

ARTICLE IV. - CODE OF CONDUCT*

Footnotes:

***Editor's note**— Ord. No. 90-2-19, § I, adopted Feb. 12, 1990, amended this article, relative to code of conduct, in its entirety, in effect repealing former §§ 2-96—2-101 and enacting similar new provisions in lieu thereof as §§ 2-96—2-108. Formerly, such provisions derived from Ord. No. 84-6-11, § 11(2-102)—(2-107), adopted June 25, 1984, and Ord. No. 86-9-13, § 2(2-102)—(2-107), adopted Sept. 8, 1986.

State Law reference— Conflicts of interest of officers of municipalities, Local Government Code, § 171.001 et seq.

Sec. 2-96. - Policy.

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city; that no officer, employee or member of any standing committee or board shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of his duties in the public interest; that public office not be used for personal gain; and that the city council at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact a code of conduct for all officials and employees, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that officers and employees of the City of Plano shall at all times strive to avoid even the appearance of impropriety.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91)

Sec. 2-97. - Definitions.

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

City council means the legislative and governing body of the city, consisting of the mayor and council members.

Employee means any person employed by the city, including those individuals on a part-time basis, but shall not mean any independent contractor hired by the city.

Officer or official means any member of the city council and any appointed member of a board, commission or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis, excluding those boards, commissions or entities not operating under the direct authority of or subject to the direct control of the city council.

Relative means any person related to an officer or employee within the first degree by consanguinity or affinity and shall include a spouse, father, mother, son, daughter, brother or sister.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 96-11-24, § I, 11-25-96)

Sec. 2-98. - Standards of conduct—Officers and employees.

(a) *Officer and employee standards.* No officer or employee of the city shall:

- (1) Recommend, participate in the decision, including voting or discussion, or participate in the monitoring or fulfilling obligations of any contract (whether oral or written) for materials, supplies, or service with the city nor in any sale of any rights or interest in land, if the officer, employee, or a relative of the officer or employee has a financial interest in such contract or rights or interest in land. In such event, an affidavit specifying the financial interest shall be filed with the record keeper prior to any discussion on the item and the affected member shall thereafter refrain from participation on that item.

Notwithstanding the above, the more restrictive prohibitions set forth under section 11.02 of the City Charter applies to officers who have final decision making authority such as city council members and appointees to boards or commissions.

The "financial interest" contemplated under this subsection and under section 11.02 of the City Charter requires that the officer, employee or relative receive an actual financial benefit from the transaction with the city. An actual financial benefit from the transaction shall not include:

- a. An ownership in the entity transacting with the city where the ownership interest is less than one (1) percent.
 - b. Compensation as an employee, officer or director of the entity transacting with the city where such compensation is not affected by the entity's transaction with the city.
 - c. An investment or ownership in a publicly held company in an amount less than ten thousand dollars (\$10,000.00).
- (2) Represent any private interest of others in any action or proceeding involving the city nor voluntarily participate on behalf of others in any litigation to which the city might be party nor appoint or recommend for appointment any person to a city board or commission that is a party to litigation against the city or representing any private interest of others in any litigation to which the city is a party.
 - (3) Use his official position to secure special privileges or exemptions for himself or others.

- (4) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group. This shall not prevent the granting of fringe benefits to city employees as a part of their contract of employment or as an added incentive to the securing or retaining of employees.
 - (5) Disclose information that could adversely affect the property, government or affairs of the city; nor directly or indirectly use any information gained solely by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.
 - (6) Disclose confidential information.
 - (7) Engage in any outside activities which will conflict with or will be incompatible with his position as an officer of the city, the duties assigned to him in his employment with the city, or in which his employment in the city will give him an advantage over others engaged in a similar business, vocation or activity.
 - (8) Knowingly perform or refuse to perform any act to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs.
 - (9) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance or city policy.
 - (10) Engage in any conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
- (b) *Additional standards—City council and employees.* No employee or city council member shall represent or appear on behalf of private interests of others before any agency of the city or any city board, commission or committee.
 - (c) *Additional standards—Officers other than city council.* No other city officer shall represent or appear on behalf of the private interests of others before the board, commission or committee of which he is a member, or before the city council or other board on an appeal from such board, commission or committee concerning such matter.
 - (d) *Additional standards—Political activity—Employees.* State law imposes limitations on the political activities of employees. Additionally, employees are prohibited from using the influence or prestige of their position or title in an endorsement of or opposition to any candidate for elective office and/or engaging or participating in political activity or campaigns while in uniform and/or on duty. Except as limited by state law, all employees are encouraged to participate in all local, state and national elections and in any political process as a private citizen.
 - (e) *Additional standards—Political activity—Boards and commissions.* Boards and commissions of the City of Plano, other than city council, are prohibited from hosting or sponsoring events for candidates to elective office, including but not limited to, candidate forums, debates and introductory meetings.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-1-14, § I, 1-14-91; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 96-11-24, §§ II, III, 11-25-96; Ord. No. 98-10-18, § I, 10-26-98; Ord. No. 2016-7-7, §§ I, II, 7-25-16; Ord. No. 2017-6-12, § I, 6-28-17)

Sec. 2-99. - Same—Additional for council members.

