

**ORDINANCE NO. 2010-018**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARIS, TEXAS APPROVING AND ADOPTING A CODE OF ETHICS AND CONDUCT FOR CITY COUNCIL MEMBERS, EMPLOYEES, BOARDS, COMMISSIONS, AND COMMITTEES BY AMENDING CHAPTER 2, *ADMINISTRATION OF THE CODE OF ORDINANCES OF THE CITY OF PARIS* BY RENAMING ARTICLE IX, *CODE OF ETHICS AND CONDUCT FOR CITY COUNCIL, EMPLOYEES, BOARDS, COMMISSIONS AND COMMITTEES*, AND BY ADDING SECTIONS 2-300 THROUGH 2-307; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in order to assure the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city they serve; and

**WHEREAS**, governmental decisions and policy should be made in the proper channels of the governmental structure and that no officer, or member of any board, commission or committee should have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest; and,

**WHEREAS**, public office and public employment are positions of public trust imposing the duty of a fiduciary upon all members and officeholders, who are not to use their public position for personal gain, and that the public should have confidence in the integrity of its government; and,

**WHEREAS**, to implement such a policy, the City Council deems it advisable to enact this code of ethics and conduct for all officers, employees, and advisory board members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the City's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

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

**Section 1.** The findings set out in the preamble to this ordinance are hereby in all things approved.

**Section 2.** Article IX, of Chapter 2, *Administration*, of the Code of Ordinances of the City of Paris, Texas, be, and the same is hereby amended to read in its entirety as follows:

**“ARTICLE IX. CODE OF ETHICS AND CONDUCT FOR CITY COUNCIL, EMPLOYEES,  
BOARDS, COMMISSIONS AND COMMITTEES.**

**Sec. 2-300. Definitions.**

For the purposes of this code of ethics and conduct the following words and phrases shall have the meanings ascribed to them by this section:

*Advisory board* shall mean a board, commission or committee of the city that functions only in an advisory or study capacity.

*Business entity* shall mean a sole proprietorship, partnership, firm, corporation, association, holding company, joint stock company, receivership, trust, or any other entity recognized by law.

*Employee* shall mean any person employed by the city, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

*Family member* shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

*Knowingly.* A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowing, or with knowledge, with respect to a result of his or her conduct when he is aware that his or her conduct is reasonably certain to cause the result.

*Officer* shall mean any member of the City Council, the Planning and Zoning Commission, the Paris Economic Development Corporation, the Board of Adjustment, the Building Standards Commission, the Paris Historical Commission and any member of a board, commission or committee established by ordinance, charter or state law that has final approval authority over any application, permit, license or other city approvals; provided, no member of an advisory board shall be deemed an officer of the city.

*Substantial interest.*

1. A person has a substantial interest in a business entity if:
  - a. The interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent (10%) or more or \$15,000.00 or more of

the fair market value of the business entity (see section 171.002, Texas Local Government Code); or

- b. Funds received by the person from the business entity exceed ten percent (10%) of the person's gross income for the previous year (see section 171.002, Texas Local Government Code); or
  - c. The person holds a position of member of the board of directors or other governing board of the business entity; or
  - d. The person serves as an elected officer of the business entity; or
  - e. The person is an employee of the business entity; or
  - f. The person is a creditor, debtor or guarantor of the business entity in the amount of \$15,000.00 or more; or
  - g. Property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount of \$15,000.00 or more.
2. A person does not have a substantial interest in a business entity if:
- a. The person holds a position as a member of the board of directors or other governing board of a business entity; and
  - b. The person has been designated by the city council to serve on such board; and
  - c. The person receives no remuneration, either directly or indirectly, for his or her service on such board; and
  - d. The primary nature of the business entity is either charitable, nonprofit or governmental.
3. A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500.00 or more (see section 171.002, Texas Local Government Code).
4. A person has a substantial interest under this chapter if the person's family member has a substantial interest under this chapter (see section 171.002, Texas Local Government Code).

**Sec. 2-301. Declaration of article policy.**

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city; that governmental decisions and policy should be made in the proper channels of the governmental structure; that no officer, employee or member of any board, commission or committee should have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest; that public office and public employment are positions of public trust imposing the duty of a fiduciary upon all employees and officeholders, who are not to use their public position for personal gain; and that the public should have confidence in the integrity of its government. To implement such a policy, the city council deems it advisable to enact this code of ethics and conduct for all officers, employees and advisory board members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms. This code of ethics and conduct is cumulative of other city ordinances, Civil Service rules, personnel policies, City Charter provisions and state statutes defining and prohibiting conflict of interest.

