



CITY OF EL PASO

City of El Paso Code of Ethics

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READ ALL ABOUT IT:
CITY OFFICIAL AND
CONTRACTOR VIOLATE
ETHICS CODE

What is purpose of an
Ethics Code?

Help understand what is right vs.
wrong?

Help address potential conflicts of
interest?

Accountability and oversight?

Political reasons?



Ethics Violation??

- **Not** an Ethics Violation:
 - Discourteous behavior
 - Immoral behavior
 - Code of Conduct
- **Possible** Ethics Violation:
 - Criminal activity –bribery
- Ethics Violation
 - Conflict of interest
 - Nepotism



El Paso Code of Ethics

- **Code of Ethics** is in Title 2, Chapter 2.92 of the City Code of Ordinances.
 - Art. 1 – Code of Ethics – Policy and Purpose
 - Art. 2 – Standards of Conduct
 - Art. 3 – Ethics Review Commission
 - Jurisdiction
 - Duties
 - Complaint Review
 - Hearing
 - Disposition

Purposes for Ethics Code

2.92.010

1. To establish an ethics review commission;
3. To improve **public confidence** in the integrity of city govt;
5. To **avoid conflicts** between the personal interest and the public responsibilities of city officers and employees;
6. To **establish minimum standards of conduct** to be adhered to by city officers and employees;
7. To **require disclosure** of private financial interests by certain individuals;
8. To **require reporting of certain gifts** received by certain individuals;
- 9 & 10. To provide for **complaints, resolution and penalties** of ethical issues and concerns.

Who must comply with the Ethics Code?

- Mayor and Councilmembers
- **Candidates for elected office**
- Municipal judges
- City employees
- Members of ALL boards, commissions, committees and other bodies created by City Council
- Any board member appointed by City Council
- Not all provisions apply to all listed.



Standards of Conduct

- **Advancement of Private Interests** - Official or employee shall NOT use their official position to improperly secure unwarranted privilege for themselves, relatives or others
- **Example:** Acquisition of Interest in impending matter.
- **Example:** Officer represents to a person that they can provide an advantage to that person based on the official's position on a board.



Standards of Conduct 2.92.030

City officials and employees:

- **Shall NOT** acquire an interest in, or be affected by, any contract, transaction, zoning decision, or other matter;
- **Shall NOT** participate in making or influencing any decision or action in which they know that they have any financial interest distinguishable from that of the public.

Standards of Conduct 2.92.030

- **Shall not** provide any services for compensation to a person or organization who is requesting an approval, investigation, or determination from the City.
- **Shall not** utilize city resources or by omission allow city resources to be utilized for personal benefit or the personal benefit of any other person.

This includes using city resources for **election/campaign** purposes



Election Code Sec 255.003

- The Code prohibits the use of **city resources** to produce or distribute personal campaign materials.
- The prohibition applies to any **"officer or employee of the city."**
- The prohibition applies to **"spending or authorizing the spending of public funds"** for any campaign purpose.
- Officer or employee would violate the prohibition by using any city equipment for a personal political/campaign.
- Not permissible to use or authorize the use of an employee of the City for a personal campaign.

Class A Misdemeanor.

Standards of Conduct

2.92.030 & Ch 171

- **Shall not** transact any business on behalf of the city with any business entity in which they have a **financial interest**.
- **Shall not** personally participate in a decision if the officer is negotiating or has an arrangement concerning prospective employment with organization that has **financial interest** in a matter under consideration with the city.
- Chapter 171 uses the term “**substantial interest**”.
 - Owns 10% shares or 10% fair market value
 - Funds received exceed 10% of gross income for year
 - Person related by first degree by blood or marriage

Disclose and Recuse

- **Abstain** from voting and involvement on the matter
- Must **file an affidavit** with the City Clerk
- **Refrain from** discussions with staff or other city officers regarding the matter with a financial/substantial interest.



Standards of Conduct 2.92.030

- **Shall not** accept other employment or engage in activities incompatible with the discharge of their duties or which might impair their independent judgment in the performance of their duty.
- **Shall not** recklessly disregard the established practices or policies of the city relating to their duties.

