

ORDINANCE NO. 167-2019

AN ORDINANCE OF THE CITY OF LONE OAK, TEXAS, ADOPTING A CODE OF ETHICS FOR CITY OFFICIALS, EMPLOYEES AND CITY VOLUNTEERS, INCLUDING REGULATIONS RELATED TO STANDARDS OF CONDUCT; GIFTS AND HONORARIUMS; CONFLICTS OF INTEREST; CONFLICT DISCLOSURE STATEMENTS; INTEREST IN PROPERTY ACQUIRED WITH PUBLIC FUNDS; NEPOTISM; BRIBERY; CITY RECORDS; MISUSE OF OFFICIAL INFORMATION; ABUSE OF OFFICIAL CAPACITY; AND OFFICIAL OPPRESSION; CREATING AN ETHICS REVIEW COMMISSION; PROVIDING A COMPLAINT PROCESS FOR VIOLATIONS OF THE CODE OF ETHICS; PRESCRIBING THE ROLE OF THE CITY ATTORNEY IN THE COMPLAINT PROCESS; PROVIDING A HEARING PROCESS; PROVIDING SANCTIONS FOR VIOLATIONS OF THE CODE OF ETHICS; AND PROVIDING FOR DISTRIBUTION AND PROOF OF COMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING; SEVERABILITY CLAUSE AND REPEALER CLAUSE.

WHEREAS, statutory provisions governing the ethical conduct of public officials and employees are found in various codes including the Texas Local Government Code, the Texas Government Code and the Texas Penal Code; and

WHEREAS, the City Council finds it desirable and necessary to adopt a comprehensive ethics ordinance that sets out the statutory parameters relating to the conduct of public officials and employees in one easily accessible location; and

WHEREAS, the City Council believes that a position in government is a position of public trust that demands a high standard of behavior, and

WHEREAS, each employee and official of the City of Lone Oak should uphold the Constitution, laws and regulations of the United States and the State of Texas and the ordinances of the City of Lone Oak; and

WHEREAS, the City of Lone Oak seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by City Officials and employees through the adoption of this Ordinance; and

WHEREAS, the City of Lone Oak seeks to inspire public confidence and trust in City of Lone Oak officials and employees through the adoption of this "Code of Ethics".

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

SECTION 1. RECITALS

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. ADOPTION OF CODE OF ETHICS

Code of Ethics attached hereto as Exhibit "A" and incorporated herein for all purposes is hereby enacted.

SECTION 3. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 552 of the Texas Local Government Code.

SECTION 5. Severability


Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Lone Oak hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

SECTION 6. Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

PASSED AND APPROVED by the City Council of the City of Lone Oak, Texas this 12

day of March, 2019.


Douglas E. Williams, Mayor
City of Lone Oak

ATTEST:


Kathy Voss, City Secretary
City of Lone Oak

APPROVED AS TO FORM:

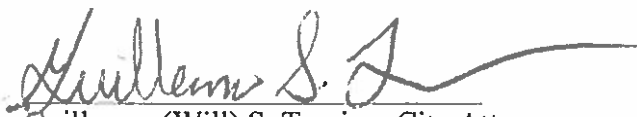

Guillermo (Will) S. Trevino, City Attorney
City of Lone Oak

EXHIBIT "A"

CODE OF ETHICS

Section 1. Definitions.

The terms used in this Exhibit shall have the following meanings:

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

Candidate. This term has the meaning assigned by section 251.001, Election Code.

City Council means the Mayor and five (5) council members elected to serve as the governing body of the City.

City Employee means any person employed by the City, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the City, but such term shall not be extended to apply to any independent contractor.

City Attorney means the City Attorney appointed by the City Council.

City Engineer means the City Engineer appointed by the City Council.

City Manager means the City Manager appointed by the City Council.

City Official means every member of the City Council, the City Mayor, the City Manager (if applicable), the City Secretary, the City Attorney, the City Engineer and all members of any board, commission, or committee appointed by the City Council, including, the board members of the Lone Oak Economic Development Corporation ("LOEDC"), and the executive directors of the LOEDC.

City Volunteer means any person not employee by the city or receiving compensation for work or services performed, i.e. police reserve officers, council appointed boards, commissions, committee members and workers at special event activities.

