

ORDINANCE NO. 2023.05.01.01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYPEARL, TEXAS, ADOPTING RULES OF CONDUCT AND PROCEDURE FOR THE CITY COUNCIL OF THE CITY OF MAYPEARL, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING A REPEALING CLAUSE, PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Maypearl, Texas is a Type-A General Law Municipality; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary of proper for carrying out a power granted by to the City; and

WHEREAS, the City Council finds that it is necessary and proper for the purpose of promoting effective and efficient government of the City and dignity and decorum in proceedings to adopt Rules of Conduct and Procedure applicable to the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYPEARL, TEXAS, THAT:

SECTION 1. FINDINGS OF FACT. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

SECTION 2. ADOPTION. The City Council of the City of Maypearl, Texas, does hereby adopt Rules of Conduct and Procedure applicable to the City Council as shown in Exhibit "A" (the "Rules of Conduct and Procedure").

SECTION 3. PUBLICATION. The City Secretary is hereby directed to record this Ordinance in the Office of the City Secretary and publish the caption of said Ordinance as required by Section 52.011(A) of the Texas Local Government Code.

SECTION 4. REPEALING CLAUSE. That all provisions of the Maypearl Code of Ordinances or resolutions in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. SEVERABILITY CLAUSE. Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid.

SECTION 6. PENALTY CLAUSE. Any person, firm or corporation violating any provision of the Rules of Conduct and Procedure adopted herein that is enumerated as an offense therein shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500) for each offense, and every day any offense is continued shall constitute a new and separate offense.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law in such cases provide.

APPROVED AND ADOPTED BY the City Council of the City of Maypearl, Texas, on this the 1 day of may, 2023.

By:

Joy L Landry
Joy L Landry, Mayor
City of Maypearl, Texas

ATTEST:

Danell Winter
Danell Winter, City Secretary
City of Maypearl, Texas

APPROVED AS TO FORM:

Nicole A Corr
Nicole A. Corr, Interim City Attorney

Exhibit "A"

**RULES OF CONDUCT AND PROCEDURE FOR
THE CITY COUNCIL OF THE CITY OF
MAYPEARL, TEXAS**

TABLE OF CONTENTS

ARTICLE 1. AUTHORITY, APPLICABILITY, AMENDMENT, AND ANNUAL REVIEW	1
1.1 Authority.....	1
1.2 Applicability	1
1.3 Amendment.....	1
1.4 Annual Review	1
1.5 Definitions.....	1
ARTICLE 2. RULES OF PROCEDURE FOR MEETINGS	3
2.1 Construction of Authority.....	3
2.2 Meetings Shall Be Public	3
2.3 Regular Meetings.....	3
2.4 Special Called Meetings	3
2.5 Emergency Meetings	3
2.6 Preparation of Meeting Agendas	3
2.7 Quorum	4
2.8 Mayor as Presiding Officer	4
2.9 Mayor Pro Tem	4
2.10 Minutes of Meetings.....	4
2.11 Council Member Attendance at City Council Meetings.....	4
2.12 Conduct of Meetings.....	5
2.13 Parliamentary Rules	6
2.14 Model Format for Agenda Item Discussion.....	6
2.15 Rules of Decorum.....	7
2.16 Enforcement of Rules and Procedures During Meetings	9
2.17 City Council Member’s Requests for Information	10
2.18 City Council Member’s Interaction with City Staff	10
ARTICLE 3. RULES OF CONDUCT	12
3.1 Expectations.....	12
3.2 Mandates	12
3.3 Prohibitions.....	13
ARTICLE 4. COUNCIL MEMBER VIOLATIONS OF RULES OF CONDUCT AND PROCEDURE	15
4.1 Council may Discipline its own Members.....	15
APPENDIX A. FORM FOR CITY COUNCIL MEMBER REQUEST IN OFFICIAL CAPACITY	16

ARTICLE 1. GENERAL

1.1 **Authority.**

Texas Local Government Code Section 51.001 grants the City the authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary of proper for carrying out a power granted by to the City. The following rules are enumerated under and by authority of said provision.

