

**CITY OF BASTROP CODE OF ORDINANCES
ARTICLE 1.15 - CODE OF ETHICS
COMPARISON TABLE**

PLEASE NOTE: Grammatical, syntax corrections or rewording of provisions that does not change meaning are not highlighted.

EXISTING CODE	PROPOSED AMENDED CODE
<p>DIVISION 1. - GENERALLY</p> <p>Sec. 1.15.001 - Definitions.</p> <p>Board, body, commission, and task force. Includes any group of individuals assigned, appointed, or serving the city at the Council's request or direction, or any group otherwise convened by the city to assist with city business.</p> <p>Business entity. A sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust,</p>	<p>DIVISION 1. - GENERALLY</p> <p>Sec. 1.15.001 - Definitions.</p> <p><u>If a word or phrase is defined in this Code, it shall have the same meaning in all parts of this Code. Any word which is undefined shall be given its common, ordinary meaning. The word “shall” always means mandatory; the word “may” means discretionary.</u></p> <p>The following words and phrases are defined as follows:</p> <p><u>“Bad faith” means the conscious doing of a wrong for dishonest, discriminatory, or malicious purposes.</u></p> <p>“Board,” “body,” “commission,” and “task force” mean and include any group of individuals assigned, appointed, or serving the city at the Council's or City Manager's request or direction, or any group otherwise convened by the city to assist with city business.</p> <p>“Business entity” includes a sole proprietorship, partnership, limited partnership, corporation, limited liability company, holding company, joint-stock company, receivership, trust,</p>

<p>unincorporated association, or any other entity recognized by law.</p> <p>City Council. All members of the city's governing body, including the mayor.</p> <p>City official.</p> <p>(1) Every member of the City Council including the mayor, the City Manager, the executive director of the economic development corporation, the city attorney, the City Secretary, all city department directors, the police chief, the fire chief, the fire marshal, and includes persons acting in the capacity of the aforementioned city officials, whether appointed, or employed;</p> <p>(2) Members of all boards, commissions, task forces, and other bodies created by the City Council pursuant to federal or state law or city charter or ordinance, including entities that may be only advisory in nature whose members are appointed by City Council action or whose members are designated in the bylaws or organizational papers of the entity to serve on behalf of the city;</p> <p>(3) All board members of any entity who are appointed by the City Council to such board membership; and</p> <p>(4) Any other individual identified by the City Council, local or state law to be a city official, if any.</p>	<p>unincorporated association, <u>or any other entity however organized.</u></p> <p>“City Council” means the Mayor and elected members of the City Council.</p> <p>“City official” includes all of the following:</p> <p>(1) Every member of the City Council (including the Mayor), the City Manager, the Executive Director of the economic development corporation, the City Attorney, the City Secretary, all city department directors, police chief, fire chief, fire marshal, and persons acting in the capacity of the aforementioned city officials, whether appointed, or employed, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager.</p> <p>(2) Members of all boards, commissions, task forces, and other bodies created by the City Council pursuant to federal or state law or city charter or ordinance, including entities that may be only advisory in nature whose members are appointed by City Council action or whose members are designated in the bylaws or organizational papers of the entity to serve on behalf of the city;</p> <p>(3) All board members of any entity who are appointed by the City Council to such board membership; and</p> <p>(4) Any other individual identified by the City Council, local or state law to be a city official, if any.</p> <p><u>(5) a person employed by the city, including those individuals who work on a part-time basis, unless that person reports to the City Manager or is employed in one of the City departments under the direction of the City Manager; and the term does not include any independent contractor. This provision is not intended to and does not create an employer/ employee relationship between the city and any person; instead, that</u></p>
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<p>Clear and convincing evidence. The measure or degree of proof that produces in the mind of the commissioners a firm belief as to the truth of the facts or allegations sought to be established.</p> <p>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 obtained or acquired from participation in a meeting that was closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is otherwise required or permitted under state law, a ruling by the state attorney general, or an order of a court with jurisdiction over the matter.</p> <p>De minimis. A value or amount that is so small as to be entirely inconsequential.</p> <p>Degree of affinity. Relationship by affinity (marriage) as defined in V.T.C.A. Government Code, §§ 573.024 and 573.025, or as amended. (See attachment A.)</p> <p>Degree of consanguinity. Relationship by consanguinity (blood) as defined in V.T.C.A. Government Code, §§ 573.022 and 573.023, or as amended. (See attachment A.)</p>	<p><u>relationship will be defined by the document by which the person is hired.</u></p> <p>“Clear and convincing evidence” means that measure or degree of proof that produces in the mind of the members of the Ethics Commission a firm belief as to the truth of the facts or allegations sought to be established.</p> <p>“Confidential government information” means all information held by the city that is not available through mandatory disclosure to the public under the Texas Public Information Act and any information obtained or acquired from participation in a meeting that was closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is otherwise required or permitted under state law, a ruling by the state attorney general, or an order of a court with jurisdiction over the matter.</p> <p>“De minimus” means a value or amount that is so small as to be entirely inconsequential.</p> <p>“Degree of affinity” means a relationship by affinity (marriage) as defined in Texas Government Code, §§ 573.024 and 573.025, or as amended. (See attachment A.)</p> <p>“Degree of consanguinity” means a relationship by consanguinity (blood) as defined in Texas Government Code, §§ 573.022 and 573.023, or as amended. (See attachment A.)</p> <p><u>“Documents” means all writings (notes, correspondence, memoranda, reports, computer print-outs, etc.), drawings, drafts, charts, photographs, tape or disc recordings (whether sound or</u></p>
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Economic interest. Includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, business advantages, and/or contractual rights having more than de minimis value. A person has an economic interest in a business entity, if the person is an employee or is a paid contract worker/consultant of the business entity. Unpaid 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 city official owns less than 10% of the voting stock or shares of the entity and the fair market value of the stock is less than \$15,000.

Employee. Is any person employed by the city whether under civil service regulation or not, including those individuals who work on a part-time basis, but such term shall not be extended to apply to any independent contractor or contractual consultant. Intentionally. A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or

video), and all other data compilations from which information can be obtained or translated, regardless of the medium on which the documents are stored or maintained.

“Economic interest” means a legal or equitable property interests in land, chattels, and intangibles, business opportunities, and/or contractual rights having more than de minimis value. A person has an economic interest in a business entity, if the person is an employee or is a paid contract worker/consultant of the business entity. Unpaid service, in and of itself by a city official as an officer, director, advisor, or otherwise active participant in a nonprofit entity does not create, for that city official 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 city official owns less than 10% of the voting stock or shares of the entity and the fair market value of the stock is less than \$15,000.

“Harassment” means an intention to annoy, alarm, and verbally or otherwise abuse another person.

“Intentionally” means the act or omission was done with a conscious objective or desire to engage in the conduct or cause the result.

<p>her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.¹</p> <p>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/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/she is aware that his or her conduct is reasonably certain to cause the result.</p> <p>Official action. Includes:</p> <p>(1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of an city official's or employee's duties; and</p> <p>(2) Any failure to act if the city official or employee is under a duty to act and knows that inaction is likely to substantially affect an economic interest of the city official or employee.</p> <p>Official information. Includes information gathered or provided pursuant to the power or authority of city government.</p> <p>Recklessly. A person acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he/she 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.</p>	<p>“Knowingly” means an actual awareness of the impropriety of the acts or omissions in question, at the time of the act or practice complained of. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.</p> <p>“Official action” includes:</p> <p>(1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of a city official's duties; and</p> <p>(2) Any unexcused failure to act if the city official is under a duty to act.</p> <p>“Official information” means information gathered or provided pursuant to the power or authority of city government.</p> <p>“Recklessly,” with respect to circumstances surrounding a person’s conduct or the result of such conduct, means that the person 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 the same or similar circumstances.</p>
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¹ The definition of employee was removed; instead, “public official” is defined to include any “employee” who works for the city council as opposed to the city. (All city employees are subject to the supervision of the City Manager only under the Charter).