Confidential Information

- **Shall not** use their position to secure official information about any person or entity for any purpose other than the performance of official duties.
- **Shall not** use or disclose, other than in the performance of their official duties or as may be required by law, confidential information obtained while in office. This provision applies to former officers as well as to current ones.

Standards of Conduct 2.92.030

- Shall not personally represent or appear in behalf of the private interest of another before the city council, or any city board or department or staff if the represented person's interest is adverse to that of the city.
 - This includes litigation if being compensated
- An officer shall not intentionally or knowingly assist or induce, or attempt to assist or induce, any person to violate the Ethics Code.

A decorative frame made of a thick pink ribbon with a black outline. The ribbon starts at the top right, forms a large loop on the left, and ends at the bottom right. In the center of the loop, the word "GIFTS" is written in pink, and the number "2.92.040" is written in white below it.

GIFTS

2.92.040

Standards of Conduct

- Gifts – Cannot solicit or accept **any gift** for themselves or a relative from any source that:
 - Exceeds \$75
 - Influences or rewards official conduct; or
 - The **official knows or should know** is being offered with the intent to influence official conduct.



Cannot solicit or accept GIFTS from:

1. Anyone doing business or seeking to do business with the City; or
2. Registered lobbyists if gift exceeds \$10

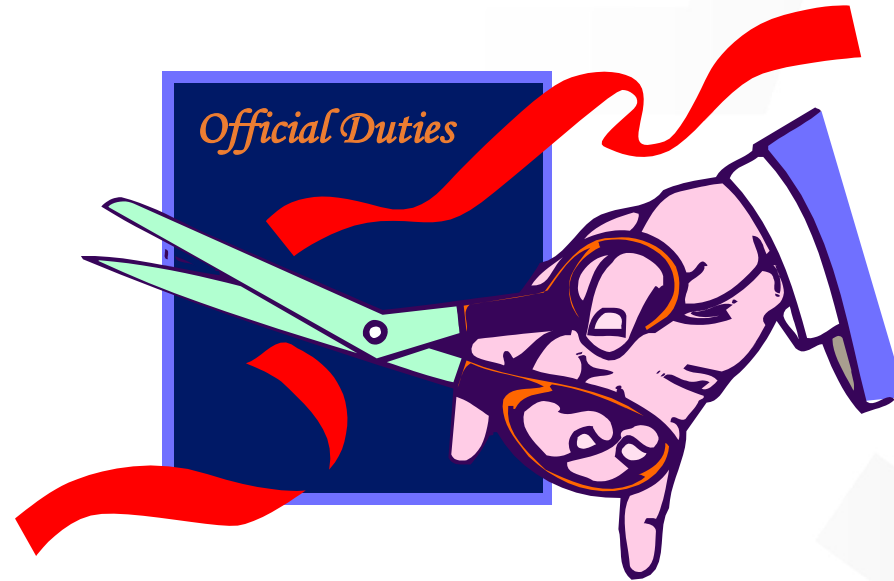


11 Exceptions to the gift rules

Exceptions to Gift Rule



Exceptions to Gift Rule



Financial Disclosure

2.2 City Charter

- Each person **ELECTED** to office, before they can be given the oath, must file a disclosure form.
- Must disclose:
 - Name of employer and capacity for Officer and spouse (includes self-employment);
 - Name of business entity in which the person or spouse has a financial interest;
 - Partnership interest for officer and spouse;

***Do not have to disclose the amount of financial interest**

Financial Disclosure

2.2 City Charter

- Name of nonprofit or business entity in which the officer or spouse serves as officer or director; and
- Any real property owned by the officer or spouse within the state of Texas.
- Must file an annual sworn updated disclosure while in office.