1.2 **Applicability.**

The Rules of and Conduct and Procedure adopted by the City Council are applicable to the members of the City Council. Section 2.15(b) shall be applicable to citizens and other visitors attending meetings of the City Council.

1.3 **Amendment.**

These rules may be amended, or new rules adopted, by a majority vote of the members of the City Council present.

1.4 **Annual Review.**

Following the municipal elections each year, the City Council may review these Rules of Conduct and Procedure and adopt revisions as appropriate. In the event no annual review occurs, the standing Rules of Procedure continue in effect. This does not limit the Council's right and ability to amend the rules at any other time during the year.

1.5 **Definitions.**

The following words, terms and phrases, when used in these Rules of Conduct and Procedure, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business Entity shall mean a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, political subdivision, government agency, university, or any other entity recognized by law.

City shall mean the City of Maypearl, Texas.

City Council or *Council* shall mean the governing body of the City of Maypearl, Texas, including the Mayor and Council Members.

City Secretary shall mean the person appointed by the City Council to perform the duties and powers set forth in Texas Local Gov't Code, § 22.073, as amended, and other state law, as applicable.

City Attorney shall mean the person or firm appointed by the City Council to provide legal counsel to the City staff and City Council and perform the duties and powers set forth in state law, as applicable.

City Manager shall mean the City Administrator appointed by the City Council to fulfill the duties

and powers set forth in state law, as applicable.

Conflicting Interest shall have the meaning prescribed in Section 3.3(a)(3) herein.

Council Member or *Member* shall mean any person serving as a member of the City Council of the City of Maypearl, Texas.

Deliberations shall mean discussions at the dais and/or voting as a Council Member. This term does not apply to a general vote on a broad, comprehensive or omnibus motion, such as approval of the City budget or calling an election.

Gift shall have the meaning prescribed in Section 3.3(b)(4) herein, and does not include the exceptions listed in Section 3.3(b)(5) herein.

Mayor shall mean the person elected to serve as the Chief Executive Officer of the City, to serve as the Presiding Officer of all meetings of the City Council, to perform all duties of a Mayor as required by state law.

Mayor Pro Tem shall mean the person elected pursuant to Texas Local Government Code Section 22.037 and Section 2.8 herein to perform the duties of the Mayor in the absence or illness of the Mayor or failure or refusal of the Mayor to act.

Open Meetings Act shall mean Chapter 551 of the Texas Government Code, as amended.

Pending Matter shall mean an application seeking approval of a permit or other form of authorization required by the City, State or Federal law; a proposal to enter into a contract or arrangement with the City for the provision of goods, services, real property or other things of value; a case involving the City that is (or is anticipated to be) before a civil, criminal or administrative tribunal.

Presiding Officer shall mean the person presiding over a meeting of the City Council, as set forth in Section 2.7 and 2.8 herein.

Relative shall mean a family member related to a Council Member within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption).

Rules of Conduct and Procedure shall mean these Rules of Conduct and Procedure adopted by the City Council, as they may be amended pursuant to Article 1 herein.

Vendor shall mean a person who provides or seeks to provide goods, services, real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way.

ARTICLE 2. RULES OF PROCEDURE FOR MEETINGS

2.1 Construction of Authority.

The construction of authority in all matters associated with the meetings and activities of the City Council, including the agenda, shall be: (1) the U.S. Constitution and laws of the United States of America; (2) the Texas Constitution and statutes of the State of Texas; (3) the Code of Ordinances of the City of Maypearl, Texas; and (4) these Rules.

2.2 Meetings Shall Be Public.

All meetings of the City Council shall be public, and notices thereof shall be posted in accordance with the Open Meetings Act. Executive sessions are sessions closed to the public, and shall only be permitted for the purpose of discussing matters enumerated in the Open Meetings Act. Except in the case of an emergency meeting as permitted by law, notice of all meetings shall be posted no later than seventy-two (72) hours before the time set for any meeting.