Confidential Information means any information that a City Official would be privy to because of the official's position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov't Code Ch. 552).

Conflict Disclosure Statement means the disclosure statement form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Conflict of Interest Questionnaire means the conflicts of interest form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Economic Benefit means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Economic Interest means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than Two Thousand Five Hundred Dollars (\$2500.00). Service by a City Official, City Employee, or City Volunteer as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an Economic Interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in the securities or other assets unless the City Official, City Employee or City Volunteer participates in the management of the fund. A City Official, City Employee or City Volunteer does not have an Economic Interest in a matter if the economic impact on the City Official, City Employee or City Volunteer is indistinguishable from the impact on the public or on the particular group affected by the matter.

Family Member means a person related to a City Official in the first degree of consanguinity or affinity, as described by Subchapter B, Chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a City Official by affinity only as described by Section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

Gift means a favor, hospitality, or economic benefit other than compensation, but which does not include campaign contributions reported as required by state law, gifts 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.

Permissible Gift means a thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a City Official, City Employee or City Volunteer. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a City-sponsored function, are considered permissible gifts and/or gratuities.

Qualified Voter means a person who meets the qualifications of Section 11.002 of the Texas Election Code to vote in City elections.

Second Degree by Affinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit "1."

Substantial Interest means the interest that a City Official and/or a Family Member has in a business or business entity or in real property as described below:

(a) The City Official and/or a Family Member owns ten percent (10%) or more of the voting stock or shares of the business entity; or

(b) The City Official and/or a Family Member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or

(c) Funds received by the City Official and/or a Family Member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;

(d) The City Official and/or Family Member has a Substantial Interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

Third Degree by Consanguinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit "1."

Section 2. Standards of Conduct

(a) General Provisions

(1) No City Official, City Employee or City Volunteer may disclose any Confidential Information gained through the City Official's, City Employee's or City Volunteer's office or position concerning property, operations, policies, or affairs of the City, or use such Confidential Information to advance any Economic Interest of the City Official, City Employee or City Volunteer, confer any Economic Benefit to the City Official, City Employee or City Volunteer, or their Family Member. This Subsection shall not preclude disclosure of such Confidential Information in connection with any investigation or proceeding regarding whether there has been a violation of this Code of Ethics to any investigatory, administrative or judicial authority.

(2) No City Official, City Employee or City Volunteer may use his or her office or position or City owned facilities, equipment, supplies, or resources of the City to advance any Economic Interest of the City Official, City Employee or City Volunteer, confer any Economic Benefit to the City Official, City Employee or City Volunteer, for a political campaign of the City Official, City Employee or City Volunteer, or for any of the City Official's, City Employee's or City Volunteer's Family Members. Notwithstanding the foregoing, City owned facilities, equipment, supplies or resources may be used by City Officials, City Employee or City Volunteers to the extent such uses are customary, incidental or lawfully available to the public.

(3) No City Official shall knowingly represent, directly or indirectly, any person, group or business entity:

(i) Before the City Council or the board, commission or committee of which he or she is a member;

(ii) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;

(iii) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board, commission or committee is a party; or

(iv) In any action or proceeding in the municipal court(s) of the City which was instituted by a City Official, City Employee or City Volunteer in the course of his or her official duties, or a criminal proceeding in which any City Official, City Employee or City Volunteer is a material witness for the prosecution.

(4) The restrictions contained in Subsection (3) do not prohibit the following:

(i) A City Official, or his or her spouse, appearing before the City Council or a City board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the City Council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;

(ii) A City Official, City Employee or City Volunteer appearing before the City Council or a City board, commission or committee to address employment matters;

(5) No City Official may act as surety for any person or business entity that has work, business, or a contract with the City, or act as a surety on any bond required by the City for a City Official.

(6) No City Official, City Employee or City Volunteer shall default or refuse to answer any questions pertinent to the proceedings before the City Council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the City Council.

(7) No City Official, City Employee or City Volunteer shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the City.

(8) No City Official, City Employee or City Volunteer who seeks appointment or promotion with respect to any City appointed position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion with respect to any City position.