<p>Representation. Encompasses all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally serves as an advocate for private interests, regardless of whether the representation is compensated. Lobbying may be a form of representation. Representation does not include appearance as a fact witness or expert witness in litigation or other official proceedings. (Ord. No. 2015-20, pt. 1A., 10-13-15)</p>	<p>“Representation” means all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally serves as an advocate for private interests, regardless of whether the representation is compensated. Lobbying may be a form of representation. Representation does not include appearance as a fact witness or expert witness in litigation or other official proceedings.</p>
<p>DIVISION 2. - CURRENT CITY OFFICIALS AND EMPLOYEES</p> <p>Sec. 1.15.031 - Improper economic benefit.</p> <p>(a) General rule. A city official or employee shall not take any official action that he or she knows or is likely to affect, or that might reasonably be expected to affect, the economic interests of:</p> <ol style="list-style-type: none"> (1) The city official or city employee; (2) His or her parent, child, spouse, or other family member within the third degree of consanguinity or second degree of affinity; (3) His or her outside client; (4) A member of his or her household; (5) The outside employer of the city official/employee or the outside employer of the city official's/employee's parent, child or spouse, or such outside employer's family member, within the third degree of consanguinity or second degree of affinity; (6) A business entity in which the city official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) or (a)(5) holds an economic interest; (7) A business entity which the city official or employee knows is an affiliated business or partner of a business entity in which any 	<p>DIVISION 2. - CURRENT CITY OFFICIALS</p> <p>Sec. 1.15.031 - Improper economic benefit.</p> <p>(a) General rule. A city official shall not take any official action that the city official knows is likely to affect, or that might reasonably be expected to affect, the economic interests of:</p> <ol style="list-style-type: none"> (1) The city official; (2) The city official’s parent, child, spouse, or other family member within the third degree of consanguinity or second degree of affinity; (3) The city official’s outside client; (4) A member of the city official’s household; (5) The outside employer of the city official or the outside employer of the city official's parent, child or spouse, or such outside employer's family member, within the third degree of consanguinity or second degree of affinity; (6) A business entity in which the city official knows that any of the persons listed in subsections (a)(1) or (a)(2) or (a)(5) holds an economic interest; (7) A business entity which the city official knows is an affiliated business or partner of a business entity in which any of

<p>of the persons listed in subsection (a)(1) or (a)(2) holds an economic interest;</p> <p>(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; or</p> <p>(9) A business entity or a person (or someone related to the person within the third degree of consanguinity or second degree of affinity):</p> <p>(A) From whom, within the past twelve (12) months, the city official or employee, or his or her spouse, child or parent, directly or indirectly has:</p> <p>(i) Solicited an offer of employment; or</p> <p>(ii) Received and not rejected an offer of employment; or</p> <p>(iii) Accepted an offer of employment, whether compensated or not and regardless of the level of compensation; or</p> <p>(B) With whom the city official or employee, or his or her spouse, directly or indirectly is engaged, or within the past twelve months engaged, in negotiations pertaining to business opportunities.</p> <p>(Ord. No. 2015-20, pt. 1B., 10-13-15)</p> <p>Sec. 1.15.032 - Accountability of city officials.</p> <p>All city officials who serve on the City Council, a board, body, commission, or task force shall either cast a vote on motions presented and subject to a vote; or:</p> <p>(1) Shall file and disclose the nature and extent of a conflict presented which prohibits the city official from voting, as set forth in section 1.15.031(b)(2) above; or</p> <p>(2) Shall state for the record, with specificity, the reason that the city official declines to vote on the matter.²</p>	<p>the persons listed in subsection (a)(1) or (a)(2) holds an economic interest;</p> <p>(8) A business entity or nonprofit entity for which the city official serves as an officer or director or in any other policy making position; or</p> <p>(9) A business entity or a person (or someone related to the person within the third degree of consanguinity or second degree of affinity):</p> <p>(A) From whom, within the past twelve (12) months, the city official or the city official's spouse, child or parent, directly or indirectly has:</p> <p>(i) Solicited an offer of employment; or</p> <p>(ii) Received and not rejected an offer of employment; or</p> <p>(iii) Accepted an offer of employment, whether compensated or not and regardless of the level of compensation; or</p> <p>(B) With whom the city official or employee, or the city official's spouse, directly or indirectly is engaged, or within the past twelve months engaged, in negotiations pertaining to business opportunities.</p>
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² This provision was removed because the disclosure provisions already are in state law and the requirement that a council member vote is, in my judgment, unconstitutional. There are legitimate reasons to abstain that are unrelated to a conflict of interest in which case the provision would appear to run afoul of the First Amendment.

Sec. 1.15.033 - 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 or employee violates this rule if he/she represents to a person that he or she may and/or will attempt to provide any advantage to that person, based on the city official's or employee's position on the governing body or with the entity.

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

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any contract, transaction, business opportunity, decision, or other matter, if the city official or employee knows, or has reason to know, that the city official's or employee's 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 city official or employee will be rewarded, affected or reciprocated by the other person, directly or indirectly, in any way, or at any time.

(3) Appointment/employment of relatives. A city official or employee shall not appoint or employ, or vote to appoint or employ, any relative of the city official or employee within the second degree affinity and third degree of consanguinity, to any office or in any position within the city, including a position of employment with the city.

(c) Recusal and disclosure. A city official or employee whose

Sec. 1.15.032 - Unfair advancement of private interests.

(a) General rule. A city official may not use the city official's official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including the city official) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official violates this rule if the city official represents to another person that the city official will or may attempt to provide any advantage to that person, based on the city official's position on the governing body or with the entity.

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

(1) Acquisition of interest in impending matters. A city official shall not acquire an interest in any contract, transaction, business opportunity, decision, or other matter, if the city official knows, or has reason to know, that the city official's interest will be directly or indirectly affected by impending official action by the city.

(2) Reciprocal favors. A city official may not enter into an agreement or understanding with any other person that official action by the city official will be rewarded, affected or reciprocated by the other person, directly or indirectly, in any way, or at any time.

(3) Appointment/employment of relatives. A city official shall not appoint or employ, or vote to appoint or employ, any relative of the city official within the second degree affinity and third degree of consanguinity, to any department, board, commission, task force or other position within the city, including a position of employment with the city.

(c) Recusal and disclosure. A city official whose conduct

<p>conduct would otherwise violate subsection (b)(3) of this rule shall adhere to the recusal and disclosure provisions provided in section 1.15.031(b).</p> <p>Sec. 1.15.034 - Gifts. City officials and employees shall adhere to state law regarding giving and/or receiving/accepting gifts, as set forth in the V.T.C.A. Penal Code, ch. 36 et seq., and as amended from time to time.</p> <p>Sec. 1.15.035 - Representation before a member's own commission, board, task force, or before the City Council.</p> <p>(a) Representation by a currently serving member of a board, body, commission or task force. A city official or employee who is currently a member of a board, body, commission, or task force shall not appear before or represent any person, group, or entity to communicate views either contrary to or supporting a decision reached or a recommendation made by the member's own board, commission or task force:</p> <p>(1) Before the member's own board, body, commission or task force; or</p> <p>(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, the member's own board, body, commission, or task force; or</p> <p>(3) Before the City Council, or other board, body, commission, or task force which has appellate jurisdiction and/or final decision making authority over decisions and recommendations made by the member's own board, body, commission, or task force.</p> <p>(4) Exception: The appellate body may, if it desires, seek clarification of an advisory body's recommendation by asking the Chair of the advisory body to attend a meeting held by the appellant body, to present information concerning the advisory</p>	<p>would otherwise violate subsection (b)(3) of this rule shall adhere to the recusal and disclosure provisions provided in Texas Local Government Code § 171.004.</p> <p>Sec. 1.15.034 - Gifts. City officials shall adhere to state law regarding giving and receiving gifts, as set forth in Texas Penal Code, Chapter 36, and as amended from time to time.</p> <p>Sec. 1.15.035 - Representation before a member's own commission, board, task force, or before the City Council.</p> <p>(a) Representation by a currently serving member of a board, body, commission or task force. A city official who is currently a member of a board, body, commission, or task force shall not represent any person, group, or entity:</p> <p>(1) Before the member's own board, body, commission or task force; or</p> <p>(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, the member's own board, body, commission, or task force; or</p> <p>(3) Before the City Council, or other board, body, commission, or task force which has appellate jurisdiction or final decision making authority over decisions and recommendations made by the member's own board, body, commission, or task force.</p> <p>(4) Exception: The appellate body may, if it desires, seek clarification of an advisory body's recommendation by asking the Chair of the advisory body to attend a meeting held by the appellant body, to present information concerning the advisory body's evaluation, decision making process, recommendation and/or vote. If the Chair of the advisory body voted in the</p>
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body's evaluation, decision making process, recommendation and/or vote. If the Chair of the advisory body voted in the minority on the item in question, then the Chair should appoint another member of the advisory body (who was not in the minority) to present the advisory body's evaluation, decision making process, recommendation and/or vote to the appellant body.