2.3 Regular Meetings.

Regular meetings of the City Council shall be on the first Monday of each month at 7:00 p.m. at the location identified in the posted agenda. The City Council may, by majority vote at a regular meeting, change the days or times of meetings as circumstances may necessitate.

2.4 Special Called Meetings.

Special meetings of the City Council may be called upon request of the Mayor, and shall be called by the Mayor on the written application of three (3) Council members. A request for a special meeting shall be filed with the City Secretary or the Mayor in written/electronic format unless made at a regular meeting at which a quorum of Council Members is present. The City Manager, City Secretary, City Attorney, and all Council members shall be notified of all special meetings. The Mayor shall be responsible for setting the date and time of all special called meetings.

2.5 Emergency Meetings.

In case of an emergency or urgent public necessity, which shall be expressed in the meeting notice as required by state law, it shall be sufficient if members receive, and notice is posted one (1) hour before the meeting is convened. Notice shall be provided also to the media in accordance with Section 551.047 of the Open Meetings Act, as amended.

2.6 Preparation of Meeting Agendas

- (a) The Mayor and the City Manager shall prepare an agenda and cause the same to be posted by the City Secretary in accordance with the Open Meetings Act. All agendas shall be reviewed by the City Attorney for compliance with the Open Meetings Act before posting. Copies of the official, posted agenda shall be delivered to the City Council members on the day of the official posting. Once an official agenda is posted by the City Secretary as set forth herein, no revisions may be made thereto, except as permitted by the Open Meetings Act. Once an official agenda for a meeting is posted by the City Secretary as set forth herein, City Council members are prohibited from posting alternative agendas on social media or disseminating alternative agendas to the public.
- (b) Any councilmember desiring a particular item addressing official City business to be placed on the council agenda shall notify the Mayor or City Secretary in writing by 12:00 noon on

the seventh (7th) calendar day preceding the date of the regular meeting for placement on that agenda. The councilmember requesting the agenda item shall be responsible for the agenda briefing or presentation of the item at the meeting. Agenda items requested are subject to review and/or revision by the City Attorney for compliance with the Open Meetings Act.

2.7 Quorum.

The number of members of the City Council needed to constitute a quorum for the conduct of business shall be in accordance with Section 22.039 of the Texas Local Government Code, as amended.

2.8 Mayor as Presiding Officer.

The Mayor shall serve as the chair and presiding officer of all meetings and shall make final rulings on all questions pertaining to these rules. The Mayor is entitled to participate in the discussion and debate of items listed on the agenda and, except in elections, may vote only if there is a tie amongst the Council Members voting.

2.9 Mayor Pro Tem.

At the first meeting after City Council general elections is final, or at the first meeting in November in a year in which there is no election, the City Council shall annually elect a Mayor Pro Tem from among its members. The Mayor Pro Tem shall act in the absence or illness of the Mayor or failure or refusal of the Mayor to act. In the absence of the Mayor and the Mayor Pro Tem, any Council Member appointed by a majority of Councilmembers present may preside at the meeting.

2.10 Minutes of Meetings.

The City Secretary shall keep written minutes of all meetings of the City Council. Meeting minutes approved by the City Council shall be open to public inspection in accordance with the laws of the State of Texas.

2.11 Council Member Attendance at City Council meetings

(a) Attendance; excused absences.

- (1) Council Members shall be required to attend regular and special called meetings of the City Council.
- (2) A Council Member may be excused from attending a regular or special meeting of the City Council due to illness of a Council Member or someone in his or her immediate family. A Council member unable to attend a meeting as set forth hereunder shall notify the Mayor as soon as practicable.
- (3) A Council Member may request a leave of absence from attendance at a regular meeting of the City Council by presenting his or her reasons for the leave at a regular meeting preceding the meeting at which the absence will occur, provided that a majority of the Council Members in attendance at the meeting at which the reasons are presented vote to grant the leave of absence.
- (4) A Council Member who participates in a meeting by videoconference call shall be

considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The City Council may continue the meeting only if a quorum of the body remains present at the meeting location. A Council Member's momentary absence from a meeting held by videoconference call shall not be considered an unexcused absence.