(9) No City Official, City Employee or City Volunteer shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the City.

(10) No City Official, who holds any compensated non-elective City position, City Employee or City Volunteer shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any Candidate for public office in the City. Any such person shall have the right to exercise his/her legal rights to participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.

(11) Any Members of the City Council shall not in any way dictate the appointment, removal or discipline of the City Officials, City Employees or City Volunteers appointed by the City Manager/Mayor or any of the City Manager's/Mayor's subordinates. Notwithstanding the foregoing, the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager/Mayor anything pertaining to the appointment and removal of such City Officials, City Employees or City Volunteers.

(12) The City Council shall interact with City Officials, City Employees or City Volunteers who are subject to the direction and supervision of the City Manager/Mayor in accordance with the Governance Policy adopted by the City Council. The City shall not give orders to any such City Official, City Employee or City Volunteer, either publicly or privately, except as otherwise provided in the Governance Policy.

SECTION 3. Gifts and Honorariums

(a) Prohibition:

(1) No City Official, City Employee or City Volunteer may solicit or accept any Gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the City Official, City Employee or City Volunteer; or given in consideration of the favorable exercise of the City Official's, City Employee's or City Volunteer's judgment or discretion in the past.

(2) A City Employee or City Volunteer performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the City Employee or City Volunteer knows to be subject to regulation, inspection, or investigation by the City Employee or the City Volunteer.

(3) A City Employee or City Volunteer having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the City Employees or City Volunteers knows to be in his custody or the custody of the City.

(4) A City Employee, City Official, or City Volunteer who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the City shall not solicit, accept, or agree to accept any benefit from a person the City Employee, City Volunteer or

City Official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.

(5) A City Employee, City Volunteer or City Official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any Economic Benefit from a person the City Employee, City Volunteer or City Official knows is interested in or likely to become interested in any matter before the City Employee, City Volunteer or City Official or tribunal.

(6) A City Official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the City Official would not have been requested to provide but for the City Official's official position or duties.

(b) Donation of Unsolicited Gift

A City Employee, City Volunteer or City Official who receives an unsolicited Gift that the City Employee, City Volunteer or City Official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions

The prohibitions set out in this section do not apply to:

(1) a fee prescribed by law to be received by a City Employee, City Volunteer or City Official or any other benefit to which the City Employee, City Volunteer or City Official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a City Employee, City Volunteer or City Official;

(2) a Gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

(3) a benefit to City Employee, City Volunteer or City Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or the City;

(4) a political contribution as defined by Title 15, Election Code;

- (5) a Permissible Gift as defined in this Ordinance, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
- (6) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) food, lodging, transportation, or entertainment accepted as a guest and, if the done is required by law to report those items, reported by the donor in accordance with that law;
- (8) any Gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a City Official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the City Official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

SECTION 4. Conflict of Interest; Recusal.

(a) Conflict of Interest. No City Official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the real property or business entity.

(b) Recusal.

(1) A City Official shall disclose the existence of any Substantial Interest in any business entity or real property involved in any decision pending before such City Official, or the body of which he or she is a member. To comply with this Subsection, a City Official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the City to the City Secretary the nature of the interest. To further comply with this Subsection, a City Official shall notify the City Manager/Mayor, or if the City Official is the City Manager/Mayor, shall notify the City Secretary, in writing of the nature of any Substantial Interest he or she may have in a Business Entity or real property which would be affected by an exercise of discretionary authority by the City Official and the City Manager/Mayor or City Secretary shall assign the matter to another employee. In disclosing a Substantial Interest in a Business Entity, a City Official shall not be required to disclose the dollar amount of any income that he or she receives from the Business Entity.

(2) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a Business Entity in which a member of the Council has a Substantial Interest. The member of the City Council that has the Substantial Interest may not participate in the separate vote.

(3) In addition to complying with the requirements of Chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a City Official should abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity that the official knows is likely to affect the Economic Interest of, or confer an Economic Benefit on:

(i) The City Official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by Chapter 573 of the Government Code, or a client of the City Official;

(ii) An employer of the City Official, the City Official's parent, child, step-child, or spouse;

(iii) A Business Entity for which the City Official serves as an officer or director or serves in any policy-making position;

(iv) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, received an Economic Benefit; or

(v) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

SECTION 5. Conflict Disclosure Statements.

