC) registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or the Mayoral officeholder for the City of San Antonio may not accept more than $1000.00 in political contributions from any individual or single entity per contribution cycle.

(e) Except as provided in Section 2-304 of this chapter, the limits set out in subsections (a) - (d) of this section apply to contributions made in the form of loans, extensions of credit, and guarantees of loans or extensions of credit as described in Section 2-301(b). Repayment of loans does reset the contribution limit.

(f) Political action comrnittees, commercial entities, or campaign vendors cannot provide in-kind contributions with a commercial value to candidates or officeholders beyond the limits established in this section. Individuals may donate their time as campaign volunteers without limit. "In-kind" contribution means

goods or services provided to or by a person at no charge or for less than their fair market value.

(g) An individual or entity cannot make a political contribution in cash exceeding $50 to a candidate or candidate committee for Mayor or City Council, or to a municipal officeholder, or to a specific-purpose political action committee formed for the purpose of supporting a municipal candidate or officeholder, nor can any of these candidates, officeholders or specific-purpose political action committees accept political contributions in cash exceeding $50, from a single donor during a reporting period as defined in the Texas Election Code §253.033. This restriction includes tickets to fund-raising events.

(h) A person may not knowingly make or authorize a political contribution or expenditure in the name of or on behalf of another, unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure.

(i) A minor may make a contribution only if done so knowingly and voluntarily with funds, goods or services owned or controlled exclusively by the minor and not with proceeds of a gift where the purpose was to provide funds to be contributed. The minor shall submit a form with the contribution acknowledging his or her minor status and that his or her contribution complies with this provision.

(j) A "coordinated campaign expenditure" shall be considered a contribution subject to the limits set forth within this section and subject to the disclosure requirements for campaign contributions made to a candidate for elected city office. As used in this subsection, the term "coordinated campaign expenditure" means a payment, other than a direct contribution, for an activity, service or product that contains express advocacy for the election or defeat of a clearly identified candidate(s) for city office and is made in cooperation, consultation, or concert, with or at the request or suggestion of, a candidate(s) for city office or a candidate's representative, agent or employee.

Coordinated campaign expenditures shall include, but not be limited to the following:

1) Voter identification and/or get-out-the-vote activity on behalf of a specific candidate(s) for city office;

2) A public communication that refers to a clearly identified candidate(s) for city office and that promotes or supports a candidate(s) for that office, or attacks or opposes a candidate(s) for that office, or is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate(s).

The following is not considered a coordinated campaign expenditure:

1) Direct monetary contributions made to a candidate for city office;
2) In-kind contributions made to a candidate for city office;
3) Payment by an individual or organization for the individual's or organization's overhead expenses including but not limited to rent, utilities, taxes, office supplies or salaries;
4) Volunteer (unpaid) activity(ies) on the part of the individual or members of the organization.

Sec. 2-303 Time Limitation To Accept Donations

(a) A candidate for Mayor or City Council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4th calendar day before the regular municipal election date.

(b) During a run-off election, a candidate for Mayor or City Council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4th calendar day before the date of the run-off election.

(c) Contributions received after the deadlines set out in (a) and (b) of this section or contributions not deposited by these deadlines may be deposited during the subsequent contribution cycle. Such contributions will be subject to limitations for the contribution cycle during which they are deposited.

Sec. 2-304 Limits on Repayment of Loans or Reimbursements from Political Contributions

(a) Loan Limit for Candidates for City Council.

A candidate for City Council may not use political contributions in an aggregate amount of more than $25,000 during an election cycle to:

1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or

2) reimburse campaign expenditures made from personal funds; or

3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(b) Loan Limit for Candidates for Mayor.

A candidate for Mayor may not use political contributions in an aggregate amount of more than $50,000 during an election cycle to:

1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or

2) reimburse campaign expenditures made from personal funds; or

3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(c) A candidate cannot accept a loan made in cash.

DIVISION 3. POLITICAL CONTRIBUTION AND EXPENDITURE ACCOUNTS AND REPORTS

Sec. 2-305 Single Account

(a) A candidate for Mayor or City Council or officeholder or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council must deposit each and every political contribution into one and only one specified bank account. This single account must be used for all political contributions and expenditures pertaining to municipal office.

(b) Persons with established campaign accounts before the date this code goes into effect can transfer funds into the new single campaign account.

(c) At the time a candidate files the Appointment of Campaign Treasurer pursuant to Texas Election Code Section 252.001, the candidate shall declare the municipal office sought. If a candidate subsequently decides to seek a different office, the candidate shall file an amended Appointment of Campaign Treasurer declaring the new office sought.

(d) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new

campaign treasurer appointment, in accordance with the requirements of Texas Election Code Section 252.010.

(e) If, after declaring a candidacy for any elected office, the candidate subsequently declares his or her candidacy for any elected municipal office, he or she may maintain the same campaign finance account. However, if the candidate seeks a municipal office which is subject to lower campaign contribution limits than the previously sought office, the candidate shall return all contributions in excess of the limits for the municipal office sought.

(1) The transferor committee's available funds shall be viewed as those contributions most recently received that add up to the amount of cash on hand.

(2) Contributions transferred must be aggregated with any contributions made by the same donor to the committee receiving the transfer. Amounts that would cause a contributor to exceed his or her pre-election cycle contribution limit must be excluded from the transfer.

Sec. 2-306 Campaign Bank Account Statements

A candidate for Mayor or City Council or the campaign treasurer, or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council, must send a campaign account statement directly to the designated campaign finance enforcement authority once a month within five business days of receiving the statement from the financial institution. The candidate may choose to direct the financial institution to send a copy of the statement directly to the campaign finance enforcement authority.

The Office of the City Clerk shall serve as the official records repository for the municipal campaign finance authority.

Sec. 2-307 Electronic Filing of Campaign Finance Reports

(a) Candidates for Mayor or City Council and officeholders will electronically file and update contribution and expenditure reports required under the Texas Elections Code with the Office of the City Clerk.

(b) In general and runoff elections, candidates for mayor or city council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council, shall also electronically file an additional 3-day campaign finance contributions report. This report is to be filed no later than 5:00 P.M. on the third calendar day preceding the general or run-off election day. This report is in

addition to the reports required by the Texas Election Code. If this deadline falls on a weekend or on a city holiday, the report will be due no later than 5:00 PM on the next business day.

(c) The City will provide access to computer equipment for candidates to file the electronic reports. A candidate, officeholder, or political committee that is required to file electronic reports under this chapter may apply for an exemption if

(1) the candidate, officeholder, or campaign treasurer of the committee files with the Office of the City Clerk an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee*; and*

(2) the candidate, officeholder, or committee does not, in a calendar year, accept political contributions that in the aggregate exceed $20,000 or make political expenditures that in the aggregate exceed $20,000.

(d) The City of San Antonio will post the contribution and expenditure reports through a designated Elections Website.

(e) Knowingly failing to timely file a report required by this section is a violation hereof, as is the knowingly filing of a report with incorrect, misleading, or incomplete information. If an individual inadvertently files an incorrect or incomplete report, it is his or her responsibility to file an amended report as soon as possible, though no later than fourteen (14) days after discovery of the error or after the error should have reasonably been discovered.

Division 4. POLITICAL ACTION COMMITTEES

Sec. 2-308 Political Action Committees

All political action committees (PACs) or groups spending money on municipal campaign activity or advertising associated with a city candidate or measure election, or specially designated City Council agenda item shall also, in addition to compliance with reporting requirements under the Texas Election Code, submit such reports electronically with the municipal campaign finance authority. Deadlines and contents of reports for political action committees required by the Texas Election Code shall be set in accordance with the Texas Election Code.

Division 5. CITY CONTRACTORS <u>and ZONING APPLICANTS</u>

Sec. 2-309 Contribution Prohibitions

(a) ~~Any person acting as a legal signatory for a proposed contractual relationship that applies for a~~ **When an individual or entity seeks to obtain a** "high-~~risk~~ **profile**" discretionary contract **as designated by the city**, ~~as defined by the City of San Antonio Contracting Policy and Process Manual,~~ ~~may~~ **the following individuals shall** not make a political contribution to any councilmember or candidate **or political action committee that supports or opposes a city councilmember or candidate** from **the 10th business day after** ~~the time the person submits the response to~~ the Request for Proposal (RFP) or Request for Qualifications (RFQ) **or other solicitation is released**, or ~~begins negotiations or discussions~~ for a contract for which no competitive solicitation has been issued by the city **from the time the city begins negotiations or discussions**, **and ending on the** ~~until~~ 30**th** calendar day~~s~~ following the contract award~~.~~**:**

1. any individual seeking a high-profile contract;
2. any owner or officer of an entity seeking a high-profile contract;
3. the legal signatory of the high-profile contract;
4. any attorney, lobbyist or consultant hired or retained to assist the individual or entity in seeking a high-profile contract;
5. the spouses of any person listed in 1, 2 or 3 of this subsection.

(b) Any legal signatory for a proposed "high-~~risk~~ **profile**" contract must be identified within the response to **a solicitation** ~~the RFP's or RFQ's~~, if the identity of the signatory will be different from the individual submitting the response. Where no competitive solicitation is being issued by the city, the legal signatory must be identified in writing at the time negotiations are initiated.

(c) If ~~the legal signatory entering the contract~~ **any individual listed in subsection (a)** has made ~~such~~ a contribution **in violation of this section**, the city may not award the contract to that person, or to the ~~business~~ entity ~~for whom that contributor acted as legal signatory~~. Any contract awarded in violation of this provision shall be voidable at the discretion of the City Council.

(d) When an individual or entity applies for a zoning change, the following shall not make a political contribution to any councilmember or candidate or political action committee that supports or opposes a city councilmember or candidate from the time the zoning application is submitted to the city until 30 calendar days after final action on the application by the Zoning Commission or City Council:

1. any individual applying for a zoning change; or
2. any owner or officer of an entity applying for a zoning change; or
3. the spouse of an individual listed in 1 or 2 of this subsection

(e) If any individual listed in subsection (d) of this section has made a contribution in violation of this section, the city may not approve the

requested change in the zoning district boundary. Any zoning change granted in violation of this provision shall be voidable at the discretion of the City Council.

~~(d)~~**(f)** In the event that a candidate or officeholder unknowingly accepts a contribution in contravention of the provisions of this section, then it shall be the duty of the candidate or officeholder to return the contribution within 5 business days after he or she ~~becomes aware of the violation~~ **has received notification from city staff that a contribution in violation of this section has been discovered**. **Candidates and councilmembers who return contributions within the 5 business days cannot be held liable for violation of this section.**

~~(e) The criteria for designation as a "high-risk" contract are:~~

~~(1) Value of the contract over the life of the contract will exceed $1 million;~~

~~(2) Contracts with value exceeding $25,000 to be obtained without competitive solicitation;~~

~~(3) Contract is for goods or services of a highly complex nature or the contract terms will be non-standard; or~~

~~(4) Contracts with exceptional community interest.~~

DIVISION 6. ENFORCEMENT AUTHORITY AND SANCTIONS

Sec. 2-310 Ethics Review Board

(a) Municipal Campaign Finance Regulations Enforcement Authority. The Ethics Review Board created pursuant to Article XIII of the City Charter shall have authority to review reports required under this chapter and shall have the jurisdiction to investigate, make findings, issue rulings and assess sanctions concerning any alleged violation of this chapter, by any person subject to these provisions.

(b) Municipal Campaign Finance Advisory Opinions Issued by the Ethics Review Board.

(1) By writing filed with the City Clerk, any officeholder or candidate for city council, mayor or officer of a political action committee registered with the Office of the City Clerk may request an advisory opinion with respect to the interpretation of the code of municipal campaign finance regulations, but only with respect to whether proposed action by that person would violate these regulations. The City Clerk shall promptly transmit all requests

for advisory opinions to the Ethics Compliance Officer and the chair of the Ethics Review Board.

(2) Within twenty (20) days of receipt by the chair of the Ethics Review Board of a request for an advisory opinion, the Board, acting *en banc* or through a designated Ethics Panel, shall issue a written advisory opinion. During the preparation of the opinion, the Board may consult with the Ethics Compliance Officer of the city and other appropriate persons. An advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation.