(b) Representation before the City Council, boards, bodies, commissions or task forces.

(1) General rule. A city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, concerning matters upon which the member has direct standing, before the City Council, its boards, bodies, commissions, or task forces. To represent him/herself, his/her spouse or minor children before the City Council, boards, bodies, commissions and task forces, the city official or employee must demonstrate personal, direct standing on the issue at hand. For purposes of this rule, "standing" shall mean that the individual is able to prove personal injury/interest that is directly affected by the relevant action of the City Council, boards, bodies, commissions or task forces.

(2) Client representation exception for board members. The general rule stated in subsection (b)(1) does not apply, however, to a city official or employee who is representing others, as clients, before the City Council, boards, bodies, commissions or task forces, when such a person is classified as a 'city official' only because he or she is an appointed member of a board, body, commission, or task force. Accordingly, currently serving city officials and employees may represent clients before the City Council, boards, bodies, commissions or task forces, on matters that are not related to their own service on such boards.

minority on the item in question, then the Chair should appoint another member of the advisory body (who was not in the minority) to present the advisory body's evaluation, decision making process, recommendation and/or vote to the appellant body.

(b) Representation before the City Council, boards, bodies, commissions or task forces.

(1) General rule. A city official shall not represent any person, group, or entity before the City Council, its boards, bodies, commissions, or task forces. City officials may, however, represent themselves or their spouse or minor children before the City Council, its boards, bodies, commissions, or task forces if the city official can demonstrate a personal injury or interest that is directly affected by the relevant action of the City Council, boards, bodies, commissions or task forces.

(2) Client representation exception for board members on certain matters. A city official who is serving only as an appointed member of a board, body, commission, or task force may represent others before the City Council, boards, bodies, commissions or task forces if the matter is not related, directly or indirectly to the city official's duties as a city official.

