

ARTICLE II

CODE OF ETHICS AND TRAVEL AND EXPENSE POLICY

§ 35.20. DEFINITIONS.

Unless the context requires otherwise, the following words, terms and phrases, when used in this Code, shall mean the following:

CITY. The City of Pflugerville, Texas.

CITY BOARD OR COMMISSION. City commissions, committees, boards, tasks forces, or other city bodies, the members of which are appointed by the City Council.

CITY CHARTER. The Home Rule Charter of the City of Pflugerville, Texas, adopted November 2, 1993, as hereafter amended from time to time.

CITY COUNCIL. The legislative and governing body of the City, consisting of the Mayor and Council members.

CODE. This Code of Ethics, and Travel and Expense Policy, as hereafter amended from time to time.

CONFERENCE. A conference, seminar, educational gathering, meeting to discuss City business or other fact-finding meeting authorized in accordance with § 35.22 of this Code.

EMPLOYEE. Any person employed by the City, including those individuals employed on a part-time basis, but shall not mean any independent contractor hired by the City.

OFFICIAL. The Mayor, members of the City Council, the City Manager, Assistant City Managers, the City Secretary, and the head of any City department, whether such person is salaried, hired, appointed or elected; and members of City Boards or Commissions.

REGION. The geographic area designated as Region 10 by the Texas Municipal League.
(Ordinance 400-94-04-12, passed 4-12-94; Am. Ordinance 510-98-10-27, passed 10-27-98)

§ 35.21. CODE OF ETHICS.

(A) Purposes. This code of ethics has been adopted for the following purposes:

- (1) To comply with the requirements of Sec. 11.05 of the City Charter;
- (2) To establish guidelines for high ethical standards in official conduct by City Officials and Employees; and
- (3) To provide guidance to City Officials and Employees in order to instill a high level of public confidence in the professionalism, integrity and commitment to the public interest of those in public service.

(B) Policy. It is the policy of the City that all City Officials and Employees shall conduct themselves in a manner consistent with sound business and ethical practices, ensuring that the public interest is always considered in conducting City business.

(C) Conflicts of Interest.

- (1) No City Official or Employee shall transact any business in his official capacity with any person with whom or business entity in which he has any personal pecuniary interest, whether direct or indirect.
- (2) No City Official or Employee shall represent, directly or indirectly, himself or any other person, business entity, group or interest before the body of which he is a member, except in of purely public concern and when doing so without compensation.
- (3) An Official or Employee may not participate in a vote or decision on a matter in which he has a personal pecuniary interest or when his participation is prohibited by law.
- (4) Nothing in this Section shall prohibit any member of the City Council from participating in a vote or decision relating to travel budgets of City Council members.

(D) Disclosure of Conflict of Interest.

- (1) All members of the City Council and all members of City Boards or Commissions shall disclose the existence of any personal pecuniary interest which he may have in a matter which would be affected by a vote or decision of the body of which he is a member.
- (2) In the event of a conflict of interest, a member of the City Council or a City Board or Commission shall, prior to the vote or decision on the matter, file an affidavit with the City Secretary stating the nature and extent of his conflict of interest. Thereafter, the member shall leave the dais and abstain from participation in the discussion on the matter in which he has a conflict of interest and, if the matter is discussed in executive session, he shall not be physically present for such discussion.
- (3) An Employee shall notify his supervisor in writing of any personal pecuniary interest which he may have in a matter which would be affected by an exercise of discretionary authority by the Employee. Upon receipt of such notice, his supervisor shall reassign the matter.

(E) Gifts. A City Official or Employee may not accept a benefit, as defined in Section 36.01, Texas Penal Code, from any person or entity if the acceptance of such a benefit is prohibited by law. As of the date of adoption of this Code, Section 36.08 of the Texas Penal Code sets forth the prohibitions against acceptance of gifts by public officials. Nothing in this § 35.21 shall be deemed to prohibit an Official or Employee from accepting a benefit permitted under Section 36.10, Texas Penal Code.