A copy of the opinion shall be indexed and kept by the Ethics Review Board as part of its records. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or the Ethics Compliance Officer, to the person who requested the opinion, to the members of the Ethics Review Board, and to the City Clerk. The City Clerk shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion on the Internet via the City of San Antonio homepage.

(c) Civil Sanctions for Violations of the Municipal Campaign Finance Regulations. The following civil sanctions may be imposed by the Ethics Review Board which finds by a preponderance of the evidence that the municipal campaign finance regulations have been violated:

(1) Letter of Notification. The Ethics Review Board may issue a letter of notification to any individual subject to the municipal campaign finance regulations where the board finds that the violation 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 a letter of admonition to any individual subject to the municipal campaign finance regulations where the board finds that the violation was minor and/or may have been unintentional or inadvertent;

(3) Letter of Reprimand. The Ethics Review Board may issue a letter of reprimand to any individual subject to the municipal campaign finance regulations where the board finds that the violation was made intentionally or knowingly;

(4) Referral to Ethics Training. Upon finding of violation of the municipal campaign finance regulations, the Ethics Review Board may require any individual subject to the municipal campaign finance regulations to attend training on these regulations;

(5) A fine not exceeding five hundred dollars ($500) where the Board finds that the violation was made intentionally or knowingly. Each day after any deadline 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.

(d) The rules and procedures set out in Chapter 2, Article III of the City Code (Ethics Code), Sections 2-80 through 2-91 shall apply to the enforcement of this article (municipal campaign finance regulations), including:

(1) procedures for filing and responding to complaints of violations of the municipal campaign finance regulations;
(2) disposition of complaints;
(3) the imposition or recommendation of sanctions;
(4) extension of deadlines; and
(5) the timeliness of filings

DIVISION 7. TERMINATION OF CAMPAIGN TREASURER APPOINTMENT

Sec. 2-311. Termination of Campaign Treasurer Appointment by the City Council.

(a) The City Council may terminate the campaign treasurer appointment of an inactive candidate or an inactive political committee.

(b) For purposes of subsection (a) of this section, a candidate becomes "inactive' if the candidate files a campaign treasurer appointment with the Office of the City Clerk and more than one year has lapsed since the candidate has filed any required campaign finance reports with the Office of the City Clerk.

(c) For purposes of subsection (a) of this section, a political committee becomes "inactive" if the political committee files a campaign treasurer appointment with the Office of the City Clerk and more than one year has lapsed since the campaign treasurer of the political committee has filed any required campaign finance reports with the Office of the City Clerk.

Sec. 2-312. Notice of Proposed Termination of Campaign Treasurer Appointment.

(a) Before the City Council may consider termination of a campaign treasurer appointment under Section 2-311 of the City Code, the office of the City Clerk shall send written notice to the affected candidate or political committee.

(b) The written notice must be given at least fourteen (14) business days before the date of the meeting at which the City Council will consider the termination of a campaign treasurer appointment and must include:

(1) the date, time, and place of the City Council meeting;

(2) a statement of the City Council's intention to consider termination of the campaign treasurer; and

(3) a reference to the particular sections of the statutes and rules that give the City Council the authority to consider the termination of a campaign treasurer appointment;

(4) the effect of termination of a campaign treasurer appointment.

DIVISION 8. ELECTION AND CAMPAIGN FINANCE REGULATIONS TRAINING

Sec. 2-313 Training.

The Office of the City Attorney shall provide training on the Municipal Campaign Finance Regulations, the municipal campaign finance electronic filing system and the City of San Antonio Ethics Code at least once six months prior to each municipal election. The training shall be open to officeholders, candidates for office, their agents and interested members of the public.

DIVISION 9. EFFECTIVE DATE

Sec. 2-314 Effective Date

(a) This article is effective August 15, 2004.

(b) This article applies to a political contribution accepted or political expenditure made on or after the effective date.

(c) A political contribution accepted or a political expenditure made before the effective date of this article is governed by law in effect on the date the contribution was accepted or the expenditure was made.

(d) A political contribution may not be accepted after the effective date of this article if the contribution from that donor, together with all contributions from that donor accepted before the effective date of this article, would exceed the maximum contribution established by Section 2-302.

(e) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted before the effective date of this article.

(f) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted after the effective date of this article in amount that in the aggregate does not exceed the limit imposed by Section 2-304 of this article.

SAN ANTONIO CITY CODE
CHAPTER 2, ARTICLE III

CITY OF SAN ANTONIO
CITY ETHICS CODE
September 13, 2007 Edition

June 19, 2009 Redline

Proposed Changes in RED

Notes/Commentary in BLUE

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CODE OF ETHICS

DIVISION 1: DECLARATION OF POLICY

SECTION 2-41 STATEMENT OF PURPOSE

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs. For the purpose of promoting confidence in the government of the City of San Antonio 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 furthers the legitimate interests of democracy.

Public service is a public trust. All city officials and employees are stewards of the public trust. They have a responsibility to the citizens of San Antonio to enforce the City Charter and the associated ordinances and codes. To ensure and enhance public confidence in City Government, each city official must not only adhere to the principles of ethical conduct set forth in this code and technical compliance therewith, but they must scrupulously avoid the appearance of impropriety at all times.

SECTION 2-42 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:

(a) *Acceptance.* A written or verbal indication that someone agrees; "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. An agreement, either by express act or by implication from conduct, to the terms of an offer so that a binding contract is formed.

(b) *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.

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

(d) *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. Representation "before the city" does not include representation before a board where members of said board are not wholly appointed by the City Council.

(e) *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.

(f) ~~*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.

(g) *Candidate.* "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

(1) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;
(2) the filing of an application for a place on a ballot;
(3) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;
(4) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication; and
(5) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure.

(h) *City.* "City" means the City of San Antonio.

(i) *Code of Ethics.* "Code of ethics," "ethics code," or "this code" means Divisions 1 through 10 of this Chapter, its amendment(s) and/or enhanced definitions.

(j) *"Complainant"* means an individual who has filed a sworn complaint with the City Clerk as provided in Division 8, Section 2-83 (Complaints).

(k) *Confidential Government Information.* "Confidential government information" includes all information held by the city that is not available to the public under the Texas Public Information Act and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is permitted under the Open Meetings Act.

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

(m) *Discretionary Contract.* "Discretionary contract" means any contract other than those which by law must be awarded on a low or high qualified bid basis. Discretionary contracts do not include those contracts subject to Section 252.022(a)(7) of the Texas

Local Government Code or those contracts not involving an exercise of judgment or choice.

(n) *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. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than 10% of the voting stock or shares of the entity and the value of the stock is less than $15,000.

(o) *Employee.* Except as provided in Section 2-52 of Division 2 (Prohibited Interests in Contracts), Section 2-58(c) of Division 3 (Discretionary Contracts), and Division 7 (Financial Disclosure), the term "employee" or "city employee" is any person listed on the City of San Antonio payroll as an employee, whether part-time or full-time.

(p) *Former City Official or Employee.* A "former city official" or "former city employee" is a person whose city duties terminate on or after the effective date of this code.

(q) *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 consideration of equal or greater value is received by the donor.

(r) *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.

(s) *Intentionally.* A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(t) *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.

(u) *Official*. Except in Division 5 (Lobbyists), the term "official" or "city official" includes the following persons:

The Mayor;
Members of the City Council;
Municipal Court Judges and Magistrates;

The City Manager;
Deputy City Manager;
Assistant City Managers;
Assistants to the City Manager;
City Clerk;
Deputy City Clerk
Assistant **to the** City Clerk;
Senior Deputy Court Clerk
Deputy Court Clerk
All department heads and assistant department heads;
Internal Auditor and all assistant internal auditors;
Market Square Superintendent;
Assistant to City Council;
Assistant to Mayor;
Secretary to City Manager;
Executive Secretaries;
Community Action Manager;
Public Utilities Supervisor; and
Members of all boards, commissions (except the Youth Commission whose members are minors), committees, and other bodies created by the City Council pursuant to federal or state law or City ordinance, including entities that may be advisory only in nature, who are appointed by City Council or who are designated in the by-laws or organization papers of the entity to serve on behalf of the city; and board members of any entity who are appointed by the City Council to such board membership.

The term "official" has a different meaning in Division 5 (Lobbyists), which is defined in Section 2-62(a) of that Division. The term "officer" is defined in Section 2-52(e)(2) of Division 2 (Prohibited Interests in Contracts) and Section 2-58(c)(2) of Division 3 (Discretionary Contracts) and is not synonymous with any use of the term "official" in this code.

(v) *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 2-43(a)(2) through (9) of Division 2 (Conflicts of Interest).

(w) *Official Information.* "Official information" includes information gathered pursuant to the power or authority of city government.

(x) *Ownership.* Ownership of an interest in a mutual or common investment fund that holds securities or other assets does not constitute direct or indirect ownership of such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than 10% of the voting stock or shares of the entity and the value of the stock is less than $15,000.

(y) *Partner.* Someone who engages in an activity or undertaking with another; "Partner" includes partners in general partnerships, limited partnerships, and joint ventures. One who shares or takes part with another especially in a venture with shared benefits and shared risks.

(z) *Personally and Substantially Participated.* "Personally and Substantially Participated" means to have taken action as an official or employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action. 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.

(aa) *Recklessly.* A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(bb) *Representation.* "Representation" is a presentation of fact – either by words or by conduct – made to induce someone to act. Representation does not include appearance as a witness in litigation or other official proceedings.

(cc) *Respondent* means an individual identified in a sworn complaint to have allegedly violated the Ethics Code or the Code of Municipal Campaign Finance Regulations of the City of San Antonio.

(dd) *Solicitation.* "Solicitation" of subsequent employment or business opportunities includes all forms of proposals and negotiations relating thereto.

DIVISION 2: PRESENT CITY OFFICIALS AND EMPLOYEES

SECTION 2-43 CONFLICTS OF INTEREST

(a) **General Rule.** To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect 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 (unless the child is a minor), spouse, or member of the household (unless member of household is a minor);
(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 as that term is defined in Section 2-42;

(7) a business entity which the official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in Subsections (a)(1) or (a)(2) holds an economic interest as defined in Section 2-42;

(8) 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~~;~~ **other than non-profit boards to which the official or employee is appointed by the City Council or city management as a non-voting member to represent the best interests of the city;** or

(9) a person or business entity with whom, within the past twelve months:

(A) the official or employee, or his or her spouse, directly or indirectly has

(i) solicited an offer of employment for which the application is still pending,

(ii) received an offer of employment which has not been rejected, or

(iii) accepted an offer of employment; or

(B) the official or employee, or his or her spouse, directly or indirectly engaged in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated.

(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 Clerk the appropriate form for disclosing the nature and extent of the prohibited conduct.

In addition:

(3) a supervised employee shall promptly bring the conflict to the attention of his or her supervisor who will then, if necessary, reassign responsibility for handling the matter to another person; and

(4) a member of a board shall promptly disclose the conflict to other members of the board and shall not be present during the board's discussion of, or voting on, the matter.

(c) **Definitions.** For purposes of this rule:

(1) An action is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof; and

(2) The term *client* includes business relationships of a highly personalized nature, but not ordinary business-customer relationships.

SECTION 2-44 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. A city official who represents to a person that he or she

may provide an advantage to that person based on the official's position on a board or commission violates this rule.

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

(1) **Acquisition of Interest in Impending Matters.** A city official or employee shall not acquire an interest in, or **be** 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.** A city 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.** A city official or employee shall not appoint or employ or vote to appoint or employ any relative within the third degree of consanguinity or affinity **or any member of his or her household** to any office or position of employment within the city.

(4) **Supervision of Relatives.** No official or employee shall be permitted to be in the line of supervision of a relative within the third degree of consanguinity or **third** ~~second~~ degree of affinity **or any member of his or her household**. Department heads are responsible for enforcing this policy. If an employee, by reason of marriage, promotion, reorganization, or otherwise, is placed into the line of supervision of 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 this Section shall adhere to the recusal and disclosure provisions provided in Section 2-43(b) of Division 2 (Conflicts of Interest).

