



## CITY OF KELLER CODE OF ETHICS

### ETHICS POLICY

1.01 Keller's general ethics policy. It is the policy of the City of Keller (the "City") to uphold, promote, and demand the highest standards of ethical behavior from its Mayor, members of the City Council ("City Council"), employees, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups ("City Officials"). Honesty, integrity, fairness, and transparency of action are the hallmarks of public service in Keller. To further these ideals, the following code of ethics (the "Code") shall govern all elected officials and employees, including citizen advisory boards and commissions of the City of Keller, who shall:

- a) Obey and observe the constitution and laws of the United States of America, the constitution and laws of the State of Texas, and the charter, laws, and policies of the City of Keller;
- b) Act impartially and not give preferential treatment to any private organization or individual.
- c) Disclose, as a matter of record, any matter in which a city official or official's family member has an employment or other business relationship with a vendor that results in the official or official's family member receiving taxable income of more than \$2,500 in the preceding twelve months. The term "vendor" is any person who enters or seeks to enter into a contract with a city and shall have the same meaning and application given to it in Chapter 176 of the Texas Local Government Code;
- d) Not participate in any vote or decision on a matter in which they have a substantial interest. The term "substantial interest" shall have the meaning given in Chapter 171 of the Texas Local Government Code;
- e) Protect confidential information concerning city functions and never use such information for personal financial gain.
- f) Protect and conserve city property and never use it for other than authorized activities;
- g) Disclose waste, fraud, abuse, and corruption to appropriate authorities; and
- h) Never ask or direct any other City Council member or City Official or employee to violate any provision of this code of ethics by action or omission.

## **CONFLICTS OF INTERESTS**

2.01 Conflicts of interest generally. A conflict of interests arises when a City Council member or City Official, a relative of that official, or an entity in which a City Council member or City Official has a substantial interest is actively engaged in an activity that involves the city's decision-making processes. "Decision-making processes" is broader than just voting and includes being involved with any aspects of any decisions the city makes, such as making a recommendation to City Council by way of participation in a citizen advisory committee, contracting, sales, purchases, permitting, and zoning. "Substantial interest" shall have the same meaning given in Chapter 171 of the Texas Local Government Code.

- (a) When a substantial interest arises, the City Council member or City Official involved must immediately refrain from participating in any manner in the city's decision-making processes on the matter, including voting on the matter or attending non-posted and non-public meetings with, having written or verbal communications with, or offering advice to any member of the City Council or City Official, or any city employee, contractor, agent, charter officer, (other than the city attorney when the City Council member or City Official is seeking legal advice regarding a possible conflict of interest).
- (b) During a public meeting when an agenda item in which a City Council member or City Official has a conflict of interest comes up for consideration, the City Council or City Official shall state publicly that he or she has a conflict of interest, fill out the appropriate disclosure forms, recuse himself or herself, and leave the room while the matter is being discussed and acted upon by others on the public body.
- (c) In situations where a City Council member or City Official has a question about the applicability of this Code or the provisions of Texas' conflicts of interest laws, the city charter, or any city ordinance, a ruling may be sought from the city attorney on whether an actual conflict of interests exists.

## **GIFTS**

3.01 Acceptance of gifts. City Council members or City Officials are prohibited from soliciting or accepting gifts from anyone who is engaged in a general practice or specific situation that involves the city's decision making or permitting processes where the gift is intended to give preferential treatment to the person or entity making the gift. The term "gift" includes money, services, loans, travel, entertainment, hospitality (including meals), promises of any future gifts, or anything of value as more particularly defined in Chapter 36 of the Texas Penal Code, or other applicable laws that might be construed as an attempt to create a more favorable relationship than that enjoyed by any other citizen, including, but not limited to: (a) the purchase, sale, or lease of any real or personal property by the city official, that official's relative, or an entity in which that official has a substantial interest at a value below or above that available to the general public, and (b) employment and/or services, contracts, direct or indirect, by a city official, that official's relative, or an entity in which that official or relative has a substantial interest.

## **COMPLAINTS OR ALLEGATION OF A VIOLATION OF THIS CODE**

4.01 Initiation of complaints. All complaints or allegations of a violation of this code of ethics against a City Council member or City Official covered by this Code must be in writing, sworn to before a notary public as to the complaint's validity and truthfulness, and state:

- a) The specific section(s) of the Code that has been violated.
- b) The specific act which violated the specified section(s).
- c) The name of the individual who has allegedly violated the Code.
- d) The name and contact information for the complainant.

4.02 Filing of the complaint form. All complaints must be sworn to as true and correct by the complaining party before a notary public. The complaint form (See Appendix) must be filed of record with the city secretary or designee, who will forward a copy of the complaint within three (3) business days to the party complained against, and the city attorney. Complaints must be filed within six (6) months from the date of knowledge of the incident.

4.03 Confidentiality policy. Any complaint, including all information and the complainant's name, address and contact information, will be considered public information pursuant to the Texas Public Information Act.

