

ORDINANCE NO. 22-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LYTLE, TEXAS ADOPTING A MUNICIPAL CODE OF ORDINANCES CHAPTER 2 ADMINISTRATION, ARTICLE IX ETHICS; AUTHORIZING THE CITY ADMINISTRATOR TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES, AND OTHER PROVISIONS IN CONFLICT HERewith; INCORPORATING RECITALS; AND ADOPTING AN EFFECTIVE DATE.

WHEREAS, public service is a public trust, and all City officials and employees are stewards of the public trust; and

WHEREAS, it is essential that the public have confidence in the integrity, independence and impartiality of those who act on their behalf in government; and

WHEREAS, it is important to prohibit conduct that is incompatible with the public's best interests and to minimize the risk of any appearance of impropriety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LYTLE, TEXAS THAT:

SECTION ONE. Municipal Code of Ordinances Chapter 2 *Administration*, Article IX *Ethics*, is hereby adopted to read as follows:

**“Chapter 2 Administration
Article IX Ethics**

Sec. 2-61. - Policy; Purpose.

- (a) It is the policy of the city that the proper operation of democratic government requires that public officers and employees be independent, impartial and responsible; that no officers, employees or members of any standing committee or board shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of their duties in the public interest; that public office not be used for illegal or improper personal gain; and that the city council at all times shall be maintained as a nonpartisan body.
- (b) The purpose of this article is to:
 - (1) Encourage high ethical standards by city officers and employees in conducting official business, and

- (2) Establish minimum guidelines for ethical standards of conduct to be followed by city officers and employees, and
 - (3) Provide a mechanism for punishment of those officers and employees who violate the established standard of conduct.
- (c) The city recognizes that public servants are also members of society and, therefore, cannot and should not be without any personal and economic interest in the decisions and policies of government; that public servants retain their rights as citizens to interests of a personal or economic nature, and their rights to publicly express their views on matters of general public interest. It is not the intent of this article to prevent the exercise and enjoyment of public servants' rights as citizens of the community.
- (d) The provisions of this article do not apply to political contributions, loans, expenditures, reports, or regulation of political campaigns or to the conduct of candidates in campaigns.

Sec. 2-62. - Definitions.

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

Appointed official means any person holding an unpaid position by appointment in the service of the city, including members of any board, commission or agency thereof. This definition shall include the municipal judge, and other similar appointed positions which are paid on a contractual basis. This definition shall also include all volunteer firefighters and reserve police officers.

Award means a prize, certificate, or thing of economic value conferred or bestowed on an official or employee on the basis of merit or need.

Business entity means a sole proprietorship (including a private consultant operation), partnership, firm, corporation, holding company, joint-stock company, receivership, trust, joint venture, unincorporated association or firm, foundation, or any other entity recognized by law, whether or not organized for profit.

Confidential information means all information, whether transmitted orally or in writing, which is of such a nature that it is not a matter of public record or public knowledge. The standard for determining confidentiality shall be determined by referring to the Public Information Act (V.T.C.A., Government Code Ch. 552) and the standards established under that act for confidentiality and closed records.

Elected official means any person holding a position by election in the service of the municipality.

Employee means any person holding a paid position by appointment or employment in the service of the municipality.

Employee. Any person employed or working for the city full-time or part-time, or for the purposes of this ordinance only, any independent contractor.

Ethics advisor means the duly appointed city attorney of the City of Lytle, or special counsel utilized by the ethics review commission when appropriate and necessary.

Ethics review commission means the commission of citizens of the City of Lytle created by the ordinance from which this article is derived, and its members.

Family member means the city official's or an employee's spouse, children, parents or spouse's parents, and any other family member within two (2) degrees of affinity or consanguinity.

Gift means anything of economic value, regardless of the form, without adequate and lawful consideration. It does not include the solicitation, acceptance, receipt or regulation of political campaign contributions regulated in accordance with provisions of federal, state or local laws governing campaign finances.

Income means economic benefit received.

Interest or Economic Interest means direct or indirect financial or material benefit accruing to an official or employee as a result of a contract, transaction, zoning decision, or other matter which is or is likely to be the subject of an official act or action by or with the city, except for such contracts, transactions, zoning decisions, or other matters which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. For purposes of this division, officials or employees shall be deemed to have an interest in the affairs of:

- (1) The family member of an official or employee, if such family member has an interest as defined in this section and is related to the official or employee in the first degree by blood or marriage.
- (2) Any business entity in which the elected or appointed official or employee controls or owns, directly or indirectly, in excess of ten percent of the total stock or shares or owns either ten percent or more or \$5,000.00 or more of the fair market value of the business entity; or funds received by the person from the business entity exceed ten percent of the person's gross income for the previous calendar year.
- (3) Real property if the interest in such property is an equitable or legal ownership with a fair market value of \$2,500.00 or more.

An official or employee does not have an "interest" in a business entity if all of the following criteria are met:

- (1) The official or employee holds a position as a member of the board of directors or other governing board of a business entity; and
- (2) The official or employee has been designated by the city council to serve on such board; and
- (3) The official or employee receives no remuneration, either directly or indirectly, for service on such board; and
- (4) The primary nature of the business entity is either charitable, nonprofit or governmental.