SECTION 2-45 GIFTS

(a) **General Rule.**

(1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:

(A) that reasonably tends to influence or reward official conduct; or

(B) that the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

A city official or employee may accept a public award or reward for meritorious service of professional achievement, provided that the award or reward is reasonable in light of the occasion and it is not prohibited under the Texas Penal Code Section 36.08.

(2) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit, from:

(A) any individual or entity doing or seeking to do business with the City; or
(B) any registered lobbyist or public relations firm; or
(C) any person or entity seeking action or advocating on zoning or platting matters before a city body,

save and except for

i) items received that are of nominal value; or

ii) meals in an individual expense of $50 or less at any occurrence, and no more than a cumulative value of $500 in a single calendar year from a single source.

Doing business with the city includes, but is not limited to, individuals and ~~business~~ entities that are parties to a discretionary contract, individuals and ~~business~~ entities that are subcontractors to a discretionary contract, and partners and/or parents and/or subsidiary business entities of any individuals and ~~business~~ entities that are parties to a discretionary contract **and individuals or entities that seek or have low-bid contracts with the city**.

(b) **Special Applications.** Subsection (a)(2) does not include:

(1) a gift to a city 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) advancement for or reimbursement of reasonable expenses for travel in connection with official duties authorized in accordance with city policies; such payments must be disclosed in a travel report as required in Section 2-76; payment for or reimbursement of expenses for travel in excess of authorized rates under city policy will be treated as a personal gift to the official or employee for any applicable reporting requirements under Sections 2-73, 2-74 or 2-78;
(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 and it is not prohibited under the Texas Penal Code Section 36.08;
(4) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;
(5) a scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;
(6) any solicitation for civic or charitable causes;
(7) admission to an event in which the city official or employee is participating in connection with his or her spouse's position;
(8) ceremonial and protocol gifts presented to city officials from a foreign government or international or multinational organization and accepted for the City of San Antonio;
(9) admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event,

offered by the sponsor of the event, and unsolicited by the City official or employee, if attending or participating in an official capacity, including:

(A) the official or employee participates in the event as a speaker or panel participant by presenting information related to matters before the City; or

(B) the official or employee performs a ceremonial function appropriate to that individual's position with the City; or

(C) attendance at the event is appropriate to the performance of the official duties or representative function of the official or employee;

(10) admission to a charity event provided by the sponsor of the event, where the offer is unsolicited by the City official or employee;

(11) admission to training or education program or other program, including meals and refreshments furnished to all attendees, if such training is related to the official or employee's official duties and the training is in the interest of the City~~;~~.

~~(12) lodging, transportation, or entertainment that the official or employee accepts as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law, up to $500 from a single source in a calendar year.~~

(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:

(1) a parent, spouse, child, or other relative within the second degree of consanguinity or affinity, or

(2) an outside business associate

not to solicit, accept, or agree to accept any gift or benefit:

(3) that reasonably tends to influence or reward the city official's or employee's official conduct, or

(4) that the official or employee knows or should know is being offered with the intent to influence or reward the city official's or employee's discharge of official duties.

If a city official or employee required to file a financial disclosure report under Division 7 (Financial Disclosure) knows that a gift or benefit meeting the requirements of Subsections (d)(3) or (d)(4) of this rule has been accepted and retained by a person identified in Subsections (d)(1) or (d)(2) of this rule, the official or employee shall promptly file a report with the ~~City Clerk's office~~ **Office of the City Clerk** disclosing the donor, the value of the gift or benefit, the recipient, and the recipient's relationship to the official or employee filing the report.

(e) **Definitions.**

(1) For purposes of this rule, a person is an "outside business associate" if both that person and the city official or employee own, with respect to the same business entity:

(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.

(2) For purposes of this rule, a "sponsor" of an event is the person or persons primarily responsible for organizing the event or sponsoring a table or tables. A person who simply contributes money or buys tickets to an event is not considered a sponsor.

(3) A "source" is the individual or entity that funds an expenditure or series of expenditures. Expenditures made by multiple agents of the same source **are deemed** ~~will be considered~~ to be expenditures from a single source.

(4) An~~y~~ item of "nominal value" is an item with a fair market value of $50 or less.

SECTION 2-46 CONFIDENTIAL INFORMATION

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

(b) **Improper Disclosure or Use.** A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said official's 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
(2) the confidential reporting of illegal or unethical conduct to authorities designated by law.

SECTION 2-47 REPRESENTATION OF PRIVATE INTERESTS

(a) **Representation Before the City by a Member of the Board.** A city official or employee 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, unless the board or body is only advisory in nature; or
(3) before a board or other city body which has appellate jurisdiction over the board or body of which the city official or employee is a member, if any issue relates to the official's or employee's official duties.

(b) **Representation Before the City by City Officials and Employees**
(1) **General Rule**. 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.

(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) **Prestige of Office and Improper Influence.** In connection with the representation of private interests before the city, a city official or employee shall not:
(1) assert the prestige of the official's or employee's city position for the purpose of advancing private interests; or
(2) state or imply that he or she is able to influence city action on any basis other than the merits.

(d) **Representation in Litigation Adverse to the City.**
(1) **Officials and Employees (Other than Board Members).** A city official or employee, other than a person who is classified as an official only because he or she is an appointed member of a board or other city body, shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, 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.
(2) **Board Members.** 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 shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to interests of the city and the matter is substantially related to the official's duties to the city.

SECTION 2-48 CONFLICTING OUTSIDE EMPLOYMENT

(a) **General Rule.** A 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: A city official or employee shall not provide services to an outside employer related to the official's or employee's city duties.

(c) **Other Rules.** The general rule stated above applies in addition to all other rules relating to outside employment of city officials and employees, including requirements for obtaining prior approval of outside employment as applicable.

SECTION 2-49 PUBLIC PROPERTY AND RESOURCES

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies or time while on city duty for private purposes (including political purposes), except:

(a) pursuant to duly adopted city policies, or
(b) to the extent and according to the terms that those resources are lawfully available to the public.

SECTION 2-50 POLITICAL ACTIVITY

Limitations on the political activities of city officials and employees are imposed by state law, the City Charter, and city personnel rules and are incorporated into this provision by reference. In addition, the following ethical restrictions apply:

(a) **Influencing Subordinates.** A city official or employee shall not, directly or indirectly, induce or attempt to induce any city subordinate of the official or employee:
   (1) 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, or
   (2) to refrain from engaging in any lawful political activity.

   A general statement merely encouraging another person to vote does not violate this rule.

(b) **Paid Campaigning.** A city official or employee shall not accept any thing of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city body that contributed to the development of the ballot item. Any thing of value does not include a meal or other item of nominal value the city official or employee receives in return for providing information on an item pending on the ballot.

(c) **Official Vehicles.** A city official or employee shall not display or fail to remove campaign materials on any city vehicle under his or her control.

   Limitations on the use of public property and resources for political purposes are imposed by Section 2-49 of Division 2 (Public Property and Resources).

SECTION 2-51 ACTIONS OF OTHERS

(a) **Violations by Other Persons.** A city official or employee shall not intentionally or 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 2-52 PROHIBITED INTERESTS IN CONTRACTS

(a) **Charter Provision**. The Charter of the City of San Antonio~~,~~ in Section 141~~,~~ states, "No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or service, except on behalf of the City as an officer or employee. Any willful violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this Section, with the knowledge, expressed or

implied, of the person or corporation contracting with the Council shall render the contract involved voidable by the City Manager or the Council."

(b) **Financial Interest.** An officer or employee is presumed to have a prohibited "financial interest" in a 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 officer or employee;
- (2) his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
- (3) a business entity in which the 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; or
- (4) a business entity of which any individual or entity listed in Subsection (1), (2) or (3) is:
  - (A) a subcontractor on a city contract;
  - (B) a partner; or
  - (C) a parent or subsidiary business entity.

(c) If an officer or employee has or may potentially have a presumed prohibited financial interest in a contract with the city, or in the sale to the city of land, materials, supplies or service under subsection (b), the officer or employee may apply to the Ethics Review Board for a determination and decision on whether the officer or employee has an actual direct or indirect financial interest in that contract or transaction.

The Ethics Review Board will make this assessment using a standard of "clear and convincing" evidence at a hearing. A request for such a determination cannot be made confidentially. The hearing must be posted two weeks in advance clearly stating the officer or employee with the presumed prohibited financial interest, the contract or transaction at issue, and the individual or business entity that is the party to the contract or transaction at issue**.**

(d) Any contract or transaction already in place at the time the individual becomes an officer or employee subject to the prohibitions in Section 141 of the City Charter may remain in place until the contract expires or the transaction is completed without creating a prohibited financial interest for the officer or employee.

(e) Definitions**.** For purposes of enforcing Section 141 of the City Charter under the provision of this Section:

- (1) a city "employee" is any employee of the city who is required to file a financial disclosure statement pursuant to Section 2-73(a) of Division 7 (Financial Disclosure Report).

- (2) a city "officer" is:
  - (A) the Mayor or any Council member;
  - (B) a Municipal Court Judge or Magistrate;

(C) a member of any board or commission which is more than advisory in nature. The term does not include members of the board of another governmental entity even if some or all of these members are appointed by the city.

SECTION 2-53 CITY COUNCIL CONTRACT PERSONNEL

(a) A member of the City Council who, in the course of official duties, has direct supervisory authority over contract personnel shall make reasonable efforts to ensure that the conduct of contract personnel is compatible with the obligations imposed on city officials and employees by this code of ethics.

(b) Contract personnel employed by a member of the City Council shall comply with all obligations imposed by this code of ethics on city employees, except for restrictions on political activity imposed on city employees by the City Charter or the City's Personnel Rules under Division 2, Section 2-50 of this Code. Contract personnel, though, may not engage in political activity using City resources or during duty hours.

(c) All contracts for administrative services between a member of the City Council and independent contractors shall contain a provision requiring the independent contractor to comply with all requirements imposed by this code on city employees.

SECTION 2-54 PERSONS REQUIRED TO REPORT; TIME TO REPORT; PLACE TO REPORT

(a) A City official or employee who has knowledge of a violation of any of the provisions of this Ethics Code shall report this violation as provided below within a reasonable time after the person has knowledge of a violation. A City official or employee shall not delegate to, or rely on, another person to make the report. Any City official or employee who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation is subject to the penalties herein.

~~(b) Unless waived in writing by the person making the report, the identity of an individual making a report under this section is confidential and may be disclosed only to the proper authorities for the purposes of conducting an investigation of the report.~~

{Note: Office of the Attorney General has ruled that ethics complaints to city board cannot be made confidential by local ordinance.}

(c) A report made under this Section shall be made to:
   (1) the Ethics Compliance Officer or his or her designee; or
   (2) the Ethics Review Board.

(d) A report shall state:
   (1) the name of the City official or employee who believes that a violation of a provision of the Ethics Code has been or may have been committed;
   (2) the identity of the person or persons who allegedly committed the violation;
   (3) a statement of the facts on which the belief is made; and

(4) any other pertinent information concerning the alleged violation.

DIVISION 3: FORMER CITY OFFICIALS AND EMPLOYEES

SECTION 2-55 CONTINUING CONFIDENTIALITY

A former city official or employee shall not use or disclose confidential government information acquired during service as a city 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 2-56 SUBSEQUENT REPRESENTATION OF PRIVATE INTERESTS.

(a) **Representation of Private Interests Before the City by a Former Board Member.** A person who was a member of a board or other city body 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, unless the board or body is only advisory in nature; or
(3) before a board or other city body which has appellate jurisdiction over the board or body of which the former city official or employee was a member, if any issue relates to his or her former duties.

(b) **Representation of Private Interests Before the City by Former City Officials and Employees**. A former city official or employee shall not represent for compensation any person, private group, or private 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. This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board or other city body. 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.

(c) **Improper Representation of Influence.** 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.

(d) **Representation in Litigation Adverse to the City.** A former city official or employee shall not, absent consent from the city, represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, 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 and the matter is one in which the former city official or employee personally and substantially participated prior to termination of his or her official duties.