Campaign Financing 2.92.070

- In addition to state laws, Ethics Code has additional campaign financing regulations.
- Code applies to candidates, officeholders and PACs involved in city elections.
- Code is not applicable if city officer is running for a county, state or federal position.
- Campaign Contributions:
 - Must make contribution in your name
 - May not make a contribution on behalf of another



Campaign Contributions

- It is a violation for any adverse party in any pending litigation against the City **to contribute or donate any funds** to any candidate for city office if the litigation seeks recovery from the City in excess of \$25,000.
- Duty of the candidate to refuse to accept any contribution that is offered by a person who is known to have such litigation.
- If a candidate **unknowingly** accepts a contribution in violation of this provision, it is the duty of the candidate to return the contribution within **10 days** after the candidate becomes aware.

Disclosure Campaign Contributions

2.92.080

- Elected officer must verbally disclose any contribution of \$500 or more prior to discussion/vote on matter benefitting the contributor.
- \$500 is an aggregate amount received during campaign or term of office.
- Donor is also required to disclose \$500 or more contribution prior to council action.
- Elected officer must disclose in writing within 30 days of receiving \$500 or more contribution.
- Within 30 days of the end of fiscal year, officers must report all campaign contributions.
- City does post the contributions on website.





CITY OF EL PASO

ETHICS COMMISSION

Commission Jurisdiction

- The ethics review commission shall have jurisdiction to review alleged violations of **Article II (Standards of conduct)** of this chapter by officers that occurred within two years of the complaint being filed.
- **Commission may not hear complaints that do not allege a violation of the ethics standards of conduct.**





Commission Duties

- Review, evaluate and provide recommendations on issues as requested by the city council.
- Issue advisory opinions in the manner set forth in Section 2.92.150 of the Code.
- Review, evaluate and issue determinations, and provide recommendations to the city council on complaints.

Complaint Review

- City Clerk will review a filed complaint to ensure it is properly sworn and complete.
- If the complaint is complete the Clerk will forward the complaint to the City Attorney or designee.
- Within 21 days of receiving the complaint the City Attorney will either:
 - Dismiss the complaint because it falls outside the ethics review commission's jurisdiction; or
 - Refer the complaint to the ethics review commission

Hearing

- If a complaint is referred to the commission, it must schedule a hearing **within 30 days** of being referred the complaint.
- Shall provide copies of all relevant documentation to the members of the commission.
- While the complaint is pending members of the commission are prohibited from discussing the complaint with any one not on the commission or city attorney.

Hearing

- Only eligible commissioners will hear complaints.
- If a commissioner recuses themselves, they refrain from voting or discussing the matter.
- A commissioner shall recuse himself:
 - Conflict of interest
 - Commissioner filed the complaint
 - Complaint is against councilmember who appointed commissioner
 - Commissioner worked campaign for respondent

General Rules for Hearing

- Commission **may establish time limits and other rules** relating to the participation of any person in the hearing.
 - Parameters for opening and closing statements
 - Roles of the complainant and the respondent
 - Limitations regarding testimony for non-relevant or cumulative witnesses; and
 - The presentation and direct questioning of witnesses

General Rules for Hearing

- Respondent and the complainant have the right to attend the hearing and the right to make a statement and present witnesses.
- Respondent and the complainant may be advised by their legal counsel during the hearing but may not speak on their behalf.
- Respondent, the complainant, or their legal counsel, **may not question or cross-examine witnesses**, except if the commission has granted them permission to do so.

General Rules for Hearing

- The ethics review commission is **not bound by the rules of evidence**, but will rely on evidence that a reasonably prudent person commonly relies on in the conduct of their personal affairs.
- The commission shall hear relevant evidence, but **shall not rely on hearsay**.



General Rules for Hearing

- Commission shall have the authority to request witness testimony and production
- Chair, through assistance of City Council, shall be able to compelling testimony, including subpoenaing witnesses



Continuance

- If the complainant or the respondent, **are unable to attend** the scheduled hearing, they may request a continuance to the commission by mail or email at least five days before the hearing. The complainant and the respondent shall receive one automatic continuance.
- Any other requests for continuance shall be delivered to the commission and **the chair** will determine if a continuance will be granted.

Disposition

- After hearing the complaint, the Commission will issue a decision within 30 days based on the information presented at the hearing.
- Commission will:
 - **Dismiss the complaint** because no violation and issue report of the dismissal.
 - **Find a violation by clear and convincing evidence** and then determine appropriate sanction, if any.