Official act or action means any legislative, administrative, appointive or discretionary act of any official or employee or of the city or any board, commission or agency thereof.

Official(s) means both elected and appointed officials as defined herein.

Property means real estate, personal items, equipment, goods, crops, livestock, or an equitable right to income from real estate, personal items, equipment, goods, crops, or livestock.

Respondent means a city official against whom a sworn complaint has been filed which alleges a violation of this article.

Volunteer. Any unpaid person acting in an unpaid official capacity on behalf of the city.

Sec. 2-63. Standards of conduct.

(a) Officers or employees.

(1) Shall not intentionally or knowingly:

- a. Accept, or agree to accept, any gift, favor, or service cumulatively valued over \$25.00 that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
- b. Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of his or her official position;
- c. Accept other employment or compensation or engage in any outside activity that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties or which are incompatible with the full and proper discharge of city duties;
- d. Make personal investments that could reasonably be expected to create a conflict between the officer's or employee's private interest and the public interest;
- e. Accept, or agree to accept, any benefit cumulatively valued over \$25 for having exercised the officer's or employee's official power or performed the officer's or employee's official duties in favor of another person;
- f. Accept, or agree to accept, compensation in exchange for appearing before the city council or any city commission, board, or committee, of which the officer or employee is a member, as a representative for any private person, including the officer or employee, any immediate family member, or any group. This division does not prohibit an officer or employee from voting when that officer or employee undertakes pro bono representation; or
- g. Solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties of that officer or employee.

- h. Honor the Executive Confidentiality privileges granted by the State of Texas and believe that personal gain by use of confidential information is prohibited. Further agree not to distribute, pass-on, or in any way make public any information received in executive sessions.
 - (2) These standards shall not be construed to deprive an officer or employee of the right to due process under the law, including the right to represent himself or herself in an administrative or court proceeding.
- (b) Family Member.
- (1) No family member of an officer, employee, or volunteer shall intentionally or knowingly:
 - a. Accept, or agree to accept, from another person any benefit that the member's relative, who is a city officer, employee, or volunteer, is prohibited from soliciting, accepting, or agreeing to accept under this subchapter;
 - b. Misuse any official information obtained from the member's relative, who is a city officer, employee, or volunteer, to which the relative has access by virtue of the relative's office or employment and that has not been made public, in a manner prohibited to the relative under state law; or
 - c. Misuse, as defined in Texas Penal Code § 39.01, any city property, services, personnel, or any other thing of value belonging to the city that has come into the member's custody or possession by virtue of the office or employment of the member's relative, who is a city officer or employee.
 - (2) Any prohibitions described in this division are in addition to those provided by state law.
- (c) No city council member shall intentionally or knowingly represent any private person, including the city council member or any immediate family member, or any group or interest before any department, agency, commission, or board of the city, except that a city council member may represent his or her interests in regards to any private property owned by the city council member before a board, agency, commission, or department of the city other than the city council.
- (d) In any action or proceeding in the municipal court which is instituted by an officer or employee in the course of official duties:
- (1) No city council member shall intentionally or knowingly represent any private person other than herself or himself including any immediate family member or any group, or interest. If a city council member elects to have a trial in municipal court, the city council, without the participation of the affected city council member, will appoint a special judge to preside over the trial; and
 - (2) No officer or employee shall intentionally or knowingly represent, directly or indirectly, any private person, other than the officer or employee or any immediate family member, any group or interest in any action or proceeding against the interests of the city or in

any litigation in which the city or any department, agency, commission, or board thereof is a party.

Sec. 2-64. Conflict of interest.

(a) City officials and employees shall familiarize themselves and adhere to the following conflicts of interest and disclosure statutes and principles:

- (1) Texas Local Government Code Ch. 171 - requires city council and city officials to file an affidavit disclosing a substantial interest in a business or property that would be beneficially affected by a decision of the council or board and thereafter abstaining from participation in discussion and a vote.
- (2) Texas Local Government Code Ch. 176 - requires city council to file a conflicts disclosure statement disclosing any business relationship with a person or business doing business with the city or being considered by the city for a business relationship.
- (3) Texas Local Government Code § 176.003(a)(2)(B) - requires the disclosure of gifts of an aggregate value of more than two hundred fifty dollars (\$250.00) in a twelve (12) month period, other than gifts of food, lodging, transportation or entertainment and accepted as a gift.
- (4) Texas Government Code §§ 553.001—553.003 - requires the filing of an affidavit before the date the City will acquire a property in which the public city official has an interest.
- (5) Texas Penal Code § 36.02 - prohibiting bribes.
- (6) Texas Penal Code § 36.08(d) - prohibiting illegal benefits.
- (7) Texas Penal Code § 36.09 - prohibiting receipt of certain gifts.
- (8) Texas Penal Code § 39.02 - concerning abuse of official capacity.
- (9) Texas Penal Code § 39.06(a) - concerning misuse of official information.