(a) A City Official shall file a sworn Conflicts Disclosure Statement with the City Secretary whenever a City Official or a Family Member (i) is receiving taxable income from an employment or other business relationship with a person or Business Entity who has contracted with the City for the sale or purchase of real property, goods or services or that is considering contracting with the City for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve (12) month period preceding the date that the City Official became aware of the contract, or (ii) has received Gifts with a value of more than \$250.00 during the twelve (12) month period preceding the date that the City Official became aware of the contract from a person or Business Entity that contracts with the City for the sale or purchase of real property, goods or services or that the City is considering doing business with such person or Business Entity. The City Official shall file the Conflicts Disclosure Statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date the City Official becomes aware of the facts that require the filing of the Statement.

(b) A City Official commits an offense if the City Official knowingly fails to file the Conflicts Disclosure Statement. An offense under the above Subsection is a Class C misdemeanor.

(c) The City Secretary shall accept and file any and all City Official Conflict Disclosure Statements and any Vendor Conflict of Interest Questionnaires.

(d) The City Secretary shall maintain a list of City Officials and shall make that list available to the public and any person who may be required to file a Conflicts of Interest Questionnaire.

(e) City Officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity, if, within the 12 months preceding the date of the vote, the City Official has filed, or should have filed, a Conflicts Disclosure Statement under Chapter 176 of the Local Government Code.

SECTION 6. Interest in Property Acquired with Public Funds

(a) Disclosure of Interest in Property

A City Official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) Affidavit

The affidavit must:

- (1) State the name of the City Official;
- (2) State the City Official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the county clerk of the county in which the City Official resides and the county clerk of each county in which the property is located.

SECTION 7. Nepotism

(a) Prohibition:

(1) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from City funds or fees of office if:

(A) the individual is related to the City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; or

(B) the City Official holds the appointment or confirmation authority as a member of a state or local Council, the legislature, or a court and the individual is related to another member of that Council, legislature, or court within the Third Degree by Consanguinity or the Second Degree by Affinity.

(2) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the City Official's direction or control and that is to be compensated directly or indirectly from City funds or fees of office if:

(A) The individual is related to another City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; and

(B) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other City Official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first City Official within the Third Degree by Consanguinity or the Second Degree by Affinity.

(b) Exceptions

(1) The prohibitions in Section 7 do not apply to:

(A) an appointment to the office of a notary public or to the confirmation of that appointment;

(B) an appointment or employment of a personal attendant by a City Official for attendance on the City Official who, because of physical infirmities, is required to have a personal attendant; or

(C) any other appointment excepted under Chapter 573, Government Code.

(2) The prohibition in Section 7 does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(A) the individual is employed in the position immediately before the election or appointment of the City Official to whom the individual is related in a prohibited degree; and

(B) that prior employment of the individual has been continuous for at least six (6) months.

(3) If, under Subsection (b)(2), an individual continues in a position, the City Official to whom the individual is related in a prohibited degree may not participate in any deliberation or

vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SECTION 8. Bribery.

(a) Prohibition:

A City Official, City Employee or City Volunteer shall not:

(1) intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:

(A) any benefit or consideration for the City Official's, City Employee's or City Volunteer's decision, vote, recommendation, or other exercise of official discretion as a City Official, City Employee or City Volunteer;

(B) any benefit as consideration for the City Official's, City Employee's or City Volunteer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

(C) any benefit as consideration for a violation of a duty imposed by law on a City Official, City Employee or City Volunteer; or

(D) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this Subsection.

(b) No Defense

(1) It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

(2) It is no defense to prosecution under this Section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(A) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred;
or

(B) the City Official, City Employee or City Volunteer ceases to be a public servant.

(c) Exceptions

(1) It is an exception to the application of Subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

SECTION 9. City Records

(a) Prohibition:

A City Official, City Employee or City Volunteer shall not:

(1) knowingly make a false entry in, or false alteration of, a City record;

(2) make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine City record;

(3) intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a City record;

(4) possess, sell, or offer to sell a City record or a blank City record form with intent that it be used unlawfully;

(5) make, present, or use a City record with knowledge of its falsity; or

(6) possess, sell, or offer to sell a City record or a blank City record form with knowledge that it was obtained unlawfully.