- (a) In any land matter which comes before the city council, planning and zoning commission, or board of adjustment and in which any member of the city council or aforementioned boards and commissions has a financial interest in any property within two hundred (200) feet of the matter before it, such member shall disclose the existence of the interest by filing an affidavit with the recordkeeper and, thereafter, abstain from any discussion or voting on the matter and not attempt to influence any other member on such matter. In addition, any state law provision regarding a conflict of interest shall also be followed.

It is the intention of this provision that the term "land matter" shall be interpreted broadly to include zoning, permit requests, variances, etc.

- (b) In the event that any matter comes before the city council involving directly or indirectly the interest of a present business client/customer of any city council member or the interest of a person or entity who has been a business client/customer, of any council member within the prior twelve (12) months, and funds received by the council member or the entity for which he is employed from the past/present business client/customer amount to the sum of ten thousand dollars (\$10,000.00) or more in gross income during such twelve-month period, and such fact is known to the council member, then that council member shall disclose the existence of such interest to the other council members and thereafter abstain from voting in the matter and refrain from attempting to influence the vote of any other council member.
- (c) No council member who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city council.
- (d) With the exception of those proceedings allowed under section 2-103 of this code of conduct, no council member shall personally appear in his own behalf before the city council, any city board, commission, or committee but may designate and be represented by a person of his choice in any such personal matter.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 96-11-24, § IV, 11-25-96)

Sec. 2-100. - Training.

All officials of the city elected or appointed after September 30, 1997, shall receive training as to the provisions of the code of conduct within sixty (60) days following their initial election or appointment. For those city officials whose initial election or appointment to office occurred prior to September 30, 1997, training shall take place within sixty (60) days following any re-election or re-appointment occurring after

September 30, 1997. The training shall be conducted annually by either video or live presentation, whichever is most convenient for the official. Upon completion of training, the official shall notify the city secretary of compliance with this section.

(Ord. No. 97-3-18, § I, 3-17-97; Ord. No. 98-10-18, § II, 10-26-98)

Editor's note— Ord. No. 97-3-18, § I, adopted March 17, 1997, added a new § 2-100 to the Code, and § II of the ordinance renumbered former §§ 2-100-2-104 as §§ 2-101—2-105. In addition, § III of Ord. No. 97-3-18 amended former § 2-103 (now § 2-104), and § IV of the ordinance repealed former § 2-105 of the Code, which pertained to complaints against officers other than council members; procedures and derived from Ord. No. 90-2-19, § I, adopted Feb. 12, 1990; and Ord. No. 91-4-37, § I, adopted April 22, 1991.

Sec. 2-101. - Disclosure of interest.

Any officer or employee, whether elected, appointed or hired, who has a prohibited financial interest in any matter pending before the city shall disclose such interest to other members of the city council, committee, commission or board of which he is a member or, in the case of an employee, to his supervisor and shall refrain from further discussion of the matter; shall not be physically present when the subject is discussed in executive session; and shall not vote on or participate further therein in any manner.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 97-3-18, § II, 3-17-97)

Note— See the editor's note following § 2-100.

Sec. 2-102. - Disclosure of real property interest.

On or before January first and July first of each calendar year, every council member shall file in writing with the city secretary, on a disclosure form prepared and approved by the city, the existence and location of any real property in the City of Plano in which the council member has any financial interest, including any interest of one (1) percent or more in any entity which has a financial interest in any real property in the City of Plano. Said disclosure shall also include the identity and location of all real property within the City of Plano in which the council member has acquired or conveyed any interest since the filing of the last similar report required by this section. If a council member has an interest in an entity that will not disclose to the council member whether or not the entity has a financial interest in real property in the City of Plano, the council member may satisfy his disclosure requirement under this section by stating such fact in writing to the city secretary.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 97-3-18, § II, 3-17-97)

Note— See the editor's note following § 2-100.

Sec. 2-103. - Contracts with the city; affidavit.

All contracts in excess of five thousand dollars (\$5,000.00) entered into by any person, corporation or entity seeking to do business with the city shall contain an affidavit executed by a legally authorized party to the effect that no person has or will have during the term of said contract any prohibited interest as defined in section 11.02 of the City Charter. The affidavit shall include an acknowledgement and acceptance by the affiant that the existence of a prohibited interest at any time during the term of said contract will render the contract voidable.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 96-11-24, § V, 11-25-96; Ord. No. 97-3-18, § II, 3-17-97)

Note— See the editor's note following § 2-100.

Sec. 2-104. - Complaints against council members and other officers; procedures.