- (5) Any absence not excused pursuant to subsections (a)(2) and (a)(3) of this section shall be considered an unexcused absence.
- (b) Multiple unexcused absences; notice and hearing to rebut presumption that office is vacated.
 - (1) A Council Member who accumulates unexcused absences from three consecutive regular meetings shall be presumed to have vacated his or her office.
 - (2) At the next regular meeting following either the third regular meeting for which a Council Member accumulated an unexcused absence, a hearing shall be scheduled on the agenda to allow that Council Member to present evidence to rebut the presumption of his or her having vacated his or her office.
 - (3) The City Secretary shall send notice by certified mail to the Council Member who is presumed to have vacated his or her office, no less than five (5) days prior to the meeting at which the hearing described in subsection (b)(2) of this section is scheduled, informing him or her of the hearing and that he or she shall have the opportunity to present evidence to rebut the presumption of his or her having vacated his or her office.
 - (4) The hearing described in subsection (b)(2) may be continued or postponed no more than one time until the next regular city council meeting.
 - (5) Following the hearing described in subsection (b)(2) the City Council shall determine, by majority vote of those Council Members attending and voting, whether the evidence presented at the hearing has satisfactorily rebutted the presumption of vacation of office.
 - (6) Should the City Council vote that the presumption is rebutted, it may also specify which absences, if any, remain unexcused.
 - (7) Should the City Council vote that the presumption has not been rebutted, the office occupied by such resigned Council Member shall be vacant and may be filled in the manner provided by state law.

2.12 Conduct of Meetings.

Meetings of the City Council shall be conducted according to Rules of Conduct and Procedure adopted by the City Council.

2.13 Parliamentary rules.

Robert's Rules of Order shall serve as a guide for the purpose of conducting orderly meetings. The City Attorney and City Secretary should be familiar with Robert's Rules of Order and may serve as parliamentarian. In the event a parliamentarian is not present at a meeting or cannot be reached by telephone, electronic mail or other reasonable means, or in the event that attempting to contact a parliamentarian will result in unnecessary delay, the Mayor shall decide all questions of order unless a majority of council votes to decide such a question in an alternative, reasonable manner. Robert's Rules of Order shall not be used for the purpose of delay, intimidation, thwarting the will of the council, or to make ineffective a lawful vote of the City Council.

2.14 Model Format for Agenda Item Discussion.

The following steps may be used as a model or guidebook by the Presiding Officer. The meeting is governed by the lawfully posted agenda and said agenda constitutes the only items to be discussed. Each agenda item can be handled by the Presiding Officer in the following basic format:

- (a) *Announce the Item.* The Presiding Officer should announce the agenda item number and should clearly state the subject matter of the agenda item by reading the caption for the item being considered.
- (b) *Receive a Report.* The Presiding Officer should invite the appropriate City staff or consultants to report on the item, including any recommendation they might have.
- (c) *Ask Clarifying Questions.* The Presiding Officer should ask the council members if they have any technical questions for clarification. At this point, members of the City Council may ask clarifying questions to the people who reported on the item, and they should be given time to respond.
- (d) *Hold Public Hearing, if required.* If the agenda is scheduled for a public hearing, the Presiding Officer should open the public hearing. Upon conclusion, the Presiding Officer should close the public hearing and announce its closure.
- (e) *Invite Discussion.* The Presiding Officer should invite discussion regarding the agenda item amongst the Council Members.
- (f) *Motion First.* The Presiding Officer should invite a motion from the City Council. The Presiding Officer should announce the name of the member who makes the motion.
- (g) *Motion Second.* The Presiding Officer should determine if any member of the City Council wishes to second the motion. The Presiding Officer should announce the name of the member who seconds the motion. If no Council Member wishes to second the motion, then the motion fails, and should be so stated by the Presiding Officer.
- (h) *Discuss the Motion.* The Presiding Officer will announce that there is a motion and a second, and will restate the motion, and will invite the Council Members to discuss the motion. If there is no desired discussion, the Presiding Officer may call for a vote. If there has been no discussion or a brief discussion, then there is no need to repeat the motion before taking a vote.