(b) *Economic interest.*

- (1) No city official shall vote on or participate in any decision-making process on a matter if the city official has an economic interest in the outcome of the matter under consideration.
- (2) To avoid the appearance and risk of impropriety, a city official shall not vote on or participate in any decision-making process that the city official knows is likely to affect the economic interests of:
 - a. A family member; or
 - b. A business entity (profit or non-profit) for which the city official serves as an officer or director in any policy or decision-making position.

(c) *Disclosure of interest and recusal.*

- (1) A city official who has an economic interest in the outcome of the matter under consideration shall disclose that the official has such an interest and shall recuse himself/herself from voting on or participating in any decision-making process.
- (2) The city official shall promptly file an affidavit with the city secretary disclosing the nature and extent of the conflict, and the affidavit shall be included in the official minutes of the body, in accordance with state law. A copy of the required affidavit is located as Exhibit A at the end of the ordinance from which this article is derived.
- (3) Upon recusal, a city official who has disclosed having an economic interest in the outcome of a matter under consideration shall leave the dais, but may remain at the open meeting.

Sec. 2-65. - Financial disclosure.

- (a) *Candidates.* A candidate for city council or mayor shall file a sworn financial disclosure, as defined in division (d) below, with the city secretary not later than ten calendar days from the date the candidate files with the city secretary an application to be placed on the official ballot or to run as a write-in candidate.
- (b) *New officers.* A newly appointed or elected officer shall file a sworn financial disclosure, as defined in division (d) below, with the city secretary within 30 calendar days from the date the position is assumed.
- (c) *Contents.* Financial disclosures shall include:
 - (1) A list of any substantial interests the officer has in real property located within the corporate boundaries (such as city limits) or within the extraterritorial jurisdiction of the city; and
 - (2) A list of any substantial interest the person has in any business entity located within the corporate limits or within the extraterritorial jurisdiction of the city.
- (d) *Retention of statements.*
 - (1) The city secretary shall maintain all financial disclosures required to be filed with the city secretary under this section, in compliance with the city's records retention schedule.
 - (2) The financial disclosure file maintained by the city secretary under this section shall be kept in alphabetical order for each year in which disclosures are filed. This file is subject to the state Public Information Act and any applicable city policy on public information.
- (e) *Form of disclosure.* Financial disclosures other than those mandated by Election Code Ch. 254 and Local Government Code Ch. 176, shall be filed on a form provided by the city secretary. The city secretary will provide a form to any person requesting one and, not less than ten business days before the last day set for filing a statement by any person, shall send a form to the person by U.S. mail.

Sec. 2-66. Ethics commission purpose; organization.

- (a) *Created; purpose.* There is created an advisory commission which shall assist and advice the city council and the city administrator on matters pertaining to the city's ethics ordinance as amended. The commission shall be known as the ethics commission (hereinafter referred to as the "ethics commission" or the "commission") and shall have no rule-making or judicial authority, but shall be solely advisory in nature. The city council delegates its investigatory authority to the ethics commission in order to administer oaths and affirmations and to take evidence in fulfillment of the duties expressed in this article.
- (b) *Appointment.* The ethics commission shall consist of five (5) members and each member of city council, shall appoint one member of the commission, subject to the approval by a majority vote of city council. Any commissioner who misses three consecutive meetings within a 12-month time period or one-third of all regular meetings shall be deemed to have automatically vacated his or her position on the commission. This section shall not apply to a commissioner who applied for and received an excused absence from the commission chairperson prior to the meeting(s) at issue.
- (c) *Terms of office.* Commission members shall be appointed to two-year terms to serve concurrently with the corresponding council member's term. Upon a council member vacating his/her seat, the corresponding appointment immediately expires. No member may serve more than two consecutive terms.
- (d) *Compensation.* No commissioner shall receive a salary but may be reimbursed for expenses in accordance with city policy.
- (e) *Qualifications.*
 - (1) Commission members must be registered voters who are residents of the city or the extraterritorial jurisdiction, with no more than three members of the commission being residents of the extraterritorial jurisdiction.
 - (2) No member of the ethics commission may be:
 - a. A City of Lytle official or spouse of a City of Lytle official;
 - b. A City of Lytle employee or spouse of a City of Lytle employee;
 - c. An elected public official;
 - d. A candidate for elected public office;
 - e. An officer of a political party;
 - f. A campaign treasurer, campaign manager, officer or other policy or decision-maker for any political action committee;
 - g. A member of any board or commission for which the position is appointed by city council;
 - h. Anyone having any substantial interests with any city officer;
 - i. Anyone who has been a paid campaign worker or paid political consultant for any city council or mayoral candidate;
 - j. Any person contracted with the city or any person who is employed by a business entity that is contracted with the city; or
 - k. A convicted felon.
- (f) *Removal.* Members of the ethics commission may be removed from office for cause by a majority of the city council only after a public hearing at which the member was provided with the opportunity to be heard. Grounds for removal include: failure to satisfy, or to

continue to satisfy, the qualifications set forth in subsection (d); substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; violation of any provision in the code of ethics; or missing three (3) consecutive commission meetings in a 12-month period.