SECTION 2-57 PRIOR PARTICIPATION IN THE NEGOTIATION, AWARD OR ADMINISTRATION OF CONTRACTS

A former city official or employee shall not, within two (2) years of the termination of official duties for the city, perform work on a compensated basis relating to a discretionary city contract, if he or she personally and substantially participated in the negotiation, award or administration of the contract.

A former city official or employee, within two (2) years of termination of official duties, must disclose to the City Clerk immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary city contract for which he or she did not personally and substantially participate in its negotiation, award or administration. This subsection does not apply to a person who was classified as a city official only because he or she was an appointed member of a board or other city body.

SECTION 2-58 ~~DISCRETIONARY CONTRACTS~~ PROHIBITED INTEREST IN DISCRETIONARY CONTRACTS

(a) **Impermissible Interest in Discretionary Contract or Sale.** This Subsection applies only to contracts or sales made on a discretionary basis, and does not apply to contracts or sales made on a competitive bid basis. Within one (1) year of the termination of official duties, a former city officer or employee shall neither have a financial interest, direct or indirect, in any discretionary contract with the City, nor have a financial interest, direct or indirect, 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 officer 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; or
(4) a business entity of which any individual or entity listed in Subsection (1), (2) or (3) is:
    (A) a subcontractor on a city contract;
    (B) a partner; or
    (C) a parent or subsidiary business entity.

(b) **Exception: Prior Employment or Status.** Notwithstanding subsection (a) of this Section 2-58 (Discretionary Contracts) and Section 2-57 (Prior Participation in Negotiation, Award or Administration of Contracts), a former city official or employee may upon leaving official duties return to employment or other status enjoyed immediately prior to commencing official city duties.

(c) **Definitions.** For purposes of this Section:
- (1) A "former city employee" is any person who, prior to termination of employee status, was required to file a financial disclosure statement pursuant to Section 2-73(a) of Division 7 (Financial Disclosure Report).
- (2) A "former city officer" is any person who, immediately prior to termination of official duties, was:
  - (A) the Mayor or a member of City Council;
  - (B) a Municipal Court Judge or Magistrate; or
  - (C) a member of any board or commission which is more than advisory in nature. The term does not include members of the board of another governmental entity even if some or all of these members are appointed by the city.
- (3) The term "contract" means any discretionary contract other than a contract for the personal services of the former city official or employee.
- (4) The term "service" means any services other than the personal services of the former official or employee.

DIVISION 4: PERSONS DOING BUSINESS WITH THE CITY

SECTION 2-59 PERSONS SEEKING DISCRETIONARY CONTRACTS

(a) **Disclosure of Parties, Owners, and Closely Related Persons.** For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and this code of ethics, an individual or ~~business~~ 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:
- (1) the identity of any individual who would be a party to the discretionary contract;
- (2) the identity of any ~~business~~ entity that would be a party to the discretionary contract and the name of:
  - (A) any individual or ~~business~~ entity that would be a subcontractor on the discretionary contract; and
  - (B) any individual or ~~business~~ entity that is known to be a partner or a parent entity of any individual or ~~business~~ entity who would be a party to the discretionary contract, or any subsidiary ~~business~~ entity that is anticipated to be involved in the execution of the contract; and
- (3) the identity of any lobbyist**, attorney or consultant** ~~or public relations firm~~ employed for purposes relating to the discretionary contract being sought by any individual or ~~business~~ entity who would be a party to the discretionary contract.

An individual or ~~business~~ 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 ~~business~~ entity under this subsection. The individual or ~~business~~ 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.

(b) **Political Contributions.** Any individual or ~~business~~ entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract, on a form provided by the city, all political contributions totaling one hundred dollars ($100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections, by any individual or ~~business~~ entity whose identity must be disclosed under Subsection (a).

Indirect contributions by an individual include, but are not limited to, contributions made by an individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made by the officers, owners **of the entity seeking the contract**, **and** attorneys, **consultants** or registered lobbyists of the entity **hired or retained to assist an individual or entity seeking a contract**.

Indirect contributions do not include contributions by owners of a business entity who hold less than 5% of the fair market value or voting stock of the entity.

Political contributions made in the preceding 24 months to any individual who is a former councilmember must be disclosed, unless:

(1) the contributions were made in connection with a campaign or officeholder account not associated with a city office; and

(2) the former officeholder has terminated the campaign treasurer appointment and filed the final campaign finance report with the Office of the City Clerk at the time the contract was in the solicitation process or under consideration for approval by the city; and

(3) the former member is not or was not serving in a city office at the time the contract was in the solicitation process or under consideration for approval by the city.

(c) **Briefing Papers and Open Records.** Briefing papers prepared for the city council concerning any proposed discretionary contract to be considered for ordinance action shall reveal the information disclosed in compliance with Subsections (a) and (b), and that information shall constitute an open record available to the public.

SECTION 2-60 DISCLOSURE OF ASSOCIATION WITH CITY OFFICIAL OR EMPLOYEE

(a) **Disclosures During Appearances.** A person appearing before a city board or other city body shall disclose to it any known facts which, reasonably understood, raise a question as to whether any member of the board or body would violate Section 2-43

of Division 2 (Conflicts of Interest) by participating in official action relating to a matter pending before the board or body.

(b) **Disclosures in Proposals.** Any individual or business entity seeking a discretionary contract with the city shall disclose, on a form provided by the city, any known facts which, reasonably understood, raise a question as to whether any city official would violate 2-43 of Division 2 (Conflicts of Interest) by participating in official action relating to the discretionary contract.

(c) **Disclosure of Benefit.** If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any city official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, he or she shall disclose that fact in a signed writing to the city official, employee, or body that has been requested to act in the matter, unless the interest of the city official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Clerk.

(d) **Definition.** For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

SECTION 2-61 PROHIBITED CONTACTS DURING CONTRACT SOLICITATION PERIOD

A person or entity who seeks or applies for a city contract or any other person acting on behalf of such person or entity, is prohibited from contacting city officials and employees **as defined in Section 2-62** regarding such a contract after a Request for Proposal (RFP), Request for Qualification (RFQ) or other solicitation has been released. This no-contact provision shall conclude when the contract is posted as a City Council agenda item. If contact is required with city officials and employees, such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agents may lead to disqualification of their offer from consideration.

DIVISION 5: LOBBYISTS

SECTION 2-62 DEFINITIONS

As used in Division 5 (Lobbyists), the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise:

(a) *City official* means the Mayor, members of the City Council, Municipal Court Judges and Magistrates, the City Manager, Deputy City Manager**,** City Clerk, Assistant City Clerk, Assistant City Managers, Assistants to the City Manager, all department heads, assistant department heads, Internal Auditor and assistant internal auditors; Market Square Superintendent; Assistant to City Council; Assistants to City Council, including contract personnel, Assistant to Mayor; Assistants to the Mayor, including

contract personnel, Secretary to City Manager; Executive Secretaries; Community Action Manager; Public Utilities Supervisor, members of bid committees, and members of the following boards and commissions: Board of Adjustment; Board of Appeals; City Public Service; Fire Fighter's and Police Officer's Civil Service Commission; Electrical Examining and Supervising Board; Ethics Review Board established pursuant to this Ethics Code; Greater Kelly Development Authority and any authority later created under Chapter 378, Defense Base Development Authorities, of Subtitle A, Title 12 of the Texas Local Government Code; Historic and Design Review Commission; Housing Authority of San Antonio; Municipal Civil Service Commission; Planning Commission; Plumbing Appeals and Advisory Board; Public Library Board of Trustees; San Antonio Water System; Urban Renewal Agency (SADA); Zoning Commission; and any other board or commission that is more than advisory in nature.

(b) *Client* means any person on whose behalf lobbying is conducted. If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist (as defined in Subsection (g)). In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(c) *Compensation* means money or any other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. "Compensation" for professional services that do not primarily require contact or advocacy with public officials does not constitute "compensation in connection with lobbying services" for purposes of this section, if contact with public officials is incidental to the primary purpose of the employment.

Compensation does not include a payment made to any individual regularly employed by a person if

(1) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and

(2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

Compensation does not include the financial gain that a person may realize as a result of the determination of a municipal question, unless that gain is in the form of a contingent fee.

If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if, for the purpose of evading the obligations imposed under Division 5 (Lobbyists), the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities.

Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise**,** it is received on the date

on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported under Section 2-66 of Division 5 (Quarterly Activity Reports).

(d) *Expenditure* means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make an expenditure, regardless of whether such contract, promise, or agreement is legally enforceable.

Expenditure does not include an amount paid to any individual regularly employed by a person if

(1) the amounts paid to the individual are ordinarily paid regardless of whether the individual engages in lobbying activities; and

(2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

The date on which an expenditure is incurred is determined according to generally accepted accounting principles. The term "expenditure" does not include the cost of photocopying city documents, if those costs are the only expenditures made by the person in question on lobbying activities. The term "expenditure" also does not include the cost of photocopying documents, or creating other informational material by individuals who communicate with public officials to express personal opinions on behalf of themselves, their family or members of their household.

(e) *Gift* has the same meaning as in Division 1, Section 2-42 (Definitions).

(f) *Immediate family* means a spouse and dependent children.

(g) *Lobbyist* means 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.

(h) *Lobby* or *Lobbying*, except as provided below, means 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 San Antonio) 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;
(9) the content of which is compelled by law;
(10) 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;
(11) made on behalf of an individual with regard to that individual's employment or benefits;
(12) made by a fact witness or expert witness at an official proceeding; or
(13) made by a person solely on behalf of that individual, his or her spouse, or his or her minor children.

(i) *Lobbying firm* means:
(1) a self-employed lobbyist, or
(2) a person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

(j) *Municipal question* means a public policy issue of a discretionary nature pending or impending before city council or any board or commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.

The term “municipal question” does not include the day-to-day application, administration, or execution of existing city programs, policies, ordinances, resolutions, or practices, including matters that may be approved administratively without consideration by a board, a commission, or the City Council. The term “municipal question” does include all discretionary matters before the Board of Adjustment, the Planning Commission and all advisory committees and subcommittees thereof.

(k) *Person* means an individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

(l) *Registrant* means a person required to register under Section 2-63 of Division 5 (Persons Required to Register as Lobbyists).

(m) *Knowingly* has the same meaning as in Division 1, Section 2-42 (Definitions).

SECTION 2-63 PERSONS REQUIRED TO REGISTER AS LOBBYISTS

Except as provided by Section 2-64 of Division 5 (Exceptions), a person or entity who engages in lobbying must register with the City Clerk if:

(a) with respect to any client, the person or entity engages in lobbying activities for compensation; or

(b) the person or entity expends monies for lobbying activities.

The terms "compensation" and "expenditure" are defined in Section 2-62 of Division 5 (Definitions).

SECTION 2-64 EXCEPTIONS

The following persons and entities are not required to register under Section **2-63 and** 2-65 of Division 5 (**Persons Required to Register as Lobbyists and** Registration) or file an activity report under Section 2-66 of Division 5 (Quarterly Activity Reports):

(a) **Media Outlets.** A person who owns, publishes or is employed by:
   (1) a newspaper;
   (2) any other regularly published periodical;
   (3) a radio station;
   (4) a television station;
   (5) a wire service; or
   (6) any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration under Division 5 (Lobbyists). This Subsection does not exempt the news media or a person whose relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

(b) **Mobilizing Entity Constituents and Not-for-Profit Organizations.** A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions. This exception is intended to apply to neighborhood associations and not-for-profit organizations.

(c) **Governmental Entities.** Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the city.

(d) **Unknown Municipal Questions.** A person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a city official. This Subsection does not apply if the existence of a municipal question is discovered during on-going contacts with a city official and the person then engages in additional

lobbying of the same official or other city officials with respect to that municipal question.

(e) **Dispute Resolution.** An attorney or other person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with city officials who do not vote on or have final authority over any municipal question involved and so long as such an attorney complies with Rule 4.02 of the Texas Disciplinary Rules of Professional Conduct, as amended.

