

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, REPEALING EXISTING CITY COUNCIL POLICIES AND PROCEDURES AND RULES OF PROCEDURE AND ADOPTING NEW CITY COUNCIL POLICIES AND PROCEDURES AND RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL BUSINESS AND MEETINGS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council has adopted a Policies and Procedures and Rules of Procedure to guide the City Council in the conduct of its business and meetings; and

WHEREAS, the City Council Policies and Procedures and City Council Rules of Procedure have been periodically amended since their adoption but have not had a complete and substantive review and revision for many years; and

WHEREAS, laws of the State of Texas and expectations of the City Council and citizens of the City have changed over time, necessitating a complete and material revision of the City Council Policies and Procedures and Rules of Procedure; and

WHEREAS, City Staff have reviewed and revised the City Council Policies and Procedures and Rules of Procedure to eliminate outdated material and include new material to conform to the laws of the State of Texas and direction from the City Council, and true and correct copies of the revised documents are attached hereto as Exhibits A and B respectively and incorporated herein by reference; and

WHEREAS, the City Council finds that it is in the best interests of the City to adopt the City Council Policies and Procedures and Rules of Procedure attached hereto as Exhibits A and B.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The City Council Policies and Procedures, attached hereto as Exhibit A, and the Rules of Procedure, attached hereto as Exhibit B, are hereby adopted as the official rules for the conduct of the business and meetings of the City Council, except as may otherwise be provided by the City Charter or State law.

SECTION 2. That any City Council Policies and Procedures and Rules of Procedure previously adopted and in conflict with Exhibits A or B are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall be effective immediately.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 18th day of October 2021.

Bruce Archer
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary



David L. Paschall
City Attorney



City Council Policies and Procedures

Updated October 2021

CHAPTER 1

Introduction

1.1 Purpose

- (a) The purpose of this policies and procedures manual is to assist the City Council by documenting accepted policies and guide members of the City Council in their actions.

1.2 Overview

- (a) This policies and procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of the City Council. Many other laws, plans and documents exist which guide the City Council to certain courses of action and practices. A list of some of the most important documents which establish City Council direction is provided below:
 - (1) *Code of the City of Mesquite*: The City Code contains the City Charter and a complete codification of the general and permanent ordinances of the City. The Code contains a variety of laws including, but not limited to, zoning regulations, subdivision requirements, traffic regulations, and building and construction standards.
 - (2) *Texas Local Government Code* and *Texas Government Code*: State law contains many requirements for the operation of municipal government and regulations for open meetings.
 - (3) *Annual Budget*: The City's annual budget provides a description of City services and the resources used to provide services. The document contains a broad overview of the budget as well as descriptions of programs offered within each department.

- (4) *Mesquite Comprehensive Plan:* The Comprehensive Plan provides a framework for the general development policies prepared by the Planning and Zoning Commission and City Council that guides future development in the City.
- (5) *Mesquite Fire and Police Civil Service Rules and Regulations:* This document sets forth the local rules and regulations for employees covered by State Civil Service (Chapter 143).
- (6) *General Government Policies and Procedures:* This document sets forth the policies and procedures to be followed by City General Government employees and, to the extent not in conflict with Texas Local Government Code Chapter 143, to sworn fire and police employees.
- (7) *Handbook for Mayors and Councilmembers and Key Legal Requirements for Texas City Officials:* These documents, published by the Texas Municipal League, provide a wealth of information on the role, responsibilities, and legal requirements of the City Council.
- (8) *Strategic Goals and Objectives:* This outlines the strategic direction and goals of the City Council that the City is striving to accomplish.

1.3 Contact City Manager or City Attorney for Questions and Guidance

- (a) The information contained in these policies and procedures includes summaries of State and local laws and is provided so you are generally aware of these laws. Violations of these laws may result in criminal charges. If a matter arises implicating anything referenced in this manual, you are encouraged to contact the City Manager or City Attorney for further guidance.

CHAPTER 2

Meetings

2.1 Legal Requirements

- (a) The City Council shall hold at least one regular meeting in each month at a time to be fixed by it for such regular meetings and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens. (*Charter, Art. IV, Sec. 15*)
- (b) A majority of the City Council shall constitute a quorum to do business. No valid action will be taken unless a quorum is present. Four members shall be considered a quorum. More than half the members present shall be considered a majority if a quorum is present. The affirmative vote of at least four (4) of those attending any meeting at which a quorum is present shall be necessary to adopt any ordinance or resolution. (*Charter, Art. IV, Sec. 17*)
- (c) The Mayor, if present, shall preside at meetings of the City Council. (*Charter, Art. IV, Sec. 13*)

2.2 Open Meetings Act

- (a) Every meeting of the City Council must be conducted in accordance with the Texas Open Meetings Act. The Act requires that written notice of the date, hour, and place of every City Council meeting, together with an agenda specifically describing all items to be considered, must be posted 72 hours in advance of such meeting on a physical or electronic bulletin board accessible to the public and on the municipalities Internet website. The Act also requires cities and other entities to post notice of meetings and agendas on their Internet websites (Government Code, Secs. 551.050, 551.056). There are two exceptions to the 72-hour posting requirement:

- (1) At least one hour advance notice is required for special meetings called in cases of “emergency or urgent public necessity” as defined in the Act. If emergency or urgent public necessity items are to be added to the agenda of a meeting for which 72-hours’ notice has already been posted, a supplemental notice listing such items must be posted at least one hour prior to the meeting. (*Government Code, Sec. 551.045*)
- (2) If the City Council is prevented from convening an otherwise properly noticed meeting due to a catastrophe, as defined by the Act, the City Council may convene the meeting in a convenient location within 72 hours provided at least one hour advance notice is provided. (*Government Code, Sec. 551.0411*)

2.3 Public Criticism:

- (a) The City Council may not prohibit public criticism of the City Council, including criticism of any act, omission, policy, procedure, program, or service. (*Government Code, Sec. 551.007(e).*) Criticism of a personal nature or concerning non-City related business remain subject to the rules of decorum.

2.4 Closed Meetings

- (a) All meetings of the City Council shall be open to the public. Exceptions to this requirement are provided under the Act. Closed meetings, or “executive sessions,” may be held for the following reasons:
 - (1) *Consultation with Attorney:* Private consultations between the City Council and its attorneys to discuss pending or contemplated litigation, settlement offers or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. (*Government Code, Sec. 551.071*)

- (2) *Deliberation Regarding Real Property:* Discussions regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. (*Government Code, Sec. 551.072*)
 - (3) *Deliberation Regarding Prospective Gift:* Discussions regarding a negotiated contract for a prospective gift or donation to the City if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. (*Government Code, Sec. 551.073*)
 - (4) *Personnel Matters:* Discussions involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a City officer or employee, or to hear complaints or charges against an officer or employee, unless such officer or employee requests a public hearing. (*Government Code, Sec. 551.074*)
 - (5) *Deliberation Regarding Security Devices or Security Audits:* Discussions regarding the deployment or specific occasions for implementation of security personnel or devices or a security audit. (*Government Code, Sec. 551.076*)
 - (6) *Deliberation Regarding Economic Development Negotiations:* Discussions regarding commercial or financial information relating to a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations or to deliberate the offer of a financial or other incentive to a business prospect. (*Government Code, Sec. 551.087*)
- (b) Before a closed meeting can take place, the City Council must first convene in open session, the presiding officer must announce that a closed meeting will take place and cite the section(s) of the Texas Government Code authorizing the closed session. No final action on any matter considered in a closed meeting

may be taken except in an open meeting. (*Government Code, Sec. 551.101-.102*)

- (c) All matters discussed in closed meetings shall be privileged information and may not be disclosed without consent of the majority or by lawful process from a court of competent jurisdiction. Disclosure or electronic recordings of matters discussed in closed meetings without waiver of the privilege by majority consent shall constitute misconduct in office and a member, for such disclosure, may be disciplined as in other cases of misconduct in office. Provided, however, disclosure to one's attorney without release of the privileged nature of the matter shall not be misconduct. (*Government Code, Sec. 551.146; Code of Ordinances 2-123*)

2.5 Types of Meetings

- (a) *Pre-Meetings:* This meeting is held prior to the regular City Council meeting to allow Council to discuss the posted agenda items and receive briefings from the City Staff.
- (b) *Regular Meetings:* The City Council shall hold at least one regular meeting each month at the time to be fixed by the City Council for such regular meeting and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens. It shall be the policy of the City Council to meet at or after 3:00 p.m. (i) on the first and third Mondays of each month and (ii) on the fourth Monday of each September, unless otherwise changed or cancelled. All regular meetings falling on an official City holiday shall be held on the first City business day following the official City holiday (*Charter, Art. IV, Sec. 15*) (*Resolution No. 55-2017 and amended by Resolution No. 60-2018*)
- (c) *Special Meetings:* Special meetings may be called by the Mayor, the Mayor Pro Tem or Deputy Mayor Pro Tem, when acting in place of the Mayor, or by any three members of the City Council.

- (1) The call for a special meeting shall be filed with the City Secretary in written form signed by the Mayor, the Mayor Pro Tem or Deputy Mayor Pro Tem, when acting in place of the Mayor, or three City Councilmembers at least three days prior to the special meeting, except in case of an emergency, in which case the nature of such emergency shall be expressed in the notice.
- (2) The call for a special City Council meeting made at a regular meeting at which all members of the City Council are present shall be sufficient notice of such meeting to the City Councilmembers. If any member of the City Council is absent from any regular meeting when such special meeting is called, such member shall be given written notice by the City Secretary. In the case of an emergency meeting, all members shall receive written or telephonic notice as the circumstances allow. The call for a special meeting shall specify the day, hour and place of such meeting and the items to be considered.
- (3) No ordinance, unless it be declared an emergency measure, shall ever be passed at a special meeting, but may be passed at any regular meeting of the Council unless otherwise provided. (*Charter, Art. IV, Sec. 18*)
- (d) *Council/Staff Work Sessions:* City Council and City Staff work sessions may be held as a part of the regular meetings or as additional meetings, as the business of the City requires.
- (e) *Closed Meetings:* The City Council may meet in closed meetings at the call of the Mayor, Mayor Pro Tem or Deputy Mayor Pro Tem, when acting in place of the Mayor, or any three members of the City Council upon those matters allowed under State law.
- (f) *Recessed Meetings:* Any meeting of the City Council may be recessed to the following regular business day by a majority vote of the City Councilmembers who are present. Any part of a meeting continued beyond the following regular business day must give notice required by the Act. (*Government Code, 551.0411; Rules of Procedure, Revised May 1987*)

CHAPTER 3

Ethics

3.1 Conflicts of Interest

- (a) Members of the City Council are expected to avoid involvements that put their own personal interests at cross purposes with those of the public. Given the broad scope of the Council's powers, potential conflicts of interest will inevitably arise. At any time, a member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict.

- (b) No member of the City Council shall participate in a vote or decision on a matter involving a business entity or real property in which the member has a substantial interest if action on the matter will have a special economic effect on the business entity or value of the real property.
 - (1) A member has a substantial interest in a business entity if:
 - i. the member owns 10 percent or more of the voting stock or shares of the business entity, or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
 - ii. funds received by the member from the business entity exceed 10 percent of the member's gross income for the previous year; or

 - (2) A member has a substantial interest in real property if:
 - i. the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

- (3) A member has a substantial interest if a person related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section. *(Local Government Code, Chap. 171) (See Appendix for Consanguinity and Affinity Chart and Conflict Flow Charts.)*

- (c) No member of the City Council shall act as surety for a business entity that has work, business or a contract with the City, or act as surety on any official bond required of an officer of the City. *(Local Government Code, Chap. 171)*

- (d) No member of the City Council shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, or to a contractor supplying the City, except on behalf of the City as a member of the City Council. *(Charter, Art. IV, Sec. 34)*

- (e) If a member of the City Council, or a person related to the member in the first degree of consanguinity or affinity, has a substantial interest in a business entity or in real property, the member must file, before a vote or decision on any matter involving the business entity or the real property, an affidavit and shall abstain from voting and further participation in the matter. *(Local Government Code, Sec. 171) (See Appendix for form of affidavit.)*

3.2 Disclosure of Certain Relationships

- (a) A member of the City Council shall file a Conflicts Disclosure Statement with the City Secretary if a vendor enters into a contract with the City or if the City is considering entering into a contract with the vendor, and the member of the Council or member's family member within the first degree of consanguinity or affinity *(see Appendix for form of Conflicts Disclosure Statement):*
 - (1) has an employment or business relationship with a vendor that results in the Councilmember or Councilmember's family member receiving a

taxable income, other than investment income, that exceeds \$2,500 in the preceding 12 months, or

- (2) receives one or more gifts from a vendor with an aggregate value of \$100, unless the gift*:
 - i. is given on account of kinship or a personal, professional, or business relationship independent of the member's status as a member of the City Council; or
 - ii. is a political contribution; or
 - iii. is food accepted as a guest. (*Local Government Code, Chap. 176*)
- (b) *"Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest.
- (c) Members of the City Council shall file a Conflicts Disclosure Statement with the City Secretary not later than 5:00 p.m. on the seventh business day after the date on which the Councilmember becomes aware of the facts that require the filing. (*Local Government Code, Chap. 176*)

3.3 Standard of Conduct

- (a) According to City Code, no member of the City Council or employee shall:
 - (1) accept any gift or favor from any person that might reasonably tend to influence him/her in the discharge of his/her official duties, or grant in the discharge of his/her official duties any improper favor, service, or thing of value; or
 - (2) grant any special consideration, treatment, or advantage to any citizen, individual or group beyond that which is available to every other citizen, individual or group; or

- (3) disclose information that could adversely affect the property, government or affairs of the City, nor directly or indirectly, use any information gained by reason of his/her official position or employment for his/her own personal gain or benefit or for the private interest of others; or
- (4) engage in any outside activities which will conflict with, or will be incompatible with, the duties assigned to him/her in the employment of the City, or reflect discredit upon the City, or in which his/her employment in the City will give him/her an advantage over others engaged in a similar business, vocation or activity; or
- (5) transact any business on behalf of the City in his/her official capacity with any business entity with which he/she is an officer, agent, or member or in which he/she owns a substantial interest. In the event that such a circumstance should arise, then he/she shall make known his/her interest, and in the case of an officer, abstain from voting on the matter, or in case of an employee, turn the matter over to his/her superior for reassignment, state the reasons for doing so, and have nothing further to do with the matter involved; or
- (6) accept other employment or engage in outside activities incompatible with the full and proper discharge of his/her duties and responsibilities with the City, or which might impair his/her independent judgment in the performance of his/her public duty; or
- (7) receive any fee or compensation for his/her services as an officer or employee of the City from any source other than the City except as may be otherwise provided by law. This shall not prohibit his/her performing the same other services for a private organization that he/she performs for the City if there is no conflict with his/her responsibilities; or
- (8) represent, directly or indirectly, or appear on behalf of private interests of others before any agency of the City or any of its agencies; or

- (9) use his/her official position to secure special privileges or exemptions for himself/herself or others. *(City Code, Sec. 2-123)*

- (b) According to the City Charter, members of the City Council shall:
 - (1) not interfere with appointments of subordinates of the City Manager;
 - (2) refrain from giving direction, orders or instructions to City employees and instead should submit such requests directly to the City Manager, Deputy City Manager or City Manager's Office representative; and
 - (3) refrain from requesting information from general City employees and should instead direct such inquiries for information to the professional staff in the City Manager's Office or the appropriate department head. *(Charter, Art. IV, Sec. 14(e))*

3.4 Nepotism

- (a) Nepotism is the award of employment and appointments on the basis of kinship rather than merit. No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any member of the City Council shall be appointed to any office, position or clerkship or other service of the City. *(Charter, Art. IV, Sec. 30) (See Appendix for Nepotism Chart.)*

3.5 Bribery

- (a) A person commits bribery if he/she intentionally or knowingly solicits, accepts, or agrees to accept from another:
 - (1) Any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant; or
 - (2) Any benefit as consideration for a violation of a duty imposed by law on a public servant, or

- (3) Any political contribution or lobbyist expenditure if the benefit is offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit. (*Penal Code, Chap. 36*)
- (b) Bribery is a second-degree felony offense and includes situations where a public officer solicits a bribe or is offered a bribe by another person. Bribery requires a “benefit” which includes economic gains as well as such subtle benefits as lines of credit or information regarding advantageous investment opportunities. Benefits to other persons in whose welfare the official has a direct or substantial interest, such as a family member, are included.
- (c) The benefit is the influencing factor. It is *not* bribery, for example, for a citizen to offer to buy lunch for a public servant unless the citizen intends that the lunch will influence the individual’s official acts. An intent to get the public servant’s ear to persuade him to act in a particular manner is not bribery though it may constitute “improper influence.”
- (d) A public servant commits a Class A Misdemeanor if he/she solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his/her discretion. (*Penal Code, Chap. 36*)
- (e) A member of the City Council commits a Class A misdemeanor if he/she agrees to accept an honorarium in consideration for services that the member would not have been requested to provide but for the member’s official position or duties. However, a member may accept transportation and lodging expenses in connection with a conference or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory, or from accepting meals in connection with such an event. (*Penal Code, Chap. 36*)

3.6 Abuse of Office

- (a) *Abuse of Official Capacity:* A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he/she intentionally or knowingly:
 - (1) violates a law relating to the public servant's office or employment; or
 - (2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.
- (b) An offense under (a)(1) is a Class A misdemeanor. An offense of (a)(2) ranges from a Class C misdemeanor to a first-degree felony depending on the value of the use of the thing misused. (*Penal Code 39.02.*)
- (c) *Official Oppression:* A public servant acting under color of his/her office or employment commits an offense if he/she:
 - (1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he/she knows is unlawful;
 - (2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity knowing his/her conduct is unlawful; or
 - (3) intentionally subjects another to sexual harassment.
- (d) An offense is a Class A misdemeanor, except that an offense involving impairing the accuracy of data reported to the Texas Education Agency is a third-degree felony. (*Penal Code 39.03.*)

- (e) *Misuse of Official Information:* A public servant commits an offense if, in reliance on information to which the public servant has access by virtue of the person's office or employment and that has not been made public, the person:
 - (1) acquires or aids another to acquire a pecuniary interest in any property, transaction or enterprise that may be affected by the information;
 - (2) speculates or aids another to speculate on the basis of the information; or
 - (3) as a public servant, coerces another into suppressing or failing to report that information to a law enforcement agency.

- (f) A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, he/she discloses or uses information for a nongovernmental purpose that:
 - (1) he/she has access to by means of his/her office or employment; and
 - (2) has not been made public.

- (g) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he/she solicits or receives from a public servant information that:
 - (1) the public servant has access to by means of his/her office or employment; and
 - (2) has not been made public.

- (h) An offense is a third-degree felony, except an offense under subpart (3) of the first prohibition is a Class C misdemeanor. (*Penal Code 39.06.*)

3.7 Gifts, Complimentary Items, and Reporting

- (a) Gifts

- (1) The receipt of gifts should be evaluated against perceived conflicts or special considerations which could influence the ability of members of the City Council to perform their official duties.
- (2) The receipt of certain gifts is allowed and includes:
 - i. Gifts having a nominal value received from citizens or persons or entities doing business with the city or seeking to do business with the city:
 - ii. Non-cash gifts having a value of less than \$50.00 are acceptable. However, cumulative gifts from a single source in a calendar year may not exceed \$50.
 - iii. Plaques, caps, key rings, mugs, tee shirts, fresh cut flowers given at public appearance, small amounts of perishable food given infrequently are acceptable.
 - iv. Gifts received on behalf of the city, including ceremonial or protocol gifts given by governmental/international trade delegations are allowed. Any gift valued over \$250.00 must be reported and delivered to the City Manager.
 - v. Gifts from a relative or a person with whom the councilmember has a personal, professional, or business relationship independent of the councilmember's status with the city are allowed. This should always be used with discretion, realizing that the burden will fall on the city official to ensure that the narrow requirements of this exception are met.
- (3) Gifts must be reported by the councilmember in accordance with applicable state law and city reporting requirements.
- (4) A councilmember may not accept cash, check, negotiable instrument or digital currency from any person or representative of a person or entity who does business with or is seeking to do business with the city.

- (5) A councilmember may not solicit or accept any gift or benefit received in exchange for taking official action or exercise of discretion.
- (6) This Gift Policy does not apply to political contributions received and reported in compliance with the Texas Election Code.
- (7) A councilmember who receives an unsolicited benefit or gift that he or she is not allowed to accept or does not wish to accept to avoid any appearance of impropriety, may donate the item to the city or another governmental entity that has the authority to accept the item or to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(b) *Complimentary Tickets and Services*

- (1) A member of the city council may receive tickets to functions where the councilmember is performing ceremonial duties or attending as a representative of the city.
- (2) Members of the City Council are encouraged to support activities that benefit city facilities or city sponsored programs. As such, members of the city council may, in connection with his or her duties and responsibilities, accept tickets to fundraisers or charity events that benefit city facilities and programs.
- (3) The city owns and operates several facilities. It also contracts with nonprofit entities to manage or operate city facilities or conduct events on behalf of the city. It is the City Council's responsibility to assess the management and operation of city-owned facilities and to oversee city sponsored events and, consequently, members of the city council are obligated to regularly attend events at the city-owned facilities for which they have oversight responsibilities. Therefore, members of the city council may receive tickets, subject to availability as determined in the sole discretion of the event sponsor, under the following guidelines:

- i. No more than 4 tickets per event, and either the councilmember, his or her spouse, domestic partner, or significant other must attend the event.
 - ii. Tickets cannot be resold.
 - iii. Tickets cannot be transferred, except that councilmembers may transfer their tickets to another councilmember or city official who is a board or commission member with oversight responsibilities related to the event of facility.
 - iv. If the number of available tickets is limited as determined by the event sponsor, the total number of tickets shall be distributed among members of the city council on an equitable basis.
- (4) In cases where the city contracts with a for-profit entity over which the City Council does not have oversight responsibilities, members of the City Council may request tickets to events, but members of the City Council are required to purchase these tickets at face value. Complimentary tickets to events are not permitted.
- (5) Gifts and complimentary tickets must be reported by the councilmember in accordance with applicable state law and city reporting requirements.
- (6) City facilities and services are available to members of the City Council on the same basis as employees.
- (c) Complimentary Meals, Travel, or Entertainment
- (1) Members of the City Council may accept meals, travel, lodging, or entertainment under the following conditions:
 - i. Councilmember is a guest or speaker

- ii. The donor or host must be present at the meal, lodging, travel, or entertainment. Meals, lodging, travel, or entertainment from a person who does business or is seeking to do business with the city when the donor or host is not present is not acceptable.
 - iii. Meals, travel, lodging, or entertainment accepted as a guest must be reported by the councilmember in accordance with applicable state law and city reporting requirements.
- (2) Any honorarium (cash payment or in-kind gift, except for a plaque) in consideration for services which a city official would not have been requested to provide but for his/her official status is prohibited. Exception: Councilmembers may accept or be reimbursed for travel, lodging and meal expenses in connection with a conference or similar event where the councilmember is a speaker or presenter because of his/her official position. Honorarium must be reported by the councilmember in accordance with applicable state law and city reporting requirements.
- (d) Gift Reporting Requirements
- (1) The reporting requirements of this section are in addition to any applicable reporting requirements for members of the city council pursuant to Title 15 of the Texas Election Code, Chapter 145 of the Local Government Code, Chapter 176 of the Local Government Code.
 - (2) Members of the City Council shall file a gift disclosure report with the City Secretary itemizing each gift, ticket, meal, travel, lodging, entertainment, or honorarium having a value of \$50 or more, or accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of \$100 or more, received by the councilmember or his or her immediate family during the calendar year from a person, other than a relative within the second degree of consanguinity or affinity, who the councilmember knows is interested in or is likely to become interested in any contract, purchase, payment, claim,

zoning matter, or pecuniary transaction with the city that involves the exercise of the councilmember's discretion. (See Appendix 7 for form of report)

- (3) The gift disclosure report must be on a form prescribed by the City Secretary and filed with the City Secretary no later than 30 days from receipt of gift. When the deadline falls on a Saturday or Sunday, or on an official city holiday or furlough day as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, official holiday, or furlough day.
- (4) The gift disclosure report must include the date(s) the item(s) were given, the name of the donor, a description of the item(s), the estimated value of the item(s) and indicate whether the item(s) were given to the city councilmember or a member of the councilmember's immediate family.
- (5) A councilmember is not required to file a gift disclosure report if the councilmember, his or her spouse, domestic partner or dependent children have not received any gifts, tickets, meals, travel, lodging, entertainment, or honorarium having a value of \$50 or more, or an accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of \$100 or more, from a person, other than a relative within the second degree of consanguinity or affinity, who, the councilmember knows is interested in or is likely to become interested in any contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the councilmember's discretion
- (6) For purposes of this policy, immediate family means a spouse, a domestic partner, and dependent children.

3.8 Subsequent Representation

- (a) A former Member of the City Council shall not represent, with or without compensation, any person, group or entity (other than themselves, or their

spouse or domestic partner, or their minor children) before the City for a period of five years after termination of their official duties.

- (b) A former City Official shall not represent any person, group, or entity (other than themselves, or their spouse or domestic partner, or their minor children) in any litigation to which the City is a party, if:
 - (1) 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 participated prior to termination of their official duties; or
 - (2) The interests of that person, group or entity are adverse to the interests of the City and the matter is substantially related to a matter in which the former City Official personally participated prior to termination of their official duties.
- (c) A person representing, with or without compensation, any person, group or entity, or any person acting on behalf of such person, shall not represent or imply, either directly or indirectly, orally or in writing, that the person is able to influence the vote or action of any City Official on any basis other than the merits of the matter.
- (d) A violation under this section is a Class C misdemeanor punishable by a fine up to \$500. (*Code of Ordinances, Secs. 2.155 – 2.157.*)

3.9 Political Contributions

- (a) A person, including an individual's child under 10 years of age, shall not, in total, make a political contribution of more than:
 - (1) \$500* per City election in support of or opposition to a single candidate for election to Places 1, 2, 3, 4, 5 or 6 on the City Council; and
 - (2) \$3,000* per City election in support of or opposition to a single candidate for Mayor.

- (b) No person shall knowingly make or authorize a political contribution in the name of or on behalf of another person or knowingly permit his/her name to be used to affect such a political contribution, and no Member of the City Council, including Mayor, or candidate shall knowingly accept a political contribution made by one person in the name of another person.

- (c) An applicant in a change of zoning case or public subsidy matter shall not (either personally or through a representative, employee, or agent) knowingly make a political contribution to a Member of the City Council, including Mayor, or candidate during the period between the date the first notices of a public hearing to consider the change of zoning case by the City Zoning and Planning Commission are mailed and the later of:
 - (1) The council term in which the case or matter is withdrawn; or
 - (2) The council term in which a final decision on the case is made by the City Council either granting or denying the case or matter.

- (d) A person responding to a request for bids or request for proposals on a City contract shall not (either personally or through a representative, employee or agent) knowingly make a political contribution to a Member of the City Council, including Mayor, or candidate from the time the advertisement or public notification of the request for bids or request for proposals is made until the end of the council term in which the contract is awarded.

- (e) Any Councilmember, Mayor or candidate who receives a prohibited political contribution, regardless of amount, shall recuse themselves from the City Council's consideration of and shall not vote on any of the following for a period of two years beginning on the date the offending political contribution is made:
 - (1) Any matter before the City Council involving an individual, including those related to the individual, that made the prohibited contribution;

- (2) Any matter before the City Council involving an entity, including those affiliated with the entity, that made the prohibited contribution; and
 - (3) Any matter before the City Council involving someone affiliated with a political committee that made a prohibited contribution.
- (f) Any person believing there has been a violation may file a sworn complaint with the City Secretary. If the complaint contains all required information and is correct in form, the complaint will be forwarded to the City Attorney for investigation.
- (g) A person who knowingly commits a violation is subject to a fine not to exceed \$500. (*Code of Ordinances, Secs. 2-158 - 2-163.*)

*Contribution limitations are adjusted annually based on the consumer price index.

3.10 Political Advertising and Campaign Communications (Elec. Code Chap. 255)

- (a) “Political advertising” is a communication that advocates a particular outcome in an election. It can be a communication in almost any written or broadcast form, such as a billboard, a flier, a newsletter, a poster, a television or radio ad, or an Internet site.
- (b) An officer or employee of the City may not knowingly spend or authorize the spending of public funds for:
 - (1) political advertising; or
 - (2) a communication containing information that is known to be false and is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against a measure.
- (c) An officer or employee of the City may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising.

- (d) A person may not, with an intent to injure a candidate or influence the result of an election, enter into a contract or other agreement to print, publish or broadcast political advertising that purports to emanate from a source other than its true source.
- (e) A person may not, with intent to injure a candidate or influence the result of an election, knowingly represent in a campaign communication that the communication emanates from a source other than its true source.
- (f) A person may not, with intent to injure a candidate or influence the result of an election, misrepresent the person's identity or, if acting or purporting to act as an agent, misrepresent the identity of the agent's principal, in political advertising or a campaign communication.
- (g) A person may not knowingly represent that a candidate holds a public office that the candidate does not hold.
- (h) Violations are a Class A misdemeanor.

CHAPTER 4

Financial Matters

4.1 Compensation

- (a) The Mayor may receive a salary in an amount to be fixed by the City Council but which amount shall in no event be more than one hundred dollars (\$100.00) per month.
- (b) Each Councilmember may receive a sum of not more than ten dollars (\$10.00) for each meeting of the City Council attended by him/her, the amount to be fixed by the City Council; provided, that no Councilmember shall receive a greater compensation than fifty dollars (\$50.00) per month. (*Charter, Art. IV, Sec. 12*)

4.2 Pay Policy

- (a) Since Fiscal Year 1992, the City Council's pay philosophy has been to provide employee salaries that are equitable throughout the organization and are competitive with salaries paid by other cities in the Dallas/Fort Worth metropolitan area. This policy is achieved through a market pricing concept.
 - (1) The market pricing method of compensation evaluation uses the marketplace to determine salary ranges. Market cities are surveyed to ascertain salary structure midpoints for positions that can be compared to those in Mesquite. Data is then averaged to determine an average structure market midpoint salary ("the midpoint") for a particular position. The midpoint for market cities is then compared with the midpoint of the City of Mesquite to determine a variance. The market midpoint is the key pay level in determining each pay range and is the point at which the City is either "meeting," "lagging," or "matching" the market.
 - (2) The City Council and representatives of the Mesquite Fire and Police Associations have agreed to use a survey from the seven market cities

(Arlington, Carrollton, Irving, Grand Prairie, Garland, Plano and Richardson) to review salaries. This survey is conducted annually by the Human Resources Department and the collected information is used in determining Mesquite's fire and police salary adjustments.

- (3) It is the policy of the City Council that parity exists between the entry level positions of the Fire and Police job families (Firefighter and Police Officer positions). Parity exists only for these two positions within the two job families.
 - (4) The Employee Pay Plan groups the City's various job classifications into job families. Each job family includes pay grades with open salary ranges. Salary ranges do not contain steps. Employees' salaries progress through a range based upon percentage increases recommended by their supervisor in accordance with the City's Compensation Policy. Recommended increases above three percent require approval of the City Manager.
- (b) The compensation of all appointive officers and employees shall be fixed by the City Council which may increase or diminish such compensation at will. The City Council may dispense with the service of any appointive employee at any time upon a majority vote of the members of the City Council. (*Charter, Art. IV, Sec. 14*)
 - (c) Officials appointed by the City Council may enter into agreement with the City Council regarding position, salary, benefits and termination/severance pay.

4.3 Severance Payments and Settlements

- (a) The City Manager can offer severance payments to positions that are appointed by him/her and are exempted from Civil Service classification. The City Manager must select the most affordable severance payment package as follows:
 - (1) The City Council must formally approve all offers that exceed \$50,000.00.

- (2) The City Council may also use this policy in offering severance payments for employees appointed by the City Council. This policy is intended to serve as a guideline for the City Council and the City Manager when discussing severance payments with the above employee classifications.

- (b) Under no circumstances is the City Council or the City Manager required to provide any severance payments beyond benefit accruals presently provided City employees. (*Resolution No. 43-88, Severance Payment Policy, Adopted August 1988*)

- (c) The City Attorney is authorized to pay or deny payment in settlement of lawsuits, claims, fines, penalties and sanctions against the City and its employees, and to approve severance pay in avoidance of a claim against the City, in an amount that does not exceed \$75,000.00. The City Attorney shall provide written notification to the City Council of all settlements and payments exceeding \$50,000.00. (*Code of Ordinances, Sec. 2-6(c).*)

4.4 Benefits

- (a) Group health insurance and a dental plan are available to members of the City Council. Dependent coverage is also available.

- (b) Members of the City Council may participate in a Deferred Compensation Plan to voluntarily set aside and invest portions of their income.

4.5 Travel

- (a) During the annual budget process, funds will be allocated for members of the City Council to attend local, state and national meetings that are deemed appropriate. In addition, funds shall be budgeted for unscheduled and unanticipated trips as may be necessary to conduct official City business. All travel and training requirements that are not specified in the approved budget, including unscheduled and unanticipated trips, require the following:

- (1) A proposed budget for expenses related to the training and/or trip must be submitted to the City Manager two weeks prior to the training and/or departure date, if possible;
 - (2) Verification of funding by the City Manager before the training and/or trip is taken; and
 - (3) Presentation to the City Council of the foregoing information and approval by the City Council for the unscheduled and unanticipated training and/or trip.
- (b) *Definition of Allowable and Non-Allowable Expenses:*
- (1) The City will pay all reasonable expenses for City Councilmembers travel including meals (breakfast, lunch, and dinner), lodging, conference registration, tips, parking, transportation fees and other associated necessities providing the employee submits appropriate receipts and documentation. ALL EXPENSES MUST BE ACCOMPANIED BY RECEIPTS OR OTHER ALLOWABLE DOCUMENTATION. For mileage, Councilmembers should attach their odometer reading before and after the trip or a map search (i.e. map quest or google maps) that gives the total miles traveled.
- (c) *Meals:*
- (1) The City will pay the actual amount of meals and tips. Tips are not to exceed 20 percent of the cost of the meal. An itemized meal receipt (not just the credit card copy) shall be maintained and submitted for reimbursement for each meal. The total meal reimbursement for each day should not exceed the IRS approved daily per diem allowance as listed in the US General Services Administration (GSA) approved rates for each city. The per diem rates can be found on the US General Services Administration website, www.gsa.gov/perdiem. For partial travel days, such as the days departing and returning from travel, breakfast cannot be claimed unless departure is prior to 6:00 a.m. Lunch cannot be claimed unless departure

is before 11:00 a.m. or return is after 1:00 p.m. Dinner cannot be claimed unless departure is before 5:00 p.m. or return is after 7:00 p.m.

(2) No reimbursement should be claimed if meals are:

- i. paid by others;
- ii. included in conference registration fees; or
- iii. ticketed separately as a conference event.

(d) *Snacks:*

(1) Snacks are a NON-REIMBURSABLE expense. The City will reimburse for the cost of actual meals only (breakfast, lunch and dinner). Snacks includes such consumable items as candy, cookies, nuts, beverages, etc. that are not part of a breakfast, lunch or dinner meal.

(e) *Business Meals:*

(1) A Councilmember may find it necessary to pay for the meals of business associates, including fellow City employees, from time to time, while discussing City business, or while attending professional association meetings. Payments must be authorized by the Council with concurrence of the City Manager or his designee. Names of all included in the business meal should be noted on the receipt with a brief note regarding the topic of the meeting.

(f) *Transportation:*

(1) Councilmembers are expected to select the mode of transportation that will be most economical to the City considering cost and time consumed.

(2) Personal vehicles may be used by a Councilmember and will be reimbursed at the current mileage rate as designated by the City. The mileage rate is

set for each budget year at five cents less than the IRS rate and can be obtained from the budget manual for each fiscal year.

- (3) When public transportation is necessary, the City will pay for round trip airfare (coach/economy class), train fare, taxi fare (traditional taxi, Uber, Lyft, etc.), tips, tolls, auto rental (when required) and parking. Tips on transportation type expenses must be reasonable and shall not exceed 10–15 percent of the cost. Receipts for airport parking shall be submitted. Long-term parking should be used whenever possible. The City **will not** reimburse for voluntary add-ons selected for air travel.
- (4) When a private vehicle is used (instead of public carrier), expenses shall not exceed the cost of the round-trip public carrier fare. This cost comparison may include parking, rental car and/or taxi costs as well as an evaluation of the lost employee productive work time due to driving versus flying. Consideration may also be given for the convenience of flight schedules and ground transportation connections.
- (5) Rental of a compact or intermediate size car is only allowable when taxi or shuttle transportation is inconvenient due to time constraints, travel distance or number of local trips to be taken.
- (6) Councilmembers who must remain at their travel destination to qualify for reduced airfares may be reimbursed for their additional meals, lodging, rental cars, parking, etc. if the combined cost of the additional expense is less than the cost of a non-discounted airfare and it is in the City's interest.

(g) *Lodging:*

- (1) Lodging expenses will be reimbursed for the actual number of days of the conference or meeting, plus allowance for travel time. Lodging per night will not exceed actual room cost per night plus tax and tips. Lodging rates per night must be reasonable in comparison to the rates posted on the GSA website for the destination city.

(h) *Registration:*

- (1) Registration fees should be paid directly by the City through the accounts payable vendor payment process when possible.

(i) *Personal Telephone Calls:*

- (1) An individual will be reimbursed for *reasonable* personal long distance telephone calls while out of town. Personal long distance calls considered excessive will not be reimbursed. Business calls to City offices are not restricted and should be made as necessary.

(j) *Internet Access:*

- (1) An individual will be reimbursed for the necessary use of internet access while out of town and needing to connect to the City's network or access work email.

(k) *Non-Allowable Expenses:*

- (1) Expenses excluded from City reimbursement are health club, pay television, dry cleaning or laundry, alcoholic beverages, entertainment, and expenses unrelated to City business, such as passenger convenience fees and snacks.

(l) *Spouse/Family Travel:*

- (1) When accompanied by a family member, a Councilmember shall pay all incremental costs related to having the member along on the trip. Examples of incremental costs include the difference in lodging cost between single and double occupancy, and all meal and incidental costs of the family member. Spouses may accompany a Councilmember on official business with such expenses reimbursed by the City only when the spouse has specific duties to perform for the benefit of the City and such expenses are approved in advance by the Council.

(m) *Travel Expense Reimbursement:*

- (1) Before a reimbursement can be processed, the City Councilmember should submit appropriate receipts or documentation to the City Manager's Office for an expense claim. The City Manager's Office cannot process a reimbursement request that exceeds the allocation amount. Any expenses incurred in connection with City representation on a local, regional, state or national board or committee will be reimbursed separately from the foregoing allowance. After final approval for payment, a reimbursement check will be processed with the next accounts payable check run.

(n) *Travel Advance:*

- (1) Rather than receiving a standard, travel expense reimbursement, a Councilmember may request a travel advance. Funds may be advanced to the Councilmember prior to departing on a trip if desired. Advances shall not be given more than two weeks prior to the trip and shall be for a reasonable amount considering the overall cost of the trip. To obtain an advance, an estimated expense claim shall be submitted to the City Manager's Office for approval.
 - (2) The estimated expense claim must be submitted at least five business days prior to departure in order to allow adequate time for workflow approvals and check processing.
 - (3) Upon return from the trip, the Councilmember shall submit an expense report to the City Manager and pay to the City any amount of the travel advance in excess of the expense report total, or if the expense report total exceeds the travel advance amount, the difference will be processed for reimbursement in accordance with this policy.
- (o) It shall be the responsibility of the City Manager's Office to notify members of the City Council of appropriate meetings, dates and locations. Each member of the City Council shall be responsible for advising the City Manager's Office as to

their travel plans and whether a spouse is to be included in the travel plans. The City Manager's Office shall be responsible for making all travel arrangements and delivery of travel information to each member of the City Council. Travel shall be arranged by the most economical mode available. (*Travel Policy, Revised October 1998*)

- (p) It is understood that serving as a member of the City Council requires use of personal resources. To assist in covering these expenses, each Councilmember is allowed \$100.00 per month and the Mayor is allowed \$200.00 per month for reimbursement of necessary and incidental expenses incurred in conducting their duties as members of the City Council. Expenses exceeding these monthly allowances must be presented to the City Council for approval. Typical reimbursable expenses are computer supplies, office supplies, business meeting expenses, postage, printing expenses or gasoline expenses for in-town meetings. Charges by any member of the City Council to any City account shall be applied to and deducted from the foregoing monthly allowance.
- (q) Expenses unrelated to conducting the duties of a City Councilmember, such as campaign related expenses, will not be reimbursed.
- (r) Before a reimbursement can be processed, the City Councilmember is responsible for submitting appropriate receipts or documentation to the City Manager's Office. The expense report attached at the end of this chapter will be utilized by the City Manager's Office to process reimbursement requests. The City Manager's Office cannot process a reimbursement request that exceeds the allocation amount. Any expenses incurred in connection with City representation on a local, regional, state or national board or committee will be reimbursed separately from the foregoing allowance.
- (s) See Chapter 3– Ethics for policies and reporting on complimentary meals, travel, or entertainment.

4.6 Purchasing Approval

- (a) Section 252.021, Local Government Code (as amended) specifies that a municipality must obtain formal sealed bids for the purchase of goods and services that exceed fifty thousand dollars (\$50,000.00).
- (b) The City Manager is authorized to establish procedures for the purchase of goods and services for amounts less than the competitive sealed bid/sealed proposal requirements specified in the Local Government Code, subject to the following restrictions:
 - (1) Such purchases/services are acquired through the policies and procedures established by the Finance Department and published in the City's Purchasing Manual.
 - (2) Such purchases/services are budgeted expenditures.
 - (3) Expenditures for purchases/services exceeding fifty thousand dollars (\$50,000.00) will be presented to the City Council.
- (c) The City Manager is further authorized to approve the purchase of goods and services for amounts of fifty thousand dollars (\$50,000.00) or less, subject to the following restrictions:
 - (1) Such purchases/services are of a nonrecurring nature, adequate funding is available and City Council approval is not otherwise required by law.
 - (2) Expenditures involving employee remuneration require special City Council authorization, except if made in conjunction with promotions, annual employee merit reviews or in accordance with the City's severance policy.
- (d) Any purchase authorized under this policy must be in compliance with applicable State law, City ordinance or City Council directive.
- (e) It shall be the responsibility of the Finance Department to establish and enforce, through appropriate internal controls, administrative policies for the purchase of goods and services not governed by State purchasing laws.

4.7 Liability

- (a) The City shall, at City expense, save, protect, defend, hold harmless, pay expenses and indemnify elected and appointed officials and employees, ex-elected and ex-appointed officials and ex-employees from suit, claims or judgment in connection with lawsuits filed against the City and said officials and employees resulting from acts performed within the course of their duties with the City. *(City Code, Sec. 2-198)*

- (b) The City shall pay damages or losses that said officials and employees are legally obligated to pay arising from the elected and appointed official's and employee's, ex-elected and ex-appointed official's, and ex-employee's duties with the City. In addition to the coverage provided, the City will pay:
 - (1) The expenses in investigating and defending a claim or lawsuit; or
 - (2) Costs taxed against said officials and employees in a suit covered by this section and interest that accrues after entry of judgment before the City has deposited payment with the court; or
 - (3) Expenses incurred at the City's request for said officials and employees, including mileage; or
 - (4) Attorney's fees ordered by the court to be paid by the said employees. *(City Code, Sec. 2-199)*

- (c) In order to be entitled to coverage, the officials and employees must:
 - (1) Cooperate with the City Attorney and/or outside counsel selected by the City and, upon their request, assist in conducting the lawsuits; or
 - (2) Attend hearings and trials, assist in securing and giving evidence, and obtaining the attendance of witnesses; or

- (3) Not, except upon written advice of the City Attorney or outside counsel, give any oral or written statement or enter into any stipulation or agreement concerning a claim or lawsuit; or

- (4) Not, except at the official's and employee's own cost, voluntarily make any payment, assume any obligation or incur any expense with respect to a claim or lawsuit without the consent of the City. (*City Code, Sec. 2-200*)

CHAPTER 5

Role and Responsibilities

5.1 General

- (a) It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor, Mayor Pro Tem and Deputy Mayor Pro Tem have some additional ceremonial and administrative responsibilities, in the establishment of policies, voting and in other significant areas, all members are equal. Policy is established by at least a majority vote of the City Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the City Council to a course of action.
- (b) The basic role of the City Council is to determine policies or courses of action the City may take. In other words, the City Council decides *what* should be done, and the City Manager then decides *how* to implement the policies of the City Council. This relationship ensures accountability for both the City Manager and the City Council. The City Manager is accountable to the City Council for how well policies are implemented, and the City Council is accountable to the voters for what policies the City may implement.
- (c) The primary responsibility of the City Council is policy-making, which includes identifying the needs of local residents, formulating programs to meet the changing needs of the community and measuring the effectiveness of ongoing municipal services. Other functions include exercising regulatory powers, levying taxes and assessing fees.

5.2 Duties

As stated in the City Charter:

- (a) The Mayor shall preside at meetings of the City Council and shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor shall perform such other duties consistent with the office as may be imposed upon him/her by the City Charter and the ordinances and resolutions adopted by the City. He/she may participate in the discussion of all matters coming before the City Council and shall be entitled to vote as a member thereof on all legislative and other matters, but shall have no veto power. The Mayor shall sign all contracts and conveyances made or entered into by the City, unless another party is authorized by the City Council, and all bonds issued under the provisions of the City Charter. He/she shall be recognized as the official head of the City by the courts for the purpose of serving civil purposes. In time of danger or emergency, the Mayor may, with the consent of the City Council, take command of the Police and govern the City by proclamation and maintain order and enforce all laws. (*Charter, Art. IV, Sec. 13*)

- (b) The City Council shall have all powers necessary and incident to the proper discharge of the duties imposed upon it and is invested with all powers necessary to carry out the terms of the City Charter; it being intended that the City Council and Mayor shall exercise all powers enumerated in the City Charter or implied thereby and all powers that are or may be granted to the City by the Constitution or laws of the State of Texas. (*Charter, Art. IV, Sec. 14*)

5.3 Vacancies

- (a) In the event of a vacancy existing in the office of Mayor or City Council from any cause whatsoever, the remaining members of the City Council shall by a majority vote thereof at a regular meeting elect a member or members to fill the vacancy or vacancies thus existing; and such member or members so elected by the City Council shall serve in such position until the next municipal election, at which time the candidate then elected shall serve for the remaining term of office or for the succeeding term of office.

- (b) Where any member of the City Council shall be absent for three regular consecutive meetings of the City Council, without first having obtained leave of

absence at a regular meeting, the City Council may, by a majority vote of the entire City Council, declare the office vacant and proceed to fill such vacancy in the same manner as other vacancies in said City Council.

- (c) Should any member of the City Councilmember move from the boundaries of such district during the term of office for which such Councilmember was elected, such removal shall create a vacancy of that place on the City Council. (*Charter, Art. IV, Sec. 10*)

5.4 Seeking Another Office

- (a) If a member of the City Council shall become a candidate for any place on the City Council other than the specific place he/she is then holding, he/she shall forfeit his/her place on the City Council as of the date of the next regular municipal election.
- (b) No person elected to the City Council shall, during the term for which he/she is elected to the City Council, be appointed to any office, position or employment in the service of the City, and no former member of the City Council shall hold any compensated, appointive City office or employment until one year after the expiration of the term for which he/she is elected to the City Council.
- (c) If any member of the City Council shall become a candidate for election to any public office except for a place on the City Council or as Mayor, he/she shall immediately upon him/her becoming a candidate forfeit his/her place on the City Council.
- (d) If any member of a board or commission appointed by the City Council shall become a candidate for election to any public office, he/she shall immediately upon him/her becoming a candidate forfeit his/her place as a member of such board or commission.
- (e) Appointive officers or employees of the City who shall become a candidate for election to any public office shall immediately upon becoming a candidate forfeit

the office or employment held with the City, except as provided otherwise by State or federal law. (*Charter, Art. IV, Sec. 3*)

5.5 Campaign Reporting

- (a) Members of the City Council are required to file semiannual reports with the City Secretary's Office. The filing deadlines are January 15 and July 15. In addition, a candidate who has an opponent on the ballot in an election held on a uniform election date must file two pre-election reports unless the candidate has selected "modified reporting." Each member of the City Council should read the Instruction Guide to the Candidate/Officeholder Report of Contributions, Expenditures and Loans (*see Appendix E*). Any member of the City Council who may have questions regarding campaign contributions and expenditures should contact the City Secretary's Office. (*Election Code*)

5.6 Financial Disclosure for Local Government Officers

- (a) Members of the City Council are required to file an annual personal financial statement with the City Secretary. The filing deadline for municipal officers (Mayor, Councilmembers, City Manager, and City Attorney) is no later than April 30 of each year. During election season, Council candidates must file an annual personal financial statement no later than the 20th day after the deadline for filing an application for a place on the ballot in the election. The deadline for filing is 5:00 p.m. If the designated day falls on a Saturday, Sunday or holiday, the statement is timely if filed on the next business day. (*Local Government Code 145.004*) (*LGC 572.029*)
 - (1) An extension of not more than 60 days may be requested for filing the statement by a municipal officer or a person who is appointed to a municipal office. The City Secretary shall grant the request if it is received before the filing deadline or if the officer's physical or mental incapacity prevents the officer from filing the personal financial statement or requesting an extension before the filing deadline. An extension may not be granted more than one time per year, except for good cause shown.

However, the City Secretary may not grant an extension to a candidate for a municipal office filled by election. *(LGC 145.004)*

- (2) Filing shall be made on the form designed by the Texas Ethics Commission under Chapter 572, Government Code. *(See Appendix F)*
- (3) The City Secretary shall deliver at least one copy of the form to each municipal officer or Council candidate not later than the 10th day before the deadline for filing the personal financial statement. *(LGC 145.005)*
- (4) If a Councilmember has filed a personal financial statement covering the preceding calendar year, the Councilmember is not required to file a personal financial statement required under another provision of Chapter 145, Texas Local Government Code, covering that same year if, before the deadline for filing the personal financial statement, the person notifies the City Secretary in writing that the person has already filed a personal financial statement under this chapter covering that year. *(LGC 145.006)*
- (5) All personal financial statements filed with the City Secretary shall be maintained in a manner that is accessible to the public during regular office hours. *(LGC 145.007)*
- (6) Until the first anniversary of the date a personal financial statement is filed, each time a person, other than the City Secretary or his/her designee, requests to see a personal financial statement, the City Secretary or his/her designee shall place in the file a statement of the person's name, address, information on whom the person represents, and the date of the request placed in the file. *(LGC 145.007)*
- (7) The City Secretary may, and on notification from a former municipal officer or candidate, destroy any financial statements filed by the municipal officer or candidate after the secondary anniversary of the date the person ceases to be an officer or candidate, as applicable. *(LGC 145.007)*

- (8) A municipal officer or candidate for a municipal office filled by election commits an offense if the municipal officer or candidate knowingly fails to file a personal financial statement. *(LGC 145.009)*

5.7 Open Records – Texas Public Information Act

- (a) The Public Information Act (Government Code, Chap. 552) requires that most City records, including those in the possession of members of the City Council, be open to public inspection. City records, or “public information,” not only includes paper documents, but also electronic communications created, transmitted, received or maintained on any device if the communication is in connection with the transaction of official business. Current and former members of the City Council are designated “temporary custodians” and are required to (i) forward or transfer any public information to the City or preserve the public information for the time required by law, and (ii) surrender or return to the City any public information requested by the City. *(See Appendix 6– PIA Memorandum for more detailed guidelines and suggestions.)*
- (b) Certain documents are specifically excluded from the requirements of the Texas Public Information Act including draft ordinances or resolutions, certain personnel records, information that would, if released, give an advantage to bidders, documents protected by attorney–client relationships or documents related to pending or ongoing lawsuits.
- (c) Basically, most of the written and digital material used or produced by members of the City Council is open to the public (including emails, text messages, instant messages, social media posts, etc.). If it is felt that certain records may be exempt from the requirements of the law, and there has been no previous determination that the type of records are exempt, the City official has 10 business days following receipt of the request to ask the Texas Attorney General for an opinion as to whether the records are open. If an Attorney General’s opinion is not requested within 10 days, the information is presumed to be public. Failure to release information within three working days after the Attorney General has ruled that it is public is a Class B Misdemeanor. *(Government Code, Chap. 552)*

- (d) The Texas Public Information Act provides that employees or officials of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information or social security number, or that reveals whether the person has family members. All Councilmembers will be given an opportunity to complete a Public Access Option Form indicating whether they want to allow public release of information including their home addresses, home telephone numbers, emergency contact information, social security numbers and information regarding their family members. (*Government Code, Secs. 552.024, 552.117.*)

- (e) An officer or employee of the City who obtains access to confidential information commits an offense if the officer or employee knowingly:
 - (1) Uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information, including solicitation of political contributions or solicitation of clients.

 - (2) Permits inspection of the confidential information by a person who is not authorized to inspect the information; or

 - (3) Discloses the confidential information to a person who is not authorized to receive the information.

- (f) Violations of the PIA are misdemeanors punishable by fines up to \$4,000.00.

CHAPTER 6

Technology and Communications

6.1 Messaging and Technology

- (a) *Purpose:* The purpose of this policy is to provide guidance to members of the Council concerning their use of the Internet, text messaging, instant messaging, and email. All Members of the Council provided with or authorized to use email, messaging services and Internet are responsible for ensuring that the City's email and Internet system is used properly and in accordance with this policy.

- (b) *Use Policies:*
 - (1) Members of the Council shall not share their passwords with others, except as may be required by the Information Technology Department.

 - (2) Prohibited uses of messaging services, email and Internet include, but are not limited to:
 - i. Downloading of software products from Internet sites without prior approval of the Information Technology ("IT") Department.

 - ii. Creating, transmitting, or storing material that is threatening, obscene, sexually explicit, pornographic, or which may constitute intimidating, hostile, or offensive material on the basis of sex, sexual orientation, gender identity, race, color, religion, national origin, age, or disability. The City's policy against sexual or other harassment applies fully to this policy.

- iii. Engaging in illegal, fraudulent, or malicious conduct.
- iv. Obtaining unauthorized access to any computer or data system.
- v. Using another individual's account or identity without explicit authorization.
- vi. Sending chain letters or unauthorized solicitations.
- vii. Conducting activity associated with outside employment or business.
- viii. Political advertising

(c) *Members of the Council Property and Privacy:*

- (1) All Internet, messaging services and email communications, whether personal or business, sent through, received, or stored in the City-owned system or with City purchased devices are the property of the City of Mesquite.
- (2) The City reserves the right to monitor email and Internet usage to assure that its resources are being used for the purposes permitted by this policy.
- (3) Members of the Council do not have a personal privacy or property right in any matter created, received, or sent using a City-owned system or relating to City business.
- (4) Subject to record retention obligations, the City reserves the right to access, retrieve, read and delete any communication that is created, sent,

or received using the City's email, messaging services, or the Internet to assure compliance with this and other policies.

- (5) Any Member of the Council who becomes aware of misuse of the email, messaging services, or Internet system shall promptly contact the City Manager's office or IT Department.
 - (6) No email, text, or instant message relating to City business or containing a citizen's email address should be forwarded to another individual outside the City. This information is not subject to disclosure under the Texas Public Information Act, and permission must be obtained from the sender prior to forwarding the information. This provision does not apply to email addresses of contractors, vendors, or others engaged in business activity with the City.
 - (7) Any matter created, received, or sent using a City-owned system, including Internet browsing history, is subject to the Texas Public Information Act.
 - (8) Any type of communication, including email, text messages, instant message, etc., sent or received on a personal device, including cell phone, computer, etc., relating to City business is subject to the Texas Public Information Act. Members of the Council are discouraged from performing City business on personal devices.
- (d) *Confidentiality:*
- (1) Due to the inherently unsecured nature of email and messaging services and potential for unauthorized interception, members of the Council must use caution in the transmission and storage of confidential or restricted information. Members of the Council should refrain from using email or messaging services to communicate confidential or sensitive information

among other employees, officers, officials, or legal counsel of the City when another more secure method of communication is available. Confidential information on the email system should be protected and should not be disclosed to unauthorized recipients.

- (2) Computers, terminals, or online accounts shall not be left unattended in a state which affords inappropriate access to records of the City, allows unauthorized users access to the email or Internet, or otherwise compromises security.

(e) *Retention of Records:*

- (1) Email, text messages, or instant messages created in connection with the transaction of official City business should be treated as any other record and retained according to the appropriate record retention rules.
- (2) Destruction of email, text messages, and instant messages that fits the criteria for public records should be performed in accordance with the policies of the Records Management Committee and under the supervision of the City Secretary's office.

6.2 Social Media

- a) *Purpose:* This policy outlines the protocol and procedures for use of social media to publicize official City services and events. In addition, this policy addresses the responsibilities of members of the Council about social media, as well as responsibilities related to public records. The purpose of this policy is to protect the interests of the City by ensuring that postings reflect positively on the City as a whole.

- b) The Communications Department will manage aspects of any City social media sites or websites and such sites are the property of the City, including City Councilmember pages.

- c) The Communications Department will monitor the City's social media platforms to ensure posted information and comments comply with the following regulations. Noncompliant posts may be removed.
 - (1) Comments must be civil and may not contain slanderous, libelous, malicious, offensive, threatening, profane, or insulting language.
 - (2) Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation will not be permitted.
 - (3) References to the personality of individuals, personal attacks, or potentially defamatory statements will not be permitted.
 - (4) Advertising, promotional announcements, or solicitations of commerce will not be permitted.
 - (5) Comments must be within the scope of the topic under discussion.
 - (6) Comments cannot include personally identifiable information, such as an address, phone number, social security number, or other sensitive information.
 - (7) Comments of a sexual nature or links to sexual content will not be permitted.

- (8) Comments cannot represent a person other than the one posting the comment.
 - (9) Comments containing links to other websites or pages must be relevant to the topic.
 - (10) Comments cannot serve electoral campaign purposes. Political messages will not be published except for announcements of City elections or voter encouragement campaigns. Communications that factually describe the purpose of an electoral measure and that do not advocate for passage or defeat are allowed.
 - (11) Comments encouraging illegal activity will not be permitted.
 - (12) Participants are responsible for what they post. Comments must not breach any law, confidentiality, or copyright.
- d) Comments by external parties on the City Councilmember's social media platforms are not official public testimony concerning any project or program. An opinion expressed on a City social media platform is posted for discussion only and is not a substitute for a formal statement in a public hearing process. The City does not necessarily agree with content posted by the public and those posts do not constitute a binding representation, agreement, or an endorsement on the part of the City.
- e) The City may remove any comment that violates this policy and users may be reported to the social media entity. The City's use of social media platforms is also governed by separate privacy policy, and statement of rights and responsibilities instituted by each individual social media entity.

- f) The City may not prohibit or remove any criticism of the City Council, including criticism of any act, omission, policy, procedure, program, or service except as otherwise prohibited by law.
- g) City social media platforms are a type of public forum. As such, first amendment constitutional protections apply to social media content. Members of the Council must not block, remove, or delete content, which should occur only for clear violations.
- h) Members of the Council should exercise good judgment and demonstrate personal accountability when choosing to participate in social media. Members of the Council shall not post any false message, comment, content, photo, video, audio, and/or any other oral or written communication of any kind to any website or social media regarding City business.
- i) Members of the Council can have personal social networking accounts. To maintain these accounts as personal, these accounts should be used to share non-City related information. The more a personal account becomes affiliated with the duties of a member of the Council and City-related business, the more likely the personal account becomes a public forum and subject to First Amendment protections, the Texas Public Information Act and be subject to record retention laws. Members of the Council are encouraged to closely monitor their personal accounts to limit City-related discussions. Any user posting City-related comments to a Councilmember's personal account should be reminded the account is personal and the user referred to the Councilmember's City social media account.
- j) Members of the Council should never use their City email account or password in conjunction with a personal social networking site.

- k) Members of the Council are prohibited against disclosure of confidential information that could breach the security of the City's computer system or any City project, facility, or program in any way.

- l) Members of the Council must be aware that photos, videos, and/or audio recordings taken during on-duty activities with personally-owned devices that relate to official business of the City are considered public records and are subject to the Texas Public Information Act.

CITY OF MESQUITE
CITY COUNCIL POLICIES AND PROCEDURES
APPENDIX

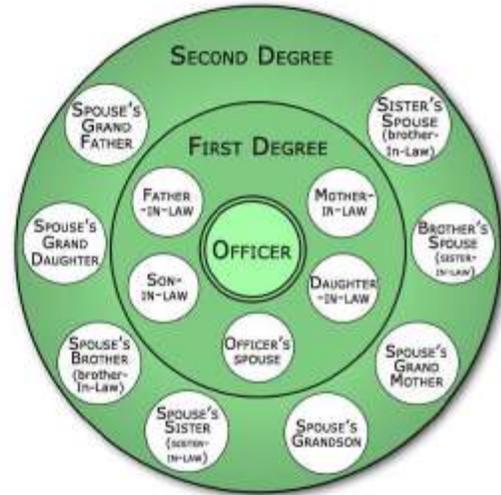
<u>Document</u>	<u>Appendix No.</u>
Consanguinity and Affinity Chart	1
Abstention Affidavit	2
Conflicts Disclosure Statement	3
Conflict Flow Chart for Business Entities	4
Conflict Flow Chart for Real Property	5
PIA Memorandum	6
Gift Disclosure Report	7

APPENDIX NO. 1 – CONSANGUINITY AND AFFINITY CHART

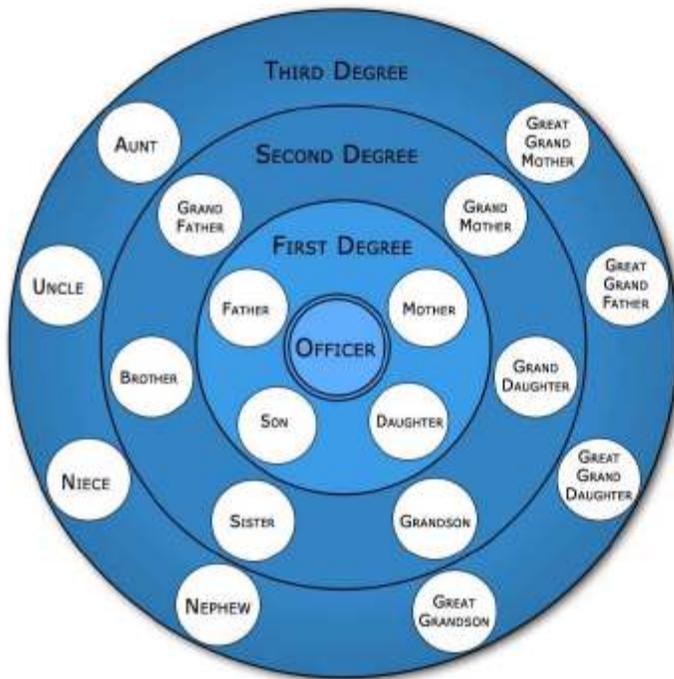
NEPOTISM CHART

The chart below shows

- **Affinity Kinship** (relationship by marriage)
- **Consanguinity Kinship** (relationship by blood) for purposes of interpreting



AFFINITY KINSHIP
Relationship by Marriage



CONSANGUINITY KINSHIP
Relationship by Blood

APPENDIX NO. 2 – ABSTENTION AFFIDAVIT

ABSTENTION AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

I, _____ as a member of the **City Council of the City of Mesquite, Texas**, make this affidavit and hereby on oath state the following: I, and/or a person or persons related to me in the first degree by consanguinity or affinity, have a substantial interest in a business entity or real property, as these interests are defined in Chapter 171 of the Texas Local Government Code, in which action on Item No. _____ of the agenda for the _____, 20___ **City Council Meeting**, will have a special effect on the business entity or property that is distinguishable from the effect on the public.

The business entity/real property
is: _____

(Name and/or Address)

Check applicable statement:

____ I have a substantial interest in this business entity/real property as follows:

Or

____ _____ whose relationship to me is _____ (in the first degree by consanguinity – blood: i.e., father, mother, child; or affinity – marriage: i.e., spouse, father-in-law, mother-in-law, daughter-in-law, son-in-law) has a substantial interest in this business entity/real property as follows:

Check *all* applicable statements as they pertain to you or person related to you in the first degree by consanguinity or affinity:

____ an ownership interest of 10% or more of the voting stock or shares of the business entity;

_____ an ownership interest of 10% or \$15,000 or more of the fair market value of the business entity;

_____ funds received from the business entity exceed 10% of _____ (my, his, her) gross income for the previous year;

_____ real property is involved and _____ (I, he, she) have/has an equitable or legal ownership with a fair market value of \$2,500 or more;

_____ Other (Specify): _____

Upon the filing of this affidavit with the City Secretary, I affirm that I will abstain from voting on any decision involving this business entity/real property and from any further participation on this matter whatsoever.

Signed this _____ day of _____, 20_____.

Signature of Official

Title

BEFORE ME, the undersigned authority, this day personally appeared _____ and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge and belief.

SWORN TO and SUBSCRIBED before me on this _____ day of _____, 20_____.

Notary Public in and for
the State of Texas

APPENDIX NO. 3 - CONFLICTS DISCLOSURE STATEMENT

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT		FORM CIS
(Instructions for completing and filing this form are provided on the next page.)		
This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.	OFFICE USE ONLY	
1 Name of Local Government Officer	Date Received	
2 Office Held		
3 Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code		
4 Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3.		
5 List gifts accepted by the local government officer and any family member, if aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100 during the 12-month period described by Section 176.003(a)(2)(B).		
Date Gift Accepted _____ Description of Gift _____ Date Gift Accepted _____ Description of Gift _____ Date Gift Accepted _____ Description of Gift _____ (attach additional forms as necessary)		
6 AFFIDAVIT		
I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to each family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a)(2)(B), Local Government Code.		
_____ Signature of Local Government Officer		
AFFIX NOTARY STAMP / SEAL ABOVE		
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.		
_____ Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath		

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a misdemeanor.

Refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

INSTRUCTIONS FOR COMPLETING THIS FORM

The following numbers correspond to the numbered boxes on the other side.

- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code.** Enter the name of the vendor described by Section 176.001(7), Local Government Code, if the vendor: a) has an employment or other business relationship with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code; b) has given to the local government officer or a family member of the officer one or more gifts as described by Section 176.003(a)(2)(B), Local Government Code; or c) has a family relationship with the local government officer as defined by Section 176.001(2-a), Local Government Code.
- 4. Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3.** Describe the nature and extent of the employment or other business relationship the vendor has with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code, and each family relationship the vendor has with the local government officer as defined by Section 176.001(2-a), Local Government Code.
- 5. List gifts accepted, if the aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100.** List gifts accepted during the 12-month period (described by Section 176.003(a)(2)(B), Local Government Code) by the local government officer or family member of the officer from the vendor named in item 3 that in the aggregate exceed \$100 in value.
- 6. Affidavit.** Signature of local government officer.

Local Government Code § 176.001(2-a): "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.

Local Government Code § 176.003(a)(2)(A):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

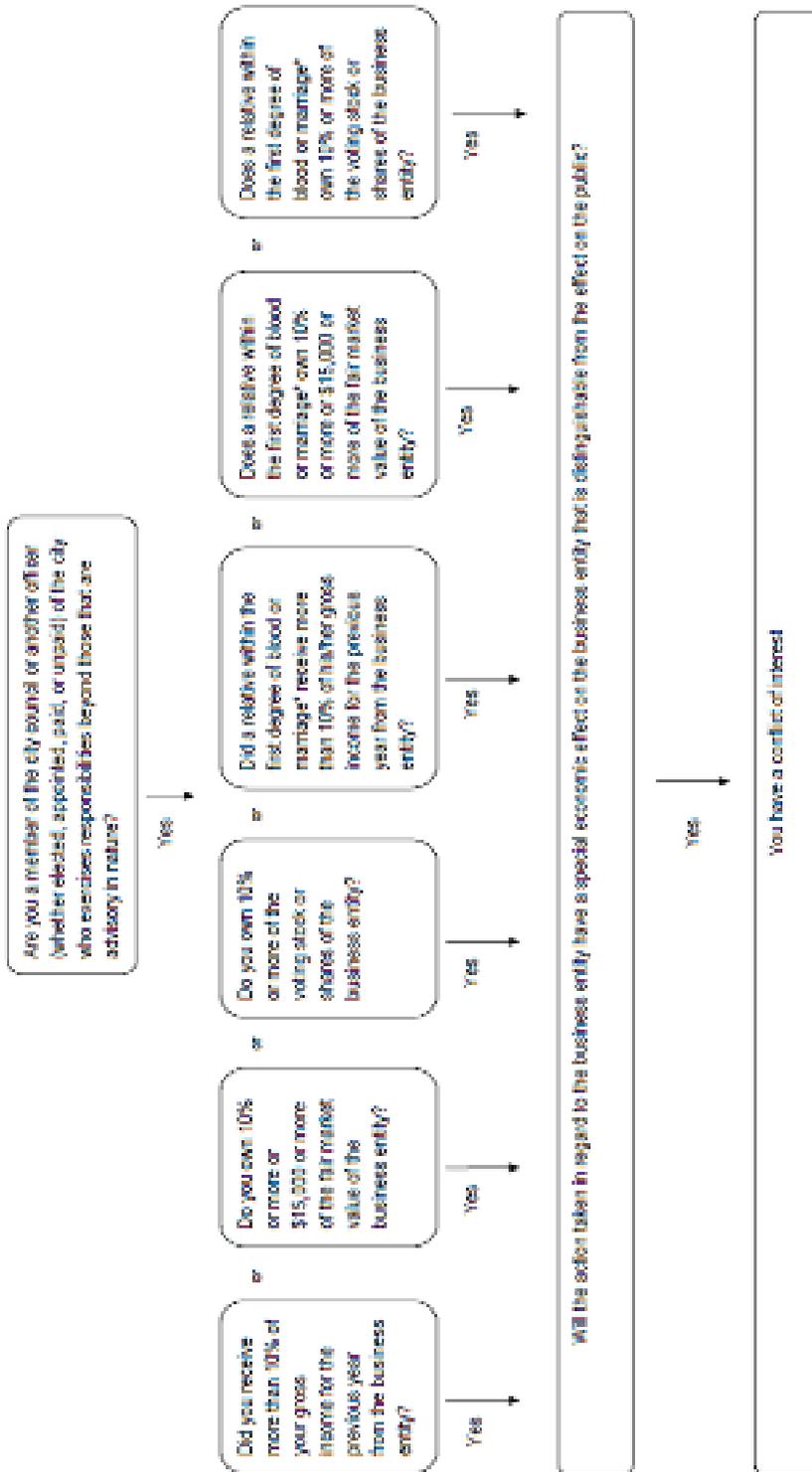
(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

APPENDIX NO. 4 – CONFLICT FLOW CHART FOR BUSINESS ENTITIES

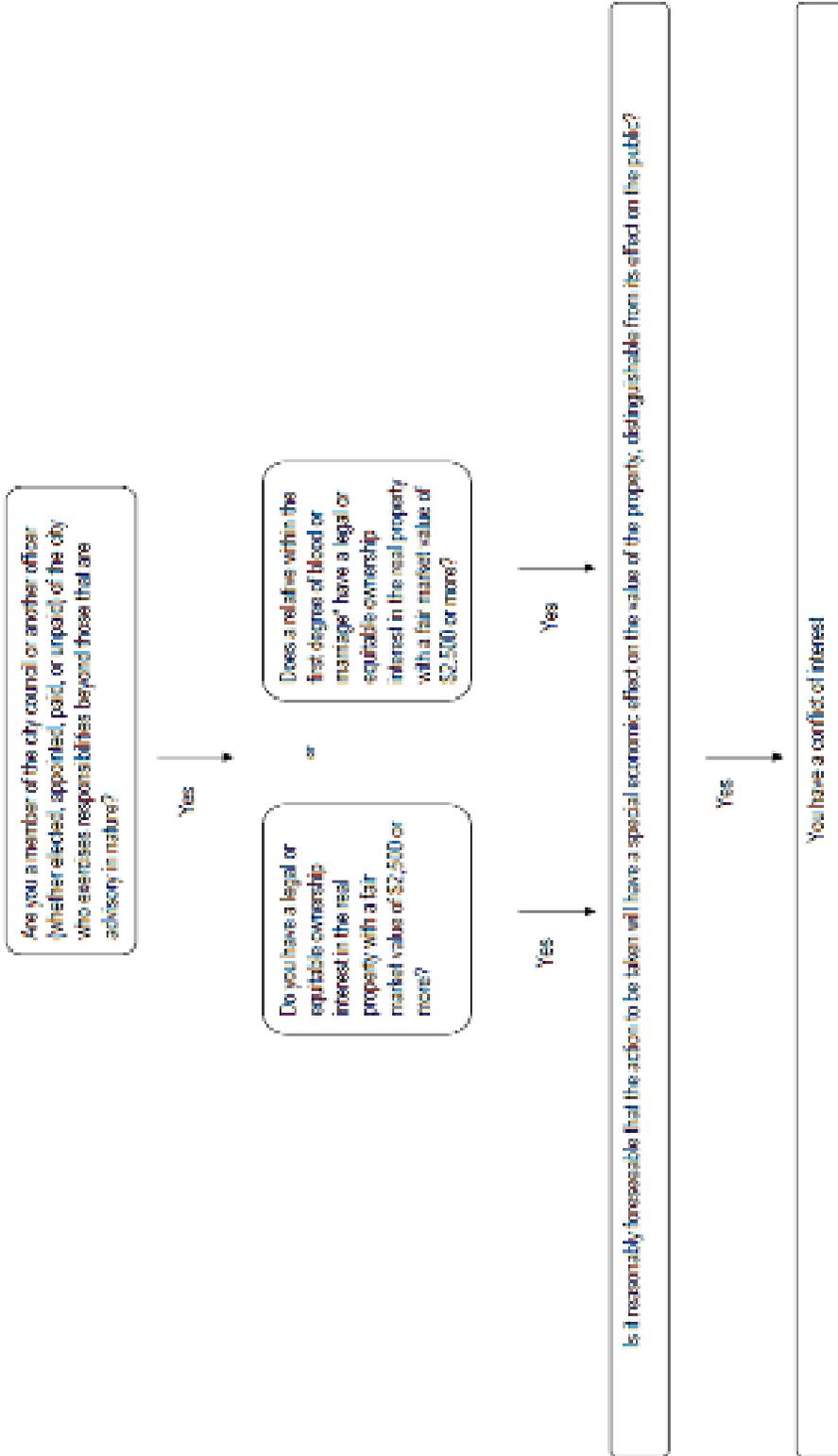
A BUSINESS ENTITY HAS AN ISSUE BEFORE THE CITY: DO YOU HAVE A CONFLICT OF INTEREST UNDER LOC CHAPTER 171?



*This includes your parent, child, spouse, step-child, father or mother-in-law, or son or daughter-in-law. The ending of a marriage by divorce or the death of a spouse ends a relationship by itself, created by that marriage unless a child of that marriage is being, in which case the marriage is considered to continue as long as a child of that marriage lives.

APPENDIX NO. 5 – CONFLICT FLOW CHART FOR REAL PROPERTY

AN ISSUE REGARDING A PIECE OF REAL PROPERTY IS BEFORE THE CITY: DO YOU HAVE A CONFLICT OF INTEREST UNDER LOC CHAPTER 171?



*This includes your parent, child, spouse, step-child, father or mother-in-law, or son or daughter-in-law. The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

APPENDIX NO. 6 – PIA MEMO

OFFICE OF THE CITY ATTORNEY

City of Mesquite, Texas

LEGISLATION SUMMARY

S.B. No. 944

86th Leg. R.S.

DATE: August 29, 2019

TO: Honorable Mayor and Members of the City Council

CC: Cliff Keheley, City Manager
Sonja Land, City Secretary

FROM: David Paschall, City Attorney
Karen Strand, Senior Assistant City Attorney

SUBJECT: Public Information Act Update – Temporary Custodians

NEW TEXAS LEGISLATION	CODIFIED
S.B. No. 944 Legislative Session: 86th R.S. Effective September 1, 2019	Government Code Title 5; Subtitle A; Chapter 552 “Public Information Act”

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

[S.B. No. 944](#), effective September 1, 2019, amended the Public Information Act to include provisions designating persons in possession of City official business records, including on personal devices and accounts, as “temporary custodians” of the records with a duty to provide the records to the City or retain the records.

A. What is a temporary custodian?

A “temporary custodian” is defined as:

(a) an officer [Mayor or City Councilmember] or employee of a governmental body [City] who, in the transaction of **official business**,¹ creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body [City Secretary] or the officer’s agent; and

(b) includes a former officer or employee of a governmental body who created or received public information in their official capacity that has not been provided to the officer for public information of the governmental body or the officer’s agent.

B. What are the duties of a temporary custodian?

1. A current or former officer or employee of a governmental body who maintains public information on a privately-owned device shall:

(a) forward or transfer the public information to the governmental body or a governmental body server to be preserved as other public information; or

¹ “Official business” is defined by the Public Information Act in §552.003 to mean, “any matter over which a governmental body has any authority, administrative duties, or advisory duties.”

(b) preserve the public information in its original form in a backup or archive and on the privately-owned device for the time required by current law.²

2. A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the governmental body not later than the 10th day after the date the officer for public information of the governmental body or the officer's agent requests the temporary custodian to surrender or return the information.
3. A temporary custodian's failure to surrender or return public information is grounds for disciplinary action by the governmental body that employs the temporary custodian or any other applicable penalties provided by the PIA or other law.

C. Suggestions

Simply "accessing" City records, with authorization, from a personal device is acceptable because the record still resides with the City. For example:

An officer or employee may use the "Outlook App" on their personal device to access the City e-mail system. An officer or employee may send or receive e-mail related to *official business* using their City e-mail address and the information will be stored on the City account Microsoft servers (and only temporarily accessible on the personal device).

To avoid comingling personal and public information, refrain from conducting *official business* on personal devices (outside of the City server environment) and accounts except where unavoidable. In those instances, either forward or transfer the record to your City device or retain the record. If the record is not forwarded to a City device, provide the record to the City if and when requested.

If you receive a communication regarding *official business* on your personal e-mail account, forward the communication to your official City e-mail account and communicate with the sender from the *official* City e-mail account.

Please contact the City Attorney's Office if you have specific questions or to request further information.

² State law record retention requirements vary depending on the nature of the record

APPENDIX NO. 7 – Mesquite Gift Disclosure Report

GIFT DISCLOSURE REPORT

The Mesquite City Council has adopted gift policies for City Councilmembers. The gift policies require members of the city council to file a sworn gift disclosure statement with the City Secretary if, during the calendar year, the Councilmember, or his or her immediate family* have received a gift, ticket, meal, travel, lodging, entertainment or honorarium having a value of \$50 or more, or an accumulation with an aggregate value of \$100 or more from a person who the councilmember knows is interested in, or is likely to become interested in, a contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the councilmember’s discretion. Please list each gift, ticket, meal, trip, lodging, entertainment, and honorarium that qualifies below.

Date of Report: ____ / ____ / ____

Calendar Year: _____

Name of Reporting Party: _____

Date Item Given	Donor Name	Item Description	Estimated Dollar Value of Item	Gift was given to (Check one)	
				Councilmember	Family Member

*Immediate family is defined as a spouse, domestic partner, or dependent child.

Have any additional or supplemental pages been attached to this report? Yes ___ No ___

If additional or supplemental pages have been attached, identify each page with your name/item number to which the information on the supplemental page refers.

Exclusions to the Policy Guidelines

City Councilmembers do not have to report the following in the annual gift disclosure statement:

- Ceremonial functions and other functions that councilmembers and their family members attend in their official capacities in accordance with gift policies adopted by the city council.
- Tickets to fundraisers or charity events that benefit city facilities and programs given to councilmembers and their family members in accordance with gift policies adopted by the city council.
- Tickets given to city councilmembers in accordance with gift policies adopted by the city council.
- Ceremonial and protocol gifts received on behalf of the city and delivered to the city manager within 30 days of receipt and inventoried as city property.
- Honorarium reported on the councilmember’s personal financial statement in accordance with state law

AFFIRMATION

This report (including any accompanying supplements), to the best of my knowledge, is true, correct and complete.

Signature of Reporting Party

EXHIBIT B

RULES OF PROCEDURE

CITY COUNCIL OF THE CITY OF MESQUITE

Adopted

February 4, 1963

Revised

April 2, 1973

December 3, 1973

December 1, 1986

May 18, 1987

October 6, 2003

August 21, 2017

November 6, 2017

October 15, 2018

December 9, 2019

October 18, 2021

RULES OF PROCEDURE

1. AUTHORITY

- 1.1 Charter: Article IV, Section 16 of the Charter of the City of Mesquite provides that the City Council shall determine its own Rules of Procedure. The following set of Rules shall be in effect upon their adoption by the City Council until they are amended, or new Rules adopted in the manner provided for by these Rules.

2. GENERAL PROCEDURE

- 2.1 Meetings to be Public: All meetings of the City Council shall comply with the Texas Open Meetings Act. (*Charter, Art. IV, Sec. 17*)

- 2.2 Quorum: A majority of the City Council shall constitute a quorum. No valid action will be taken unless a quorum is present. (*Charter, Art. IV, Sec. 17*)

Four members shall be considered a quorum. More than half the members present shall be considered a majority if a quorum is present.

- 2.3 Compelling Attendance: The City Council may compel the attendance of its members. (*Charter, Art. IV, Sec. 16*)

- 2.4 Absences: Where any member of the City Council is absent for three regular consecutive meetings without first having obtained leave of absence at a regular meeting, the City Council may, by a majority vote of the entire City Council, declare the office vacant and proceed to fill such vacancy in the same manner as other vacancies in said City Council. (*Charter, Art. IV, Sec. 10(a)*)

- 2.5 Vacancies: In the event of a vacancy existing on the City Council from any cause whatsoever, the remaining members of the City Council shall, by a majority vote at a regular meeting, elect a member or members to fill the vacancy or vacancies thus existing; and such member or members so elected by the City Council shall serve in such position until the next municipal election, at which time the

candidate then elected shall serve for the remaining term of office or for the succeeding term of office. (*Charter, Art. IV, Sec. 10(a)*)

- 2.6 Minutes of Meetings: Minutes of all City Council proceedings shall be kept by the City Secretary, to which any citizen may have access at all reasonable times, and which shall constitute one of the archives of the City. (*Charter, Art. IV, Sec. 17*)
- 2.7 Questions to Contain One Subject: All questions submitted for a vote shall contain only one subject. If two or more points are involved, any member of the City Council may require a division if the question reasonably calls for a division.
- 2.8 Right to Floor: Any member of the City Council desiring to speak may do so after being recognized by the presiding officer and shall confine the member's remarks to the subject under consideration. No member shall be allowed to speak more than once on any subject until every member wishing to speak shall have spoken.
- 2.9 Rules of Order: The most current edition of Roberts' Rules of Order shall govern the proceedings of the City Council in all cases where not in conflict with these Rules.
- 2.10 Suspension of Rules: Any provision of these Rules not governed by the City Charter, City Code or State law may be temporarily suspended by a majority vote of the members of the City Council who are present.
- 2.11 Amendment of Rules: These rules may be amended, or new Rules adopted by a majority vote of all members of the City Council if the proposed amendment or new Rules shall have been introduced at a prior meeting of the City Council.
- 2.12 Attendance of City Manager: The City Manager, or acting City Manager, shall attend all meetings of the City Council with the right to take part in the discussion, but having no vote. (*Charter, Art. VIII, Sec. 3*)

- 2.13 Attendance of City Secretary: Unless excused by the City Council for good cause, the City Secretary, or acting City Secretary, shall attend all meetings of the City Council and keep accurate minutes of its proceedings. (*Charter, Art. IV, Sec. 25*)
- 2.14 Attendance of City Attorney: The City Attorney, or acting City Attorney, shall attend all meetings of the City Council unless excused, and shall upon request give an opinion on questions of law. The City Attorney shall act as the City Council's parliamentarian.
- 2.15 Attendance of Officers and Employees: Other officers and employees of the City of Mesquite shall attend City Council meetings when requested to do so by the City Manager. If requested to do so by the City Manager, they may present information relating to matters before the City Council.
- 2.16 Ethics Training: The City Council shall participate in annual ethics training that includes ethical rules in all applicable regulations, including but not limited to federal and State law, the Mesquite Charter, the Mesquite Code of Ordinances, and these rules.
(Resolution No. 30-2017, approved 08/21/2017, and 43 Texas Administrative Code, Sec. 10.51)

3. TYPES OF MEETINGS

- 3.1 Regular Meetings: The City Council shall hold at least one regular meeting each month at the time to be fixed by the City Council for such regular meeting and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens. (*Charter, Art. IV, Sec. 15*)

It shall be the policy of the City Council to meet on the first and third Mondays of each month and on the fourth Monday of each September unless otherwise changed or cancelled. All regular meetings shall be held at or after 3:00 p.m. All regular meetings falling on an official City holiday shall be held on the first City business day following the official City holiday.

(9/19/2016 City Council minutes, #13, Resolution No. 55-2017 and amended by Resolution No. 60-2018)

- 3.2 Special Meetings: Special meetings, also known as called meetings, may be called by the Mayor, the Mayor Pro Tem or Deputy Mayor Pro Tem when acting in place of the Mayor, or by any three members of the City Council.

The call for a special meeting shall be filed with the City Secretary in written form signed by the Mayor, Mayor Pro Tem or Deputy Mayor Pro Tem when acting in place of the Mayor, or any three members of the City Council at least three days prior to the special meeting, except in case of an emergency, in which case the nature of such emergency shall be expressed in the notice. The call for a special City Council meeting made at a regular meeting at which all members of the City Council are present shall be sufficient notice of such meeting. If any member of the City Council is absent from any regular meeting when such special meeting is called, such member shall be given written notice by the City Secretary. In the case of an emergency meeting, all members shall receive written or telephonic notice as the circumstances allow. The call for a special meeting shall specify the day and hour of such meeting and the items to be considered.

- 3.3 City Council-City Staff Work Sessions: A City Council-City Staff work session may be held as a part of a regular meeting or as an additional meeting as the business of the City requires.

- 3.4 Closed Meetings: The City Council may meet in a closed meeting (sometimes called executive session) at the call of the Mayor, Mayor Pro Tem or Deputy Mayor Pro Tem when acting in place of the Mayor, or any three members of the City Council upon those matters allowed under State law.

- 3.5 Recessed Meetings: Any meeting of the City Council may be recessed to a later time by a majority vote of members of the City Council who are present provided that no recess shall be for a longer period than until the next regular meeting. If a meeting is recessed to a date other than the following regular business day, notice of the meeting shall be posted in accordance with the Texas Open Meetings Act.

4. PRESIDING OFFICER OF THE CITY COUNCIL AND DUTIES

4.1 Presiding Officer: The Mayor, if present, shall preside at meetings of the City Council.

The Mayor Pro Tem and Deputy Mayor Pro Tem shall be selected from among the members of the City Council and shall perform all duties of the Mayor in the Mayor's absence or disability. (*Charter, Art. IV, Sec. 11*)

In the absence of the Mayor, Mayor Pro Tem and Deputy Mayor Pro Tem, a majority of the members of the City Council who are present shall select one of their number to act as presiding officer for such meeting.

4.2 Preservation of Order: The City Council meeting shall be called to order by the presiding officer, and the presiding officer shall preserve order and decorum and confine members in debate to the question under discussion.

4.3 Points of Order: The presiding officer shall determine all points of order, subject to the right of any City Councilmember to appeal to the members of the City Council who are present. If any appeal is taken, the question shall be: "Shall the decision of the presiding officer be sustained?" The question shall be decided by a majority vote of the members of the City Council present.

4.4 Question Stated: The presiding officer shall state the question prior to discussion by the members of the City Council, shall put the question for a vote prior to the vote, and shall announce the result of the vote.

4.5 Vote of Presiding Officer: The presiding officer may participate in the discussion of all matters coming before the City Council and shall be entitled to vote as a member thereof on all legislative and other matters but shall have no veto power. (*Charter, Art. IV, Sec. 13*)

5. AGENDA PREPARATION AND APPROVAL; ORDER OF BUSINESS

- 5.1 Agenda Preparation: The agenda for regular City Council meetings shall be prepared under the supervision of the City Manager.
- 5.2 Items Placed on the Agenda at the Request of Members of the City Council: Any member of the City Council has the right to request that an item be placed on the agenda. Should a question arise regarding whether an item should be discussed in open or closed session, the question shall be determined by the City Attorney.
- 5.3 Emergency Items: Emergency items shall be posted in accordance with State law.
- 5.4 Order of Business for Regular City Council Meetings: The order of business of regular City Council meetings shall generally be as follows:

CITY COUNCIL-STAFF WORK SESSIONS AND PRE-MEETING

The purpose of this portion of the regular meeting is to allow presentations by the City Staff on matters not requiring the same formality as the formal agenda or the participation of the general public. The City Council may discuss posted agenda items and briefings from the City Staff.

REGULAR CITY COUNCIL MEETING

- I. Invocation.
- II. Pledge of Allegiance.
- III. Presentations.
- IV. Special Announcements.

This time is reserved for special announcements of community interest and the recognition of visitors.

- V. Citizens Forum.

At this time a number of citizens not to exceed 10 shall be allowed to speak on any matter, other than agenda items, personnel matters, matters under litigation or matters concerning the purchase, exchange or lease of real property, for a length of time not to exceed three minutes on a first come – first served basis. A speaker addressing the Council through a translator will be allowed to speak for a length of time not to exceed six minutes. No Council action or discussion is to be taken until such matter is placed on the agenda and posted in accordance with law.

VI. Citizens Comments.

At this time, any individual wishing to discuss any matter on the agenda shall be allowed to speak for a length of time not exceeding three minutes on a first-come, first-served basis. Citizens addressing the Council through a translator will be allowed six minutes. Anyone desiring to speak on an item scheduled for a public hearing is requested to hold their comments until the public hearing on that item.

VII. Consent Agenda.

All items on the Consent Agenda are routine items and may be approved with one motion; however, should any member of the City Council wish to speak on any item, said item may be removed from the Consent Agenda by motion of the City Council and acted on individually.

VIII. Public Hearings.

In order to conserve time and yet give persons an opportunity to express themselves at public hearings, the proponents or applicants are allowed 15 minutes for their presentation and five minutes for rebuttal. Special interest and other organized groups are allowed 15 minutes to express their support or opposition, and individuals are allocated three minutes. In certain large zoning applications, the presiding officer may announce at the beginning that additional time is being permitted due to the size or complexity of the case.

IX. Individual Items.

This time is reserved for non-routine items or items requiring additional consideration or discussion. Any individual desiring to address the City Council regarding an item on any Individual Item shall do so on a first-come, first-served basis. Comments are limited to three minutes, except a speaker addressing the Council through a translator will be allowed six minutes.

IX. Appointments to Boards and Commissions.

5.5 Procedures for Addressing the Council: Any person desiring to address the Council is requested to complete a registration card, which is available at the entrance to the City Council Chamber. This card may also be completed by those who wish to express their support or opposition on an item but do not wish to speak. The registration cards should be submitted to the City Secretary prior to consideration of the beginning of the meeting.

5.6 Rules of Conduct:

I. City Councilmember.

During City Council meetings, Members of the City Council 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 the City Council. A City Councilmember desiring to speak shall address the presiding officer and, upon recognition by the presiding officer, shall avoid discussion of personalities and indecorous language and shall refrain from personal attacks and verbal abuse.

A City Councilmember, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a City Councilmember 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 alter the member's remarks or behavior so as to comply with the rules of the City Council.

Members of the City Council shall confine their questions to the particular matters before the assembly and in debate shall confine their remarks to the issues before the City Council.

To ensure there is no violation of the Texas Open Meetings Act and promote transparency, Members of the City Council shall not use electronic devices during a City Council meeting to view, receive or send information from or to another Councilmember or member of the public concerning any matter on the agenda. The foregoing does not prohibit using such devices to access agenda materials, research information on items presented to the Council or check for and engage in personal or business communications.

II. Citizens and Other Visitors.

Citizens and other visitors are welcome to attend all public meetings of the City Council. Everyone attending the meeting shall refrain from private conversations while the City Council is in session.

Members of the public attending City Council meetings shall observe the same rules of civility, decorum, and respectful conduct applicable to members of the City Council. To ensure meetings are conducted in a professional and courteous manner which enables the orderly conduct of business, all persons in attendance or who participate in the meeting shall conduct themselves in a manner that does not interfere with the ability of others to observe and, when allowed, to participate without disruption or fear of intimidation, threats, or hostility. 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.

Members of the public desiring to address the City Council shall be recognized by the presiding officer and shall state their name and address in an audible tone for the record and shall limit their remarks to the topic under discussion.

Members of the public have the right to criticize the City Council, including criticism of any act, omission, policy, procedure, program, or service. A member of the public addressing the City Council, however, shall not engage in any disorderly conduct that disrupts the orderly conduct of the City Council meeting. The presiding officer may rule a member of the public out of order and in violation of the City Council rules if:

- (a) the individual is speaking beyond the allotted time limit and refuses to yield the floor;
- (b) the individual's remarks are not relevant to the agenda item or City business or affairs;
- (c) the individual repeatedly interrupts a member of the Council;
- (d) the individual's remarks are disruptive so as to disturb the peace and good order of the meeting through the use of, without limitation, loud, threatening, hostile, abusive, vulgar or obscene language or any other action that disturbs or is calculated to disturb the meeting;
- (e) the individual engages in any conduct with the intent of breaking up the meeting, including unreasonably loud and prolonged yelling, screaming, clapping, or noise-creating acts that renders it difficult for the City Council to conduct or continue with the meeting; or
- (f) the individual willfully refuses or fails to comply with any City Council Rule of Procedure or with any order of the presiding officer.

If the presiding officer determines that the City Council Rules of Procedure are not being followed, one warning will be given to the individual. If the individual continues to violate the City Council Rules of Procedure after the warning, the presiding officer may revoke the individual's speaking privileges and may remove, or cause to be removed by security personnel, the individual from the City Council meeting. Any individual ordered to be removed from a meeting shall be excluded from returning to that meeting.

6. MOTIONS AND VOTING PROCEDURE

- 6.1 Withdrawal of Motions: The maker of a motion may withdraw or modify the motion at any time until it has been stated by the presiding officer. If a motion is modified, the City Councilmember who seconded the motion may withdraw his second.
- 6.2 Voting: All votes shall be by both hand vote and verbal "aye" or "nay," which may be indicated by electronic voting procedures. (Charter Art. IV, Sec. 17)
- 6.3 Tie Vote: In case of a tie vote on any proposal, the proposal shall be considered as failing to carry.
- 6.4 Abstention from Voting: No member of the City Council shall be excused from voting except on matters where the member's financial interests are involved or where otherwise prohibited by State law. (*Charter, Art. IV, Sec. 34*)
- 6.5 Tabling an Agenda Item: Items tabled by action of the City Council, unless otherwise provided*, may only be placed on a future agenda at the request of a Councilmember.

**Zoning cases require public hearings and should be postponed to a date certain. If a case is indefinitely postponed pending the occurrence of a stated condition (i.e. "until such time as the applicant prepares a site plan" or "until the applicant requests a hearing"), the City is required to renotify surrounding property owners and republish the date of the public hearing.*

6.6 Reconsideration: A motion to reconsider is permitted to consider added information or a changed situation that has been discovered or developed since the taking of the vote. A motion to reconsider an item upon which the original action has been taken may be made during the same meeting during which the original action was taken or at the next regular City Council meeting. If made at the next meeting, the item must be properly posted on that meeting's agenda. Any City Councilmember may request that the item be placed on the agenda; however, the motion to reconsider may only be made by a Councilmember who originally voted on the prevailing side on the item. The reconsideration of an item shall immediately follow a successful vote to reconsider except in rezoning cases.

A rezoning application that has been approved, and the ordinance approving the zoning change published, may not be reconsidered. The City Council may, in that circumstance, initiate a new rezoning case and call public hearings to determine proper zoning on that property.

7. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

7.1 Form of Presentation: Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly expressed in the title, except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. (*Charter, Art. IV, Sec. 18*)

7.2 Vote Required: A majority of the City Council shall constitute a quorum to do business, and the affirmative vote of at least four members shall be necessary to adopt any ordinance or resolution unless otherwise provided by law. (*Charter, Art. IV, Sec. 17*)

7.3 Emergency Measure: No ordinance, unless it is declared an emergency measure, shall ever be passed at a called meeting,* but may be passed at any regular meeting of the City Council unless otherwise provided**. All resolutions or orders may be passed at any regular meeting or may be passed at any special or called meeting called for that purpose. (*Charter, Art. IV, Sec 18*)

****Note: "Called meeting" is defined as being synonymous with "special meeting" as defined in Section 3.2.***

An emergency measure is generally defined as an ordinance or resolution for the immediate preservation of the public business, property, health or safety or providing for the usual daily operation of municipal departments in which the emergency is set forth in such ordinance. Ordinances appropriating money to defray current or other expenses of the City where an emergency exists, or for any other purpose where an emergency exists, may be passed as emergency measures; except that no ordinance making a grant*, renewal or extension of a franchise or other special privilege or regulating the rate or rates to be charged for services furnished the public generally by public utilities shall be passed as an emergency measure, nor shall such an ordinance be finally passed on the date it is introduced, but must be passed, read and voted on at two regular meetings of the City Council. (*Charter, Art. IV, Sec. 19*)

*****Note: The grant of a franchise must be read in full at **three regular meetings** of the City Council. (Charter, Art. III, Sec. 18(c))***

8. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS

8.1 Standing and Ad Hoc Committees of the City Council: In general, the City Council, and Mayor when applicable, may create the following types of standing or ad hoc committees.

- I. Standing Committees. The City Council, upon a motion adopted at a public meeting by a simple majority vote of its membership, may create any standing committee. The motion establishing a standing committee shall state the purpose for which the committee is formed, and if applicable the term during which the committee shall remain in existence. If no term is stated in the motion for creation, the term shall be indefinite until otherwise amended by majority vote of the City Council. At any time, the purpose for the standing committee may be amended and supplemented and its term of existence (if applicable) may be changed by majority vote

of the City Council. The Mayor shall appoint no more than three (3) City Council members to any standing committee, so formed by the City Council, and the Mayor shall also designate one (1) committee member to serve as committee chair.

- II. Special Committees. The Mayor may, from time to time, create any special committee intended to be temporary in nature. The Mayor shall appoint no more than three (3) members of the City Council to any special committee. The Mayor shall also designate one (1) committee member to serve as committee chair. Any special committee created by the Mayor shall cease to exist upon the completion of its purpose or when abolished by the Mayor.

 - III. Citizen Advisory Committees and/or Task Forces. The City Council may create citizen advisory committees and/or task forces as the need may arise upon a motion adopted at a public meeting by a simple majority vote of its membership. The motion establishing the citizen advisory committee or task force shall state the purpose for which the committee is formed. Each member of the City Council, including the Mayor, may appoint at least one (1) committee member. The Mayor shall select and appoint a committee chair from the full membership of the committee. In addition to citizens, residents, or other such persons residing inside or outside the community, the committee membership may also include no more than three (3) members of the City Council. Any committee so created shall cease to exist upon the completion of its purpose or when abolished by the City.
- 8.2 Intra-Council Committees: The Mayor may, as the need arises, appoint intra-City Council committees. Any committee so created shall cease to exist upon the completion of its purpose or when abolished by the Mayor.
- 8.3 Boards and Commissions: The City Council may create boards and commissions to assist in the conduct and operation of the City Government with such duties as the City Council may specify. Such duties must be consistent with the City

Charter or City Code. Such boards and commissions shall cease to exist when abolished by the City Council.

9. VOTING - STATE STATUTORY REQUIREMENTS

- 9.1 Levying Taxes: The vote on an ordinance, resolution, or order setting a tax rate that exceeds the no-new-revenue tax rate must be a record vote, and at least 60 percent of the members of the City Council must vote in favor of the ordinance, resolution, or order for it to pass. (*Tex. Tax Code, Sec. 26.05(b)*)
- 9.2 Changes in Zoning Ordinance: In cases of protests against changes in zoning classifications, signed by the owners of 20 percent or more of either the area of the lots or land included in such proposed changes, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, a three-fourths vote of all members of the City Council is required. In computing the percentage of land area, the area of streets and alleys shall be included in the computation. (*Vernon's Ann. Civ. Stat., Local Government Code, Sec. 211.006(d)*)

10. CLOSED MEETINGS

- 10.1 Purposes Allowed: Pursuant to State law as provided in Chapter 551 of the Texas Government Code, the Council may conduct closed meetings for the purposes permitted by statute.
- 10.2 Notice Required: Closed meetings shall be placed on the agenda and posted as in other cases and as much of the subject matter as may be required by law shall be declared.
- 10.3 Procedure: Before beginning a closed meeting, a quorum shall assemble in open session and the presiding officer shall announce that the Council will go into closed meeting and state the subject of the meeting. At the end of the conclusion of the closed session, the Council shall reassemble in open meeting to vote on the matter, if a vote is necessary, or continue or adjourn the meeting, as appropriate.

- 10.4 Privileged Information: All matters discussed in closed meetings are privileged and may not be disclosed without consent of the majority of the City Council or by lawful process from a court of competent jurisdiction.

Disclosure of matters discussed in closed meetings or the electronic recording of a closed meeting, without the consent of a majority of the City Council, shall constitute misconduct in office and a member for such action may be disciplined, as in other cases of misconduct in office.

Disclosure to one's attorney, without release of the privileged nature of the matter, is not: (1) a disclosure to the public; (2) a waiver of the privilege; nor (3) misconduct in office.