- (i) *Vote.* The Presiding Officer calls for the vote. A simple majority vote determines whether the motion passes or fails unless a super-majority is required for passage. All Council Members (excluding the Mayor, who only votes in the event of a tie) shall vote upon every question, ordinance, or resolution, unless recused because of a conflict of interest. Action items require a vote.
- (j) *Announce the Outcome.* The Mayor announces the results of the vote and should also state what action (if any) the Council has taken.

2.15 Rules of Decorum

(a) Mayor and Council Members.

- (1) Each Council Member shall, while the City Council is in session, occupy his or her assigned seat, and if away, shall not be allowed to speak or vote on any matter before the City Council by telephone, electronic mail or other means of communication, unless permitted by law.
- (2) During City Council meetings, the Mayor and Council Members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the Presiding Officer or the Rules of Conduct and Procedure.
- (3) Each Council Member may speak at any time with respect and courtesy to other members, visitors, and the Mayor. The Mayor shall ensure that all Council Member desiring to speak may do so, including him/her. If the Mayor is in debate with another Council Member, the Mayor shall restrain his or her prerogative so as not to limit a response from the other Member.
- (4) A Council Member desiring to speak shall address the Presiding Officer by hand or voice signal, and upon recognition by the Presiding Officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and shall refrain from personal attacks and verbal abuse. The Presiding Officer shall recognize each member desiring to speak, in the order of request, unless a member's comments have become disruptive, confrontational, or disorderly.
- (5) A Council Member desiring to question a member or members of City staff shall address questions to the City Manager, who shall be entitled either to answer the inquiries or to designate some member of City staff for that purpose. The Mayor and Council Member shall not berate nor admonish staff members in open session.
- (6) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a Council Member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall

remain silent or make additional remarks only for the purpose of complying with the Rules of Conduct and Procedure.

- (7) If a Member in debate transgresses the rules, the Presiding Officer shall, or any Member may, call him/her to order. Should the Presiding Officer fail to do so, a majority vote of the remainder of the City Council shall require him/her to enforce the procedures.
 - (8) Council Members shall wear appropriate business casual attire at meetings of the City Council and shall avoid wearing clothing and accessories that would detract from the professional image of the City.
- (b) Citizens and other visitor participation in meetings.
- (1) Citizens and other visitors are welcome to attend all public meetings of the City Council and will be admitted to the meeting room in open session up to the fire safety capacity of the room, as determined by the Fire Marshall.
 - (2) Any person desiring to address the City Council during a regular, special or workshop meeting shall fill out a visitor's card, provided by the City, prior to the meeting. The card shall contain, at a minimum, the person's name, address, and the topic on which he or she wishes to speak. Visitors shall give their completed sheets to the City Secretary prior to the convening of the meeting. Visitors shall observe the rules of decorum and courtesy and shall speak only upon recognition of the Mayor.
 - (3) Public comment shall be allowed as permitted by law. No formal action shall be taken on any issue not listed on the agenda. The Mayor or a majority of the City Council may set a uniform speaking time limit per speaker. The speakers will be called in the order their visitor's cards are received.
 - (4) No one, except Council Members and City officers and employees of the City in the discharge of their official duties, shall be permitted to participate in the deliberations of the City Council concerning agenda items. Members of the public may not participate in deliberations of the City Council regarding items on the agenda or during a council workshop meeting unless invited to do so.
 - (5) Members of the public may not address or be present during any executive session unless such presence is permitted by law.
 - (6) Public hearings may be held as determined by the Mayor or as required by the laws of the state. Citizens shall be given the opportunity to speak for or against an item after being recognized by the Mayor in accordance with the procedures outlined above.
 - (7) Everyone attending the meeting will refrain from private conversations while the City Council is in session.