(f) **Compensation of Registrant.** A client who would only be required to register under Section 2-63 because of any expenditure to compensate a registrant, other than an employee, to lobby on a municipal question of interest to the client, provided that the compensated registrant files a registration statement or activity report for the period in question.

(g) **Agent or employee**. An agent or employee of a lobbying firm or other registrant that files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(h) **Individual.** An individual who engages in lobbying but who neither receives compensation nor expends monies for lobbying with respect to any client. The term "expends" does not include the cost of photocopying documents, or creating other informational material by individuals who communicate with public officials to express personal opinions on behalf of themselves, their family or members of their household.

(i) **Attorneys**. A licensed attorney who is performing an act that may be performed only by a licensed attorney.

SECTION 2-65 REGISTRATION

(a) **Separate Registrations.** A person or entity required to register as a lobbyist under Section 2-63 of Division 5 (Persons Required to Register as Lobbyists) 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.

(b) **Initial Registration.** An initial registration form relating to a client must be filed by a person required to register under Section 2-63 of Division 5 (Persons Required to Register as Lobbyists) 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.

(c) **Subsequent Annual Registration.** Except as provided in Subsection (f) (Termination of 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.

(d) **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 as required under Subsection (e) by each agent or employee.

(e) **Required Disclosures.** Initial or subsequent registration shall be on a form prescribed by the City Clerk and shall include, to the extent applicable:

(1) the full name, telephone number, permanent address, and nature of the business of:

(A) the registrant;

(B) the client;

(C) any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;

(D) any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which, in whole or in major part, plans, supervises, or controls the registrant's lobbying activities on behalf of the client;

(E) any lobbying firm for which the registrant is an agent or employee with respect to the client; and

(F) each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;

(2) a statement of all municipal questions on which the registrant or its agents or employees **have** ~~has~~ lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby;

(3) a list of any positions held by the registrant or its agents or employees as an official or employee of the City of San Antonio, as those terms are defined in Section 2-42 of Division 1 (Definitions) during the past two (2) years.

(4) if the registrant or **an** ~~its~~ agent~~s~~ or employee~~s~~ is a former city official or employee, a statement that the registrant's lobbying activities have not violated and will not foreseeably violate Section 2-56(a) or (b) or Section 2-57 of Division 3 (Former City Officials and Employees) of this ethics code.

(f) **Termination of Registration.** A registrant shall file a notice of termination of registration with the City Clerk if the registrant is no longer required to register by Section 2-63 of Division 5 (Persons Required to Register as Lobbyists). A filing under this Subsection does not relieve the registrant of reporting requirements imposed by Section 2-66 of Division 5 (Quarterly Activity Reports) for the reporting period in question.

(g) **Fee.** At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the city, and the City Clerk shall collect, a fee of $300 for the registrant and $300 for each agent or employee of the registrant that engages in lobbying activity on behalf of the registrant's clients. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be

used to offset the costs of administering the city's lobbying ordinance and the costs of handling disclosure filings.

(h) **Ethics Code Briefing.** During the registration process, the Ethics Compliance Officer shall offer a briefing to each new registrant on Division 5 (Lobbyists) of the Ethics Code and each shall be provided with information regarding the lobbyist provisions of the Ethics Code.

SECTION 2-66 QUARTERLY ACTIVITY REPORTS

(a) **Required Disclosures.** Except as provided in Section 2-64 of Division 5 (Exceptions), each registrant shall file with the City Clerk a separate report signed under oath concerning the registrant's lobbying activities for each client from whom, or with respect to whom, the registrant received compensation of, or expended, monies for lobbying during the prior calendar quarter.

A firm, entity, or individual that employs agents or employees who lobby on behalf of that organization's or employer's clients may file quarterly reports regarding lobbying activities on behalf of all the organization's or employer's clients, so long as all activities by agents and employees that must be disclosed pursuant to Division 5 are reported on the consolidated quarterly report. When a registrant files a quarterly report disclosing the lobbying activities of its agents or employees, the registrant's agents and employees are not required to file separate quarterly reports.

The report for the preceding calendar quarter shall be filed between the first and fifteenth day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. The report shall be on the form prescribed by the City Clerk and shall include, with respect to the previous calendar quarter, to the extent applicable:

(1) the name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed pursuant to Section 2-65 of Division 5 (Registration);
(2) a list of the specific issues upon which the registrant or its agents or employees engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
(3) a list of the city officials contacted by the registrant or its agents or employees on behalf of the client with regard to a municipal question;
(4) a list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;
(5) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenditures as defined in Section 2-62 of Division 5 (Definitions) that the registrant and its agents or employees incurred in connection with lobbying activities;
(6) each gift, benefit, or expenditure greater than fifty dollars ($50) made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant, or by anyone acting on behalf of the registrant, shall be itemized by date, city official, actual cost, and circumstances of the transaction;

(7) each exchange of money, goods, services, or anything of value by the registrant, or by anyone acting on behalf of the registrant, with any business entity in which the registrant knows or should know that a city official has an economic interest, or for which the city official serves as a director or officer, or in any other policy making position, if:
(A) the total of such exchanges is one thousand dollars ($1000) or more in a calendar quarter; and
(B) the city official:
(i) has been lobbied by the registrant or its agents or employees during the calendar quarter; or
(ii) serves on a board or other city body that has appellate jurisdiction over the subject matter of the lobbying.

Each exchange shall be itemized by date, business entity and address, city official, amount, and nature of transaction. For purposes of this Subsection, the term "exchange" does not include a routine purchase from a commercial business establishment, if the city official in question is neither aware, nor likely to become aware, of the transaction; and

(8) the name and position of each city official or member of a city official's immediate family who is employed by the registrant.

(b) **Preservation of Records.** Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this Section for five (5) years from the date of filing of the report containing such items. **These records must be provided to the Ethics Review Board upon request by the board.**

(c) **No Activity or Changes.** No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

(d) **Estimates of income or expenses.** For purposes of Subsections (a)(5), (a)(6), and (a)(7), required estimates of compensation or expenses shall be made to the nearest one hundred dollars ($100), for amounts totaling less than five thousand dollars ($5,000), and to the nearest one thousand dollars ($1000), for amounts totaling more than five thousand dollars ($5000).

(e) **Contingent fees.** A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement.

SECTION 2-67 RESTRICTED ACTIVITIES

(a) **False Statements.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false or misleading statement of fact to any city official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a city official without notifying such official in writing of the truth.

(b) **Failure to Correct Erroneous Statement.** A registrant who learns that a statement contained in a registration form or activity report filed by the registrant during the past three (3) years is false shall not fail to correct that statement by written notification to the City Clerk within thirty days of learning of the falsehood.

(c) **Personal Obligation of City Officials.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any city official under personal obligation to such lobbyist or person.

(d) **Improper Influence.** A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

(e) **Use of False Identification.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a city official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(f) **Prohibited Representations.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any city official.

(g) **Legislator's Exclusion.** At any time within sixty (60) days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, members of the Texas Legislature and their agents and employees are prohibited from lobbying as that term is defined in Section 2-62, subsection (h), of Division 5, (Lobbyists) of this Code.

At any other time, the City of San Antonio strongly discourages members of the Texas Legislature and their spouses, agents and employees from lobbying before the City of San Antonio.

If a legislator, his or her spouse, agent, or employee does engage in lobbying activity during a time outside a regular session and outside the sixty (60) days before and after a regular session, and the governor calls a special session for which the legislator had no notice at the time of the lobbying activity, this section is not violated.

(h) **Lobbying by Councilmembers**. At any time within sixty (60) days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, Members of the City Council of the City of San Antonio are prohibited from lobbying members of the Texas Legislature on behalf of the Councilmember's private client(s) or employer. Councilmembers are not prohibited from meeting with members of the Texas Legislature on behalf of the City of San Antonio concerning legislation, administrative action, or any other action in their official City capacity. For the

purposes of this subsection, lobbying means any oral or written communication (including an electronic communication) to a member of the legislative branch, made directly or indirectly, by a City Councilmember in an effort to influence or persuade a member of the legislative branch to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any legislation or administrative action on behalf of the Councilmember's private client(s) or employer.

At any other time, the City of San Antonio strongly discourages members of the City Council and their spouses, agents and employees from lobbying before the Texas Legislature. This does not apply to lobbying on behalf of the City of San Antonio concerning legislation, administrative action, or any other action in their official City capacity.

If a Councilmember, his or her spouse, agent, or employee does engage in lobbying activity during a time outside a regular legislative session and outside the sixty (60) days before and after a regular session, and the Governor calls a special session of which the Councilmember had no notice at the time of the lobbying activity, this section is not violated.

(i) **Limitations on Gifts.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a City official or a City employee or his or her immediate family, save and except for

(1) items received that are of nominal value; or
(2) meals in an individual expense of $50 or less at any occurrence, and no more than a cumulative value of $500 in a single calendar year, from a single source, as permitted in section 2-45, or
(3) other gifts permitted under section 2-45.

(j) **Prohibited Lobbying.** A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with City officials and employees regarding such contract after a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been released. This no-contact provision shall conclude when the contract is posted as a City Council agenda item. If contact is required with City officials and employees, such contact will be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agent(s) may lead to disqualification of their offer from consideration.

SECTION 2-68 IDENTIFICATION OF CLIENTS

(a) **Appearances.** Each person who lobbies or engages another person to lobby appearing before the City Council or an official body identified in the definition of "city official" in Section 2-62 of Division 5 (Definitions) 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 as required by Section 2-63 of Division 5 (Persons Required to Register as Lobbyists).

(b) **Oral Lobbying Contacts.** Any person who makes an oral lobbying contact with an official shall, identify the client or clients on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

(c) **Written Lobbying Contacts.** Any registrant who makes a written lobbying contact (including an electronic communication) with a city official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

SECTION 2-69 TIMELINESS OF FILING REGISTRATIONS AND REPORTS

A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

(a) it is properly addressed with postage and handling charges prepaid; and
(b) it bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

SECTION 2-70 ADMINISTRATION

The City Clerk shall:

(a) provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance with Division 5 (Lobbyists);

(b) review for completeness and timeliness registrations and reports;

(c) maintain filing, coding, and cross-indexing systems to carry out the purposes of Division 5 (Lobbyists), including:
   (1) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and
   (2) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under Division 5 (Lobbyists);

(d) make available for public inspection and copying at reasonable times the registrations and reports filed under Division 5 (Lobbyists); and

(e) retain registrations and reports in accordance with the Local Government Records Act**.**

SECTION 2-71 CONSTITUTIONAL RIGHTS

Nothing in Division 5 (Lobbyists) shall be construed to prohibit or interfere with any person's rights guaranteed by the United States and Texas Constitutions.

DIVISION 6: MEMBERS OF THE PUBLIC AND OTHERS

Division 6 (Members of the Public and Others) applies to current and former city officials and employees, persons doing business with the city, and lobbyists, as well as to members of the public and any other person (including business entities and nonprofit entities).

SECTION 2-72 FORMS OF RESPONSIBILITY

No person shall intentionally or knowingly induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct violative of the obligations imposed by Divisions 2 (Present City Officials and Employees), 3 (Former City Officials and Employees), 4 (Persons Doing Business with the City), and 5 (Lobbyists) of this ethics code.

DIVISION 7: FINANCIAL DISCLOSURE

SECTION 2-73 FINANCIAL DISCLOSURE REPORT

(a) **Persons Required to File Disclosure Form.**

(1) **City Officials and Designated City Employees.** No later than thirty (30) days after accepting appointment or assuming the duties of office, and annually thereafter, the city officials defined in Section 2-42 of Division 1 (Definitions), Police Department Captains, Assistant Chiefs, and Deputy Chiefs, all appointed Deputy Fire Chiefs and appointed Assistant Fire Chiefs, and any Assistant Fire Chief who either works in the Fire Administration Building or any other division and is involved in having input to any contract, vehicle specification, or who is otherwise involved with the purchasing of any product, service, or land for the Fire Department, any fire Inspector, Plan Reviewer or Uniformed Administrator of the Fire Prevention Division, any uniformed employee involved in maintaining Departmental Personnel Records located at the Fire Administration Building, any uniformed Personnel utilized in evaluating or purchasing equipment, vehicles or any other purchases who also have contact with contractor(s) who provide such equipment or vehicles, and any Uniformed Personnel utilized in providing input to any contract or composing specifications of equipment and vehicles, who also have contact with contractor(s) who provide such services, equipment or vehicles are required to file with the City Clerk a complete sworn financial disclosure report.

