

ORDINANCE 2013-02

AN ORDINANCE OF THE CITY OF BURNET, TEXAS AMENDING THE CITY OF BURNET CODE OF ORDINANCES CODE OF ETHICS

WHEREAS, it is in the interest of good government that the conduct of the public business should be accomplished by the City Officials and city employees in the light of day; and

WHEREAS, the proper operation of government requires that City Officers and City Employees be independent and impartial and that governmental decisions and policy be made within the proper channels of the governmental structure; and

WHEREAS, it is important that the public have confidence in the integrity of its government and its governmental officials and that a public office not be used for personal gain; and

WHEREAS, the Citizens of Burnet should have confidence in the integrity, independence, and impartiality of those who act on their behalf in government; and

WHEREAS, the City's current ethical regulations are narrow in their application; and

WHEREAS, the City Council of the City of Burnet believe that all officers and employees of the City of Burnet should be bound by the applicable provisions of the Code of Ethics.

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

SECTION 1. Code Amendment

THAT the City' Code of Ethics shall be amended as follows:

Section 2-202 Definitions.

City official or officer means the mayor, every member of the city council, the city manager, the city attorney and each member of the planning and zoning commission all board and commission members, the municipal judge, all associate or alternate judges, and any City Council appointee who, at the time of appointment, City Council designates as a City official or officer.

City employee means any individual appointed or hired by and subject to the direction and control of the City Manager regardless of whether such hiring or appointment is subject to the consent of City Council.

Sec. 2-203. - Standards of conduct.

(a) *Gifts.*

(1) No city official or city employee shall intentionally or knowingly solicit or accept any contribution, gift, or economic benefit with actual or constructive knowledge that same is:

- a. Offered or given with intent to influence the judgment or discretion of such official; or
- b. Given in consideration of the favorable exercise of such official's judgment or discretion in the past.

(2) To avoid the appearance and risk of impropriety, city officials shall not solicit or accept any gift, personal favor or benefit from any person doing business with, seeking to do business with, or being regulated by the city; and shall not take any action on behalf of any person or business entity from which he or she has received a prohibited gift, or in which he or she has a substantial interest. Except in the sole interest of the public and the performance of the duties of their position, city officials shall not take any action that he or she knows might reasonably tend to influence any other city official to not properly perform their official duty, nor shall any city official grant any improper favor, service or thing of value to any person.

(3) As used in this article the word "gift" means a favor, hospitality, economic benefit, product or item having a value of \$25.00, or more. A "gift" does not include campaign contributions reported as required by state law, money, items, or benefits received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

(4) The following factors are considered in evaluating whether a gift is prohibited:

- a. The value of the gift, or gifts, does not exceed \$25.00, or \$200.00 during any 12 consecutive calendar months;
- b. Any pre-existing relationship between the donor and donee;
- c. Whether the benefit of the gift is transferred to the city or to the city official and whether any consideration is given in exchange for the gift; and
- d. Whether the person or entity giving the gift, or on whose behalf the gift is made, has done business with or has been regulated by the city within the immediate preceding 24 calendar months, or is seeking to do business with the city, or does business with or is regulated by the city during the subsequent 12 months.

(5) Those items or services that do not constitute prohibited gifts include, but are not limited to, the following:

- a. Political contributions made and reported in accordance with all applicable state laws.
- b. Awards publicly presented in recognition of public service.
- c. Entertainment, meals or refreshments furnished in conjunction with public events, appearances, or ceremonies related to official city business, if furnished by the sponsor of such public event, and meals and refreshments having a value of less than \$50.00 when furnished or provided to the city official during the conduct of public business.
- d. Any item received by a city official and donated to a charitable organization or presented to the city within one business day from the date of receipt; any item(s) other than money the value of which does not exceed \$25.00 or \$200.00 during any 12 consecutive calendar months.
- e. Pens, pencils, calendars, T-shirts, caps and similar items containing logos, slogans, company names or other marketing material and commonly given out for advertising purposes.