(F) Bribery. A City Official or Employee shall not intentionally or knowingly offer, confer or agree to confer, or solicit, accept or agree to accept, any benefit, as defined in Section 36.01, Texas Penal Code, as consideration, when to do so is prohibited by law. As of the date of adoption of this Code, Section 36.02 of the Texas Penal Code lists the actions which are considered to constitute bribery when committed by public officials.

(G) Prohibition against Serving as Surety. No Official or Employee shall serve as a surety on any official bond required of an Official or Employee of the City, or as a surety for any person or entity doing business with the City.

(Ordinance 400-94-04-12, passed 4-12-94; Am. Ordinance 510-98-10-27, passed 10-27-98)

§ 35.22. TRAVEL AND EXPENSE POLICY.

(A) Purpose. The City wishes to establish an equitable and reasonable policy to cover the reimbursement of City Councilmember and employee necessary and reasonable expenses incurred in the authorized conduct of City business. All requests for reimbursement of expenses shall be subject to requirements of documentation and reasonableness. This Policy is established to set forth a travel and expense procedure meeting the criteria set forth in Section 3.04 of the City Charter, to comply with Section 11.05(a)(2) of the City Charter and to both conform to IRC Code section 162 and qualify for the Safe Harbor provisions provided by law to ensure reimbursements are not treated as taxable compensation by the IRS.

(B) Adoption of Accountable Plan. To comply with IRS fiscal accounting requirements, the city declares its reimbursement plan is an Accountable Plan expense reimbursement policy pursuant to IRC Code section 162, and relevant IRS regulations and procedures, as more specifically set out below.

(C) Implementation. Any City Councilmember may be reimbursed for approved expenses which are necessary, incurred in the performance of official duties, and which are approved by the City Council pursuant to this section. Any city employee may be reimbursed for approved expenses which are necessary, incurred in the performance of official duties, and which are approved by the City Manager pursuant to this section. Any approved travel or expenses necessary and reasonable in the authorized conduct of city business may be prepaid by the City.

(D) Statement of Expenditures. Reimbursements may only be made pursuant to this policy.

- (1) To be eligible for reimbursement, any city employee or City Councilmember shall present a statement of the expenses to the finance department within 30 days of the expense, together with supporting receipts, invoices and mileage records.
- (2) Any reimbursement paid, if determined to be unsubstantiated within a reasonable period of time, or determined to be an overpayment, shall be paid back to the city within a reasonable period of time, but no later than 120 days after the expense is reimbursed.
- (3) Any overpayment if not returned within 120 days, may be interpreted by the U.S. Internal Revenue Service as compensation to the employee or City Councilmember. In such an event, the City may be obligated to seek appropriate withholdings from the employee or Councilmember in accordance with IRS rules.

(E) Qualifying Reimbursable Expenses. City Councilmember expenses which are necessary, incurred in the performance of official duties, and which are approved by the City Council are eligible for reimbursement as set forth below. Employee expenses which are necessary, incurred in the performance of official duties, and which are approved by the City Manager are eligible for reimbursement as set forth below. Any City Councilmember expense not listed below may be approved by the City Council by separate action, either prior to or subsequent to the expense. However, the City Council has no obligation to approve any reimbursement request that, in the opinion of a majority of the City Council, is not a necessary expense incurred in the performance

of official duties of the City Councilmember. City Councilmembers reimbursement for expenses incurred by official capacity participation in activities, may be reimbursed as provided:

- (1) Approved expenses include items such as:
 - (A) Meals.
 - (B) Lodging (see details below).
 - (C) Mileage reimbursement for transportation at the maximum nontaxable rate allowed by the Internal Revenue Service at the time mileage is incurred applying the shortest distance between destinations. Reimbursement payments for the use of private automobiles by City Councilmembers shall be made monthly upon submission to the Finance Department of a statement of approved expenditures.
 - (D) Airfare (Coach rates).
 - (E) Rental car (including the expenses of rental company optional insurance coverage).
 - (F) Train fare (regular passenger rates).
 - (G) Taxi fare.
 - (H) Bus fare.
 - (I) Non-valet parking expenditures; unless price of valet is commensurate.
- (2) Disallowed expenses include those related to:
 - (A) Any expense of a personal nature.
 - (B) Any expense for the accompaniment of a spouse, child or guest.
 - (C) Social activities.
 - (D) The purchase of alcoholic beverages.
 - (E) Laundry services.
 - (F) Tipping or services charges exceeding 20%.
 - (G) Parking violations.
 - (H) Traffic violations.
 - (I) Entertainment.
 - (J) Any expense not approved by City Council.
- (F) Conference Registration Expenses. Registration expenses for all local government continuing education conferences shall be eligible for reimbursement. A written report summarizing the information obtained by the City Councilmember attending the conference shall be submitted to the City Council by the City Councilmember after the conclusion of