- (g) *Vacancies.* Vacating members shall submit their resignation in writing to the city secretary. The city secretary will place the vacating members resignation on the next regularly scheduled city council meeting for formal acceptance. The council member who appointed a vacating member of the ethics commission shall appoint another to serve the remainder of the vacated term, subject to approval by a majority vote of the city council.
- (h) *Recusal.* A member of the ethics commission shall recuse himself or herself from any case in which, because of familial relationship, employment, investments, or otherwise, his or her impartiality might reasonably be questioned. A matter that has been referred to the commission by a member of the city council does not create a presumption of impartiality for a council member's appointee. A commission member is not required to recuse themselves from a matter that has been referred by the council member who appointed them unless the matter being referred is a request for declaratory ruling or other official action on a matter where the referring member of the city council or their actions are the subject of the referral. A commission member also may not participate in official action on any complaint:
 - (1) That the member initiated.
 - (2) During the pendency of an indictment or information charging the member with an offense, or after a finding of guilt of such an offense.
- (i) *Meetings.* The commission shall establish regular meeting times, with no less than one meeting per year. Special meetings may be called as needed by the chairperson or by any two members.
- (j) *Duties.* The commission's duties shall include:
 - (1) Hearing complaints on violations of this division by officials or employees.
 - (2) Giving nonbinding advice to the city council or other officials or employees on ethical questions.
 - (3) Giving nonbinding recommendations to the city council on new and existing city policies on ethics.
- (k) *Chair and vice-chair.* Each year, the commission shall meet and elect a chair and a vice-chair from among its members, who will serve one-year terms and may be re-elected. The commission shall meet upon a complaint or grievance being filed and at the request of the council or the city administrator. The chair of the commission may call a meeting of the commission. The chair shall preside at meetings of the ethics commission and perform other administrative duties. The vice-chair shall assume the duties of the chair in the event of a vacancy in that position.
- (l) *Rules of procedure.*
 - (1) The commission shall follow Robert's Rules of Order, provided that such is not in conflict with the specific provisions of state law or city ordinance.

- (2) Three (3) members of the commission shall constitute a quorum. The chairperson shall be entitled to vote upon any question and shall have no veto power.
 - (3) Any meeting of the commission shall be open to the public in accordance with the provisions of the Texas Open Meetings Act.
 - (4) The chairperson of the commission may administer oaths and compel the attendance of witnesses.
 - (5) The commission shall keep minutes of its proceedings, which shall be filed in the office of the city secretary. All records of the commission shall be maintained in accordance with the provisions of the Texas Public Information Act.
- (m) *Legal consultation.* The ethics advisor shall furnish the ethics review commission legal assistance necessary in carrying out its function.
- (1) The city attorney serves as ethics advisor to the city council as well as to the ethics review commission. When complaints are filed relating to the mayor or city council members, special counsel may be utilized to advise the city council and take part in its proceedings.
 - (2) The ethics advisor is available to respond confidentially to inquiries relating to the ethics ordinance (this article) and may render advisory opinions on potential conflicts of interest or violation of this article at the request of a city official. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this article unless material facts were omitted or misstated by the person requesting the opinion.
 - (3) The ethics advisor shall have the responsibility to render legal advice to the ethics review commission regarding the investigation and determination of any advisory finding by the ethics review commission concerning an alleged violation of this article. The ethics advisor shall not represent or render legal advice to the complainant or respondent throughout the process.
 - (4) The ethics advisor shall have the responsibility to render legal advice to the city council regarding the investigation and determination of any advisory finding by the ethics review commission concerning an alleged violation of this article.

Sec. 2-67. - Ethics complaint process; procedures.

(a) *Protection of identity; confidentiality.*

- (1) In handling sworn complaints, the city, its employees and the commission shall protect the identity of the person complained against until such time as the person requests an open hearing or until such time as the commission makes a recommendation for sanctions, whichever occurs first.
- (2) The city acknowledges that it is subject to the Public Information and that such act will determine what information may be deemed confidential or open to the public.

(b) *Complaint process.*

- (1) All sworn complaints shall be filed with the city secretary. The City Secretary shall forward the complainant to the City Attorney for review. The city secretary may not

release the name of the complaining party or the party complained against to any person other than those specified in this section, until such time as such information may become open under the terms of this section or under the Public Information Act. Complaints shall be filed in the manner described herein within one (1) year of the date of the alleged acts forming the basis of the complaint. Complaints filed more than one (1) year after the date of the alleged acts forming the basis of the complaint shall be dismissed as untimely.

- (2) If a complaint is filed against a commission member, the commission member may not serve as a commission member on any discussion, review, hearing, action or any other commission function on the complaint filed against such commission member. A commission member that is the subject of a complaint shall receive a copy of the complaint only as a party complained against and shall not receive a copy as a commission member.
- (c) *Contents of complaint.* An ethics complaint must be in writing, under oath, and must set forth in simple, concise, and direct statements the following:
 - (1) The name of the complainant;
 - (2) The street or mailing address and the telephone number of the complainant;
 - (3) The name of the person who allegedly committed the violation;
 - (4) The position or title of the person who allegedly committed the violation;
 - (5) The nature of the alleged violation, including, if possible, the specific rule or provision of this article alleged to have been violated;
 - (6) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred, including the following:
 - a. Documents or other material available to the complainant relevant to the allegation;
 - b. A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents, if known; and
 - c. A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
 - (7) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is both true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this article. Such complaint shall constitute a sworn complaint.
 - (8) Upon request, the city secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint
 - (9) The city secretary with the assistance of the City Attorney shall determine if the complaint meets the requirements of this section within seven (7) business days of receipt from the complainant. If the city secretary determines that the complaint does not meet the requirements of this section, the city secretary shall return the complaint

and notify the complainant, in writing, of the deficiencies. Such written return will be forwarded to the complainant by the city secretary via electronic mail and/or facsimile (with confirmation of successful delivery), if available. If such means are unavailable, the city secretary shall forward via certified mail, return receipt requested, or overnight delivery.