(b) *General provisions.*

- (1) No city official or city employee shall intentionally or knowingly disclose any confidential or privileged information gained by reason of said official's position. No city official shall use any such confidential information for the pecuniary gain of said official, or others.
- (2) No city official or city employee shall intentionally or knowingly use his or her official position or city-owned facilities, equipment, or supplies for the pecuniary gain or advantage of such official or persons other than the public at large, or use city-owned vehicles, printing facilities, postage facilities or long distance telephone service for personal reasons, pecuniary gain or advantage, or in any political campaign.
- (3) No city official or city employee shall intentionally or knowingly appear before the body of which the official is a member while representing himself, or any other person, group, association, interest, or business entity. This subsection shall not be applicable in instances where the city official is a member of, serves on the board, or serves in an office of, a group, association or other entity by reason of having appointed to serve in such position by the city council.
- (4) No city official or city employee shall intentionally or knowingly represent directly or indirectly any private person, group, or interest other than himself/herself or a family member before any department, agency, commission or board of the city for pay or profit.
- (5) No city official or city employee shall vote on or participate in any decision making process if the official has a direct financial interest in the outcome of the matter under consideration. No city official shall vote on or participate in any decision making process on any matter concerning real property or a business

entity if the official has a substantial interest in the business entity or real property.

(6) None of the foregoing shall be construed to prohibit a city official or city employee from representing his or her interest in his or her owner-occupied homestead before the council, board, commission or any department except for the body of which the official is a member.

(7) In any action or proceeding in the municipal court of the city which was instituted by a city official in the course of official duties, no city official shall knowingly represent anyone other than himself, herself or a family member. If a council member elects to have a trial in municipal court, the city council, without the participation of the affected council member, shall appoint a special judge to preside over the trial.

Sec. 2-204. - Disclosure of interest.

(a) If any city official has a substantial interest in any real property or business entity involved in any decision pending before the body of which the official or person is a member, the official or person shall not vote or otherwise participate in the consideration of the matter.

(b) If any nonelected city official or city employee has a substantial interest in any real property or business entity involved in any decision pending before the city council, or a board or commission, such city official shall not participate in the consideration of the matter.

(c) A city official shall publicly disclose, verbally and in writing, the nature and extent of such interest to the body on which the official serves prior to any discussion or determination of the matter to be considered or immediately upon discovery of the conflict of interest. The official or member shall publicly abstain and not participate in the discussion of any such matter, and the following statement of disclosure shall be completed by the official and filed in the official minutes of the body:

Sec. 2-207. - Investigations and complaints.

(f) Jurisdiction of Board. The board's jurisdiction to hear complaints is limited to city officials.

Sec. 2-210. - Application as to city employees.

The city manager shall enforce this Article as to employees of the city, giving consideration to the specific facts involved and the position held by the employee.

Action taken by the city manager with respect to any specific event, action or employee, may, depending on the applicable facts and discretion of the city manager, range from oral reprimand to termination.

SECTION 3. Severability Clause

Should any section, or part of any section, or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections, or part of a section or paragraph of this ordinance.

SECTION 4 . Savings Clause

The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Burnet under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

SECTION 5. Cumulative

The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 6. Relation to Other Ordinances

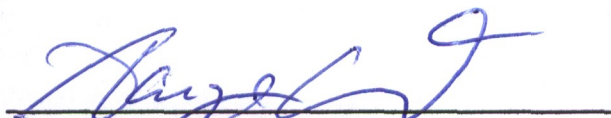
This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance. This ordinance is specifically subordinate to any ordinance or regulations of the City of Burnet pertaining to safety and welfare of citizens and property.

SECTION 7. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

Passed and Approved on first reading this the 22nd day of January, 2013.

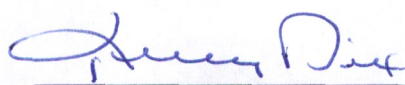
Passed and Approved on second and final reading this the 12th day of February, 2013

CITY OF BURNET, TEXAS



Gary Wideman, Mayor

ATTEST:



Kelly Dix, City Secretary