(2) **Exception**. Candidates for City Council and City officials required to file financial disclosure statements pursuant to Local Government Code Chapter 145 shall file financial disclosure statements in compliance with the Local Government Code in place of filing statements required by this code of ethics. Such officials shall also complete an addendum to the statement disclosing information required by this code of ethics, but not required under the Local Government Code. The addendum shall be prepared by the Office of the City Clerk. Deadlines for filing the financial disclosure documents shall be governed by Chapter 145 of the Local Government Code.

(b) **Open Records.** Financial disclosure reports are open records subject to the Texas Open Records Act, and shall be maintained in accordance with the Local Government Records Act.

(c) **Annual Filing Date.** Annual financial disclosure reports filed by City officials who are City employees and by City employees who are required to report must be received by the City Clerk by 4:30 p.m. on the 31st day of January. Annual financial disclosure reports filed by City officials who are not City employees and who are required to report must be received by the City Clerk by 4:30 p.m. on the 31st day of March. When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the City Council, the deadline for receipt by the City Clerk is extended to 4:30 p.m. of the next day which is not a Saturday or Sunday or official city holiday. The City Clerk shall grant an extension of time in which to file a report upon written request submitted in advance of the deadline. The extension shall not exceed fifteen (15) days.

Unforeseen Circumstances. In the event of an unforeseen circumstance, including, but not limited to, military service or acute illness or leave without pay under the Family Medical Leave Act, the deadline for receipt by the City Clerk is extended until such time as the city official or employee resumes his city duties.

(d) **Reporting Periods.** Each initial or annual financial disclosure report filed by an individual designated in Section 2-73(a)(1) of Division 7 (Financial Disclosure Report), and each report filed by a candidate for City Council, shall disclose information relating to the prior calendar year, as well as any material changes in that information which occurred between the end of the prior calendar year and the date of filing.

(e) **City Clerk.** The City Clerk shall:

(1) prior to January 15 of each year, notify city officials who are city employees and employees specified in Subsection (a)(1) of their obligation to file financial disclosure reports and provide forms to be completed; and prior to February 15 of each year, notify city officials who are not city employees of their obligation to file financial disclosure reports and provide the forms to be completed.

(2) provide forms to all new City Council appointees and those filing for elective office, and advise them of reporting requirements and deadlines;

(3) provide guidance and assistance on the reporting requirements for persons required to file financial disclosure reports and develop common standards, rules, and procedures for compliance with Division 7 (Financial Disclosure);

(4) review reports for completeness and timeliness;

(5) maintain filing, coding, and cross-indexing systems to carry out the purpose of Division 7 (Financial Disclosure), including:

(A) a publicly available list of all persons required to file; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under Division 7 (Financial Disclosure);

(6) make available for public inspection and copying at reasonable times the reports filed under Division 7 (Financial Disclosure);

(7) upon determining that such appointee who is required to file a financial disclosure report has failed to do so or has filed incomplete or unresponsive information, notify the individual by certified mail that failure to file or correct the filing within fifteen (15) days after the original deadline constitutes an automatic resignation. At the same time, the City Clerk shall publicly announce to the City Council the names of those who have not filed and to whom this notification is being sent. If such an appointee fails to file a completed report within fifteen (15) days from the original deadline, the position shall be considered vacant, and a new appointment shall be made by the City Council; and

(8) upon determining that the Mayor, a member of City Council, a candidate for City Council, the City Manager, or a Municipal Court Judge or Magistrate has failed to timely file a financial disclosure report, or has filed incomplete or unresponsive information, notify the individual by certified mail that failure to file or correct the filing within fifteen (15) days after the original deadline will result in the matter being forwarded to the Ethics Review Board. If the person in question fails to file a completed report within fifteen days of the original deadline, a report of non-compliance shall be forwarded to the Ethics Review Board for appropriate action.

(9) upon determining that a person other than as provided in subsections (7) or (8) above, has failed to timely file a financial disclosure report, or has filed incomplete or unresponsive information, notify the individual by certified mail that failure to file or correct the filing within fifteen (15) days after the original deadline will result in the matter being forwarded to the City Manager. If the person in question fails to file a completed report within fifteen days of the original deadline, a report of non-compliance shall be forwarded to the City Manager for appropriate action.

The failure of the City Clerk to provide any notification required by this Section does not bar appropriate remedial action, but may be considered on the issue of culpability.

(f) **Exception.** A city official who is a member of a board or commission created pursuant to federal or state law, may only be removed for failing to file a financial disclosure form if allowed under federal or state law.

SECTION 2-74 CONTENTS OF FINANCIAL DISCLOSURE REPORTS

Each initial or annual financial disclosure report shall disclose, on a form provided by the city, the following information:

(a) the reporting party's name;

(b) the name of any person related as parent, child, (except a child who is a minor), or spouse to the reporting party;

(c) the name of any member of the reporting party's household not disclosed under Subsection (b) of this rule;

(d) the name of any employer of any person disclosed under Subsections (a) or (b) of this rule;

(e) the name of any business entity (including self employment in the form of a sole proprietorship under a personal or assumed name) in which the reporting party or his or her spouse holds an economic interest;

(f) the name of any business which the reporting party knows is a partner, or a parent or subsidiary business entity, of a business entity owned, operated, or managed by the reporting party or his or her spouse;

(g) the name of any person or business entity from whom the reporting party or his or her spouse, directly or indirectly:
   (1) has received and not rejected an unsolicited offer of subsequent employment; or
   (2) has accepted an offer of subsequent employment which is binding or expected by the parties to be carried out;

(h) the name of each nonprofit entity or business entity in which the reporting party serves as an officer or director, or in any other policy making position;

(i) the name of each business entity which has sought city business, has a current city contract or anticipates seeking city business in which any individual listed in Subsection (a) or (b) is known to directly or indirectly own:
   (1) ten (10) percent or more of the voting stock or shares of the business entity, or
   (2) ten (10) percent or more of the fair market value of the business entity;

(j) the name of any business entity of which any individual or entity disclosed under Subsection 2(a) or (2)(i) is known to be:
   (1) a subcontractor on a city contract;
   (2) a partner; or
   (3) a parent or subsidiary business entity.

(k) the name of each source of income, other than dividends or interest, amounting to more than five thousand dollars ($5000) received during the reporting period by the reporting party or his or her spouse, unless that source has been disclosed under Subsections (a) through (j) of this rule;

(l) the identification by street address, or legal or lot-and-block description, of all real property located in the State of Texas in which the reporting party or his or her spouse has a leasehold interest, a contractual right to purchase, or an interest as: fee simple owner; beneficial owner; partnership owner; joint owner with an individual or corporation; or owner of more than twenty-five (25) percent of a corporation that has title to real property. There is no requirement to list any property:
   (1) used as a personal residence of a peace officer;
   (2) over which the reporting party has no decision power concerning acquisitions or sale; or
   (3) held through a real estate investment trust, mutual fund, or similar entity, unless the reporting party or his or her spouse participates in the management thereof;

(m) the name of persons or entities to whom the reporting party or spouse owes an unsecured debt of more than five thousand dollars ($5,000.00), other than debts for:

(1) money borrowed from a family member from his or her own resources; and
(2) revolving charge accounts.

(n) the name of each person, business entity, or other organization from whom the reporting party, or his or her spouse, received a gift with an estimated fair market value in excess of one hundred dollars ($100) during the reporting period and the estimated fair market value of each gift. Excluded from this requirement are:
(1) lawful campaign contributions which are reported as required by state statute or local ordinance;
(2) gifts received from family members within the second degree of affinity or consanguinity;
(3) gifts from an individual based on personal friendship who during the preceding three calendar years: a) has not done or sought to do business with the city; b) has not sought city action on any issue before the City Council or any city board or commission; c) is not associated with any business or entity that has done or sought to do business with the city; and d) is not associated with any business or entity that has sought city action on any issue before the City Council or a city board or commission.
(4) gifts received among and between fellow city employees and city officials; ~~and~~
(5) admission to events in which the reporting party participated in connection with official duties~~.~~ ;
(6) payment of or reimbursement of travel and accommodations expenses accepted in connection with official duties which have been reported under Section 2-76 (Travel Reporting Requirements); payment for or reimbursement of expenses for travel in excess of authorized rates under city policy are gifts subject to the reporting requirements under this section.

SECTION 2-75 SHORT FORM ANNUAL REPORT

A person who is required to file an annual financial disclosure report may fulfill his or her filing obligations by submitting a short sworn statement on a form provided by the city, if there have been few or no changes in the information disclosed by that person in a complete financial disclosure report filed within the past five (5) years. The short statement shall indicate the date of the person's most recently filed complete financial disclosure report and shall state that there have been no material changes in that information or shall list any material changes that have occurred.

SECTION 2-76 TRAVEL REPORTING REQUIREMENTS

(a) Any city official or employee who, in connection with his or her official duties, accepts a trip or excursion involving the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency must file with the City Clerk, before embarking on the travel, a disclosure statement identifying:
(1) the name of the sponsor;
(2) the places to be visited; and
(3) the purpose and dates of the travel;
(4) the estimated amount of the expenses paid.

(b) Acceptance of a trip or excursion by Municipal Court Judges and Magistrates, City Manager, Deputy City Manager, City Clerk, Assistant City Clerk, Assistant City Managers, Assistants to the City Manager, and all department heads, assistant department heads, and employees in positions listed on the executive pay plan (Job Class 1000 through 1999) must receive prior written approval of the City Manager. Other personnel must receive written approval by their department director. Boards and commissions members must receive approval by a vote of their board or commission.

SECTION 2-77 ITEMS RECEIVED ON BEHALF OF THE CITY

A city official or employee who accepts any item by way of gift valued over $100.00 or loan on behalf of the city must promptly report that fact to the City Manager, who shall have the item appropriately inventoried as city property.

SECTION 2-78 OTHER PERSONS REQUIRED TO REPORT GIFTS

In addition to the gift reporting requirements imposed by the financial disclosure rules stated in Section 2-74(n) of Division 7 (Contents of Financial Disclosure Reports), other city employees specified on a list compiled annually by the Human Resources Department (or its successor department) and submitted to the City Clerk, and contract administrative assistants to members of City Council are also required to file an annual report on or before the 31st day of January of each year showing the source of a gift received during the previous year with a value of over one hundred dollars ($100.00). Excluded from this requirement are:

(1) lawful campaign contributions which are reported as required by state statute;
(2) gifts received from family members within the second degree of affinity or consanguinity;
(3) gifts from an individual based on personal friendship who during the preceding three calendar years: a) has not done or sought to do business with the city; b) has not sought city action on any issue before the City Council or any city board or commission; c) is not associated with any business or entity that has done or sought to do business with the city; and d) is not associated with any business or entity that has sought city action on any issue before the City Council or a city board or commission.
(4) gifts received among and between fellow city employees and city officials;
(5) admission to events in which the reporting party participated in connection with official duties;
(6) payment of or reimbursement of travel and accommodations expenses accepted in connection with official duties which have been reported under Section 2-76 (Travel Reporting Requirements); payment for or reimbursement of expenses for travel in excess of authorized rates under city policy are gifts subject to the reporting requirements under this section.

SECTION 2-79 VIOLATION OF REPORTING REQUIREMENTS

Failure to timely file a report required by this ethics code is a violation hereof, as is the knowingly filing of a report with incorrect, misleading, or incomplete information, though

no later than fifteen (15) days after discovery of the error or after the error should have reasonably been discovered. If an individual inadvertently files an incorrect or incomplete report, it is his or her responsibility to file an amended report as soon as possible.

To file a late or amended report, the person shall use the required report form provided by the City Clerk's Office and mark in the appropriate box whether the report is late-filed or an amended report.

DIVISION 8: ETHICS REVIEW BOARD

SECTION 2-80 DEFINITIONS

As used in Division 8 (Ethics Review Board), the term "ethics laws" includes this code of ethics, codified as Chapter 2, Article III of the City Code, Section 141 of the City Charter, and Section 171 of the Texas Local Government Code. The term "ethical violation" includes violations of any of those enactments. Other terms used in Division 8 (Ethics Review Board) are defined in Section 2-42 of Division 1 (Definitions).

The term "municipal campaign finance regulations" refers to the code of municipal campaign finance regulations, codified as Chapter 2, Article VII of the City Code.

SECTION 2-81 STRUCTURE OF THE ETHICS REVIEW BOARD

(a) In accordance with Article XIII of the City Charter, there is hereby established an independent Ethics Review Board, which shall have the powers and duties specified in Article XIII of the City Charter, Chapter 2, Article III of the City Code (Ethics Code), and Chapter 2, Article VII of the City Code (Municipal Campaign Finance Regulations), and other powers and duties prescribed by ordinance.

Upon appointment and administration of the oath of office of a quorum of this Ethics Review Board pursuant to Article XIII of the City Charter, the former Ethics Review Board established under Ordinance No. 88874 shall be dissolved.

(b) **Composition.** The Ethics Review Board shall consist of eleven (11) members. The Mayor 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. 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 six members to serve an initial term of two years and five members to serve an initial term of three years, determined after appointment by lottery. Subsequent 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) a campaign treasurer, campaign manager, officer or other policy or decision-maker for any political action committee as defined in the Texas Election Code;
(7) a member of any city board or commission other than the Ethics Review Board;
(8) a member of any city board or commission for which the position is appointed by City Council
(9) a lobbyist required to register under Division 5 (Lobbyists) of this ethics code.

Further, no member of the Ethics Review Board shall have any convictions for a felony or a crime of moral turpitude, or shall have been found in violation of any provision of the city's Code of Ethics. The San Antonio Police Department will conduct a criminal background check through the NCIC system for each applicant to the board.

The City Council shall support the inclusion of at least one attorney and one individual with expertise in finance or accounting within the membership of the Ethics Review Board.

(e) **Removal.** Members of the Ethics Review Board may be removed from office for cause by a majority of the City Council only after a public hearing at which the member was 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); substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; or violation of any provision in this code of ethics or a conviction of a felony or crime of moral turpitude.

(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.

(g) **Recusal.** A member of the Ethics Review Board shall recuse himself or herself from any case in which, because of familial relationship, employment, investments, or otherwise, his or her impartiality might reasonably be questioned. A Board 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) during the pendency of an indictment or information charging the member with any felony or misdemeanor offense, or after a finding of guilt of such an offense.

If the number of Board members who are recused from a case is so large that an Ethics **Review Board cannot be convened to consider the complaint,** ~~Panel cannot be constituted, as provided for in Section 2-85 of Division 8 (Ethics Panels),~~ the Mayor shall nominate a sufficient number of *ad hoc* members so that the case

can be heard. 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 of the Board may call a meeting of the Board. The chair shall preside at meetings of the Ethics Review Board and perform 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 shall not be compensated but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

SECTION 2-82 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;
(3) an alleged violation of local campaign finance regulations enacted from time to time by ordinance; and
(4) an alleged violation of Section 141 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.

The Board shall not consider any alleged violation that occurred more than two (2) years prior to the date of the filing of the complaint.

(b) **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.

(c) **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, and the Code of Municipal Campaign Finance;
(2) to meet as often as necessary to fulfill its responsibilities;
(3) to designate panels with the power to render decisions on complaints or issue

advisory opinions on behalf of the Board; *{See proposed revisions in 2-85}*

(4) to request from the City Manager the assignment of staff necessary to carry out its duties;
(5) to review, index, maintain on file, and dispose of sworn complaints;
(6) to make notifications, extend deadlines, and conduct investigations, both on referral or complaint;
(7) to compel the production of sworn testimony, witnesses and evidence;
(8) 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) 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) to provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
(12) to prepare an annual report and to recommend to the City Council needed or desirable changes in ordinances under its jurisdiction;
(13) to exercise such other powers and duties as may be established by ordinance.

SECTION 2-83 COMPLAINTS

(a) **Filing.** 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 laws or the code of municipal campaign finance regulations may file a sworn complaint with the City Clerk to allege such violations.

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 [see Division 8, Section 2-87(g) (Criminal Prosecution)] or civil liability for the tort of abuse of process.

Assistance. The City Clerk shall provide information to persons who inquire about the process for filing a complaint. *{Note: This phrase was moved up from subsequent section}*

(b) **Form.** A complaint filed under this section 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;
(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 or municipal campaign finance regulations 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 the Ethics Code or the Code of Municipal Campaign Finance Regulations. 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. **A complaint that is not sworn as required shall not be forwarded by the City Clerk to the Ethics Compliance Officer as provided in Section 2-83(f), but shall be returned to the complainant.**

The complaint must state on its face an allegation that, if true, constitutes a violation of a law administered and enforced by the Board.

{Note: it is proposed to move the provision about notification to ERB (and respondents) to come before the provisions on frivolous complaints. Outline numbering will be adjusted accordingly}

(e) **Review by the Ethics Compliance Officer and** **Notification to the Ethics Review Board** **and Respondents**. A copy of a complaint shall be promptly forwarded by the City Clerk to the Ethics Compliance Officer. **The Ethics Compliance Officer shall review the complaint for compliance with the filing requirements of Section 2-83(b) within 5 business days of receipt from the Office of the City Clerk. If the complaint substantially complies with the filing requirements, the complaint shall be forwarded to the members of the Ethics Review Board and the respondents within 10 business days after receipt of the complaint from the Office of the City Clerk. If the complaint does not substantially comply with the filing requirements, the Ethics Compliance Officer shall return the complaint to the complainant with a letter explaining the defects in the complaint.** ~~and to the respondent(s), even if the complaint fails to meet the filing requirements of Division 8, Section 2-83(b) (Form) above~~. ~~A complaint that is not sworn as required by Division 8, Section 2-83(a), shall not be forwarded by the City Clerk to the Ethics Compliance Officer, but shall be returned to the complainant.~~

(f) The respondent(s) shall also be provided with a copy of the ethics rules and shall be informed:
   (1) that, within fourteen (14) days of receipt of the complaint, he or she may file a sworn response with the City Clerk;
   (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 Clerk to the complainant, who may, within seven (7) days of receipt, respond by sworn writing filed with the City Clerk, a copy of which shall be provided by the City Clerk to 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.

Upon receipt, the City Clerk shall forward the response to the ethics compliance officer and the compliance officer shall forward to the Ethics Review Board.

(c) **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 against a respondent is a frivolous complaint.
(3) In deciding if a complaint is frivolous, the Board 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 against a respondent 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 against a respondent is a frivolous complaint, the Board 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 may determine that a complainant filed a frivolous complaint against a respondent 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.
(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.

(g) **Confidentiality.** *Ex parte* communications by members of the Ethics Review Board are prohibited by Section 2-85(d) of Division 8 (Ex Parte Communications).

(1) The Board and its staff shall not communicate any information about a pending 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 records pertaining to complaints shall be responded to in compliance with the Texas Public Information Act and the Texas Open Meetings Act.

{Note: entire section below to be revised and moved up}

(h) ~~**Notification to the Ethics Review Board**. A copy of a complaint shall be promptly forwarded by the City Clerk to the Ethics Compliance Officer and to the respondent(s), even if the complaint fails to meet the filing requirements of Division 8, Section 2-83(b) (Form) above. A complaint that is not sworn as required by Division 8, Section 2-83(a), shall not be forwarded by the City Clerk 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:~~

(6) ~~that, within fourteen (14) days of receipt of the complaint, he or she may file a sworn response with the City Clerk;~~

(7) ~~that failure to file a response does not preclude the Ethics Review Board from adjudicating the complaint;~~

(8) ~~that a copy of any response filed by the respondent(s) will be provided by the City Clerk to the complainant, who may, within seven (7) days of receipt, respond by sworn writing filed with the City Clerk, a copy of which shall be provided by the City Clerk to the respondent(s);~~

(9) ~~that the complainant(s) or respondent(s) may request a hearing; and;~~

(10) ~~that city officials and employees have a duty to cooperate with the Ethics Review Board.~~

~~Upon receipt, the City Clerk shall forward the response to the ethics compliance~~

~~officer and the compliance officer shall forward to the Ethics Review Board.~~

(i) ~~**Assistance.** The City Clerk shall provide information to persons who inquire about the process for filing a complaint.~~
{Note: recommended this provision be moved up to section about filing complaints.}

SECTION 2-84 ETHICS COMPLIANCE OFFICER

(a) **City Attorney's Office.** The City Attorney or an Assistant City Attorney designated by the City Attorney shall serve as the Ethics Compliance Officer for the city. The Ethics Compliance Officer shall:
(1) receive and promptly transmit to the Ethics Review Board complaints and responses filed with the City Clerk **as set forth in Section 2-83**;
(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;
(4) issue advisory opinions to city officials and employees 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 complaint made to the Ethics Review Board; and
(8) request additional information from complainant as needed.

(b) **Outside Independent Counsel.** An independent outside attorney, who does not otherwise represent the city, shall be appointed at the recommendation of the City Attorney, to serve as the Ethics Compliance Officer for a particular case:
(1) when a complaint is filed relating to an alleged violation of the ethics laws by:
(A) the Mayor or a member of the City Council, or
(B) a city employee who is a department head or of higher rank;
(2) when the Ethics Review Board requests such an appointment; or
(3) when requested by the City Attorney.

An independent outside attorney who is appointed has the same duties and authority as the Ethics Compliance Officer under Section 2-84(a)(1), (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) of Division 8 (Ethics Compliance Officer).

(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 or municipal campaign finance laws evidence known to the Ethics Compliance Officer tending to negate guilt or mitigate the seriousness of the offense.

SECTION 2-85 ETHICS PANELS AND THE ETHICS REVIEW BOARD

~~(a)~~ **Assignment to an Ethics Panel.** **The chairperson of the Ethics Review Board may appoint a panel to conduct a preliminary review of an ethics complaint or request for advisory opinion. The panel may present its recommendations for consideration by the board in its entirety. The chair may also designate a panel**

with the power to render decisions on complaints or issue advisory opinions on behalf of the Board. Panels appointed to dispose of complaints or issue advisory opinions must act in accordance with the Open Meetings Act. ~~A complaint received by the Ethics Review Board from the Ethics Compliance Officer shall be promptly assigned to an Ethics Panel consisting of three (3) or more members of the Board, who shall have full power to investigate and dispose of the 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 three (3) members. 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.~~

(b) ~~**Notice of Charges.**~~ **Review by Ethics Review Board. The Ethics Review Board will meet to review the complaint, responses, replies to responses and any other information it has requested be provided to assist in consideration of the complaint.** The **board** ~~Ethics Panel~~ 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. **If the board finds that the complaint fails to allege a violation of the Ethics Code when assuming all facts set forth in the complaint to be true, the board may dismiss the complaint without further proceedings.**

{Section b is being divided into two sections and formatting will be adjusted.}

(c) ~~However, b~~**B**efore the **board** ~~Ethics Panel~~ may find that 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: if the complaint alleged that the rule was violated; ~~if compliance with the rule is raised by a member of the Board or the Ethics Compliance Officer as a disputed issue at a hearing before the Ethics Panel;~~ or if the Board or the Ethics Compliance Officer provides the respondent with written notice of the alleged violation and a fourteen (14) day period within which to respond in writing to the charge.

(d) **Scheduling of a Hearing.** Regardless of whether the complainant or the respondent requests a hearing, the Ethics **Review Board** ~~Panel~~ has discretion to decide whether to hold a hearing.

(e) ***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 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, or the Ethics Compliance Officer, about any issue of fact or law relating to the complaint.

(f) **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.

(g) **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 to Accept Late Filing. The complainant or respondent must include within the request a statement of good cause for the board to grant the request. The **board** ~~assigned panel~~ may grant a request to accept a late filing for good cause. Any extension given to a respondent pursuant to his or her request shall extend the deadline for the board to issue a decision under Section 2-87 by the amount of time granted.

(h) **Timeliness of Notices or Submissions**. When the ethics code or code of municipal campaign finance regulations 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.

SECTION 2-86 HEARINGS

At any hearing held by ~~an~~ **the** Ethics **Review Board** ~~Panel~~ during the investigation or disposition of a complaint, the following rules apply:

(a) **General Rules.** ~~At least three (3) members of the Ethics Panel 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 **Review Board** ~~Panel~~ or the Ethics Compliance Officer. The **Review Board** ~~Panel~~ 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 or the municipal campaign finance regulations unless a majority of the **Review Board** ~~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.~~

(b) **Evidence.** The **Ethics Review Board** ~~Panel~~ shall rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs. The ~~Ethics Panel~~ **board** shall further abide by the following:

(1) The ~~Panel~~ **board** shall hear evidence relevant to the allegations; and

(2) The ~~Panel~~ **board** shall not consider hearsay unless it finds the nature of the information is reliable and useful.

(c) **The Person Charged (Respondent).** 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. 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 Panel~~ **board**. The time permitted for presentation will be at the discretion of the Board.

(d) **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 Panel~~ **board**. Witnesses may not be presented by the complainant, except with the permission of the ~~Ethics Panel~~ **board**. The time permitted for presentation will be at the discretion of the Board.

SECTION 2-87 DISPOSITION

(a) **Written Opinion.** The ~~Ethics Panel~~ **board** shall issue a decision within ninety (90) days after the filing of a complaint. This deadline shall be extended by any amount of time granted to a respondent pursuant to a respondent's request for additional time to respond or to attend proceedings. The ~~Ethics Panel~~ **board** shall state in a written opinion its findings of fact and conclusions of law. The written opinion shall either:

(1) dismiss the complaint; or

(2) upon finding that there that there has been a violation of the ethics laws or the municipal campaign finance laws:

(A) impose sanctions in accordance with these regulations; or

(B) recommend criminal prosecution and/or civil remedies, in accordance with this Rule; or

(C) state why no remedial action is imposed or recommended.

If the ~~Ethics Panel~~ **board** determines that a violation has occurred, the opinion shall identify in writing the particular rule or rules violated. If the complaint is dismissed, the grounds for the dismissal shall be set forth in the opinion. The failure of the ~~Ethics Panel~~ **board** 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 of the action.

(b) **Notification.** Copies of the opinion 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 Clerk, 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.

(d) **Similar Charges Barred.** If the complaint is dismissed because the evidence failed to establish a violation of the ethics laws or the municipal campaign finance ordinance, the Ethics Review Board shall not entertain any other similar complaint based on substantially the same evidence.

(e) **Factors Relevant to Sanctions.**

(1) **General Violations (Non-Reporting Violations)**. In deciding whether to recommend or impose, in the case of a violation of the ethics law, criminal prosecution and/or civil remedies, the Ethics **Review Board** ~~Panel~~ shall take into account relevant considerations, including, but not limited to, the following:

(a) the culpability of the person charged in the complaint;
(b) the harm to public or private interests resulting from the violation;
(c) the necessity of preserving public confidence in the conduct of local government;
(d) whether there is evidence of a pattern of disregard for ethical obligations; and
(e) whether remedial action has been taken that will mitigate the adverse effect of the violation.

To impose or recommend sanctions for a first violation of the ethics code or municipal campaign finance code, other than a letter of notification, a letter of admonition or a referral to training, the board must find by a preponderance of the evidence that the person acted knowingly, unless otherwise provided by this code.

(2) **Reporting Requirement Violations.** To impose sanctions, other than a letter of notification, a letter of admonition or a referral to training, for untimely or incomplete submission of reports required by the ethics code or the municipal campaign finance regulations, the board must determine by a preponderance of the evidence that the person knowingly:

a. failed to file the report on time; or
b. failed to include in the report information that is required to be included; or
c. submitted inaccurate or false information.

Failure to submit a required report or an amended report after receipt of notice of non-compliance by the **Office of the City Clerk** ~~City Clerk'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, incomplete or inaccurate 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~~ **the** Ethics **Review Board** ~~Panel~~ which finds that the ethics laws have been violated:

(1) **Disciplinary Action**. Civil service employees who violate this code of ethics may be disciplined in accordance with city personnel rules and procedures. Other city officials and 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 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 municipal civil service rules;

(2) **Suit for Damages or Injunctive Relief**. This code of ethics has been enacted not only to further the policy stated in section 2-41 (Statement of Purpose), 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, municipal campaign finance **regulations** or any other law. The Ethics Review Board may refer a violation of the ethics code or the municipal campaign finance regulations to the City Attorney's Office for consideration of a suit by the city for damages or injunctive relief.

(3) **Disqualification from Contracting or Lobbying.**

(a) If the Ethics Review Board finds that any person (including business entities and non-profit entities) has intentionally or knowingly violated any provision of the Ethics Code, or has intentionally or knowingly assisted another person in violating any provision of the Ethics Code, or has violated a provision or assisted another in a violation that the person should have known was a violation 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 (3) years.

An entity or nonprofit entity may also be disqualified from contracting based on the conduct of an employee or agent in violation of this code.

(b) It is a violation of this code of ethics:
(1) for a person debarred 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
(2) for a city official or employee to knowingly assist a violation of Subsection (b)(1) 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.

(4) **Recommendation to Void or Ratify Contract**. If the Ethics Review Board finds that there has been an intentional or knowing violation of any provision of the Ethics Code, or that a person has committed a violation that he or she should have known was a violation of the code that is related to the awarding of a contract, the Ethics **Review Board** ~~Panel~~ must 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.** 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 five hundred dollars ($500). Each day after any filing deadline imposed by division 5 (Lobbyists) and division 7 (Financial Disclosure) or the municipal campaign finance code 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, 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~~ **The** Ethics **Review Board** ~~Panel~~ may recommend to the appropriate law enforcement agency criminal prosecution under this section or under Section 171 of the Texas Local Government Law. Prosecution of any person by the City Attorney for a violation of this ethics code shall not be undertaken until a complaint is disposed of in accordance with Section 2-87. However, the absence of a recommendation to prosecute from an Ethics **Review Board** ~~Panel~~ to the City Attorney shall not preclude the City Attorney from exercising his or her prosecutorial discretion to prosecute a violation of this ethics code. Any person who files a false sworn statement under division 5 (Lobbyists), division 7 (Financial Disclosure), or division 8 (Ethics Review Board) or the municipal campaign finance code is subject to criminal prosecution for perjury under the laws of the State of Texas.

(h) **Reconsideration**. Within 5 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 Clerk. Within fifteen (15) days after filing with the City Clerk, the originally assigned **preliminary reviewing** panel shall review the request for reconsideration. If the panel concludes reconsideration is warranted, it shall bring the request within another fifteen (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. **If no panel was assigned to conduct a preliminary review, the chair shall review the request and may in his or her discretion decline the reconsideration or refer the matter to the full board for reconsideration within fifteen (15) days of receiving the request.**

(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 Bexar County no later than thirty 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. The District Court will affirm the findings and decision of the Ethics Review Board and may not substitute its judgment for that of the board unless the Board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence.~~

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. ~~The procedures and remedies of said appeals will be governed by the rules and regulations promulgated by the ordinance.~~ Costs of an appeal may not be assessed against the Board, individual board members, or the City of San Antonio.

SECTION 2-88 PETITION FOR DECLARATORY RULING

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 Clerk 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.

SECTION 2-89 ADVISORY OPINIONS

(a) **Advisory Opinions Issued by the Ethics Review Board**

(1) **Ethics Code Inquiries by Persons Other Than City Officials and Employees.**

(A) By writing filed with the City Clerk, any person other than a city official or employee may request an advisory opinion with respect to the interpretation of the ethics laws, but only with respect to whether proposed action by that person would violate the ethics laws. The City Clerk shall promptly transmit all requests for advisory opinions to the Ethics Compliance Officer and the chair of the Ethics Review Board. (City officials and employees may request advisory opinions from the City Attorney pursuant to Subsection (b)).

(B) Within thirty (30) days of receipt by the chair of the Ethics Review Board of a request for an advisory opinion, the Board, acting *en banc* or through a designated Ethics Panel, shall issue a written advisory opinion. During the preparation of the opinion, the Board may consult with the Ethics Compliance Officer of the city and other appropriate persons. An advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation. A copy of the opinion shall be indexed and kept by the Ethics Review Board as part of its records for a period of not less than five (5) years. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or the Ethics Compliance Officer, to the person who requested the opinion, to the members of the Ethics Review Board, and to the City Clerk. The City Clerk shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion for a period of no less than five years on the Internet via the City of San Antonio homepage.

(2) **Opinions Initiated by the Board.** On its own initiative, the Ethics Review Board, acting as the full board or through a designated Ethics Panel, may issue a written advisory opinion with respect to the interpretation of the ethics laws or the municipal campaign finance regulations as they apply to persons other than city officials and employees if a majority of the Board determines that an opinion would be in the public interest or in the interest of such person or persons subject to the provisions of the ethics laws. Such an opinion may not include the name of any individual who may be affected by the opinion. A copy of any such opinion shall be indexed and kept by the Ethics Review Board as part of its records for a period of not less than five (5) years. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or his or her designate, to the Ethics Compliance Officer and to the City Clerk. The City Clerk shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion for a period of no less than five years on the Internet via the City of San Antonio homepage.

(3) **Reliance.** If a person reasonably and in good faith acts in reliance on an advisory opinion issued by the Ethics Review Board, that fact may be considered by ~~an Ethics Panel~~ **the Ethics Review Board** in adjudicating a complaint filed against that person, but does not by itself bar the finding of a violation.

(b) **Ethics Advisory Opinions Issued by the Ethics Compliance Officer.**

(1) **Ethics Inquiries by City Officials and Employees.**

(A) By writing filed with the Office of the City Attorney, any city official or employee may request an advisory opinion with respect to whether proposed action by that person would violate the ethics laws.

(B) Within thirty (30) days of receipt of the request by the Office of the City Attorney, the Ethics Compliance Officer shall issue a written advisory opinion. The advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation.

Opinions that address new issues and that are instructive on the application of the ethics regulations shall be posted on the ethics webpage in a manner that does not reveal the identity of the individual requesting the opinion.

(2) **Reliance**.

(A) A person who reasonably and in good faith acts in accordance with an advisory opinion issued by the Ethics Compliance Officer may not be found to have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

(i) he or she requested the issuance of the opinion;

(ii) the request for an opinion fairly and accurately disclosed all relevant facts; and

(iii) less than five years elapsed between the date the opinion was issued and the date of the conduct in question.

SECTION 2-90 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 Clerk. The report may recommend changes to the text or administration of this code of ethics. The Ethics Compliance Officer shall post the report on the city's ethics webpage.

SECTION 2-91 PUBLIC RECORDS AND OPEN MEETINGS

Meetings and other proceedings of the Ethics Review Board will be conducted in compliance with the Texas Open Meetings Act. Requests for records will be handled in compliance with the Texas Public Information Act.

DIVISION 9: ADMINISTRATIVE PROVISIONS

SECTION 2-92 OTHER OBLIGATIONS

This code of ethics and the municipal campaign finance code are 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 2-93 DISTRIBUTION AND TRAINING

(a) Within thirty (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. The Code of Ethics shall be posted on the city's webpage.

(b) The City Attorney or designated Ethics Compliance Officer, 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, Section 141 of the City Charter, and Section 171 of the Texas Local Government Law. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.

(c) The Office of the City Manager and Department of Human Resources shall enact an administrative directive requiring that all departments provide their employees with training on the Ethics Code at least once every other calendar year. Training shall be provided to all city departments by video or live presentation and will include educational materials. Additional presentations shall be offered to any department where necessary to accommodate large numbers of employees.

(d) The Office of the City Attorney shall notify department directors regarding any significant amendments to the Ethics Code within 30 days of adoption. Department directors shall disseminate the information to department employees.

(e) Information shall be provided to employees terminating city service regarding the restrictions on former city employees established in Division 3 of this code.

SECTION 2-94 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.

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