

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT:

AGENDA DATE:

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER:

DISTRICT(S) AFFECTED:

STRATEGIC GOAL:

SUBGOAL:

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS), TO AMEND THE FOLLOWING: SECTION 2.92.020 (DEFINITIONS) SUBSECTION (10) TO UPDATE THE DEFINITION OF “CONTRIBUTION”; SECTION 2.92.080 (DISCLOSURE OF CAMPAIGN CONTRIBUTIONS) TO REQUIRE ADDITIONAL DISCLOSURES REGARDING CONTRIBUTIONS OR DONATIONS FROM INDIVIDUALS OR BUSINESS ENTITIES RECEIVING A BENEFIT FROM A VOTE OF CITY COUNCIL; SECTIONS 2.92.120 (JURISDICTION), SUBSECTION 2.92.130(A)(5) (DUTIES) AND SUBSECTION 2.92.160(B) (FILING A COMPLAINT) TO INCLUDE COMMISSION JURISDICTION OVER AND PROCESS FOR COMPLAINTS REGARDING CANDIDATES, POLITICAL COMMITTEES AND INDIVIDUALS OR BUSINESS ENTITIES OBLIGATED UNDER SECTION 2.92.080; SECTION 2.92.160(C) (FILING A COMPLAINT), TO CLARIFY PROCESS FOR COMPLAINTS REGARDING THE CHIEF INTERNAL AUDITOR; SECTION 2.92.170(A) (COMPLAINT REVIEW) TO AMEND THE TIME PERIOD FOR RESPONSE TO AN ETHICS COMPLAINT; AND SECTION 2.92.200 (DISPOSITION) TO INCLUDE A FINE OF UP TO \$500 AS A POSSIBLE SANCTION FOR VIOLATION OF THE ETHICS CODE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.080 (Disclosure of Campaign Contributions) is hereby amended to read as follows:

2.92.080 - Disclosure of campaign contributions and donations

- A. The following definition applies to these terms as used in this section: “Contribution” and “contributor” are as defined in this chapter, and shall include, but not be limited to cash, loans, offsets to expenditures, in-kind contributions, donations, and gifts. “Donation” means cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district. The term “donor” includes an individual and spouse, a business entity, or and individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item. “Benefiting” as used in this section shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

- B. Reporting of Contributions and Donations by Council member: Council members must verbally disclose the amount of any contributions or donations received totaling an aggregate of \$500 or more prior to discussion or vote on any council item benefiting the contributor or donor. This requirement includes any contribution received at any time during the council

ORDINANCE NO. _____

member's campaign(s) or term(s) of office for city council. Such member shall file a written notation with the City Clerk to be included with the agenda backup documentation. This disclosure shall be recorded in the minutes of the meeting.

- C. Reporting of Contributions and Donations by Contributors: No later than one week prior to the relevant Council meeting, a donor or contributor benefiting from an agenda item, and who has contributed or donated an accumulated total of \$500 or more to any current member of City Council or to the City through their office for use by the member's office or in their district at any time during their campaign(s) or term(s) of City office shall notify the City of the amount and to whom. It shall be the responsibility of the contributor or donor to report the contribution so the notice of the contribution is posted on the City Council agenda with the posting for the relevant item.
- D. These requirements shall apply to all meetings of the city council.
- E. If a member of the city council accepts a campaign contribution from a contributor of five hundred dollars or more, he shall report the amount and the donor by an item for notation on the consent agenda of a city council meeting within thirty days of the date of such contribution
- F. No later than 30 calendar days after the end of each fiscal year, each member of Council shall file a report listing all campaign contributions and donations to the City for use by their office received during that fiscal year, to include the identity and address of each contributor or donor, and the total amount received from each contributor or donor
- G. No action of the council which is otherwise legal shall be invalidated merely by reason of the disclosure of a campaign contribution by a member of the city council or the failure of a member to disclose a campaign contribution or donation.

SECTION 2. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.120 is hereby amended to read as follows:

2.92.120 - Jurisdiction.

The ethics review commission shall have jurisdiction to review alleged violations of Article II (Standards of conduct) of this chapter by officers, candidates, and political committees that occurred within two years of the complaint being filed. Additionally, the ethics review commission shall have jurisdiction over contributors and donors only to review alleged violations of Section 2.92.080 by contributors or donors who have obligations under that section.