(b) Exception

It is an exception to the application of Subsection (a)(3) of this Section that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

Section 10. Misuse of Official Information

(a) Prohibition

(1) A City Employee, City Volunteer or City Official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:

(A) acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;

(B) speculate or aid another to speculate on the basis of the information; or

(C) as a City Official, City Employee or City Volunteer coerce another into suppressing or failing to report that information to a law enforcement agency.

(2) A City Employee, City Volunteer or City Official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:

(A) the City Official, City Employee or City Volunteer has access to by means of his office or employment; and

(B) has not been made public.

In this section, "information that has not been made public" means any information to which the public does not generally have access, and/or that is prohibited from disclosure under Chapter 552, Government Code.

SECTION 11. Abuse of Official Capacity

(a) Prohibition:

(1) A City Official, City Employee or City Volunteer commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(A) violates a law relating to the City Official's, City Employee's or City Volunteer's office or employment; or

(B) misuses City property, services, personnel, or any other thing of value belonging to the City that has come into the City Official's, City Employee's or City Volunteer's custody or possession by virtue of the City Official's, City Employee's or City Volunteer's office or employment.

(b) Exceptions:

(1) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the City for purposes of this Section due to the administrative difficulty and cost involved in recapturing the discount or award for the City.

SECTION 12. Official Oppression

(a) Prohibition:

(1) A City Official, City Employee or City Volunteer acting under color of his office or employment commits an offense if he:

(A) intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(B) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or

(C) intentionally subjects another to sexual harassment.

(b) For purposes of this Section, a City Official, City Employee or City Volunteer acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

(c) In this Section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

Section 13. Ethics Review Commission

(a) There is hereby created an Ethics Review Commission (the "Commission") is an advisory commission having jurisdiction over ethics complaints as described in this Exhibit involving City Officials, City Employees or City Volunteers.

(b) The Commission is to be composed of five (5) members each serving a two (2) year term. The City Council shall appoint each member (a "Commissioner") to the Commission. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commissioner shall take an oath of office comparable to that taken by Council members. Commissioners shall serve without compensation but shall be eligible to be reimbursed for actual expenses in accordance with the City's reimbursement policy.

(1) Terms of Commissioners. At the City Council meeting which creates the Commission, two (2) Commissioners shall be selected to serve an initial one (1) year term and three (3) Commissioners shall be selected to serve an initial two (2) year term. Thereafter, all members' terms shall be two (2) years. The Commission members shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Any Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. Any Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meetings(s) at issue shall not be considered absent for purposes of this Subsection. Any Commissioner who no longer resides within the corporate

boundaries of the City is deemed to have automatically vacated his/her position on the Commission.

(2) Commission Officers; quorum. From among its members the Commission shall elect its officers, those being the Chairperson, Vice-Chairperson, and Secretary. Officers shall be elected for terms of one (1) year. The Chairperson shall preside over all meetings and may vote. If the Chairperson fails or refuses to act, the Vice-Chairperson shall perform the duties of the Chairperson. If the Chairperson and Vice-Chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting. Three (3) or more Commissioners present at a meeting shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

(3) Meetings. The Commission shall have such meetings as may be necessary to fulfill its responsibilities. The Commission shall meet at least once a year. The date of the annual meeting shall be in September as set by the Commission. The Chairperson or any two (2) members of the Commission may call a meeting provided that reasonable notice is given to each Commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The Commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this Exhibit.

(4) Qualifications.

(A) Commissioners must be Qualified Voters who are residents of the City of Lone Oak.

(B) No Commissioner may be a City Official, City Employee or Family Member of a City Official, City Employee or City Volunteer.

(C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the Commission. When a Commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the Commission, such Commissioner shall disclose the facts and circumstances which create the conflict and shall not vote or otherwise participate in consideration of the matter.

(D) The Commission shall have the authority to review and investigate complaints filed in accordance with this Exhibit and issue a written finding of the Commission's determination when appropriate.