the conference. The report shall be placed on the next regular City Council agenda for consideration before any eligible expenses arising from attending the conference may be reimbursed.

(G) Lodging Expenses. Lodging reimbursement for conferences shall not exceed the official Conference rate, if conference rate lodging is available. Lodging reimbursement for other events shall be reasonable. Reimbursable lodging expenses include lodging expense for the night before the commencement of the event and the night of the final meeting day of the event.

(Ordinance 400-94-04-12, passed 4-12-94; Am. Ordinance 510-98-10-27, passed 10-27-98; Ordinance 937-08-02-26, passed 2-26-08; Ordinance 1312-17-08-22, passed 8-22-17)

§ 35.23. COMPLAINT PROCEDURE; VIOLATIONS.

(A) Procedure for Complaints Against City Officials and Employees.

- (1) All complaints or allegations of a violation of this Code against an Official or Employee shall be made in writing, sworn to before a notary public; and filed of record with the City Attorney. A complaint shall describe in detail the act or acts complained of and the specific section(s) of this Code alleged to have been violated. Neither general complaints lacking in specific detail, as determined by the City Attorney, nor anonymous complaints shall be sufficient to invoke the procedures set forth in this section.
- (2) Within five (5) business days after receipt of a complaint, the City Attorney shall make the initial determination as to whether or not the facts alleged in the complaint, if true, would at face value constitute a violation of this Code. If it is determined by the City Attorney that the facts as alleged would not constitute a violation, the City Attorney shall present a written report describing in detail the nature of the complaint and the findings of the City Attorney to the City Council at the Council's next regularly scheduled meeting. A majority of those City Council members not named in the complaint shall consider such report and either invoke the investigatory procedure contained in this section or reject the complaint.
- (3) If the City Attorney determines that the facts alleged could constitute a violation of this Code, the City Attorney shall, within five (5) business days after receipt of the complaint, notify the Mayor and members of the City Council of the existence and nature of the complaint. At the next regularly scheduled Council meeting, the City Attorney shall present a written report to the City Council describing in detail the nature of the complaint and his findings and conclusions as to a possible violation of this Code.
- (4) The City Council shall consider the findings of the report at the meeting at 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, with the right to be represented by counsel at their own expense. No final action, decision, or vote with regard to any matter shall be made except in a meeting which is open to the public.

(B) Violations - Council Members.

- (1) The failure of any City Council member to comply with one or more of the applicable standards of conduct set forth in this Code shall constitute grounds for reprimand or removal from office. Any reprimand or removal shall require the affirmative vote of three (3) City Council members.
- (2) Any City Council member removed from office because of violations of this Code shall be ineligible to hold City office or employment for five (5) years after removal, in, addition to any other penalty provided by law.

(C) Violation - Officials and Employees.

- (1) The failure of a City Official to comply with one (1) or more of the standards of conduct set forth in this Code shall constitute grounds for expulsion, reprimand, or removal from office to the extent allowed by law.
- (2) The failure of a City Employee to comply with one (1) or more of the standards of conduct set forth in this Code shall constitute grounds for reprimand, suspension or termination to the extent allowed by law. All disciplinary action and any appeals therefrom shall be in conformity with applicable procedures established by the City Charter and personnel policies of the City.
- (3) Any City Official removed from office or Employee dismissed from employment because of violation of this Code shall be ineligible to hold City office or employment for five (5) years after removal, in addition to any other penalty provided by law.

(Ordinance 400-94-04-12, passed 4-12-94; Am. Ordinance 510-98-10-27, passed 10-27-98)