(d) *Notification.*

- (1) If the city secretary determines that the complaint meets the requirements of section 2-67 (c) then, within seven (7) business days of the city secretary's receipt of the complaint, the city secretary shall forward the sworn complaint to the mayor, city administrator, and ethics advisor. If the complaint alleges a violation by the mayor, then the mayor pro tem shall receive all notifications in place of the mayor, where this article requires the mayor to receive such notification.
- (2) Upon receipt of the sworn complaint from the city secretary, the ethics advisor has seven (7) business days to submit a written preliminary review detailing whether the sworn complaint states a valid claim under this ethics ordinance to the city secretary. The written preliminary review of the complaint does not advise on the merits of the complaint only whether the complaint states a valid claim under the ethics ordinance.
 - (a) If the ethics advisor determines that the complaint does not state a valid claim under the ethics ordinance, the ethics advisor will forward the written preliminary review dismissing the complaint to the city secretary who will as soon as there practical, but no later than seven (7) business days from receipt of the preliminary review, forward to the mayor, the city administrator, and the complainant.
 - i. If the written preliminary review dismisses the complaint, the complainant has seven (7) business days of receipt to appeal the decision, in writing, to the city secretary.
 - ii. The city secretary shall as soon as there practical, but no later than seven (7) business days, forward such appeal to the ethics review commission.
 - iii. The ethics review commission will meet no later than thirty (30) days of receipt of the appeal to consider the complainant's appeal.
 - iv. If the ethics review commission concurs with the written preliminary review, the complaint and the written preliminary review will be forwarded to city council for final determination at the next regularly scheduled city council meeting.
 - v. If the ethics review commission determines that the complaint is sufficient to proceed, the ethics advisor will draft a new written preliminary review consistent with the ethics review commission's findings and will proceed as required by section 2-67 (d) (2) (b).
 - (b) If the ethics advisor determines that the complaint does state a valid claim under the ethics ordinance, the ethics advisor will forward the written preliminary review to the city secretary, who will as soon as there practical, but no later than seven (7) days, forward to the mayor, city administrator, the chair of the ethics review commission, the complainant, and the respondent. Information shall be

forwarded by the city secretary to the respondent by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).

- (3) Along with the written preliminary review, the respondent shall be provided with a copy of the ethics ordinance (this article) and the complaint, and informed that:
 - a. Within seven (7) business days of receipt of the complaint, the person charged shall have the opportunity to file a sworn response, with such other information deemed to be relevant to the proceedings, with the city secretary. An extension of time to file a sworn response may be granted, in writing, by the city secretary.
 - b. Failure to file a response does not preclude the ethics advisor from processing the complaint.
 - c. A copy of any response to a complaint must be provided as soon as there practical, but no later than seven (7) business days, by the city secretary to the complainant. Information shall be forwarded by the city secretary to the complainant by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).
 - d. The complainant may, within seven (7) business days of receipt, respond by sworn writing filed with the city secretary.
 - e. The city secretary shall as soon as there practical, but no later than seven (7) days, provide a copy of the sworn writing to the respondent. Information shall be forwarded by the city secretary to the respondent by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).
- (4) The city secretary shall forward a copy of all information received to all members of the ethics review commission; including, the complaint, the respondent's response, if any, and the complainant's reply, if any. The city secretary shall as soon as there practical, but no later than seven (7) business days, forward any additional information as it is received.
- (5) City officials have a duty to cooperate with the ethics advisor pursuant to this article.
- (6) The respondent will only be found in violation of the ethics ordinance if the respondent receives notice of the violation as set forth in section 2-67 (d).

Sec. 2-68. - Review of complaint.

- (a) The chair will convene no sooner than thirty (30) business days, but no later than forty-five (45) business days, from receipt of the written preliminary review, for the ethics review commission to review the complaint and to determine whether the complaint constitutes a claim under the ordinance and is supported by just cause. The ethics review commission, upon a majority vote, may grant an extension of time to meet if such circumstances exist.
- (b) If just cause is not found to exist by the ethics review commission, the ethics advisor shall prepare a written decision recommending the complaint be dismissed within ten (10) business days. Such written recommendation shall be forwarded by the ethics advisor to the city council, city secretary, and city administrator for review at the next regularly scheduled city

council meeting. If, at that time, just cause is not found to exist by the city council then the complaint shall be dismissed. The ethics advisor shall contact the complainant and the respondent, in writing, identifying the reason for dismissal within ten (10) business days of city council's determination.