- (8) Citizens and other visitors attending City Council meetings shall observe the same rules of propriety; decorum and good conduct applicable to Council Members. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms as so directed by the Presiding Officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the Presiding Officer fails to act, any Council Member may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the Presiding Officer to act.
- (9) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer who may direct the sergeant-at-arms to remove offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. In case the presiding officer shall fail to act, any Council Member may move to require enforcement of the rules, and the affirmative vote of the majority of the City Council shall require the Presiding Officer to act.
- (10) No cards, banners, or signs shall be permitted in the City Council chamber or in any other room in which the City Council is meeting. Exhibits, displays, and visual aids used in connection with presentations to the City Council, however, are permitted.
- (11) Citizens and other visitors attending City Council meetings shall not bring food or drink into the City Council chamber or into any room in which the City Council is meeting.

2.16 Enforcement of Rules and Procedures during meeting.

The following provisions may be used to enforce the good order and decorum of the meeting. The action may be taken by the Mayor under his or her own action, or upon a motion to enforce by any Council Member.

- (a) *Warning.* The Mayor may order any person (Council Member, staff member or audience member) in violation of these Rules of Conduct and Procedure.
- (b) *Removal.*
 - (1) If, after receiving a warning from the Mayor, the person continues to disturb the meeting or breach the peace and good order of the meeting, the Mayor may order the person to leave the meeting. If the person does not leave the room, the Mayor may order the sergeant-at-arms to remove the person.
 - (2) Upon instruction of the Mayor, it shall be the duty of the Sergeant-at-Arms to remove from the meeting any person who intentionally disturbs the proceedings of the City Council. A violation of these rules may be deemed an

attempt to disrupt, obstruct, and/or interfere with a lawful meeting and subject the violator to prosecution under state law for disrupting a lawful meeting. (Section 42.05, Texas Penal Code).

- (c) *Sergeant-at-Arms.* The Sergeant-at-Arms shall be the highest-ranking police officer in attendance at the council meeting, or such other officer designated by the chief of police for that purpose.
- (d) *Resisting Removal.* Any person who resists removal by the sergeant-at-arms may be charged with violating Section 42.05 of the Texas Penal Code.
- (e) *Motion to Enforce.* Any Council Member may move to require the Mayor to enforce these rules and the affirmative vote of a simple majority of the Council shall require the Mayor to do so. A motion to enforce is an allowable interruption and is not debatable.

2.17 City Council Member's Requests for Information.

- (a) A Council Member's request made in his/her official capacity under this Section 2.17 is not governed by the Public Information Act and as such is only enforceable by the members of the City Council.
- (b) Requests shall be for inspection only.
- (c) Information produced to a Council Member under this provision is not deemed a public release; rather, it is being produced to the Council Member in their official capacities. Any disclosure of information by a Council Member which had been provided to a Council member under this section may be deemed misuse of official information (Texas Penal Code §39.01) and/or malfeasance of office and subject the Council member to appropriate action under Article 4 herein and/or other applicable criminal, civil and injunctive proceedings.
- (d) The City Council has approved and adopted a form for use by Councilmembers for requests under this provision, which form is attached hereto as Appendix A.
- (e) Nothing herein shall prevent a City Council Member from requesting information consistent with, in accordance with and subject to the parameters, exceptions and limitations of the Public Information Act. Nothing herein shall prevent the City from processing a request for information from a City Council Member that does not conform with Section 2.17 herein in accordance with the Public Information Act.

2.18 City Council Members' Interaction with City Staff.

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

(a) *Treat all staff as professionals.*

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

(b) *Do not disrupt City staff from their jobs.*

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff - even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.

(c) *Never publicly criticize an individual employee.*

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, to a subordinate of the employee or to the employee's manager. Comments about staff performance should only be made to the City Administrator through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Administrator or the Mayor.

(d) *Do not get involved in administrative functions.*

Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

(e) *Do not solicit political support from staff.*

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

(f) *No Attorney-Client Relationship.*

Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

ARTICLE 3. RULES OF CONDUCT

3.1 Expectations

The following list conveys the City Council's expectations for City Council Members. These expectations are aspirational, and shall not serve as the basis for discipline under Article 4 herein.

- (a) Council Members are expected to conduct themselves in a manner that fosters public trust.
- (b) Council Members are charged with performing their public duties in a way that projects a high level of personal integrity and upholds the integrity of the organization.
- (c) Council Members must avoid behavior that calls their motives into question and erodes public confidence.
- (d) When exercising official duties, Council Members shall place the municipality's interests and the concerns of those the City serves above private, personal interests.
- (e) Those who serve the City are expected to value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence as values the City professes.
- (f) Council Members must balance transparency with the duty to protect personal privacy and preserve the confidential information with which the City has been entrusted.

3.2 Mandates

- (a) Financial Disclosures. All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law.
- (b) Business Disclosures. All Council Members shall file with the City Secretary annual reports listing the names of human individuals with whom the Council Member or the Council Member's spouse is named partner in the following types of businesses: General Partnership, Limited Partnership, Limited Liability Partnership, or Limited Liability Corporation, or Professional Corporation. Annual reports shall be submitted within ninety (90) days of taking office. Failure to submit a report shall not serve as a basis for disciplinary action under Article 4 herein unless the Council Member fails to submit a report within thirty (30) days of being provided written notification of the omission. Neither the existence of a business relationship as described in this Section, nor the submission of a report required by this Section shall prevent a Council Member from participating in Deliberations on matters pending before the City absent a Conflicting Interest.

3.3 Prohibitions

(a) Conflicts of Interest.

- (1) *Deliberation Prohibited.* It shall be an offense for a Council Member to knowingly deliberate regarding a Pending Matter for which the Council Member currently has a Conflicting Interest. Council Member with a current Conflicting Interest in a Pending Matter must recuse themselves and abstain from Deliberations. It is an exception to this recusal requirement if a majority of the Council Members is composed of persons who are likewise required to file (and who do file) disclosures on the same Pending Matter.
- (2) *Disclosure Required.* If a City Council Member has a Conflicting Interest in a Pending Matter, the Council Member shall disclose the nature of the Conflicting Interest by filing a sworn statement with the City Secretary. Disclosures under this subsection shall be for the time period, including the previous calendar year, and up to date where the Conflicting Interest arises before the Council Member.
- (3) *Definition of Conflicting Interest.* For purposes of this Article, the term Conflicting Interest is defined as follows:

Conflicting Interest means a stake, share, equitable interest or involvement in an undertaking in the form of any one (1) or more of the following:

- (a) ownership of five percent (5%) or more voting shares or stock in a Business Entity;
- (b) receipt of more than five thousand dollars (\$5,000.00) in gross annual income from a Business Entity, as evidenced by a W-2, 1099, K-1, or similar tax form;
- (c) ownership of more than five thousand dollars (\$5,000.00) of the fair market value of a Business Entity;
- (d) ownership of an interest in real property with a fair market value of more than one thousand dollars (\$1,000.00);
- (e) serves on the Board of Directors or as an Officer of a Business Entity, unless the Council Member was appointed to that position by the City Council; and/or
- (f) serves on the Board of Directors (i.e., governing body) or as an Officer of a nonprofit corporation or an unincorporated association, unless the Council Member was appointed to that position by the City Council; and/or
- (g) serves in an official, named capacity as a designated fundraiser for a nonprofit corporation or an unincorporated association, unless the Council Member was appointed to that position by the City Council.

A Council Member is considered to have a Conflicting Interest if the Council Member's relative has a conflicting interest.

The term Conflicting Interest does not include ownership of an interest in a mutual or common investment fund that holds securities or assets unless the Council Member participates in the management of the fund.

(b) Gifts.

- (1) *General.* It shall be an offense for a Council Member to accept any gift that might reasonably tend to influence such Council Member in the discharge of official duties.
- (2) *Specific.* It shall be an offense for a Council Member to accept any gift for which the fair market value is greater than fifty dollars (\$50.00). It shall be an offense for a Council Member to accept multiple gifts from a single source for which the cumulative fair market value exceeds two-hundred dollars (\$200.00) in a single fiscal year.
- (3) It shall be an offense for a Vendor to offer or give a Gift to a Council Member exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two-hundred dollars (\$200.00) per a single fiscal year.
- (4) *Definition of Gift.* Anything of monetary value, including but not limited to cash, the extension of credit, personal property, real property, services, meals, entertainment, and travel expenses.
- (5) *Exceptions.* This definition shall not apply to the following, which are permitted under this Article:
 - (a) a campaign contribution permitted by the Texas Election Code;
 - (b) meals, lodging, transportation, entertainment, and related travel expenses paid for (or reimbursed by) the City in connection with the Council Member's attendance at a conference, seminar or similar event, or the coordinator of the event;
 - (c) meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official City business, or charity functions, or community events, if furnished by the sponsor of such events (who is in attendance);
 - (d) complimentary copies of trade publications and other related materials;
 - (e) attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
 - (f) any gift that would have been offered or given to the Council Member because of a personal, familial, professional relationship regardless of the Council Member's capacity with the City;
 - (g) tee shirts, caps and other similar promotional material;
 - (h) complimentary attendance at political or charitable fund raising events.

- (6) *Donations.* It is not an offense under this Article for a Council Member to accept a Gift prohibited by this Article on behalf of the City. Conveyance of a Gift prohibited by this Article to the City or a nonprofit corporation cures any potential violation.

ARTICLE 4. COUNCIL MEMBER VIOLATIONS OF RULES OF CONDUCT AND PROCEDURE

4.1 Council May Discipline its Own Members.

- (a) In the event a Council Member violates these Rules of Conduct and Procedure, a majority of Council Members must vote in favor of holding a hearing to consider the alleged violation. The issue shall be raised within thirty (30) days of the violation, or it is no longer actionable.
- (b) A hearing to consider an alleged violation of a Council Member shall be held at a City Council meeting and shall be open to the public. The offending Member shall be present at the hearing to answer any questions asked by Council Members or make other statements as he or she may desire to make in his or her defense. If the offending Member refuses to attend the hearing, the remaining Council Members may proceed in his or her absence.
- (c) The City Council on supermajority vote may take the following action against the offending Council Member after conducting a hearing to consider an alleged violation:
 - (1) *No Action.* The City Council chooses to take no action.
 - (2) *Public Censure.* The City Council may choose to publicly censure the offending Member through a resolution passed by supermajority vote and entered into the public record.
- (d) Nothing herein shall prohibit the City Council from taking disciplinary action pursuant to Article 4 in relation to violations of Article 3, Section 3.3 that are also enumerated as criminal violations.

APPENDIX A

COUNCIL MEMBER INFORMATION AND DOCUMENT REQUEST FORM

PERSON REQUESTING INFORMATION

NAME: _____ DATE: _____

I AM REQUESTING THIS INFORMATION IN MY OFFICIAL CAPACITY AS, TITLE:

DESCRIPTION OF PROJECT:

DETAILED DESCRIPTION OF DOCUMENTS OR INFORMATION REQUESTED:

I understand that the documents I am requesting may contain confidential information that may not be released to the public. This information is not being released under the Public Information Act, and is being released for internal viewing only. An appointment will be made through the custodian of the records for a time the documents will be available for inspection. This information is for viewing by the applicant alone and no copies or photographs may be made without the approval from the custodian of the records. I further understand that certain information that I have requested may be confidential by law and as such may not be released to the public or showed to any other person, and its release may subject me to criminal charges and prosecution.

SIGNATURE: _____ Date: _____

For Internal Purposes

DOCUMENTS PREPARED BY:

NAME: _____ DATE: _____

TIME REQUIRED TO PREPARE DOCUMENTS: _____

DATE REQUESTOR NOTIFIED: _____

DATE OF INSPECTION: _____