**Sec. 2-302. Penalties for violation of article; voidable acts.**

(a) Except where otherwise provided by state law, it is not the intent of this article that violations of this article be subject to criminal penalties.

(b) Whenever the city council has determined that any officer or advisory board member has violated any provision of this article, such officer or advisory board member shall be subject to admonishment or censure. The City Council may remove from office any officer or advisory board member (other than a City Council member) from their position for violating any provision of this Article. Any complaint or charge against a City employee for violating this Article shall be referred to the City Manager for further investigation and/or discipline in accordance with the City's Personnel Policies.

(c) The city council may exempt from the provisions of this article any conduct found to constitute a violation by an officer, employee or advisory board member if it finds that the enforcement of this article with respect to such conduct is not in the public interest.

(d) In administering this Code of Ethics and Conduct, the City Council shall examine all complaints received, but they may dismiss frivolous or unsubstantiated complaints.

(e) Any contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this article, or which involved the violation of a provision of this article, shall be voidable at the option of the city council.

**Sec. 2-303. Standards of conduct.**

(a) No city officer, employee or advisory board member, or their spouses, shall knowingly:

1. Accept or solicit any gift, favor, service or thing of value from any person, group or business entity, including a promise of future employment, that might reasonably tend to influence him in the discharge of his or her official duties or that the officer, employee or advisory board member knows or should know is being offered with the intent to influence the officer's or employee's official conduct. This prohibition shall not apply to:
  - a. An occasional non-pecuniary gift, insignificant in value; or
  - b. An award publicly presented in recognition of public service; or
  - c. Any gift which would have been offered or given to the officer employee or advisory board member or his or her spouse if he/she were not a city officer, employee or advisory board member; or
  - d. Any travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the city council prior to the occurrence of the ceremonial function.
2. Grant in the discharge of his or her official duties any improper favor, service or thing of value to any person, group or business entity;
3. Knowingly make an unauthorized disclosure of any confidential information gained by reason of the position of the officer, employee or advisory board member concerning property, operations, policies or affairs of the city, or use such confidential

information to advance any personal interest, financial or otherwise, of such officer, employee or advisory board member, or others. 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 the standards of conduct set forth in this code.

4. Use one's position or office of employment or city facilities, personnel, equipment or supplies to secure special privileges or exemptions for himself or others or for the private gain of the city officer, employee, advisory board member or his or her spouse.
5. Engage in any exchange, purchase or sale of property, goods or services with the city, except:
  - a. Rendering services to the city as an officer, employee or advisory board member;
  - b. Paying taxes, fines, utility service or filing fees;
  - c. Executing and performing any developer's agreement or plat in compliance with laws and regulations applicable to any person; provided, however, that if any city ordinance, rule or regulation allows any discretion by the appropriate officers or employees of the city in the interpretation or enforcement of such ordinance, rule or regulation, any such discretion shall be exercised in favor of the city in connection with any such developer's agreement or plat;
  - d. Advisory board members who are not otherwise officers or employees of the city, may engage in any exchange, purchase or sale of property, goods or services with the city, or enter into a contract with the city, provided that the board on which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.
6. Hold himself/herself out as representing the city in any capacity other than that for which he was appointed, elected or hired.
7. Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment in the performance of his or her official duties.

8. Make or permit the unauthorized use of city owned vehicles, equipment, materials or property.
9. Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
10. After termination of service or employment with the city, appear before any board or commission of the city in relation to any case, proceeding or application in which he or she personally participated or which was under his or her active consideration, during the period of his or her service or employment.
11. Transact any business in his or her official capacity with the city with a business entity in which he/she has a substantial interest.
12. Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
13. Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of city ordinances, rules or regulations or the achievement of official city programs.

(b) No officer, advisory board member or city employee shall knowingly represent, directly or indirectly, any person, group or business entity:

1. Before the city council or any department, agency, board or commission of the city;
2. In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission thereof is a party; or
3. In any action or proceeding in the municipal courts of the city which was instituted by a city officer or employee in the course of his or her official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.

(c) The restrictions in this section do not prohibit the following:

A city employee, officer or advisory board member (other than city council), or his or her spouse, appearing before the city council or a city department, agency, board or commission 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 appear before the board or commission of which he or she is a member.

(d) The restrictions in this section do not apply to business associates of officers, employees or advisory board members, but only personally to the officers, employees and advisory board members themselves.

**Sec. 2-304. Conflict of Interest.**

(a) If any city officer, employee or advisory board member has a substantial interest in a business entity or real property involved in any decision pending before such officer, employee or advisory board member, or the body of which he or she is a member, such officer, employee or advisory board member shall disclose such interest as provided in subsection (b) below and shall abstain from further discussion and voting on the matter if:

1. In the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) A city officer, employee or advisory board member shall disclose the existence of any substantial interest in a business entity or real property involved in any decision pending before such officer, employee or advisory board member shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by § 171.004 of the Texas Local Government Code or, if not so required, shall publicly disclose in the official records of the body or of the city secretary the nature of the interest. To comply with this paragraph, a city employee shall notify his or her superior, and the director of human resources in writing of the nature of any substantial interest he may have in a business entity or real property which would be affected by an exercise of discretionary authority by the city employee. The employee's superior shall assign the matter to another employee.

**Sec. 2-305. Disclosure of interest.**

(a) A local government officer shall file a conflicts disclosure statement with respect to a person described by Section 176.002(a) of the Texas Local Government Code if:

1. the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and
2. the person:
  - A. has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:
    - (i) a contract described by Subdivision (1) has been executed; or
    - (ii) the local governmental entity is considering entering into a contract with the person; or
  - B. has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that:
    - (i) a contract described by Subdivision (1) has been executed; or
    - (ii) the local governmental entity is considering entering in to a contract with the person.

(b) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. given by a family member of the person accepting the gift;
2. a political contribution as defined by Title 15, Election Code; or
3. food, lodging, transportation, or entertainment accepted as a guest.

(c) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the

officer becomes aware of the facts that require the filing of the statement under Subsection (a).

(d) A local government officer commits an offense if the officer knowingly violates this section. An offense under this subsection is a Class C misdemeanor.

(e) It is an exception to the application of Subsection (d) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

#### **Sec. 2-306. Enforcement.**

(a) The city council shall have the primary responsibility for the enforcement of this Article as it relates to officers and members of city boards, commissions, and committees. The City Manager shall have the primary responsibility for the enforcement of this Article as it relates to employees. The city council may direct the city attorney to investigate any apparent violation of the code by an officer or member of city boards, commissions, and committees or it may employ or appoint any qualified attorney to investigate any violation or series of violations of this code by any officer or member of city boards, commissions, and committees.

(b) Any person who believes that a violation of by an officer or member of city boards, commissions and committees of any portion of the code has occurred may file a complaint with the city council who may then proceed as provided in subsection (a) above. Any person who believes that an employee has violated any portion of the code must follow procedures as identified in the City's Personnel Policies and Procedures manual. However, nothing in this code shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

#### **Sec. 2-307. Advisory opinions.**

(a) Where any officer, employee or advisory board member has a doubt as to the applicability of any provision of this article to a particular situation, or as to the definition of terms used in this article, he may apply to the city attorney for an advisory opinion. The officer, employee or advisory board member shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of this article before such advisory opinion is made.

(b) Until amended or revoked, any advisory opinion shall be binding on the city, the city council, and the city attorney in any subsequent actions

concerning the public officer, employee or advisory board member who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

**Sec. 2-308. Distribution of copies of article.**

Each officer, employee and advisory board member of the city, elected, hired or appointed, shall be furnished a copy either electronically (if requested) or in hard copy before entering upon the duties of his office or employment and shall sign a written statement acknowledging receipt of the copy. A copy of this article shall be furnished to each officer, employee and advisory board member each year.”

**Section 3.** References herein to the masculine gender shall also refer to the feminine in all appropriate cases and vice versa.

**Section 4.** That all provisions of the ordinances of the City of Paris, Texas in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the ordinances of the City of Paris not in conflict with the provisions of this ordinance shall remain in full force and effect.

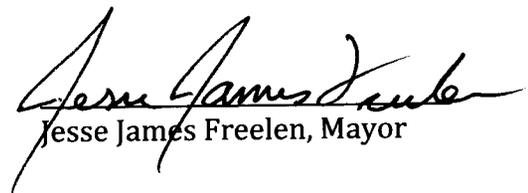
**Section 5.** That the repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this ordinance.

**Section 6.** That it is the intention of the City Council of the City of Paris that this ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause, or provisions of this ordinance shall not affect the validity of any other portion of this ordinance.

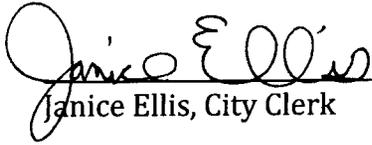
**Section 7.** That by a supermajority vote of 7 ayes and 0 nays, the City Council voted to suspend the rule requiring two readings before adoption of this ordinance.

**Section 8.** That this ordinance shall become effective from and after its passage of the first reading and publication as required by law.

**PASSED AND ADOPTED** on first and final reading this 10<sup>th</sup> day of May, 2010.

  
Jesse James Freelen, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Janice Ellis, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
W. Kent McIlyar, City Attorney