- (c) After review of a no just cause written recommendation from the ethics review commission, the city council, by majority vote, determines the existence of just cause, the complaint shall be referred back to the ethics review commission to conduct an investigation and a hearing as set forth below in section 2-68 (d).
- (d) If just cause is found, an affirmative vote of a majority of the commission members (three (3) affirmative votes) is required for the commission to proceed to investigation and hearing. The commission shall proceed to investigation and hearing. The commission will notify the complainant, the respondent, the city secretary, city administrator, the mayor and the members of the city council, and the ethics advisor within seven (7) business days of the just cause determination.
- (e) If a complaint concerns a member of the ethics review commission or city council, such member shall have no involvement in the processing and review of the complaint and must immediately recuse him or herself from the complaint process.
- (f) The respondent will only be found in violation of the ethics ordinance if the ethics review commission meets as set forth in this section.

Sec. 2-69. - Investigation and hearing of complaint.

- (a) If a complaint proceeds to a hearing, the commission shall call or convene a hearing no less than thirty (30) business days after a just cause determination.
 - (1) If the respondent and complainant agree, the ethics review commission may proceed to hearing in less than thirty (30) business days.
- (b) The city secretary shall provide immediate notice of the hearing to the complainant and the respondent, but not less than thirty (30) business days prior to the date of the hearing. Such notice must be by certified mail return receipt requested, facsimile (with confirmation of successful delivery), or personal delivery. The notice must state the specific provision or provisions of the ordinance alleged in the complaint to have been violated, as determined by the preliminary review. The complainant and the respondent may ask the commission to request certain persons and written evidence for the investigation or hearing not less than ten (10) business days prior to the hearing.
- (c) During an official convened meeting, the commission shall hold a hearing on the case and shall hear such testimony as is presented by the complainant, any witnesses, and the respondent. All witnesses must be sworn, and members of the commission, or its ethics advisor, shall conduct the questioning of the witnesses.
- (d) The commission is not bound by the rules of evidence.
- (e) The respondent shall have the right to attend the hearing, the right to make a statement, the right to present and cross-examine witnesses and the right to be represented by legal counsel.

- (f) The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel. The legal representative may advise the complainant during the proceedings, but may not speak on behalf of the complainant, except to represent the complainant while the complainant is testifying. The complainant may not present or cross-examine witnesses except with permission of the commission.
- (g) The hearing shall be commenced and completed on the same calendar day unless extraordinary circumstances prevent such completion.
- (h) The respondent will only be found in violation of the ethics ordinance if the investigation and hearing of complaints proceeds as set forth in this section.
- (i) *Confidentiality and ex parte communications.*
 - (1) No city official may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
 - (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act.
 - (3) After a complaint has been filed, and during the consideration of a complaint by the ethics review commission, neither a member of the ethics review commission or the city council may communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the ethics review commission.
 - (4) After a complaint has been referred by the ethics review commission to the city council for review, neither a member of the ethics review commission nor the city council may communicate directly or indirectly with a party or person about any issue of fact or law regarding the complaint, except at a meeting of the city council, until after a final determination has been made on the complaint.
 - (5) Nothing herein shall be construed to prevent or prohibit any member of the ethics review commission or city council from consulting with the ethics advisor regarding procedural and legal issues.
 - (6) Nothing herein shall be construed to prevent or prohibit any member of any board, commission or city council, if the complaint concerns such member, from preparing a defense to such complaint.

Sec. 2-70. - Conclusions of complaint process.

- (a) The commission will determine whether a violation of the ordinance has occurred within seventy-two (72) hours of conclusion of the hearing. The commission may deliberate in closed session to review the evidence that was presented in open session. Any recommendations and/or findings by the commission will be made by the chairman in open session. The ethics advisor will be available to the commission during any private session to advise the commission concerning any procedural questions.
- (b) The commission shall make its determination based on the preponderance of the evidence. The affirmative vote of a majority of the commission members present but no less than three (3) affirmative votes is required for any action of determination by the commission.

- (c) The commission shall direct the ethics advisor to prepare a written decision and recommendation(s) to proceed to the City Council, subject to approval by the commission, and shall make all reasonable efforts to issue the written recommendation(s) within ten (10) business days after the conclusion of the hearing. The commission shall state its findings in the written decision and recommendation. The written decision and recommendation must either: 1) dismiss the complaint, with the grounds for dismissal set forth in the decision; or 2) find that there has been a violation of this ethics ordinance and identify in the decision the particular provision or provisions violated and the conduct forming the basis of the violation. If the commission determines that a violation of the ethics ordinance has occurred, the commission may, in its written decision and recommendation, recommend to the City Council one of the following sanctions:
- (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional. The letter of notification shall advise the official of any steps to be taken to avoid future violations.
 - (2) A letter of admonition is the appropriate sanction when the Commission finds the violation is minor.
 - (3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed.
 - (4) A letter of censure is the appropriate sanction when the commission finds that a serious violation has occurred or more than one (1) serious violation or repeated serious violations of this article have been committed.
- (d) If a city employee is found to have violated the standards of conduct or conflict of interest provisions, the matter shall be transferred to the city secretary for appropriate disciplinary action if any, including up to possible termination from employment.
- (e) The commission shall deliver the written decision and recommendation within ten (10) business days of the decision to city secretary, city administrator, the mayor and city council, and the ethics advisor.