SECTION 3. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.130, Subsection (A)(5) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.130 remain in full force and effect:

ORDINANCE NO. _____

HQ2023-1209-City Attorney | TRAN-507874 | KHK

Ordinance | Amending Sections and Subsections of Title 2 Chapter 2.92

(A)(5). Review, evaluate and issue determinations, impose sanctions and provide recommendations to the city council on complaints regarding officers, candidates, political committees, and for compliance with City Code section 2.92.080, donors or contributors described therein.

SECTION 4. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.160, Subsections (B) and (C) are hereby amended to read as follows, all other portions and subsections of City Code 2.92.160 remain in full force and effect:

2.92.160 Filing a complaint.

- B. (1) Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes an officer, candidate, political committee, has violated Article II of this chapter within the last two years, may file a sworn complaint with the city clerk.
- (2) Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes a contributor, donor, individual, or business entity has violated City Code section 2.92.080 within the last two years, may file a sworn complaint with the city clerk.
- C. Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes the city attorney, the city manager or the chief internal auditor has violated Article II of this chapter within the last two years, may file a sworn complaint with the mayor and the mayor pro tempore.

SECTION 5. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.170 (Complaint review), Subsection (A) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.170 remain in full force and effect:

2.92.170 Complaint review.

- A. The city clerk will review a filed complaint to ensure it is properly sworn and complete. If the complaint is missing required information, the city clerk will send the complaint back to the complainant through regular mail and/or electronic mail, and the complainant will have twenty-one days to correct the complaint and refile it otherwise the city clerk may reject the complaint. If the complaint is complete the city clerk will forward the complaint to the city attorney and the respondent within seven days. If the City Attorney refers the complaint to the ethics review commission under subsection 2.92.170(B)(2) below, respondent has fourteen days from notice to respondent of such to file a response with the city clerk.

SECTION 6. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.200 (Disposition), Subsection (D) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.200 remain in full force and effect:

2.92.200- Disposition.

ORDINANCE NO. _____

D. If after hearing the issues, the ethics review commission determines through clear and convincing evidence that a violation of this chapter has occurred, then the ethics review commission may issue one of the following sanctions:

1. Letter of notification. A letter of notification may be issued when the ethics review commission finds that a violation of this chapter was clearly unintentional. A letter of notification may advise the person to whom the letter is directed of any steps to be taken to avoid future violations.
2. Letter of admonition. A letter of admonition may be issued when the ethics review commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.
3. Letter of reprimand. A reprimand may be issued when the ethics review commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.
4. Recommend removal from office. In addition to a letter of reprimand, removal from office may be recommended to the city council for action when the ethics review commission finds that a serious or repeated violation of this chapter was committed by an officer intentionally or through culpable disregard of this chapter.
5. Issue a fine not to exceed \$500 payable to the City comptroller within 30 days of such order by the ethics review commission.

SECTION 7. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.020 (Definitions), Subsection (10) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.020 remain in full force and effect:

10. Contribution means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit. In-kind expenses, as defined in this section, is not a contribution.

SECTION 8. Except as expressly herein amended, all other provisions of the El Paso City Code shall remain in full force and effect. Any violation of a provision of this ordinance shall be deemed illegal shall be severed and the remainder shall remain in effect. The requirements of this ordinance shall take effect 90 days from its adoption and publication in accordance with and as provided by law and the City Charter.

ADOPTED this _____ day of _____, 2023.

(signatures appear on the following page)

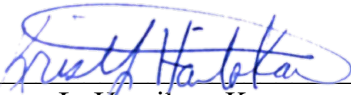
THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Kristen L. Hamilton-Karam
Deputy City Attorney

APPROVED AS TO CONTENT:

Laura D. Prine
City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS), TO AMEND THE FOLLOWING: SECTION 2.92.020 (DEFINITIONS) SUBSECTION (10) TO UPDATE THE DEFINITION OF “CONTRIBUTION”; SECTION 2.92.080 (DISCLOSURE OF CAMPAIGN CONTRIBUTIONS) TO REQUIRE ADDITIONAL DISCLOSURES REGARDING CONTRIBUTIONS OR DONATIONS FROM INDIVIDUALS OR BUSINESS ENTITIES RECEIVING A BENEFIT FROM A VOTE OF CITY COUNCIL; SECTIONS 2.92.120 (JURISDICTION), SUBSECTION 2.92.130(A)(5) (DUTIES) AND SUBSECTION 2.92.160(B) (FILING A COMPLAINT) TO INCLUDE COMMISSION JURISDICTION OVER AND PROCESS FOR COMPLAINTS REGARDING CANDIDATES, POLITICAL COMMITTEES AND INDIVIDUALS OR BUSINESS ENTITIES OBLIGATED UNDER SECTION 2.92.080; SECTION 2.92.160(C) (FILING A COMPLAINT), TO CLARIFY PROCESS FOR COMPLAINTS REGARDING THE CHIEF INTERNAL AUDITOR; SECTION 2.92.170(A) (COMPLAINT REVIEW) TO AMEND THE TIME PERIOD FOR RESPONSE TO AN ETHICS COMPLAINT; AND SECTION 2.92.200 (DISPOSITION) TO INCLUDE A FINE OF UP TO \$500 AS A POSSIBLE SANCTION FOR VIOLATION OF THE ETHICS CODE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.080 (Disclosure of Campaign Contributions) is hereby amended to read as follows:

2.92.080 - Disclosure of campaign contributions and donations

- A. The following definition applies to these terms as used in this section: “Contribution” and contributor are as defined in this chapter, and shall include, but not be limited to cash, loans, offsets to expenditures, in-kind contributions, donations, and gifts. “Donation” means cash, the value of any in-kind contributions or gifts to the council member for use by their office or in their district. The term “donor” includes an individual and spouse, a business entity, or and individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item. “Benefiting” as used in this section shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.
- B. Reporting of Contributions and Donations by Council member: Council members must verbally disclose the amount of any contributions or donations received totaling an aggregate of \$500 or more prior to discussion or vote on any council item benefiting the contributor or donor. This requirement includes any contribution received at any time during the council

ORDINANCE NO. _____

~~member's campaign(s) or term(s) of office for city council. Such member shall file a written notation with the City Clerk to be included with the agenda backup documentation. This disclosure shall be recorded in the minutes of the meeting. If a member of the city council has received campaign contributions from a contributor totaling five hundred dollars or more subsequent to the date that the member last files a campaign finance report pursuant to state law, such member shall disclose the receipt of such contributions to the city council before any deliberation or vote of the city council regarding any matter on a meeting agenda which concerns or relates to the contributor(s) individual, business entity owned in whole or in part or operated by the contributor(s) or which employs the contributor(s), or any other time that the contributor(s) appears to address the council during the meeting.~~

C. Reporting of Contributions and Donations by Contributors: No later than one week prior to the relevant Council meeting, a donor or contributor benefiting from an agenda item, and who has contributed or donated an accumulated total of \$500 or more to any current member of City Council or to the City through their office for use by the member's office or in their district at any time during their campaign(s) or term(s) of City office shall notify the City of the amount and to whom. It shall be the responsibility of the contributor or donor to report the contribution so the notice of the contribution is posted on the City Council agenda with the posting for the relevant item.

D. These is requirements shall apply to all meetings of the city council.

~~E. Such disclosure shall be orally made by the member and shall be recorded in the minutes of the meeting.~~

C. If a member of the city council accepts a campaign contribution from a contributor of five hundred dollars or more, he shall report the amount and the donor by an item for notation on the consent agenda of a city council meeting within thirty days of the date of such contribution.

F. No later than 30 calendar days after the end of each fiscal year, each member of Council shall file a report listing all campaign contributions and donations to the City for use by their office received during that fiscal year, to include the identity and address of each contributor or donor and total amount from each contributor or donor.

G. No action of the council which is otherwise legal shall be invalidated merely by reason of the disclosure of a campaign contribution by a member of the city council or the failure of a member to disclose a campaign contribution or donation.

SECTION 2. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.120 is hereby amended to read as follows:

2.92.120 - Jurisdiction.