- (a) To improve the understanding of the code of conduct and related laws applicable to public officials and employees, persons may ask the city attorney questions regarding those provisions.
- (b) All complaints or allegations of a violation of this code of conduct against a council member or other officer shall be made in writing, sworn to before a notary public, and filed of record with the city attorney. Such complaint shall describe in detail the act or acts complained of and the specific section(s) of this code of conduct alleged to have been violated. As determined by the city attorney, a general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein, and anonymous complaints shall not be considered.
- (c) Within one (1) business day after receipt, the city attorney shall notify the mayor and the implicated official of the existence and nature of the complaint. If the mayor is not available or is implicated, the notification shall be in order of successor of duties.
- (d) Within three (3) business days after notification by the city attorney, the mayor or mayor pro tem shall schedule a special called meeting of the city council to consider the complaint in executive session. At such meeting, the city attorney shall present a written report to the council describing in detail the nature of the complaint and his/her findings and conclusions as to a possible violation of this code. The non-implicated council members in attendance shall then review the complaint and either reject the complaint or invoke an investigation. In the event the council decides to reject the complaint, the vote to reject the complaint shall be taken in open session without further investigation. In the event the council decides to invoke an investigation, the city attorney shall select and appoint an independent private attorney to fully investigate the alleged improprieties. Said attorney shall be selected from a list of four (4) attorneys appointed by the city council prior to such meeting. Two (2) attorneys shall be appointed by the city council prior to January 15 of each even-numbered calendar year. Two (2) attorneys shall be appointed by the city council prior to January 15 of each odd-numbered year. Said attorney shall have all

of the powers of investigation as is given to the city council by reason of section 3.13 of the Charter of the city. The investigating attorney shall report back to the council in writing within ten (10) business days from his/her appointment, unless an extension is granted by a majority of the non-implicated council members. Such report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the attorney's opinion as to whether or not a violation of this code of conduct occurred.

- (e) The council shall consider the findings of the investigating attorney's report at the meeting in which it is presented, at which time the person(s) accused shall have the right to a full and complete hearing with the opportunity to call witnesses and present evidence on his/her behalf. The final action, decision, or vote of the council with regard to the complaint shall be taken or made only in a meeting that is open to the public.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 97-3-18, §§ II, III, 3-17-97)

Note— See the editor's note following § 2-100.

Sec. 2-105. - Violations by council members.

The failure of any city council member to comply with or who violates one (1) or more of the standards of conduct in this article which apply to him shall constitute grounds for reprimand. Such reprimand shall require a two-thirds vote of the eligible council members. Offenses committed in violation of the City Charter shall be punished in accordance with the terms of the City Charter, as amended.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 97-3-18, § II, 3-17-97)

Note— See the editor's note following § 2-100.

Sec. 2-106. - Violations by officers and employees.

- (a) The failure of an officer to comply with or who violates one (1) or more of the standards of conduct in this code of conduct shall constitute grounds for expulsion, reprimand or removal from office to the extent allowed by the law.
- (b) In the case of any employee of the city, disciplinary action and appeals therefrom shall be in conformance with procedures established by the City Charter and personnel rules and regulations.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91)

Sec. 2-107. - Appearance by past officer or employee.

- (a) No past city council member shall appear before the city council or any board or commission and represent any interest on any matter whatsoever for a period of ninety (90) days after the date of termination of such relationship with the city. No past city council member shall appear before the city council or any board or commission and represent any interest on any matter which was pending in the city during his service for a period of one (1) year after the date of termination of such relationship with the city.
- (b) No past officer of the city other than a council member shall appear before any board or commission on which he has previously served or shall represent any interest on any matter which was pending before that board or commission during his service for a period of one (1) year after the date of termination of such relationship with the city.
- (c) No past employee shall appear before any board or commission or shall represent any interest on any matter which was considered or pending before said employee or the department in which he worked for a period of one (1) year after the date of termination of such relationship with the city.
- (d) Subsection (c) above is intended to preclude a former employee from representing themselves or others before city council, a board or commission for matters requiring a decision, action or request for relief on matters that were worked on by the employee or pending in the department in which he worked. Subsection (c) does not preclude a former employee in any way from contracting with the city for goods or services on terms and conditions the city deems appropriate.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91; Ord. No. 2006-1-8, § I, 1-9-06)

Sec. 2-108. - Adoption of state statute.

Section 171.001 et seq., of the Local Government Code of the State of Texas, as amended, being the statute which regulates conflicts of interest of officers of municipalities in the State of Texas, is hereby adopted and made a part of this code of conduct for all purposes, with the proviso that, in the case of a conflict between the provisions of this code of conduct and the state statute, then in that event the more restrictive provision shall govern.

(Ord. No. 90-2-19, § I, 2-12-90; Ord. No. 91-4-37, § I, 4-22-91)

Secs. 2-109—2-115. - Reserved.