Sec. 2-71. - City council action.

- (a) After the city council has received the written decision and recommendation from the ethics review commission, the city council shall review and take appropriate action with respect to the referral at the next available regular meeting or at a special called meeting of the city council, which, should be held no later than fifteen (15) business days from the date of receipt of the written decision and recommendation.
- (b) Upon receipt of the written decision and recommendation from the ethics review commission, the city council may take appropriate action. The city council may request additional statements or testimony before taking action on the commission's written decision and recommendation.
- (c) The city council may accept the ethics review commission's recommendation or it may impose one (1) of the f sanctions found in Section 2-70 (c).

- (d) The city council may determine that no violation of this article has occurred. If the city council makes such a determination, it may dismiss the complaint without imposing any sanctions.
- (e) Copies of all sanction letters issued by the city council under section 2-71 shall be filed of record with the city secretary.
- (f) In addition, when the seriousness of the violation warrants, the city council may suspend or remove from office any official serving in a council-appointed position.
- (g) The city council shall deliver, within ten (10) business days, its final written determination to the complainant and the respondent.
- (h) The respondent will only be found in violation of the ethics ordinance if the investigation and hearing of complaints proceeds as set forth in this section.

Sec. 2-72. - Distribution of code of ethics.

Each official or employee elected, appointed, or engaged, shall be furnished a copy before entering upon the duties of the office or employment. In addition, a copy of the code of ethics shall be distributed to the same, when the code of ethics is amended.

Secs. 2-73.—2-80. Reserved.”

SECTION TWO. AUTHORIZATION. The City Council of the City of Lytle authorizes the City Administrator to take all necessary steps to implement the provisions of this Ordinance.

SECTION THREE. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

SECTION FOUR. REPEALER. All other Code provisions, ordinances or parts of ordinances, and other provisions in conflict herewith are repealed in their entirety.

SECTION FIVE. FINDINGS. The City Council finds all of the above recitals to be true and correct and incorporates the same in this Ordinance as findings of fact.

SECTION SIX. EFFECTIVE DATE. This Ordinance shall be effective immediately upon its approval by City Council.

PASSED AND APPROVED this 8th day of May 2023.

CITY OF LYTLE, TEXAS:



Ruben Gonzalez, Mayor

ATTEST:



Paola L. Rios, City Secretary



CITY OF LYTLE
FINANCIAL DISCLOSURE REPORT
DO NOT LEAVE ANY BLOCK BLANK. ENTER "N/A" OR "NONE"
ATTACH ADDITIONAL SHEETS IF NECESSARY

TYPE OF REPORT: ☐ INITIAL ☐ ANNUAL

PERIOD OF REPORT: FROM: To:

STATUS OF REPORTING PARTY: CHECK APPROPRIATE BOX AND FILL IN REQUIRED BLANK

☐ CITY OFFICIAL	BOARD/COMMISSION TITLE	
☐ CITY EMPLOYEE	JOB CLASS/DEPARTMENT	
☐ CANDIDATE *DO NOT COMPLETE (N)	OFFICE SOUGHT	
☐ ELECTED OFFICIAL	OFFICE HELD	

EACH INITIAL OR ANNUAL FINANCIAL DISCLOSURE REPORT SHALL DISCLOSE THE FOLLOWING INFORMATION:

(A) THE REPORTING PARTY'S NAME:

LAST NAME	FIRST NAME	MIDDLE NAME

(B) THE NAME OF ANY PERSON RELATED AS PARENT, CHILD, OR SPOUSE TO THE REPORTING PARTY:

PARENT	CHILD	SPOUSE

(C) THE NAME OF ANY BUSINESS ENTITY¹ (INCLUDING SELF EMPLOYMENT IN THE FORM OF A SOLE PROPRIETORSHIP UNDER A PERSONAL OR ASSUMED NAME) IN WHICH THE REPORTING PARTY OR HIS OR HER SPOUSE HOLDS AN ECONOMIC INTEREST²:

NAME OF BUSINESS ENTITY	TYPE OF ECONOMIC INTEREST

(D) THE NAME OF ANY PERSON OR BUSINESS ENTITY FROM WHOM THE REPORTING PARTY OR HIS OR HER SPOUSE, DIRECTLY OR INDIRECTLY:

(1) HAS RECEIVED AND NOT REJECTED AN UNSOLICITED OFFER OF SUBSEQUENT EMPLOYMENT:

FROM WHOM OFFERED	BY WHOM RECEIVED

OR

(2) HAS ACCEPTED AN OFFER OF SUBSEQUENT EMPLOYMENT WHICH IS BINDING OR EXPECTED BY THE PARTIES TO BE CARRIED OUT:

FROM WHOM OFFERED	BY WHOM ACCEPTED

¹ Business Entity. "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

² Economic Interest. "Economic interest" includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a city official or employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund.