ORDINANCE NO. _____

HQ2023-1209-City Attorney | TRAN-507875 | KHK

Redline Ordinance | Amending Sections and Subsections of Title 2 Chapter 2.92

The ethics review commission shall have jurisdiction to review alleged violations of Article II (Standards of conduct) of this chapter by officers, candidates, and political committees that occurred within two years of the complaint being filed. Additionally, the ethics review commission shall have jurisdiction over contributors and donors only to review alleged violations of Section 2.92.080 by individuals or business entities contributors or donors who have obligations under that section.

SECTION 3. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.130, Subsection (A)(5) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.130 remain in full force and effect:

(A)(5). Review, evaluate and issue determinations, impose sanctions and provide recommendations to the city council on complaints regarding officers, candidates, political committees, and for compliance with City Code section 2.92.080, contributors and donors described therein.

SECTION 4. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.160, Subsections (B) and (C) are hereby amended to read as follows, all other portions and subsections of City Code 2.92.160 remain in full force and effect:

2.92.160 Filing a complaint.

B. (1) Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes an officer, candidate, political committee, has violated Article II of this chapter within the last two years, may file a sworn complaint with the city clerk.

(2) Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes a contributor, donor, individual, or business entity has violated City Code section 2.92.080 within the last two years, may file a sworn complaint with the city clerk.

C. Any resident of the city (including a member of the ethics review commission) or natural person conducting business with the city who believes the city attorney, ~~or~~ the city manager or the chief internal auditor has violated Article II of this chapter within the last two years, may file a sworn complaint with the mayor and the mayor pro tempore.

SECTION 5. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.170 (Complaint review), Subsection (A) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.170 remain in full force and effect:

2.92.170 Complaint review.

A. The city clerk will review a filed complaint to ensure it is properly sworn and complete. If the complaint is missing required information, the city clerk will send the complaint back to the complainant through regular mail and/or electronic mail, and the complainant will have twenty-one days to correct the complaint and refile it otherwise the city clerk may reject the

ORDINANCE NO. _____

complaint. If the complaint is complete the city clerk will forward the complaint to the city attorney and the respondent within seven days. If the City Attorney refers the complaint to the ethics review commission under subsection 2.92.170(B)(2) below, respondent has fourteen days from notice to respondent of such receipt of the complaint to file a response with the city clerk.

SECTION 6. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.200 (Disposition), Subsection (D) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.200 remain in full force and effect:

2.92.200- Disposition.

D. If after hearing the issues, the ethics review commission determines through clear and convincing evidence that a violation of this chapter has occurred, then the ethics review commission may issue on of the following sanctions:

1. Letter of notification. A letter of notification may be issued when the ethics review commission finds that a violation of this chapter was clearly unintentional. A letter of notification may advise the person to whom the letter is directed of any steps to be taken to avoid future violations.
2. Letter of admonition. A letter of admonition may be issued when the ethics review commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.
3. Letter of reprimand. A reprimand may be issued when the ethics review commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.
4. Recommend removal from office. In addition to a letter of reprimand, removal from office may be recommended to the city council for action when the ethics review commission finds that a serious or repeated violation of this chapter was committed by an officer intentionally or through culpable disregard of this chapter.
5. Issue a fine not to exceed \$500 payable to the City comptroller within 30 days of such order by the ethics review commission.

SECTION 7. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.020 (Definitions), Subsection (10) is hereby amended to read as follows, all other portions and subsections of City Code 2.92.020 remain in full force and effect:

10. Contribution means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.

ORDINANCE NO. _____

HQ2023-1209-City Attorney | TRAN-507875 | KHK

Redline Ordinance | Amending Sections and Subsections of Title 2 Chapter 2.92

~~The term does not include an expenditure required to be reported under Section 35.006(b), Texas Government Code.~~ In-kind expenses, as defined in this section, is not a contribution.

SECTION 8. Except as expressly herein amended, all other provisions of the El Paso City Code shall remain in full force and effect. Any violation of a provision of this ordinance shall be deemed illegal shall be severed and the remainder shall remain in effect. The requirements of this ordinance shall take effect 90 days from its adoption and publication in accordance with and as provided by law and the City Charter.

ADOPTED this _____ day of _____, 2023.

THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Kristen L. Hamilton-Karam
Deputy City Attorney

Laura D. Prine
City Clerk

ORDINANCE NO. _____