Sanction Options

- **Letter of Notification** – violation was not intentional.
- **Letter of Admonition** – violation was minor and/or not intentional but calls for more response than Notification.
- **Letter of Reprimand** – Violation was intentional or disregard for Ethics Code.
- **Recommend removal from office** – Serious or repeated intentional violation or disregard for Ethics Code. **Must go to City Council with a letter of Reprimand.**

Reconsideration

- If Commission imposes a sanction, the person who received the sanction, may petition the Commission to reconsider.
- Can only be granted if there is newly discovered evidence NOT presented during the original hearing.
- Must provide notice within **14 days** of the Commission disposition report.



Advisory Opinion

- By written request to the City Attorney, any official may request an advisory opinion regarding whether his or her proposed conduct would violate the Ethics Code.
- City Attorney, within 30 days, present the advisory opinion request to a panel of the Commission.
- Panel should meet to confer and issue opinion or panel may decline to issue opinion or refer to the Commission to make a determination.

Advisory Opinion

A person who in good faith acts in accordance with an advisory opinion issued by the panel or Commission cannot be found to have violated the Code for conduct approved in the advisory opinion.

- Must be the person who requested the opinion
- Opinion must fairly and accurately disclose all relevant facts necessary to render opinion.

Advisory
Opinion

City of El Paso Code of Conduct



Why a Code of Conduct?

- An agreement of behavioral standards for City officers.
- Expected standards of conduct for City officers.
- Framework for behavioral standards & conduct between individuals and the elected council as a whole.
- In line with the City's core values.
- Held accountable for violation.

Philosophy

Everyone must work together for the common good of the people of El Paso and not for any private or personal interest, and must assure fair and equal treatment of all persons, claims and transactions.

City of El Paso Code of Conduct

Pillars for Code of Conduct

- **Comply with the spirit & letter of the law and City Policy-** comply with federal, state and local laws.
- **Make decisions and act on facts** – maintain an open mind and base your decision on the facts and law.
- **NEVER disclose confidential information** – Never disclose without authorization or to advance personal interest. (*Also an Ethics Code violation*)

Pillars for Code of Conduct

- **Respect City Process** –perform duties in accordance with form of government.
- **Maintain a positive** workplace environment – Abusive conduct, verbal attacks are not acceptable
- Respectful communications must continue in private between city officers.
- This includes texts and emails



Conduct with City Staff

- All questions and/or requests for information should be directed to the designated staff member...for council, that is the City Manager.
- Requests for staff of additional resources should be made to City Manager.
- Treat all employees as professionals.
- Do not disrupt employees from their jobs (*Is this realistic?*).
- Refrain from personally attacking employees.
- Do not get involved in administrative functions. (hiring of employees)

Conduct with Public

- Be welcoming to speakers
- Be fair & equitable in allocating time to speakers
- Be an active listener
- Avoid debate and argument
- No personal attacks of any kind
- Comply with parliamentary procedure

Conduct with Other Officers

- Attendance at other City Board or Committee meetings is discouraged, based on the affect your presence may have at the meeting.
- Inappropriate to lobby other officers on behalf of an individual, business or developer.
- Never threaten with removal of another officer for disagreeing on an issue.
- Be fair and respectful to all members of council and other officers.

Conduct with the Media

- If related to a city issue, never say “**No Comment**”
- Officer should direct the reporter to the assigned staff member, of the City’s Strategic Communications Office.
- If the matter is personal (i.e. campaign or personal matter), **do not refer** to City’s Strategic Communications Office

A word cloud graphic set against a dark blue background. The central focus is the phrase "ANY QUESTIONS?" in large, bold, white capital letters. Surrounding this central text are numerous instances of common English question words, each rotated at various angles. These words include "WHEN?", "WHERE?", "WHO?", "WHAT?", "HOW?", "Why?", and "Where?". The words are rendered in a variety of colors such as light blue, yellow, green, and white, and their font sizes vary significantly, creating a dynamic and visually engaging composition.