(E) Service on the Commission does not preclude a member from filing a complaint with the Commission. The Commission member filing the complaint must recuse himself/herself from the Commission procedure.

(F) The Commission may make recommendations to the City Council regarding revisions and changes to this Ordinance.

(G) The Commission may seek any necessary assistance or resources from the City Council and/or City Manager/Mayor regarding support needed to carry out the Commission's duties.

(H) The Commission shall determine its rules and procedures which shall be submitted in writing for approval of the Council. The Commission shall establish, amend and rescind its procedures and maintain proper records of its proceedings and its opinions.

(I) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission shall have the power to enforce the provisions of this Ordinance, including recommending to the City Council the prosecution of alleged violators. Nothing in this Exhibit shall be construed, however, to prevent complainants, including the City, from instituting direct legal action on their own behalf through the appropriate judicial authority.

(J) The Commission shall receive from the City such administrative support as reasonably necessary to carry out the duties of the Commission and shall assist the Commission with maintenance of its records in compliance with the City's records retention schedule.

Section 14. Complaint Process

(a) Filing

(1) Any City Official, City Employee, City Volunteer or Qualified Voter of the City who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Ordinance must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Exhibit by the City Attorney must also be filed with the persons named in Section 15(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to Section 15 City Attorney (c).

(2) Required Contents of a Complaint. An ethics complaint must be in writing and under oath and must set forth in simple, concise, and direct statements the following:

(A) The name of the complainant;

(B) The street or mailing address and the telephone number of the complainant;

(C) The name of the person who allegedly committed the violation;

(D) The position or title of the person who allegedly committed the violation;

(E) The nature of the alleged violation, including, if possible, the specific rule or provision of this Exhibit alleged to have been violated;

(F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:

(i) Documents or other material available to the complainant relevant to the allegation;

(ii) 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

(iii) 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.

(G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.

(3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Ordinance.

(4) Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.

(b) Confidentiality and Ex Parte Communications

(1) No City Official, City Employee or City Volunteer 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 (Tex. Gov. Code Ch. 552).

(3) After a complaint has been filed, and during the consideration of a complaint by the Commission, a member of the Commission may not 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 Commission. This provision does not prevent a member of the Commission from consulting with the City Attorney, or its independent legal counsel selected by the City Council regarding procedural and legal issues.

(4) City Council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.

(c) Notification

(1) A copy of a complaint shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the complaint.

(2) The person alleged in the complaint to have violated this Exhibit shall be provided with a copy of this Code of Ethics and informed that:

(A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the City Secretary;

(B) Failure to file a response does not preclude the City Attorney from processing the complaint.

(3) City Officials, City Employees and City Volunteers have a duty to cooperate with the City Attorney, pursuant to this Section.

(4) All members of the Commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

Section 15. Role of the City Attorney

(a) The City Attorney serves as legal counsel to the Ethics Review Commission. When complaints are filed against members of the City Council, the City Attorney, independent legal counsel may be utilized to advise the Commission and take part in its proceedings, subject to approval of the fee arrangement by the City Council.

(b) The City Attorney serves as Ethics Advisor to City Officials, City Employees and City Volunteers. As Ethics Advisor, the City Attorney is available to respond confidentially to inquiries relating to the Ethics Ordinance (this Exhibit) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a City Official, City Employee or City Volunteer. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.

(c) The City Attorney shall receive all sworn complaints and provide a copy and a preliminary review of the complaint to the Commission for action. The City Attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the Commission. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this Code; (3) alleges the occurrence of conduct that might reasonably constitute a violation of this Exhibit; and (4) is signed and sworn to by the person filing the complaint.

(d) The City Attorney shall also advise the Commission whether the City Attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and

whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this Exhibit. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Commission dismiss the complaint following the preliminary hearing.

(e) The City Attorney's recommendation that the Commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any City Official, City Employee or City Volunteer has violated or not violated this Exhibit.

(f) If a complainant alleges a violation by the City Attorney, the complaint must be filed with the Chairperson of the Commission, with a copy to the City Manager/Mayor.