<p>(3) Prestige of office and improper influence. In connection with the representation of private interests before the city board, body, commission or task force, a city official or employee shall not:</p> <p>(A) Assert the prestige of the city official's or employee's city position for the purpose of advancing private interests; or</p> <p>(B) State or imply that he or she is able to influence any city action on any basis, other than on the merits of the matter.</p> <p>(c) Representation in litigation adverse to the city.</p> <p>(1) City officials and employees, other than board, body, or commission members. A city official or employee, excluding a person who is classified as a city official only because he or she in [is] an appointed member of a city board, body, commission or task force, 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, with the exception of defense of suits involving misdemeanors, if the interests of that person, group, or entity are adverse to the interests of the city. (Ord. No. 2016-10, pt. 1, 5-10-16)</p> <p>Sec. 1.15.036 - Conflicting outside employment. A city official or employee shall not solicit, accept, or engage in concurrent outside employment or work activity which could reasonably be expected to impair independence of judgment in, or faithful performance of, their official duties. A city official or employee shall not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would adversely affect the city official's or</p>	<p>(3) Prestige of office and improper influence. In connection with the representation of private interests before the city board, body, commission or task force, a city official shall not:</p> <p>(A) Assert the prestige of the city official's city position for the purpose of advancing private interests; or</p> <p>(B) State or imply that the city official is able to influence any city action on any basis, other than on the merits of the matter.</p> <p>(c) Representation in litigation adverse to the city.</p> <p>(1) Except for the defense of misdemeanors, a city official shall not represent any person group or entity, other than the city official or their 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. This provision does not prevent a person who is a city official solely because of his or her service on a city board, body, commission or task force from representing a person or entity in litigation adverse to the City so long as the litigation is not related, directly or indirectly to the city official's duties.</p> <p>Sec. 1.15.036 - Conflicting outside employment. A city official shall not solicit, accept, or engage in concurrent outside employment or work activity which could reasonably be expected to impair independence of judgment in, or faithful performance of the city official's official duties. A city official shall not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would adversely affect the city official's</p>
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<p>employee's performance of his or her work responsibilities with the city. For employees, all outside employment shall comply with the city's employment personnel policies or procedures.</p> <p>Sec. 1.15.037 - Confidential information.</p> <p>(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.</p> <p>(b) Improper disclosure or use. A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential government information gained by reason of the city official's or employee's position concerning the property, operations, policies or affairs of the city. This rule does not prohibit:</p> <p>(1) Any disclosure of information that is no longer confidential by law; or</p> <p>(2) The confidential reporting of illegal or unethical conduct to authorities designated by law.</p> <p>Sec. 1.15.038 - Public property and resources. A city official or employee shall not use, request, or permit the</p>	<p>performance of work responsibilities with the city.</p> <p>Sec. 1.15.037 - Confidential information.</p> <p>(a) Improper access. A city official shall not use his or her position to obtain official information for any purpose other than the performance of official duties.</p> <p>(b) Improper disclosure or use. A city official shall not intentionally, knowingly, or recklessly disclose any confidential government information gained by reason of the city official's position. This rule does not prohibit:</p> <p>(1) Any disclosure of information that is no longer confidential by law; or</p> <p>(2) The confidential reporting of illegal or unethical conduct to authorities designated by law; or</p> <p><u>(3) The disclosure of information required to comply with a court order.</u></p> <p><u>(c) Executive sessions. Unless authorized by the Council or City Attorney, a city official may not disclose the content of discussions held in executive sessions except to say which topics were discussed (as shown on the agenda).</u></p> <p><u>(d) Pending litigation. A city official may not discuss pending litigation with any person other than the Council, City Manager and City Attorney without the express authorization of the City Attorney. Any inquiries from any person must be referred immediately, without substantive comment, to the City Attorney.</u></p> <p>Sec. 1.15.038 - Public property and resources. A city official shall not use, request, or permit the use of city</p>
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<p>use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:</p> <ol style="list-style-type: none"> (1) Pursuant to duly adopted city policies; or (2) To the extent and according to the terms that those resources are lawfully available to the public. <p>Sec. 1.15.039 - Political activity.</p> <p>(a) Influencing subordinates.</p> <p>(1) A city official or employee shall not, directly or indirectly, induce or attempt to induce any subordinate of the city official or employee:</p> <ol style="list-style-type: none"> (A) 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 (B) To refrain from engaging in any lawful political activity. <p>(2) A general statement merely encouraging another person to exercise their right to vote does not violate this rule.</p> <p>(b) Paid campaigning. A city official or employee shall not accept anything of value, directly or indirectly, for political purposes or activities relating to an item pending on a ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city board, body, commission or task force that contributed to the development of the ballot item. For purposes of this rule, "anything of value" does not include a meal or other item of nominal value the city official or employee received in return for providing information about an item on the ballot.</p> <p>(c) City-owned vehicles. A city official or employee shall not display or fail to remove political campaign materials on any</p>	<p>facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:</p> <ol style="list-style-type: none"> (1) Pursuant to duly adopted city policies; or (2) To the extent and according to the terms that those resources are lawfully available to the public. <p>Sec. 1.15.039 - Political activity.</p> <p>(a) Influencing subordinates.</p> <p>(1) A city official shall not, directly or indirectly, induce or attempt to induce any subordinate of the city official:</p> <ol style="list-style-type: none"> (A) 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 (B) To refrain from engaging in any lawful political activity. <p>(2) A general statement merely encouraging another person to exercise their right to vote does not violate this rule.</p> <p>(b) Paid campaigning. A city official shall not accept anything of value, directly or indirectly, for political purposes or activities relating to an item pending on a ballot, if the city official participated in, or provided advice relating to, the exercise of discretionary authority by a city board, body, commission or task force that contributed to the development of the ballot item. For purposes of this rule, "anything of value" does not include a meal or other item of nominal value the city official received in return for providing information about an item on the ballot. <u>This rule does not prohibit a city official who is a candidate for public office from accepting campaign contributions for the city official's own campaign.</u></p> <p>(c) City-owned vehicles. A city official shall not display or fail to remove political campaign materials on any city owned</p>
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<p>vehicle owned by the city under the city official and/or employee's control.</p> <p>Sec. 1.15.040 - Supervisory duties. A city official or employee who has direct supervisory authority over another person providing services relating to the business of the city shall make reasonable efforts to ensure that the conduct of the supervised person is compatible with the obligations imposed on city officials and employees by this article. Reasonable efforts includes notifying and making information regarding this article readily available.</p> <p>Sec. 1.15.041 - Training. (a) Employees. The City Manager will make reasonable efforts to ensure that city employees receive training related to this article, at a minimum of every twenty-four (24) months. (b) City officials. The city attorney will be available and prepared to provide annual training for all city officials on this article, at the request and/or direction of the city. The City Secretary shall coordinate an annual date for training all city officials.</p> <p>Sec. 1.15.042 - Actions of others. (a) Violations by other persons. A city official or employee shall not knowingly, intentionally or recklessly assist, induce, or attempt to assist or induce, any person to violate any provision in this article. (b) Using others to engage in forbidden conduct. A city official or employee shall not knowingly, intentionally or recklessly violate, or attempt to violate, the provisions of this article through the acts of another.</p> <p>Secs. 1.15.043—1.15.060 - Reserved.</p>	<p>vehicle which is under the city official's control.</p> <p>Sec. 1.15.040 - Supervisory duties. A city official who has direct supervisory authority over another person providing services relating to the business of the city shall make reasonable efforts to ensure that the conduct of the supervised person is compatible with the obligations imposed on city officials by this article. "Reasonable efforts" includes notifying and making information regarding this article readily available.</p> <p>Sec. 1.15.041 - Training. The City Attorney will be available and prepared to provide annual training for all city officials on this article, at the request and/or direction of the city. The City Secretary shall coordinate an annual date for training all city officials.</p> <p>Sec. 1.15.042 - Actions of others. (a) Violations by other persons. A city official shall not knowingly, intentionally or recklessly assist, induce, or attempt to assist or induce, any person to violate any provision of this Code. (b) Using others to engage in forbidden conduct. A city official shall not knowingly or intentionally violate, or attempt to violate, the provisions of this Code through the acts of another.</p> <p>Secs. 1.15.043—1.15.060 - Reserved.</p>
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<p>DIVISION 3. - FORMER CITY OFFICIAL(S) AND EMPLOYEE(S)</p> <p>Sec. 1.15.061 - Subsequent representation of private interests.</p> <p>(a) Representation by a former member of the Council, board, body, commission, or task force.</p> <p>(1) For a minimum period of twelve (12) months after the termination of his or her official or employment duties, a former city official or employee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, upon any issue related to his or her former duties:</p> <p>(A) Before the City Council, board, body, commission or task force;</p> <p>(B) Before a city staff member having responsibility for making recommendations to, or taking any action on behalf of, that board, body, commission, or task force; or</p> <p>(C) Before the Council, board, body, commission or task force, which has appellate jurisdiction over the board, body, commission or task force, of which the city official or employee was a member.</p> <p>(2) 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, body, commission or task force.</p> <p>(3) In connection with the representation of private interests before the City Council, board, body, commission or task force, a former city official or employee shall not state or imply that he or she is able to influence any city action on any basis other than on the merits.</p> <p>(b) Representation in litigation adverse to the city. A former city</p>	<p>DIVISION 3. - FORMER CITY OFFICIALS</p> <p>Sec. 1.15.061 - Subsequent representation of private interests.</p> <p>(a) Representation by a former member of the Council, board, body, commission, or task force.</p> <p>(1) For a minimum period of twelve (12) months after the termination of his or her official or employment duties, a former city official shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, upon any issue related to his or her former duties:</p> <p>(A) Before the City Council, board, body, commission or task force;</p> <p>(B) Before a city staff member having responsibility for making recommendations to, or taking any action on behalf of, that board, body, commission, or task force; or</p> <p>(C) Before the Council, board, body, commission or task force, which has appellate jurisdiction over the board, body, commission or task force, of which the city official was a member.</p> <p>(2) This subsection does not apply to a person who was classified as a city official only because that person was an appointed member of a board, body, commission or task force.</p> <p>(3) In connection with the representation of private interests before the City Council, board, body, commission or task force, a former city official shall not state or imply that he or she is able to influence any city action on any basis other than on the merits.</p> <p>(b) Representation in litigation adverse to the city. A</p>

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 or employment. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in the matter was sufficiently "substantial" to trigger this prohibition.

Sec. 1.15.062 - Employment relating to a city contract.

(a) Performance of compensated work. A former city official or employee shall not, within two (2) years of the termination of their official duties, perform work on a compensated basis for any entity other than the city, relating to an existing contract with the city, if he or she personally and substantially participated in the negotiation or awarding of the compensated work. The City Council shall be the final decision making authority concerning whether the participation of a city official or employee in a matter was sufficiently "substantial" to trigger this prohibition. The city may waive this provision, after a public hearing on a request by a former city official or employee to do so, if it is in the public's best interest to do so.

(b) Personal interest in city contracts. A city official or employee shall not, either during their service with the city or within twelve (12) months of the termination of the official duties, have an economic interest, direct or indirect, in any contract with the city, nor shall they be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any city official or employee violating this section

former city official shall not, absent consent from a majority of the Council represent any person, group, or entity, other than the city official, or the city official's 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 personally and substantially participated prior to termination of the city official's official duties or employment. The City Council shall be the final decision making authority concerning whether the participation of a city official in the matter was sufficiently "substantial" to trigger this prohibition.

Sec. 1.15.062 - Employment relating to a city contract.

(a) Performance of compensated work. A former city official shall not, within two (2) years of the termination of their official duties, perform work on a compensated basis for any entity other than the city, relating to an existing contract with the city, if he or she personally and substantially participated in the negotiation or awarding of the compensated work. The City Council shall be the final decision making authority concerning whether the participation of a city official in a matter was sufficiently "substantial" to trigger this prohibition. The city may waive this provision, after a public hearing on a request by a former city official to do so, if it is in the public's best interest to do so.

(b) Personal interest in city contracts. A city official shall not, either during their service with the city or within twelve (12) months of the termination of the official duties, have an economic interest, direct or indirect, in any contract with the city, nor shall they be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any city official violating this section shall forfeit his/her office or

<p>shall forfeit his/her office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the city, shall render the contract involved voidable by the Council. (See also city charter, section 13.01.)</p> <p>Sec. 1.15.063 - Continuing confidentiality. A former city official or employee shall not use or disclose confidential governmental information acquired during their service as a city official or employee. This rule does not prohibit: (1) Any disclosure or use that is authorized or required by law; or (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.</p> <p>Secs. 1.15.064—1.15.090 - Reserved.</p>	<p>position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the city, shall render the contract involved voidable by the Council. <u>This section does not prohibit the City Council or City Manager from contracting with a former city official to perform consulting services for the benefit of the City if the City Council or City Manager determine that such services are not otherwise reasonably available.</u></p> <p>Sec. 1.15.063 - Continuing confidentiality. A former city official shall not use or disclose confidential governmental information acquired during their service as a city official. This rule does not prohibit: (1) Any disclosure or use that is authorized or required by law; or (2) The confidential reporting of illegal or unethical conduct to authorities designated by law.</p> <p><u>(3) The disclosure of information required to comply with a court order.</u></p> <p>Secs. 1.15.064—1.15.090 - Reserved.</p>
<p>DIVISION 4. - GENERAL ANTI-DISCRIMINATION POLICY</p> <p>Sec. 1.15.091 - General rule. City affairs must be conducted without bias or prejudice. A city official or employee shall not, in the performance of official duties, manifest by words or conduct, bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit others</p>	<p>DIVISION 4. - GENERAL ANTI-DISCRIMINATION POLICY</p> <p>Sec. 1.15.091 - General rule. City affairs must be conducted without bias or prejudice. A city official shall not, in the performance of official duties, manifest by words or conduct, bias or prejudice toward any person, group, or entity, including bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status, and shall not permit others</p>

<p>subject to his or her direction and control to do so.</p> <p>Sec. 1.15.092 - Exceptions. A city official or employee is not liable under this provision: (1) For conduct undertaken in good faith to implement an existing city policy, or to carry out the directions of a superior if the violation is unknown to the city official or employee acting upon a supervisor's direction; or (2) For conduct involving the legitimate advocacy of a position relating to race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status in litigation or similar proceedings, or incidental to the formation of city policy.</p> <p>Sec. 1.15.093 - Definitions. For purposes of this division:</p> <p>Good faith. That the city official or employee has a reasonable basis for believing, and does in fact believe, that the conduct in question is lawful and not discriminatory.</p> <p>Legitimate advocacy. That the position espoused is not frivolous.</p> <p>Manifesting by words or conduct, bias or prejudice. Includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.</p> <p>Secs. 1.15.094-1.15.120 - Reserved.</p>	<p>subject to his or her direction and control to do so.</p> <p>Sec. 1.15.092 - Exceptions. A city official is not in violation of this section: (1) For conduct undertaken in good faith to implement an existing city policy, or to carry out the directions of a superior if the violation is unknown to the city official acting upon a supervisor's direction; or (2) For advocacy of issues involving race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status in litigation or similar proceedings, or incidental to the formation of city policy.</p> <p>Sec. 1.15.093 - Definitions. For purposes of this division:</p> <p>“Good faith” means that the city official has a reasonable basis for believing, and does in fact believe that the conduct in question is lawful and not discriminatory.</p> <p>“Legitimate advocacy” means that the position espoused is not frivolous.</p> <p>“Manifesting by words or conduct, bias or prejudice” includes, but is not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, sexual harassment, coercion, assault, stalking, hate speech, and other conduct that threatens or endangers the health or safety of any person.</p> <p>Secs. 1.15.094-1.15.120 - Reserved.</p>
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<p>DIVISION 5. - ENFORCEMENT</p> <p>Sec. 1.15.121 - Creation of ethics commission.</p> <p>An ethics commission shall be created and consist of three (3) members, all of whom must reside within jurisdiction of the city, which for purposes of this article expressly includes the city's extraterritorial jurisdiction. Within sixty (60) days of its adoption of this article, each member of the City Council will submit to the city attorney names of recommended appointees. The city attorney will provide the recommended appointees to the mayor, who will then appoint the three (3) members of the ethics commission, upon concurrence of the members of the City Council. Members of the ethics commission may not hold or be a candidate for any city elected or appointed office any time during their service on the ethics commission.</p> <p>Sec. 1.15.122 - Terms/limits.</p> <p>Appointees to the ethics commission shall serve for terms of three (3) years. However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the ethics commission for twelve (12) consecutive months.</p> <p>Sec. 1.15.123 - Ethics commission vacancies.</p> <p>All vacancies on the ethics commission shall be filled by the City</p>	<p>DIVISION 5. - ENFORCEMENT</p> <p>Sec. 1.15.121 - Creation of ethics commission.</p> <p>An ethics commission is hereby created and consists of <u>five members and one alternate member</u>, all of whom must reside within jurisdiction of the city, which for purposes of this Code expressly includes the city's extraterritorial jurisdiction. Each member of the City Council may submit to the Mayor names of recommended appointees for vacant positions. The Mayor shall make the appointment or appointments, subject to confirmation by the City Council. Members of the Ethics Commission may not hold or be a candidate for any elected or appointed city office any time during their service on the ethics commission. <u>Members of the Ethics Commission may not endorse publicly any candidate for city office or support or oppose any matter that is or will be on a city ballot.</u></p> <p>Sec. 1.15.122 - Terms/limits.</p> <p>Appointees to the Ethics Commission shall serve for terms of three (3) years. However, in order to ensure continuity by implementing staggered terms of service, the two additional appointees and one alternate shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the Ethics Commission for twelve (12) consecutive months.</p> <p>Sec. 1.15.123 - Ethics commission vacancies.</p> <p>All vacancies on the ethics commission shall be filled within sixty</p>
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Council within sixty (60) days of the vacancy, for the remainder of the unexpired term, by use of the general process noted above. Ethics commission members shall hold office until their successors have been appointed and shall continue to hold office after their successors have been appointed for the limited purpose of disposing of all complaints filed and unresolved during that ethics commission member's term.

Sec. 1.15.124 - Removal of ethics commission members.

In addition to the City Council's usual powers of removal, members of the ethics commission may be removed by a majority vote of the City Council for cause only.

Sec. 1.15.125 - Conflicts on interest.

(60) days of the vacancy, for the remainder of the unexpired term, as provided in the City Charter. No member of the Ethics Commission shall participate in the discussion of or vote on a complaint in which any of the evidence was presented to the Commission prior to the member's appointment. Ethics commission members shall hold office until their successors have been appointed and shall continue to hold office after their successors have been appointed for the limited purpose of disposing of all complaints filed and unresolved during that ethics commission member's term.⁴

Sec. 1.15.124 - Removal of Ethics Commission members.

In addition to the City Council's usual powers of removal, members of the Ethics Commission may be removed by a majority vote of the City Council for cause only. Removal for cause must be after notice and an opportunity for the Ethics Commission member to be heard. The grounds for such removal are: (a) gross ignorance of official duties; (b) gross carelessness in the discharge of those duties; (c) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election or (d) official misconduct which means intentional, unlawful behavior that adversely affects the performance of official duties. The term includes an intentional or corrupt failure, refusal, or neglect of a Commission Member to perform a duty imposed on the Member by law, including but not limited to the Bastrop City Charter and the City of Bastrop Code of Ordinances.

Sec. 1.15.125 - Conflicts of interest.

⁴ The holdover provision inadvertently was omitted from a prior red-line version.

When a complaint is referred to or comes under the purview of the ethics commission, it shall be the responsibility of the City Manager and the city attorney to attempt to identify any potential conflicts of interest that may be present between any of the serving ethics commission members and the persons or entities involved in the ethics complaint. The City Manager shall promptly report any identified, potential conflicts, to the City Council and the City Council shall, within thirty (30) days, take formal action to appoint a special replacement appointee to the ethics commission to hear and decide the matter that is subject of the conflict. The special replacement appointee shall retire from service once the matter at hand has been disposed of, and the regularly appointed ethics commission member shall resume service for the remainder of the ethics commission member's term.

(Ord. No. 2012-1, 1-10-12)

Sec. 1.15.126 - Chair/quorum.

(a) The ethics commission shall elect a chairperson, who shall preside over the hearings before the ethics commission. The chairperson shall serve a one-year term. The City Secretary shall serve as the administrative record keeper for the ethics commission.

(b) Unless otherwise stipulated by the chairperson at his/her

When a complaint is referred to or comes under the purview of the Ethics Commission, it shall be the responsibility of the City Manager and the City Attorney or independent counsel to attempt to identify any potential conflicts of interest that may be present between any of the serving Ethics Commission members and the persons or entities involved in the ethics complaint. Upon receipt of a complaint, each member of the Commission shall affirmatively notify the City Manager or City Attorney or independent counsel in writing that the member does or does not have a conflict of interest. If a member of the Commission agrees that there is a conflict, the member shall be replaced by the alternative in all proceedings related to the complaint. If the Commission member does not agree that there is a conflict of interest, then the City Manager shall promptly report any identified, potential conflicts, to the City Council. Upon a finding by the City Council that there is an actual or potential conflict of interest, the alternate shall take the place of that Commission member in all proceedings related to the complaint. The alternate shall retire from active service once the matter at hand has been disposed of, and the regularly appointed Ethics Commission member shall resume service for the remainder of the Ethics Commission member's term.

Sec. 1.15.126 - Chair/quorum.

(a) The Ethics Commission shall elect a chairperson, who shall preside over the hearings before the Ethics Commission. The chairperson shall serve a one-year term. The City Secretary shall be the repository of all filings and records of the Ethics Commission.

(b) The Ethics Commission may evaluate and discuss its

discretion, for purposes of convening and conducting the administrative work of the commission, such as evaluating and developing recommendation to the City Council concerning matters related to the standard of conduct for city officials and employees, two (2) members of the commission shall constitute a quorum to conduct the business of the commission. In addition, for such administrative meetings, up to one (1) member of the commission may participate in (and be considered to be present at) the commission meeting by use of remote technology, such as telephone or video conferencing. However, all three (3) members of the ethics commission shall be present, in person, at any time the ethics commission is convened to review and investigate a complaint related to violation(s) of this code.

(Ord. No. 2013-27, 12-10-13)

Sec. 1.15.127 - Meetings.

The ethics commission shall meet when necessary to carry out its responsibilities, but in any event the ethics commission shall hold an annual meeting during the month of February to elect its chairperson. Any ethics commission member may call a meeting of the ethics commission, provided that a reasonable notice is given to all other ethics commission members. All ethics commission meetings shall be noticed, posted and conducted in compliance with the Texas Open Meetings Act.

Sec. 1.15.128 - Jurisdiction of the commission.

own policies and procedures and make recommendations to the City Council concerning matters related to the standard of conduct for city officials that are unrelated to any pending complaint. The quorum for such a meeting shall be three members, one of whom may participate in (and be considered to be present at) the commission meeting by use of remote technology, such as telephone or video conferencing.

(c) The quorum for consideration of any complaint shall be four members of the Ethics Commission. If all five members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, four of the Commissioners must vote to sustain the complaint or impose the sanctions; otherwise, it must be dismissed. If four members of the Ethics Commission are present for a vote to sustain or dismiss a complaint or impose sanctions, all four of the Commissioners must vote to sustain the complaint or impose sanctions; otherwise it shall be dismissed.

Sec. 1.15.127 - Meetings.

The Ethics Commission shall meet when necessary to carry out its responsibilities, but in any event the Ethics Commission shall hold an annual meeting during the month of February to elect its chairperson. Any Ethics Commission member may call a meeting of the Ethics Commission, provided that reasonable notice is given to all other Ethics Commission members. All Ethics Commission meetings shall be noticed, posted and conducted in compliance with the Texas Open Meetings Act.

Sec. 1.15.128 - Jurisdiction of the commission.

<p>The ethics commission shall have jurisdiction over complaints involving the City Council, city officials and other persons appointed to serve the city by the City Council. The City Manager shall have jurisdiction and authority to investigate and handle ethics complaints involving city employees, pursuant to the city's approved personnel policies. employees shall have the right to appeal a decision of the City Manager to the ethics commission.</p> <p>Sec. 1.15.129 - Duties of the commission.</p> <p>(a) The ethics commission shall:</p> <p>(1) Make recommendations to the City Council concerning matters relating to the standard of conduct for city officials and employees.</p> <p>(2) Preserve and maintain the confidentiality of any documentation filed with the commission for a period of three (3) years after a finding has been rendered, at which time such documents shall be destroyed, unless disclosure is otherwise required by state law, or order of the state attorney general or a court of jurisdiction.</p> <p>(3) Review and investigate complaints related to violations of this article when presented and issue a written finding of the ethics commission's determination, when appropriate.</p> <p>(b) The ethics commission may:</p> <p>(1) Prepare reports and make recommendations to the City Council regarding ethical issues affecting the city.</p> <p>(2) Seek any necessary assistance from the City Council and City</p>	<p>The Ethics Commission shall have jurisdiction over complaints involving city officials as defined in this ordinance.</p> <p>Sec. 1.15.129 - Duties of the commission.</p> <p>(a) The Ethics Commission shall:</p> <p>(1) Make recommendations to the City Council concerning matters relating to the standard of conduct for city officials.</p> <p>(2) <u>To the extent allowed by law</u>, maintain the confidentiality of any documents which are filed with the Ethics Commission. The documents shall be retained consistent with the City's records retention policies.</p> <p>(3) Review and investigate complaints related to violations of this Code and issue written ruling(s).</p> <p>(b) The Ethics Commission may:</p> <p>(1) Prepare reports and make recommendations to the City Council regarding ethical issues affecting the city.</p> <p>(2) <u>Respond to inquiries from interested persons</u></p>
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<p>Manager regarding financial support needed to carry out the ethics commission's duties.</p> <p>(3) Adopt rules of procedures for carrying out this article.</p> <p>Sec. 1.15.130 - Role of the city attorney.</p> <p>(a) The city attorney shall serve as legal counsel and staff liaison to the ethics commission. However, when complaints related to violations of this article are filed relating to the mayor, City Councilmembers, City Manager, city attorney, city prosecutor or municipal court judge, independent legal counsel may be utilized to advise the ethics commission and to take part in the hearings, in the place of the city attorney.</p> <p>(b) The city attorney shall serve as ethics advisor, only, to city employees and city officials, and shall not represent employees or city officials before the ethics commission. As ethics advisor, the city attorney is available to respond confidentially to inquiries from employees, city officials, and others appointed to serve the city by the City Council, on matters related to the content of this article. However, as legal counsel to the ethics commission, the city attorney may not represent any person or party in any proceeding before the ethics commission.</p> <p>(c) The city attorney shall receive all sworn complaints of violations of this article and, upon receipt, shall conduct a preliminary analysis and review of the complaint. Upon completion of the preliminary analysis and review, the city attorney shall forward a written report detailing the initial legal</p>	<p><u>concerning policies and procedures of the commission.</u></p> <p>(3) Seek any necessary assistance from the City Council and City Manager regarding financial support needed to carry out the Ethics Commission's duties.</p> <p>(4) Adopt rules of procedures for carrying out this article.</p> <p>Sec. 1.15.130 - Role of the City Attorney.</p> <p>(a) The City attorney shall serve as legal counsel and staff liaison to the Ethics Commission. However, when complaints concerning violations of this Code are filed relating to the Mayor, City Council Members, City Manager or City Attorney, independent legal counsel must be retained by the Ethics Commission to perform the duties that otherwise would be performed by the City Attorney.</p> <p>(b) The City Attorney shall serve as ethics advisor, only, to city officials, and shall not represent employees or city officials before the Ethics Commission. As ethics advisor, the City Attorney is available to respond confidentially to inquiries from city officials, and others appointed to serve the city by the City Council, on matters related to the content of this Code. However, as legal counsel to the Ethics Commission, the City Attorney may not advise or represent any person or party in any proceeding before the Ethics Commission.</p> <p>(c) Upon receipt of an ethics complaint, the City Attorney or independent counsel shall conduct a preliminary analysis, review and investigation of the complaint. Upon completion of the preliminary analysis, review and investigation, the City Attorney or independent counsel shall forward a written report detailing the</p>
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<p>review and recommendation to the ethics commission for its evaluation and action. If a sworn complainant alleges a violation by the city attorney, the complaint must be filed with the chairperson of the ethics commission, with a copy to the mayor, the City Manager, and the city attorney.</p> <p>Sec. 1.15.131 - Complaints.</p> <p>(a) All complaints alleging a violation of this article shall:</p> <p>(1) Be submitted, in writing, on a form prescribed by the City Council;</p> <p>(2) Be signed under oath;</p> <p>(3) Shall cite the provision(s) of this article allegedly violated; and</p> <p>(4) Shall provide the facts and evidence, if any, supporting the alleged violation.</p> <p>Any false statements that are intentionally, knowingly, or recklessly made under oath by a complainant shall subject the complainant to legal redress, including potential prosecution under state law.</p> <p>(b) Complaints and any evidence collected during the investigation of the alleged violation shall be kept confidential by the ethics commission, unless disclosure is otherwise required by state law or order of the state attorney general or a court of</p>	<p>initial legal review and recommendation to the Ethics Commission for its evaluation and action.</p> <p>Sec. 1.15.131 - Complaints.</p> <p><u>(a) All complaints alleging a violation of this article and all other documents to be presented to or considered by the Commission shall be filed with the City Secretary with a file stamp showing the date of receipt.</u> Complaints must:</p> <p>(1) Be submitted, in writing, on a form prescribed by the City Council;</p> <p>(2) Be signed under oath;</p> <p>(3) Cite the provision(s) of this Code allegedly violated; and</p> <p>(4) Provide the facts and evidence, if any, supporting the alleged violation.</p> <p>Any false statements that are intentionally, knowingly, or recklessly made under oath by a complainant shall subject the complainant to legal redress, including potential prosecution under state law.</p> <p><u>(b) All documents submitted to the Ethics Commission shall be supported by affidavit or other evidence of authenticity.</u> Complaints and any evidence collected during the investigation of the alleged violation which are excepted from disclosure under</p>
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jurisdiction.

(c) Any complaint alleging a violation of this article is to be filed with the city attorney within twelve (12) months from the date on which the complainant knew of or should have known of the alleged violation. Complaints filed after that period will not be considered.

(d) No later than twenty-one (21) business days after receipt of the complaint, the city attorney shall acknowledge receipt of the complaint in writing delivered by certified mail, to the complainant and provide a copy of the complaint to the ethics commission and any accused party. An accused party shall have twenty-one (21) business days from receipt of the complaint to submit a sworn written response to the complaint to the city attorney. The city attorney shall conduct a preliminary analysis and review of the complaint, including a review of any available evidence, to determine whether there appears to be a legal basis for the complaint. The city attorney shall submit a preliminary analysis [and] forward a report to the ethics commission as set forth in section 1.15.130(c) above. No later than sixty (60) business days after receipt of the complaint by the city attorney, the ethics commission shall notify the complainant and any accused party in writing delivered by certified mail, if the commission intends to schedule a hearing or take other action

the Public Information Act shall be kept confidential by the Ethics Commission, the City Attorney or independent counsel and City Secretary unless disclosure is otherwise required by state law or order of the state attorney general or a court of competent jurisdiction.

(c) Any complaint alleging a violation of this Code must be filed with the City Secretary within six months from the date on which the alleged violation occurred. Complaints filed after that period will not be considered. The six month limitation does not apply to a complaint based on facts which were not discovered, and in the exercise of reasonable diligence could not have been discovered, within the six month period. In this event, the complaint must be filed no later than twenty-four months after the alleged violation occurred.

(d) No later than three business days after receipt of the complaint, the City Secretary shall acknowledge receipt of the complaint by certified mail, return receipt requested. At the same time, the City Secretary shall provide a file-stamped copy of the complaint and any supporting affidavits and documents to the Ethics Commission, City Attorney or independent counsel and any accused party. An accused party shall have twenty-one business days from receipt of the complaint to submit a sworn written response to the complaint to the City Secretary.

(e) All documents filed in connection with an ethics complaint which are to be considered by the commission must be served by the filing party on all other parties to the proceeding and the City Attorney or independent counsel. Any document which is filed but not served on all other parties to the proceeding and City Attorney or independent counsel may not be considered by the Ethics Commission. This section does not apply to

<p>concerning the complaint. If the ethics commission determines not to proceed, it shall notify the complainant and the city attorney that the complaint has been dismissed and no further action will be taken.</p> <p>(e) The recovery of any and all reasonable legal fees incurred by the accused party shall be paid by the complainant, if the ethics commission ultimately determines that the complaint was groundless and was brought:</p> <p>(1) In bad faith; or</p> <p>(2) For the purpose of harassment.</p> <p>Sec. 1.15.132 - Ex parte communications.</p>	<p><u>communications to or from the City Attorney or independent counsel and the Ethics Commission.</u></p> <p>(f) Within ten business days after receiving the written response, the City Attorney or independent counsel shall conduct a preliminary analysis, review and investigation of the complaint, including a review of any available evidence, to determine whether there appears to be a legal basis for the complaint. The City Attorney or independent counsel shall submit a written report to the Ethics Commission. Within ten business days after receipt of the written report, the Ethics Commission through the City Secretary shall notify the complainant and any accused party in writing delivered by certified mail, return receipt requested if the Commission intends to schedule a hearing or take other action concerning the complaint. If the Ethics Commission determines not to proceed, it shall, through the City Secretary, notify the complainant and the City Attorney or independent counsel in writing by certified mail, return receipt requested, that the complaint has been dismissed and that no further action will be taken.</p> <p>(g) Any and all reasonable legal fees incurred by the accused party shall be paid by the complainant, <u>if the Ethics Commission finds that there was no violation, and determines that the complaint was:</u></p> <p><u>(1) Groundless as a matter of law; or</u></p> <p><u>(2) Filed in bad faith; or</u></p> <p><u>(3) Filed for the purpose of harassment.</u></p> <p>Sec. 1.15.132 - Ex parte communications.</p>
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After a complaint has been filed with the ethics commission and during the consideration of a complaint by the ethics commission, a member of the ethics commission may not communicate directly or indirectly with any party or person about any issue of fact, or law, regarding the complaint, except at a meeting of the ethics commission.

Sec. 1.15.133 - Hearings.

(a) The ethics commission may, in its sole discretion, attempt to negotiate or mediate an equitable resolution of any complaint. If the ethics commission and the accused party are unable to negotiate or mediate a final resolution of the matter, the ethics commission will, at its discretion, convene a hearing at which the accused may have legal counsel present. The hearing may be open to the public, or closed, at the discretion of the ethics commission, and as allowed by applicable state law. The ethics commission hearing shall be held as expeditiously as possible, but in any event no later than one hundred and twenty (120) days from the date the sworn, written complaint was received by the city attorney. The ethics commission hearing shall be attended and transcribed by a court reporter, and the record of the hearing shall be maintained by the ethics commission. Witnesses before the ethics commission shall be placed under oath when providing testimony to the ethics commission. The ethics commission shall conduct the hearing under its own procedures. Formal rules of procedure, testimony, and evidence shall not apply.

(b) The issue at the formal hearing before the ethics commission

After a complaint has been filed with the City Secretary, and during the consideration of the complaint by the City Attorney, independent counsel or the Ethics Commission, the Ethics Commission may not communicate directly or indirectly with any party or representative of a party except at a meeting of the Ethics Commission. If the Ethics Commission needs assistance in gathering additional information or documents, it shall request the City Attorney or independent counsel to perform that function for it.

Sec. 1.15.133 - Hearings.

(a) A hearing convened by the Ethics Commission may be open to the public or closed, if the hearing is permitted to be closed under the Open Meetings Act. At any stage of the proceeding, including but not limited to the hearing, any party may be represented by a licensed attorney. The Ethics Commission hearing shall be held as expeditiously as possible, but in any event no later than ninety days from the date the sworn, written complaint was received by the City Secretary. A continuance may be granted by the Chair only for good cause shown. The Ethics Commission hearing shall be transcribed by a court reporter, and the record of the hearing shall be maintained by the City Secretary as required by the City of Bastrop records retention policies. Witnesses before the Ethics Commission shall be placed under oath when providing testimony to the Ethics Commission. The Ethics Commission shall conduct the hearing under its own procedures. Formal rules of procedure, testimony, and evidence shall not apply.

(b) The issues at the formal hearing before the Ethics Commission shall be whether the act or omission that is the

shall be whether the violation alleged in the complaint occurred. The ethics commission shall make its decision based on clear and convincing evidence presented during the ethics commission hearing. If the ethics commission determines that a violation has occurred, it shall state its finding(s) in writing, identify the particular provision(s) of this article that have been violated, and deliver a copy of its findings to the complainant, the accused party and the City Council within twenty-one (21) business days of closing the ethics commission hearing. Extensions of this time may be necessary and allowed in complex cases, but if an extension is required all interested parties shall be notified of the extension.

Sec. 1.15.134 - Sanctions.

(a) If the ethics commission determines that a city official, or employee has violated this article, it shall declare its findings along with any recommended sanctions in a report to the City Council. An affirmative vote of a majority of the members of the ethics commission hearing the matter shall be required for the determination that a violation has occurred and to recommend any sanction under this article.

(b) If the commission determines that a city official or employee has violated this article, it may recommend a private or public reprimand, temporary suspension, removal from office, bar from future service with the city, or any other sanction or corrective action within the power of the City Council.

(c) In arriving at its recommendation, the ethics commission shall

subject matter of the complaint (1) actually occurred, (2) whether the act or omission is a violation of the Ethics Ordinance, and (3) whether an award of attorney's fees is appropriate. The Ethics Commission may find a violation whether or not there is a financial loss. The Ethics Commission shall make its decision based on clear and convincing evidence. If the Ethics Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provisions of this Code that have been violated, and deliver a copy of its findings to the **City Secretary, City Attorney or independent counsel**, complainant, and the accused party within twenty-one business days of closing the Ethics Commission hearing. Extensions of this time may be necessary and allowed in complex cases, but if an extension is required all interested parties shall be notified of the extension.

Sec. 1.15.134 - Sanctions.

(a) If the Ethics Commission determines that a city official has violated this Code, it shall declare its findings along with any recommended sanctions in a report to the City Council.

(b) If the Commission determines that a current or former city official has violated this article, it may recommend to the City Council a private or public reprimand, temporary suspension, removal from office or employment, or any other sanction or corrective action within the power of the City Council.

(c) In arriving at its recommendation, the Ethics Commission

<p>consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government, city officials and employees, the number of times the violation occurred, the mental state with which the violation was committed and any previous violations committed by the accused party. A written recommendation on the sanction to be imposed shall be forwarded by the ethics commission to the City Council, with a copy to the complainant and the accused party.</p> <p>(d) If the ethics commission determines that the conduct occurred, but the facts indicate that the violation was unintentional and/or de minimis, the ethics commission may recommend that the complaint be dismissed and no sanction imposed by the City Council. The ethics commission may, in its discretion, issue a clarifying opinion to help guide future cases.</p> <p>(e) The City Council shall consider the ethics commission's recommended sanction and exercise its own judgment and discretion in determining what action, if any, shall be taken relating to the alleged violation.</p> <p>Sec. 1.15.135 - Other actions by ethics commission.</p> <p>If the ethics commission determines a member of City Council has violated this article, the ethics commission will, in such cases, have the sole and final authority to impose sanctions under this article. In addition to declaring its findings, the ethics commission may reprimand and/or recommend a public recall of the City Council member in question. An affirmative vote of a majority of the ethics commission members shall be required for the determination that a violation by a member of the City Council</p>	<p>shall consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government and city officials, the number of times the violation occurred, the mental state with which the violation was committed and any previous violations committed by the accused party. A written recommendation on the sanction to be imposed shall be forwarded by the Ethics Commission to the City Council, with a copy to the complainant and the accused party. <u>In addition, the Ethics Commission's written recommendation on sanctions shall be delivered to the City Secretary.</u></p> <p>(d) If the Ethics Commission determines that the wrongful act or omission occurred, but the facts indicate that the violation was unintentional and/or de minimus, the Ethics Commission may recommend that the complaint be dismissed and no sanction be imposed by the City Council. The Ethics Commission may, in its discretion, issue a clarifying opinion to help guide future cases.</p> <p>(e) The City Council shall consider the Ethics Commission's recommended sanction and exercise its own judgment and discretion in determining what action, if any, shall be taken relating to the alleged violation.</p> <p>Secs. 1.15.135—1.15.150 - Reserved.</p>
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<p>has occurred and to approve any sanctions under this article. A letter of reprimand or a recommendation of public recall of an elected city official shall be delivered to the City Secretary, published in a local newspaper of the largest general circulation, and published prominently on the city's website for a minimum of twelve (12) months after the decision is issued by the ethics commission.³</p> <p>(Ord. No. 2012-1, 1-10-12)</p> <p>Secs. 1.15.136—1.15.150 - Reserved.</p>	
<p>DIVISION 6. - ETHICS COMMISSION</p> <ul style="list-style-type: none"> • • Sec. 1.15.151 - Creation. • (a) An ethics commission shall be created and consist of three (3) members, all of whom must reside within jurisdiction of the city, which for purposes of this section expressly includes the city's extraterritorial jurisdiction. Within sixty (60) days of its adoption of this section, each member of the City Council will submit to the City Attorney names of recommended appointees. The City Attorney will provide the recommended appointees to the Mayor, who will then appoint the three (3) members of the ethics commission, upon concurrence of the members of the City Council. • (b) Notwithstanding any other general prohibition or policy of the city against judges serving on city boards and commissions, due 	

³ This provision was deleted inadvertently from the proposed amendments. The Council needs to consider this provision very carefully because of the “sole and final authority” language. The Ethics Commission has the authority to recommend any sanction to the Council; however, delegating sole authority to the Commission when a Council Member is the subject of a complaint is, in my opinion, too much delegation. See sec. 1.15.134(a).

to the specialized nature of the ethics commission, in its sole discretion, the City Council may determine that it is appropriate, in the best interest of the City, and/or the preference of the governing body of the city for the Mayor to appoint, with the City Council's concurrence, a judge to serve on the ethics commission. For purposes of this section, the judge appointed to the ethics commission, if any, may be currently serving or may be retired from the bench of any governmental entity, except the city, and may have been either elected or appointed to his/her judicial position.⁵

(Ord. No. 2014-10, 7-22-14; Ord. No. 2015-28, pt. 1, 11-24-15; Ord. No. 2015-28R, pt. 1, 11-24-15)

Sec. 1.15.152 - Terms/limits.

Appointees to the ethics commission shall serve for terms of three (3) years, and each position shall be assigned a "place." However, in order to ensure continuity by implementing staggered terms of service, the first three (3) appointees shall draw lots so that one member serves a one-year term, the second serves a two-year term, and the third serves a three-year term. No person may serve more than two (2) consecutive three-year terms. A person may be reappointed after having been off the ethics commission for twelve (12) consecutive months.

Sec. 1.15.153 - Vacancies.

All vacancies on the ethics commission shall be filled by the City Council within sixty (60) days of the vacancy, for the remainder

⁵ My understanding is that this was the Judge Duggan provision to allow him to serve on the Commission; however, I fail to see that it is needed since the only prohibition from membership on the Commission is for any person who is elected to a city position. See sec. 1.15.121. Judge Duggan's position is a county position, and the provision already prohibits the appointment of a city judge. As a result, it was deleted.

of the unexpired term, by use of the general process noted above. Ethics commission members shall hold office until their successors have been appointed and shall continue to hold office after their successors have been appointed for the limited purpose of disposing of all complaints filed and unresolved during that ethics commission member's term. Attendance requirements for the commission members are set forth in this Code, [section 1.02.002\(b\)](#), et seq.

(Ord. No. 2012-13, pt. 4(E), 6-26-12)