CITY OF LYTLE
FINANCIAL DISCLOSURE REPORT
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(E) THE NAME OF EACH NONPROFIT ENTITY OR BUSINESS ENTITY IN WHICH THE REPORTING PARTY SERVES AS AN OFFICER OR DIRECTOR, OR IN ANY OTHER POLICY MAKING POSITION:

NAME OF NONPROFIT ENTITY OR BUSINESS ENTITY	TITLE OF POLICY MAKING POSITION

(F) THE IDENTIFICATION BY STREET ADDRESS, OR LEGAL OR LOT-AND-BLOCK DESCRIPTION, OF ALL REAL PROPERTY* LOCATED IN ATASCOSA, BEXAR, OR MEDINA COUNTY IN WHICH THE REPORTING PARTY OR HIS OR HER SPOUSE HAS A LEASEHOLD INTEREST, A CONTRACTUAL RIGHT TO PURCHASE, OR AN INTEREST AS: FEE SIMPLE OWNER; BENEFICIAL OWNER; PARTNERSHIP OWNER; JOINT OWNER WITH AN INDIVIDUAL OR CORPORATION; OR OWNER OF MORE THAN TWENTY-FIVE (25) PERCENT OF A CORPORATION THAT HAS TITLE TO REAL PROPERTY.

***THERE IS NO REQUIREMENT TO LIST ANY PROPERTY:**

- (1) USED AS A PERSONAL RESIDENCE OF A PEACE OFFICER;
- (2) OVER WHICH THE REPORTING PARTY HAS NO DECISION POWER CONCERNING ACQUISITIONS OR SALE; OR
- (3) HELD THROUGH A REAL ESTATE INVESTMENT TRUST, MUTUAL FUND, OR SIMILAR ENTITY, UNLESS THE REPORTING PARTY OR HIS OR HER SPOUSE PARTICIPATES IN THE MANAGEMENT THEREOF;

TEXAS PUBLIC INFORMATION ACT ALSO APPLIES TO HOME ADDRESSES. IF YOU NEED TO LIST YOUR HOME ADDRESS IN BLOCK L, LIST IT ON PAGE 5 INSTEAD. LIST ALL OTHER INFORMATION FOR BLOCK L HERE.

IDENTIFICATION BY STREET ADDRESS, OR LEGAL OR LOT-AND-BLOCK DESCRIPTION	TYPE INTEREST/RIGHT/OWNERSHIP
{PLEASE LIST REAL ESTATE WHICH IS YOUR LEGAL <u>RESIDENCE</u> ON PAGE 5}	

(G) THE NAME OF EACH PERSON, BUSINESS ENTITY, OR OTHER ORGANIZATION FROM WHOM THE REPORTING PARTY, OR HIS OR HER SPOUSE, RECEIVED A GIFT WITH AN ESTIMATED FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED DOLLARS (\$100) DURING THE REPORTING PERIOD AND THE ESTIMATED FAIR MARKET VALUE OF EACH GIFT*.

GIFT. "GIFT" MEANS A VOLUNTARY TRANSFER OF PROPERTY (INCLUDING THE PAYMENT OF MONEY) OR THE CONFERRAL OF A BENEFIT HAVING PECUNIARY VALUE (SUCH AS THE RENDITION OF SERVICES OR THE FORBEARANCE OF COLLECTION ON A DEBT), UNLESS CONSIDERATION OF EQUAL OR GREATER VALUE IS RECEIVED BY THE DONOR.

EXCLUDED FROM THIS REQUIREMENT ARE:

- (1) LAWFUL CAMPAIGN CONTRIBUTIONS WHICH ARE REPORTED AS REQUIRED BY STATE STATUTE;
- (2) GIFTS RECEIVED FROM FAMILY MEMBERS WITHIN THE SECOND DEGREE OF AFFINITY OR CONSANGUINITY;
- (3) GIFTS RECEIVED AMONG AND BETWEEN FELLOW CITY EMPLOYEES AND CITY OFFICIALS; AND
- (4) ADMISSION TO EVENTS IN WHICH THE REPORTING PARTY PARTICIPATED IN CONNECTION WITH OFFICIAL DUTIES.

NAME OF EACH PERSON, BUSINESS ENTITY, OR OTHER ORGANIZATION	ESTIMATED FAIR MARKET VALUE

CITY OF LYTLE
FINANCIAL DISCLOSURE REPORT
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*ATTACH ADDITIONAL SHEETS, IF NECESSARY.

ADDITIONAL SHEETS ☐ HAVE, ☐ HAVE NOT BEEN ATTACHED TO THIS REPORT.

OATH

I swear or affirm that the statements contained in this Financial Disclosure Report (including any accompanying supplements) to the best of my knowledge and belief are true, correct, and complete.

SIGNATURE OF INDIVIDUAL COMPLETING REPORT

SWORN TO AND SUBSCRIBED BEFORE ME BY _____
PRINTED NAME OF INDIVIDUAL COMPLETING REPORT

ON THIS _____ DAY OF _____, 20____, TO CERTIFY WHICH, WITNESS MY
HAND AND SEAL.

SEAL OF THE NOTARY PUBLIC

SIGNATURE OF THE NOTARY PUBLIC

CITY OF LYTLE
FINANCIAL DISCLOSURE REPORT
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