4.04 False or frivolous complaints. A person who knowingly makes a false, misleading, or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and potential civil liability for, among other possible causes of action, defamation. If after reviewing an ethics complaint it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided under penalty of perjury, then the City Council may direct that the matter be referred to the appropriate law enforcement authority for possible prosecution. A City Council member or City Official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

4.05 Complaints pertaining to city elections. Any complaints relating to city elections shall be filed with the appropriate county or state authority.

## **COMPLAINTS AGAINST THE MAYOR AND MEMBERS OF THE CITY COUNCIL**

5.01 Independent ethics reviewers. The city may use independent, non-city personnel to handle ethics complaints lodged against the Mayor and members of the City Council. The city attorney shall first attempt to select a pool of five (5) individuals who could serve as the city's independent ethics reviewers to handle ethics complaints lodged against the Mayor and members of the City Council. To be eligible for selection, individuals must be active/retired federal or state judges or faculty members at any ABA accredited law school within the state of Texas who do not live in Keller and do not work for firms or employers that regularly have business in the City or represent clients in the City. In the event the city attorney cannot select a sufficient number of eligible people who can perform the necessary services, then the city attorney may complete the pool by selecting Texas licensed attorneys who do not live or office in the City and whose firms or employers do not regularly have business in the City or represent clients in the City. A supermajority vote of the remaining

City Council members that are not the subject of a complaint hereunder shall be required to direct the City Attorney to institute such a panel. A supermajority shall be defined as 75% of the City Council members that are not the subject of a specific complaint hereunder.

5.02 Initial screening of complaints. The city attorney shall review each complaint filed alleging a violation by the Mayor or members of the City Council and within fifteen (15) days either:

- a) Return it for being incomplete;
- b) Recommend its dismissal for being untimely;
- c) Recommend dismissal if the complaint on its face fails to state allegations that, if true, would violate a mandatory requirement or prohibition – as opposed to an aspirational or administrative provision – of the ethics code or any laws; or
- d) If the complaint states on its face allegations that, if true, would constitute a violation of a mandatory requirement or prohibition (as opposed to aspirational or administrative provisions) of the Code, take action as set forth below.

5.03 Review and findings. For ethics complaints alleging violations of the Code that proceed for additional review, the city attorney shall investigate the allegations and, within thirty (30) days, submit to the City Council, the complainant, the official who is the subject of the complaint, a report with findings of fact, conclusions of law, and a recommendation.

A super-majority vote of City Council (excluding the City Council member accused of the wrongdoing) may recommend referral of the complaint, regardless of the city attorney's opinion, to an independent ethics panel for further review. Then the city attorney shall immediately transfer the complaint to an ethics panel as prescribed herein. The members of the ethics panel shall investigate the complaint and report to the City Council, the complainant, the official who is the subject of the complaint, the city attorney, and the city secretary its findings of fact and conclusions of law within sixty (60) days of being empaneled (unless the panel requests an extension that is granted by the majority of the City Council). The City Council shall consider the ethics panel's report at a public meeting and either accept or reject the ethics panel's report as submitted by a simple majority.

The super-majority vote of City Council's recommendation to refer a complaint for review by an ethics panel does not mean that any of the complaint's allegations are true or that any city official has violated this Code.

5.04 Sanctions and penalties. If the ethics panel finds that a violation of the Code has occurred, it shall make recommendations to the City Council, as follows:

- a) A letter of notification shall be issued when the violation is clearly minor and unintentional, or when the party complained against was acting in accordance with an advisory opinion issued by the city attorney. A letter of notification shall inform the party complained against of appropriate actions to be taken to avoid future violations.
- b) A letter of admonition shall be issued when the violation is minor and may or may not have been unintentional, but calls for a more substantial response than a letter of notification.
- c) A letter of reprimand shall be issued when the violation has been committed either

intentionally or through disregard of the Code or an advisory opinion issued by the city attorney. Any city official, elected by the people, shall be subject to recall and removal from office by the registered voters of the city on the grounds of incompetency, misconduct, or malfeasance in office.

5.05 Policy Enforcement. If a Member(s) of the City Council believes this policy has been violated, the topic shall be placed on a meeting agenda following proper procedure (by City Manager, Mayor, or two members of the City Council).

A determination of violation shall be stated by majority vote of those present during the deliberation.

If it is a Member of the Council who is determined to be in violation of this policy, a standard letter of violation signed by the Mayor (or Mayor Pro Tempore, if the letter is going to the Mayor) shall be issued to the person. A copy of the letter shall become a part of the Council Member's official file with the City.

## **COMPLAINT FORM**

- (1) The complainant's name, address, and telephone number;
- (2) The name and position of the city official who is the subject of the complaint;
- (3) The nature of the alleged violation, including the specific provision of the ethics code or law allegedly violated;
- (4) A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred;
- (5) All documents or other material in the complainant's possession that are relevant to the allegation, a list of all documents or other material relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other material relevant to the allegations but unavailable to the complainant, including the location of the documents, if known;
- (6) A list of witnesses, what they may know, and their contact information, if known; and
- (7) The complaint must identify the date the complainant learned of the alleged violation and provide a statement of the facts surrounding the discovery of the violation, a list of the persons with knowledge about the date the violation was discovered, and a summary of the information they possess about the discovery. The complaint shall include an affidavit stating that the information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the ethics code. If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.