Section 16. Hearing Process

(a) Preliminary Hearing

(1) When the City Attorney, or independent legal counsel selected by the Commission, has rendered an opinion that a complaint is defective as to form or insufficient because it does not allege the existence of reasonable grounds to believe that a violation of this Ordinance has occurred, the Commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a Preliminary Hearing. The purpose of the Preliminary Hearing is to determine whether there are reasonable grounds to believe that a violation of this Ordinance has occurred.

(2) The complainant and the City Official, City Employee or City Volunteer named in the complaint have the right of representation by legal counsel.

(A) The complainant shall pay for complainant's legal fees, cost, and related expenses. If the City Official, City Employee or City Volunteer is finally found to be in violation of this Ordinance, the City shall reimburse the complainant for his or her reasonable legal fees, costs and related expenses and the City Official, City Employee or City Volunteer shall reimburse the City for the amount paid to complainant for complainant's legal fees, costs and related expenses.

(B) The City shall pay for legal fees, cost, and related expenses for representation of the City Official, City Employee or City Volunteer.

(3) Statements at a Preliminary Hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing.

(4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.

(5) The City Official, City Employee or City Volunteer named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The City Official, City Employee or City Volunteer may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the City Official, City Employee or City Volunteer agrees that a violation has occurred, the Commission may consider the appropriate sanction.

(6) Only members of the Commission may question the complainant, the independent counsel for the Commission, or the City Official, City Employee or City Volunteer named in the complaint.

(7) At the conclusion of the Preliminary Hearing one of the following actions shall be taken:

(A) If the Commission does not determine that there are reasonable grounds to believe that a violation of this Exhibit has occurred, the complaint shall be dismissed.

(B) If the Commission determines that there are reasonable grounds to believe that a violation of this Exhibit has occurred, it shall schedule a final hearing.

(C) If the City Official, City Employee or City Volunteer has agreed that a violation has occurred, the Commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to Subsection (b)(4) below.

(b) Final Hearing

(1) Except as provided by Subsection 16(a)(7)(C) above, a final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this Exhibit has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant two postponements, not to exceed fifteen (15) days each, upon the request of the City Official, City Employee or City Volunteer named in the complaint.

(2) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its powers of investigation.

(3) The complainant and the City Official, City Employee or City Volunteer named in the complaint have the right of representation by legal counsel.

(4) The issue at a final hearing is whether a violation of this Exhibit has occurred. The Commission shall make its determination based on the evidence in the record. All witnesses shall make their statements under oath. If the Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this Exhibit

which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the City Secretary. The City Secretary shall deliver a copy of the findings to the Council, the City Manager/Mayor and the City Attorney.

Section 17. Sanctions for Violations

(a) If the Commission determines that a violation of this Exhibit has occurred, it shall consider appropriate sanctions. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so.

(b) If the Commission determines that a violation has occurred, it may impose the following sanctions.

(1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the City Attorney. The letter of notification shall advise the City Official, City Employee or City Volunteer 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 and/or may have been unintentional, but calls for a more substantial response than a letter of notification.

(3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed intentionally or knowingly or through disregard of this Ordinance. A written reprimand directed to a City Employee or City Volunteer shall be included in the employee's personnel file.

(4) A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this Exhibit have been committed by a City Official.

(c) Copies of all sanction letters issued by the Commission under this section shall be sent to the City Council.

(d) In addition, if the violation is found by the Commission to be done willfully and the seriousness of the violation warrants, the Commission may recommend to the City Council the suspension or removal from office of any official serving in a City-appointed position.

(e) Except with regard to violations of Chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any City Official, City Employee or City Volunteer as designated herein of one or more of the provisions of this Exhibit shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

Section 18. Distribution and Proof of Compliance

The City Secretary shall make available to each new City Official designated in this Exhibit, a copy of the text of this Ordinance; Chapter 171 and Chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex.Gov. Code Ch. 551); the Texas Public Information Act (Tex. Gov. Code Ch. 552) Chapter 573 of the Texas Government Code; Texas Penal Code Sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the “Ethics Statutes”).

EXHIBIT "1"

Consanguinity and Affinity

Affinity Kinship (Marriage) Relationships

1 st Degree	2 nd Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

Consanguinity (Blood) Relationships

1 st Degree	2 nd Degree	3 rd Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt