



AGENDA

ETHICS COMMISSION MEETING

JUNE 11, 2020

CITY COUNCIL CHAMBERS @ 8601 MIDCROWN

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST ETHICS COMMISSION MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 11th DAY OF JUNE 2020, STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMISSION MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE ETHICS COMMISSION RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF JUNE 11, 2020, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY JUNE 12 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers is wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

- I. Call to Order**
- II. Roll Call**
- III. Pledge of Allegiance & Invocation**
- IV. Citizens to be Heard.**
 - Citizens may address the Ethics Commission on topics not on the agenda for no more than three (3) minutes. Only a maximum of four (4) members of the public will be permitted in the City Council Chambers at a time. All attendees will be required to be screened for present signs of COVID-19 prior to entering City Hall. Four (4) hours prior to the meeting, an email to the city secretary at citysecretary@windcrest-tx.gov is required to be added to the attendee list to ensure proper physical distancing seating inside and outside City Council Chambers. An email statement may be sent to the City Secretary @ citysecretary@windcrest-tx.gov to be read into the meeting to the Commission. Statements will be provided to the Commission and available to the public not in attendance after the meeting.
 - In addition to the foregoing, citizens shall also have the opportunity to address the Ethics Commission during consideration of posted agenda items for no more than six (6) minutes. Only a maximum of four (4) members of the public will be permitted in the City Council Chambers at a time. All attendees will be required to be screened for present signs of COVID-19 prior to entering City Hall. Four (4) hours prior to the meeting, an email to the city secretary at citysecretary@windcrest-tx.gov is required to be added to the attendee list to ensure proper physical distancing seating inside and outside City Council Chambers. An email statement may be sent to the City Secretary @

citysecretary@windcrest-tx.gov to be read into the meeting to the Commission. Statements will be provided to the Commission and available to the public not in attendance after the meeting.

- A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

V. Items for Discussion/Action

- a) The Ethics Commission will review, discuss, and take action on a proposed amendment to Chapter 2, Article III, Ethics, of the Windcrest Code of Ordinances, to provide additional authority and incorporate revisions to the Code of Ethics and Conduct. [Michael McCann, City Attorney]

VI. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

VII. Adjournment

The Ethics Commission reserves the right to retire into executive session whenever it is considered necessary and legally justified under the Texas Government Code, Subchapter D, Sections 551.071 et. seq. including, but not limited to, consultation with attorney, real property, prospective gifts, personnel matters, exclusion of witness, security devices, and economic development matters.

It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Ethics Commission of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on June 11, 2020.

By: 
Dusty DeHoyos, Assistant City Secretary

ORDINANCE NO. 2020 _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III – ETHICS - OF THE WINDCREST CODE OF ORDINANCES TO CONSOLIDATE AND REVISE THE CODE OF ETHICS AND CONDUCT AND TO REESTABLISH AND PROVIDE ADDITIONAL AUTHORITY TO THE ETHICS COMMISSION TO INVESTIGATE AND ENFORCE VIOLATIONS OF THE CODE OF ETHICS AND CONDUCT AND THE ABILITY TO INSTITUTE CERTAIN CIVIL PENALTIES

WHEREAS, the City of Windcrest previously created both a code of ethics and conduct and an ethics commission; and

WHEREAS, the City Council of the City of Windcrest finds it is necessary to adjust the ordinances establishing each based upon the need to consolidate both ordinances into the City's municipal code and on recommendations from the ethics commission; and

WHEREAS, the City Council of the City of Windcrest finds the recommendations are proper clarifications of the regulations and allow for better enforcement code of ethics and conduct by the ethics commission; and

WHEREAS, the City Council of the City of Windcrest find that providing official comments to regulation changes will be beneficial to citizens and those subject to the regulation. However, such official comments are not part of the regulation. They are to be treated as additional legislative findings and statements of intent but are not to be included in the regulation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the following sections of the Windcrest Code of Ordinances shall be amended and shall read as indicated below. All sections of Chapter 2 not specifically amended below remain intact and in effect:

Section 2-50 – Code of Ethics and Conduct

A. Statement of Purpose

- a) The citizens and businesses of the City of Windcrest are entitled to have fair, ethical and accountable local government that earns the public's full confidence for integrity. The purpose of the Code of Ethics and Conduct is to establish guidelines for ethical standards of conduct for all elected and appointed officials and employees of the City of Windcrest by setting forth those acts or actions that are incompatible with the best interests of City of Windcrest by prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this Code of Ethics and Conduct furthers the legitimate interests of democracy.

- b) The strong desire of the City of Windcrest to fulfill this expectation therefore requires that City Officials, both elected and appointed, and Employees:
 - 1. Comply with both the letter and spirit of the City of Windcrest Code of Ethics and Conduct; and
 - 2. Be independent, impartial and fair in their judgment and actions; and
 - 3. Act in their respective positions for the public good, not for personal gain.
- c) The Windcrest City Council has adopted this Code of Ethics and Conduct for all of its City Officials and Employees to assure public confidence in the integrity of local government and its effective and fair operation.

B. Definitions

The following words, terms and phrases, when used in this code, shall have the meanings subscribed to them.

Business. A corporation, partnership, association, sole proprietorship, firm, holding company, joint stock company, receivership, trust or any other for profit or non-profit entity, company or association.

City Council. The legislative and governing body of the City of Windcrest consisting of the mayor and council city members.

City Official. Any member of the City Council and any appointed member of a board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

Former City Official. Any person who has been a member of the City Council and any appointed member of a board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

Employee. Any person employed by the City of Windcrest on a full-time or part-time basis, including only independent contractors hired by the city for repetitive performance of services that are in furtherance of necessary operation and function of the City, and not independent contractors engaged for occasional services that are not repeated on a consistent basis.

Former Employee. Any person who has formally been employed by the City of Windcrest, on a full or part-time basis, including independent contractors hired by the city for repetitive performance of services that are in furtherance of necessary operation and function of the City,

and not independent contractors engaged for occasional services that are not repeated on a consistent basis.

C. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, City Officials and Employees will work for the common good of the citizens of Windcrest and not for any private or personal interest, and will assure fair and equal treatment of all persons, claims and transactions coming before the Windcrest City Council, boards, commissions, and committees.

D. Comply with the Law

City Officials and Employees shall comply with the laws of the nation, the State of Texas, and the City of Windcrest in the performance of their public duties. These laws include but are not limited to the United States and Texas constitutions, laws and statutes pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, open processes of government, and City ordinances and policies.

E. Conduct of City Officials and Employees

The professional and personal conduct of City Officials and Employees must be above reproach and avoid even the appearance of impropriety. City Officials and Employees shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other City Officials, Employees, and members of the public.

F. Information Contained on Personal Devices or Electronic Accounts

City Officials and Employees are prohibited from intentionally or knowingly deleting, altering, or hiding public information (i.e., information related to city business) that is sent or received on a personal device or electronic account. Individuals who have public information stored on their personal devices or electronic accounts must save such information or forward such information to the city's officer for public information.

G. Communications with Members of the General Public

City Officials and Employees shall be aware of the public perception held by their office or position with the City when communicating with members of the general public. Although City Officials and Employees have the right to express personal opinions on any issue, it must be made expressly clear that when speaking to members of the general public that they are speaking for themselves, and not speaking in an official capacity for the City or on behalf of City Council.

H. Promises, Obligations, and Commitments

City Officials and Employees shall refrain from unilaterally promising, obligating, committing, or otherwise obligate, either directly or indirectly, any action on behalf of the City, which has not been previously authorized by the City Council, City Manager, or any of the boards, commissions, and committees depending on the authority required to make such promise, obligation, or commitment.

I. Respect for Process

City Officials and Employees shall perform their duties in accordance with the processes and rules of order established by the City Council and its boards, commissions, and committees governing the public deliberation of public policy issues, meaningful involvement of the public, and Employees implementation of the City Council's policy decisions.

J. Conduct of Public Meetings

City Officials have an obligation to attend meetings and be prepared for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of meetings.

K. Decisions Based on Merit

It is expected that City Officials and Employees review material, participate in discussion and base their decisions on the merits and substance of the matter at hand when conducting any business in their official capacities in the furtherance of the best interests of the City of Windcrest.

L. Communication

Prior to taking final action on a matter under consideration, City Officials and Employees should publicly share information, which they may have received from sources outside the public decision-making process, that is relevant, reasonably related, or may impact any action by the City Council, boards, commissions, or committees.

M. Conflicts of Interest, Disclosure, and Recusal

- a) To avoid the appearance and/or risk of impropriety, a City Official or Employee shall not take any action that he or she knows is likely to affect the economic interests of:
 - 1. the City Official or Employee;
 - 2. his or her parent, child, spouse, or other family member within the third degree of affinity or within the third degree of consanguinity;
 - 3. his or her outside client;

4. a member of his or her household; and
 5. any outside employer of the City Official or Employee or of his or her parent, child, spouse, or member of the household.
- b) Should a conflict arise, the City Official or Employee who is in conflict shall recuse him or herself from the time that the conflict is, or should have been recognized, if applicable, he or she shall:
1. immediately refrain from further participation in the matter, including discussions with persons likely to consider or participate in the matter;
 2. file the appropriate form with the external auditor within three (3) business days disclosing the nature and extent of the prohibited conduct;
 3. promptly bring the conflict to the attention of his or her supervisor who will then, if necessary, reassign responsibility for handling the matter to another employee; and
 4. promptly disclose the conflict to other members of the council, board, commission, or committee in which he or she serves and shall not be present during the discussion of, or voting on, the matter.
- c) City Officials and Employees shall familiarize themselves with and abide by the following conflicts of interest and disclosure statutes and principles:
1. Chapter 171 of the Texas Local Government Code which requires City Council members and City Officials to file an affidavit disclosing a substantial interest in a business or property that would be beneficially affected by a decision of the City Council and thereafter abstaining from participation in discussion and voting on the matter. Once the disclosure is made, the City Official is to remove themselves from the meeting area to ensure their presence does not hinder the discussion of the item or influence the vote.
 2. Chapter 176 of the Texas Local Government Code, which requires City Council members and the City Manager to file a conflict of interest disclosure statement disclosing any business relationship with a person or business doing business with the city or being considered by the city for a business relationship and requires the disclosure of gifts of an aggregate value of more than \$100.00 in the twelve (12) month period preceding a transaction described in Section 176, other than gifts of food, lodging, transportation, or entertainment accepted as a guest.
 3. Chapter 553 of the Texas Government Code, which requires the filing of an affidavit before the date the city will acquire a property in which City Officials or Employees have a legal or equitable interest.

4. City Employees shall disclose potential conflicts of interest to their supervisor and avoid participation in the handling of matters wherein Employees have a personal interest.
5. In order to assure their independence and impartiality on behalf of the public good, City Officials and Employees are prohibited from using their positions to influence government decisions in which they have a personal interest.
6. In order to avoid a potential conflict of interest or the appearance of a potential conflict of interest, no person related to a member of the City Council or City Manager within the second degree by affinity (marriage) or third degree by consanguinity (blood relationship) as defined by Chapter 573 of the Texas Government Code shall be appointed to serve or remain in service on any City board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

N. Corruption

City Officials and Employees shall familiarize themselves with and abide by the State of Texas Penal Code mandates concerning corruption under Chapter 36 of the Texas Penal Code.

O. Political Advocacy

- a) City Officials and Employees shall not utilize the city's name or logo for purposes of endorsing any political candidate or business. City Employees shall not engage in electioneering while on the job. "Electioneering" means working for the election of a candidate to political office, whether local, state, or national.
- b) City Employees shall not be hired, retained, or terminated on the basis of their political beliefs, opinions, support of a particular candidate for office whether local, state, or national. City Employees shall not engage in political activities relating to a campaign for elected office while in uniform or in the performance of their respective duties with the City of Windcrest. City Employees elected or appointed to city offices shall be required to resign their employment upon acceptance of the office.
- c) City Employees are prohibited from using their municipal title or position in any advertisement or endorsement of products, persons or activities, without previous written authorization by the City Council.

P. Confidential Information

- a) A City Official or Employee shall not use his or her position to obtain official information about any person or entity for any purpose other than the performance of official duties.

- b) A City Official or Employee shall not intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said official or employee's position concerning the property, records, operations, policies or affairs of the city, including those items discussed in closed or executive session. This rule does not prohibit any reporting of illegal or unethical conduct to authorities as a result of a court order.
- c) City Officials and Employees shall respect the confidentiality of information concerning city property, personnel or proceedings. of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their or any other person's personal interests.

Q. Use of Public Resources

- a) A City Official or Employee shall not use, request, or permit the use of city resources, facilities, equipment, supplies or staff time for private gain or personal purposes (including political purposes), except:
 - 1. for a public purpose that is directly related to the governmental responsibilities of the City; or,
 - 2. when those resources are lawfully available to the public.

R. Representation of Private Interests

A City Official or Employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the City its boards, commissions, and committees. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

S. Representation in Litigation Adverse to the City

- a) City Officials or Employees, shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to those of the city.
- b) A person who is classified as a City Official only because he or she is an appointed member of a board, commission, or committee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is substantially related to the official's duties to the city.

- c) Former City Officials or Employees shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are, or could be adverse to the interests of the city, and the matter is one in which the former city official or employee personally participated prior to termination of his or her official duties.
- d)

T. Former City Officials and Employees

- a) Former City Officials or Employees shall not use or disclose confidential government information acquired during service as a City Official or Employee. This rule does not prohibit any disclosure that is no longer confidential by law, or the confidential reporting of illegal or unethical conduct to authorities designated by law.
- b) Former City Officials or Employees shall not represent for compensation any person, private group, or private entity, other than himself or herself, or his or her spouse or minor children, before the city for a period of two (2) years after termination of his or her official duties. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- c) A person who was classified as a City Official only because he or she was an appointed member of a board, commission, or committee shall not represent any person, group, or entity for a period of one (1) year after the resignation or termination of his or her official duties: before that board, commission, or committee in which he or she served; before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or committee, unless the board, commission, or committee is only advisory in nature; or before a board, commission, or committee which has appellate jurisdiction over the board, commission, or committee of which the Former City Official was a member, if any issue relates to his or her former duties.

U. Advocacy

City Officials and Employees shall represent the official policies or positions of the City Council, board, commission, or committee to the best of their ability in the performance of their official duties. While in the performance of their official duties and when presenting their individual opinions and positions, City Officials and Employees shall explicitly state that such opinion or position do not represent that of the City of Windcrest, nor will they allow the inference that they do.

V. Policy Role of City Officials and Employees

City Officials and Employees shall respect and adhere to the City of Windcrest's governmental structure as outlined in the city's charter, policies and procedures. In this structure, the City Council determines the policies of the city with the advice, information and analysis provided by the public, boards, commissions, committees and Employees of the City. Except as provided by city ordinance, City Officials therefore shall not interfere with the administrative functions of the City or the performance of the Employees' official duties; nor shall they impair Employees' ability to implement City Council policy decisions.

W. Independence of City Council, Boards, Commissions, and Committees

In order to safeguard the independence of the City Council, boards, commissions, and committees in the public decision-making process, members of City Council and other City Officials shall refrain from applying undue influence on the deliberations or outcomes of City Council, board, commission, and committee proceedings. This section does not prohibit City Officials from voicing their concerns or opinions while deliberating and discussing matters at public meeting that have brought before the City Council or any other board, commission, and committee.

X. Positive Work Place Environment

City Officials shall support the maintenance of a positive and constructive workplace environment for City Employees and for citizens and businesses dealing with the city. City Officials shall recognize their special role in dealing with City Employees and refrain from creating the perception of inappropriate direction to City Employees. When dealing with Employees, City Officials must adhere to the restrictions prescribed Section 2-50 S, and must be cognizant of the weight and perception of their position as a City Official.

Y. Implementation

As an expression of the standards of conduct for City Officials and Employees expected by the city, the Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when City Officials and Employees are thoroughly familiar with it and embrace its provisions. Ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards, commissions, and committees and newly elected and appointed officials and new City Employees. City Officials entering office, including those appointed to boards, commissions and committees and City Employees shall sign a statement affirming they have read and understood the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be reviewed annually by the Ethics Commission, and the City Council shall consider recommendations from the Ethics Commission and may consider recommendations from other City Officials, Employees, and citizens for revision as necessary.

Z. Compliance and Enforcement

- a) The Code of Ethics and Conduct expresses standards of ethical conduct expected for City Officials and Employees. City Officials and Employees have the primary responsibility to

assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. City Officials or Employees who have knowledge of a violation of any of the provisions of this Ethics Code shall use his or her best effort to report the violation as soon as possible but not more than three (3) days from the date in which City Official or Employee has acquired knowledge of the violation. A City Official or Employee shall not delegate to, or rely on, another person to make the report.

- b) Any City Official who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation within the above stated deadline is subject to an Ethics Complaint and investigation by the Ethics Commission.
- c) Any City Employee who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation within the above stated deadline is subject to discipline or termination as determined by the city manager.

Section 2-51 – Ethics Commission - Creation.

The City of Windcrest Ethics Commission is hereby established under this Code of Ordinances. Any reference hereinafter to the term “Commission” shall mean the City of Windcrest Ethics Commission.

A. Organization and Qualifications

- a) **Members of Commission:** The City of Windcrest Ethics Commission shall consist of five (5) members and two (2) alternate members of the community appointed by the City Council who shall be citizens of Windcrest. Each appointed member shall be a voting member and are appointed for a two (2) year term by the City Council. Due to the nature and role of the Ethics Commission, an appointed member of the Commission can be removed by an affirmative vote of no less than four (4) City Council members. Members of the Ethics Commission may be removed with or without cause. The City Council may vote to fill an unexpired term by an affirmative vote of three (3).¹
- b) **Officers of Commission:** The Ethics Commission shall have at least three (3) officers: Chair, Vice-Chair, and a Secretary. The Chair shall preside over all meetings. In the absence of the Chair, the Vice-Chair shall assume the duties of presiding officer. In the absence of both the Chair and Vice-Chair at a meeting, any one of the present members may preside over a meeting so long as a quorum can be constituted. The member with the

¹ Official Comments: The Commission has the authority to investigate members of the City Council. The Council finds this to be authorized and willingly imposes this authority on the Commission. However, in order to limit or reduce political influence from affecting actions of the Commission, members of the Commission need to be secured in their positions by requiring no less than four votes for removal. However, the Council must also be cautious of Commission members who exceed their authority, individually. So the Council must retain a certain, but limited, ability to remove and make appointments.

longest tenure on the Commission shall be the presiding officer unless changed by an affirmative vote of those members present and voting at a particular meeting. The Secretary shall keep minutes or may designate a minute keeper to record Commission business. The Ethics Commission may appoint such other officer positions or assign such subcommittees as the Commission deems proper. The Ethics Commission shall elect its officers from amongst its appointed members. Whomsoever presides over a meeting shall retain their ability to vote on any motion or matter²

- c) **Qualifications:** Members of the Ethics Commission shall have good moral character and shall be residents of the City of Windcrest for at least six (6) months prior to being appointed. To be qualified to sit on the Commission, each member shall³:
- a. NOT be any salaried city official or employee;
 - b. NOT be an elected public official for any governmental body;
 - c. NOT be an candidate for any elected public office;
 - d. NOT be an official of a political party;
 - e. NOT be a campaign treasurer, campaign manager, official or other policy or decision-maker for the campaign of any candidate for elected public office;
 - f. NOT be a campaign treasurer, campaign manager, official or other policy or decision-maker for any political action committee as defined in the Texas Election Code;
 - g. NOT be a member of any other city board or commission for the City of Windcrest; and
 - h. NOT have a conviction of a felony or any crime involving moral turpitude or have been found by the Ethics Commission to have previously violated any provision of the City Code of Ethics.
- d) **Removal:** A member of the Ethics Commission shall be removed immediately from office for the failure to satisfy or continue to satisfy the qualifications and restrictions set out above. The Ethics Commission shall be the judge of the qualifications of its members. The Commission's ability to determine qualifications does not affect the City Council's ability

2 Official Comments: All appointees to the Commission are appointed only as members. By accepting an officer role on the Commission, such members do not lose their right, ability, or duty to vote, even if they must preside over a meeting.

3 Official Comments: Prior wording caused confusion. This amendment does not change the substance of the qualification. It simply makes it easier for a member of the public to read the provision and know what is prohibited and what is allowed for qualifications.

to remove and replace a commission member, with or without cause, by an affirmative vote of at least four (4) councilmembers.⁴

e) **Term Periods:** The terms of the Ethics Commission shall be staggered terms as follows:

- A. Place 1 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- B. Place 2 Term - Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- C. Place 3 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- D. Place 4 Term - Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- E. Place 5 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- F. Alternate Place A1- Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- G. Alternate Place A2 – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years.

Section 2-53 – Duties and Authority

A. **General Authority:** The ~~City of Winderest~~ Ethics Commission has the authority and duty to investigate written complaints of alleged violations of the Code of Ethics and Conduct by a member of the City Council, a member of a City-appointed board, commission or committee, a petitioner committee under the City’s charter, a statutory municipal officer, a city official or any city department head. Following its investigation into an ethics complaint, the Ethics Commission shall impose a penalty, make a recommendation to the City Council or to the City Manager on the complaint, or impose a penalty and make a recommendation for further action. The determination of whether the Commission’s recommendation is sent to the City Council or the City Manager shall be based on the whether the individual made the subject of the complaint reports to the City Manager or City Council. Nothing in this article prevents the City Council or City Manager from exercising its authority under the City charter even if such overlaps with the authority granted to the Ethics Commission.⁵

⁴ Official Comment: The Commission is expected to regulate its own members and has been granted the ability to pass reasonable rules and regulations for its own operation. In order to limit or minimize political influence as well as the appearance of improper influence from the Council, the Commission is given the ability to remove its own members for failing to meet the mandatory qualifications.

⁵ Official Comments: The intent of this general authority is to allow the Commission the ability to investigate and enforce the Ethics Code against those individuals appointed by the Council or those individuals who interact with the City as part of a commission, committee or board. The City Council believes the Ethics Commission’s time and efforts are better spent handling complaints against appointees or committee/commission members, especially those who

B. Limitation on Investigation and Complaints:

- a) **Employees:** Other than the City Manager, a statutory city officer or department heads, the Ethics Commission shall have no authority to investigate complaints against city employees as such authority is reserved for the City Manager. Notwithstanding this provision, the City Manager may request an ethics opinion from the Ethics Commission which may be used by the City Manager in making any determinations.
- b) **Municipal Judge:** The Ethics Commission has no authority to investigate complaints against the municipal judge, as such authority rests with the State Commission of Judicial Conduct.
- c) **Termination or Forfeiture:** The Ethics Commission shall have no authority to ~~make a final determination on a written complaint or~~ impose a penalty of forfeiture of office or termination of employment. Such limitation does not prevent the Ethics Commission from making recommendations or referrals for termination or forfeiture to the City Council.
- d) **Limitations Period:** The Ethics Commission shall not consider any alleged ethics code violation that occurred more than one (1) year prior to the date of the filing of the complaint. The termination, resignation, or forfeiture of a member of the City Council, any member of a City-appointed board, commission or committee, or any city department head does not affect the jurisdiction of the Ethics Commission to investigate and act upon any alleged violations occurring prior to the date of said termination, resignation, or forfeiture.
- ~~d)e)~~ Charter: The Ethics Commission has neither the authority or the duty to consider, and/or investigate any complaints of alleged violations of the City's Charter. Such authority resets solely with the City Council.

- C. **Written Complaint Required:** In order to consider whether a violation of the ethics code has occurred, the Ethics Commission must receive a formal written complaint. Any person may file an appropriate complaint. Before a written complaint is considered by the Ethics Commission regarding alleged violations of the ethics code the person bringing the complaint shall first submit a completed and sworn complaint to the Office of the City Secretary on a form adopted by the Commission. An ethics complaint form is available at the Office of the City Secretary. Following the submission of a complaint, the City Secretary shall provide the complaint to the Ethics Compliance Officer for review. Once the ethics complaint has been accepted as compliant under the Ethics Code by the Ethics Compliance Officer, the ethics complaint shall be submitted to the Chair for the Commission's consideration.

report to the Council, instead of all employees. Employees who can be directly and quickly disciplined by their supervisor or the City Manager are not subject to the authority of the Ethics Commission. However, when exercising his/her discretion regarding an employee, if the City Manager desires guidance on how the Ethics Code might apply, the City Manager may request an opinion from the Commission. Such opinion is advisory in nature and does not constitute a determination or decision of the Commission.

- D. **Commission Initiated Investigation:** The Ethics Commission may direct the Ethics Compliance Officer to determine if a complaint is appropriate against any official subject to the City's Ethics Code and may initiate an investigation. In the absence of a formal written complaint, the Ethics Commission may consider whether a violation of the Ethics Code has occurred only after it has provided written notice to the individual subject to the investigation which must include the nature of the alleged violation, the specific ethics code provision believed to have been violated, the facts describing the alleged violation and an opportunity for the official to respond. Such notice shall serve as a formal written complaint.⁶
- E. **Annual Review:** The Ethics Commission shall also have the authority to annually review the City's ethics policies and code and submit recommendations to the City Council.
- F. **Adoption of Procedural Rules:** The Ethics Commission shall have the authority to -establish, adopt, and amend any procedural rules and regulations necessary to properly execute Commission business.
- G. **Member Initiated Complaints and Recusal:** An Ethics Commission member shall not deliberate or vote on any complaint that the member filed. A member of the Ethics Commission shall recuse himself or herself from any case in which, because of familial relationship, employment, any prohibited economic interest, or because of any reason his or her impartiality might reasonably be questioned. If the number of Commission members recused from a case is so large that a quorum of the Ethics Commission cannot be constituted, as provided for in Section 2-51, the City Manager shall nominate a sufficient number of ad hoc members to constitute a quorum. Ad hoc members of the Ethics Commission must be confirmed by a majority vote of the City Council and serve only for the nominated case.

Section 2-54 - Ethics Compliance Officer

- A. **Designation:** The City Attorney or his attorney designee, shall serve as the Ethics Compliance Officer for the City. The Ethics Compliance Officer shall act as legal counsel to the Ethics Commission on matters related to Commission business. As legal counsel to the Ethics Commission, the Ethics Compliance Officer shall not represent any person or party in any proceeding before the Ethics Commission.⁷

6 Official Comment: This provision allows the Commission the ability to begin an investigation on its own without a formal written complaint from a third party. However, in order to provide constitutional due process to the individual subject to the investigation, written notice of the grounds for the investigation and the ability to respond must be provided.

7 Official Comment: The Commission needs a screening officer with skill in determining whether certain conduct could potentially violate the Ethics Code. The intent is not for the screening officer to decide the validity of each complaint. The intent is for the screening officer to assume all alleged facts are true for initial evaluation purposes, and if true, would such facts violate a provision of the Ethics Code. If such allegations, if proven true, would not violate the Ethics Code, then the complaint is not a proper complaint. If the allegations could violate the Ethics Code, the screening officer is required to determine the complaint is complaint and to forward it to the Commission. The Commission is the body which determines the factual accuracy of any complaint, the credibility of any statements or

- B. **Authority and Duty:** The Ethics Compliance Officer shall also have the duty to review alleged ethics complaints to ensure the written complaint meets the required form and substance as stated in this article prior to the submission to the Ethics Commission. In reviewing alleged ethics complaints, the Ethics Compliance Officer shall not determine the truth of the matters alleged but shall determine whether the act or actions alleged could constitute ~~an ethics code~~ violation under the Code of Ethics and Conduct~~ethics code~~, if proven true. Should the Ethics Compliance Officer determine that the act or action alleged would not constitute ~~an ethics~~ violation of the Code of Ethics and Conduct, even if true, the ~~ethics~~ complaint shall be dismissed by the Ethics Compliance Officer. Should the Ethics Compliance Officer determine that the complaint submitted contains alleged violations of the City Charter, such complaints shall be forward to the City Council.
- C. **Notice of Defects in Form:** If the Ethics Compliance Officer determines an alleged complaint is defective in form, the complainant must be advised of the defect and given a reasonable opportunity to correct any defects in the form of the complaint. Should the complainant refuse to correct or fail to correct any defects in form, the Ethics Compliance Officer shall dismiss the complaint as non-compliant. Should the Ethics Compliance Office determine the complaint falls outside the Commission's authority but within the purview of the City Manager, the Ethics Compliance officer shall forward the complaint to the City Manager's office.
- D. **Appointment of Independent Outside Attorney:** Should a conflict arise wherein the City Attorney cannot perform the duties required of the Ethics Compliance Officer, an independent outside attorney, who does not otherwise represent the city, shall be appointed by the City Manager and shall have the same duties and authority under Section 2-54 and shall be entitled to reasonable compensation as determined by the City Manager for the duties performed in the particular case. An automatic conflict exists when a complaint alleging the a violation of the ethics code by the City Manager, Mayor, a member of the City Council, City Attorney or an Assistant City Attorney; or when requested by the City Attorney due to a potential legal conflict of interest. Should the City Manager not be able or willing to appoint an independent outside attorney, then such appointment shall be made by the Mayor.

Section 2-55 – Written Ethics Complaint

- A. A complaint filed under this article shall be submitted on the form adopted by the Ethics Commission which can be obtained at the Office of the City Secretary. A complaint shall contain the following minimum requirements:
- a) The name, mailing address, and telephone number of the person submitting the complaint;
 - b) The name of the person(s) whom is/are alleged to have committed a violation of the Code of Ethics and Conduct and their position and/or title held or formerly held;

testimony, and the validity of any evidence.

- c) The date of the alleged ethics violation; including the facts supporting specific provision(s) of the ethics code that are alleged to have been violated; and
 - d) The ethics complaint form is sworn to before a notary public or other person authorized by law to administer oaths under penalty of perjury.
- B. The Ethics Commission may adopt additional minimum requirements for the complaint as it deems necessary, but may not reduce the requirements established by this section of the Code.

Section 2-56 – Penalties and Recommendations

- A. **Commission Imposed Penalties:** Should the ~~Commission~~ Ethics Commission find a violation of the ethics code, the ~~Commission~~ Ethics Commission may directly impose the following penalties:
- a) A civil penalty of not more than \$500.00 per violation;
 - b) A letter of admonition when the violation was determined to be unintentional or inadvertent;
 - c) A letter of reprimand when the violation was determined to be intentional or knowingly committed; and
 - d) A command to attend specific training.
- B. **Recommendations:** In addition to the authority to assess the above penalties, the ~~Commission~~ Ethics Commission may also recommend action be taken by the City Council or City Manager, including but not limited to termination or forfeiture of office. Further, the ~~Commission~~ Ethics Commission may refer any matter to the appropriate criminal prosecutor to determine the existence of any criminal conduct and whether criminal prosecution may be warranted. However, the absence of a referral from the ~~Commission~~ Ethics Commission shall not preclude any prosecutor from exercising his or her discretion in handling matters he or she deems to constitute criminal conduct.

Section 2-57 – Appeal and Disposition

- A. **Determination with Penalties:** If the ~~Commission~~ Ethics Commission makes a determination a violation of the Ethics Code occurred and imposes a penalty, such decision may be appealed by the person subject to the penalty to the City Council. Such appeal shall be submitted, in writing, to the Office of the City Secretary within ten (10) calendar days from the date that the penalties are imposed. The appeal shall state the reasons why the decision is unwarranted and should be dismissed. Following the submission of a written appeal, penalties shall be suspended until the City Council either upholds or dismisses the penalties imposed by the Ethics Commission. Alternatively, the City Council, at its discretion, may impose a lesser

penalty than what has been imposed by the Ethics Commission.

- B. **City Council Consideration:** The City Council may consider the appeal based on a review of the Ethics Commission records or may hold its own investigatory hearing on the appeal. The appellant is entitled to written notice of the council meeting at which the appeal will be considered for action and whether the Council will be conducting its own investigation or simply reviewing the appeal from the Commission.
- C. **Recommendations Not Appealable:** With the exception of complaints filed against a City Council member or the City Manager, no appeals may be taken if the ~~Commission~~ Ethics Commission makes a recommendation but imposes no penalty. If the ~~Commission~~ Ethics Commission makes a recommendation to the City Council, the person subject to the recommendation is entitled to written notice of the council meeting at which the recommendation will be considered.⁸

III. SEVERABILITY

That it is hereby declared to be the intent of the City Council for the City of Windcrest that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public 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.

V.

⁸ Official Comments: From a technical standpoint, if no penalty is present, a recommendation does not impose an obligation upon the person subject to Commission's recommendation. The recommendation is therefore not an appeal in the normal sense. A recommendation without a penalty is simply a report to the City Council or City Manager on a respondent. Council's consideration should not be thought of as an appeal, but as the Council being the body to take initial action. However, because the members of the City Council and the City Manager positions are more prone to perception, political influence and indirect injury in the eyes of the public, such respondents are given the ability to formally challenge the recommendation prior the Council taking action. But the end result is the same in that no direct penalty is imposed by the recommendation and the City Council must or City Manager must still take action before a determination is final.

EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by state and local law.

PASSED on first reading on the__day of _____, 2020 at a regular meeting of the City Council of the CITY of WINDCREST, Texas which meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

PASSED AND APPROVED on second reading on the _____ day of _____, 2020 at a regular meeting of the City Council of the CITY of WINDCREST, Texas which meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

Dan Reese, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

Ryan Henry, City Attorney

ORDINANCE NO. 2020 _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III – ETHICS - OF THE WINDCREST CODE OF ORDINANCES TO CONSOLIDATE AND REVISE THE CODE OF ETHICS AND CONDUCT AND TO REESTABLISH AND PROVIDE ADDITIONAL AUTHORITY TO THE ETHICS COMMISSION TO INVESTIGATE AND ENFORCE VIOLATIONS OF THE CODE OF ETHICS AND CONDUCT AND ENFORCE ETHICAL VIOLATIONS AND THE ABILITY TO INSTITUTE CERTAIN CIVIL PENALTIES

WHEREAS, the City of Windcrest previously created both a code of ethics and conduct and an ethics commission; and

WHEREAS, the City Council of the City of Windcrest finds it is necessary to adjust the ordinances establishing each based upon the need to consolidate both ordinances into the City's municipal code and on recommendations from the ethics commission; and

WHEREAS, the City Council of the City of Windcrest finds the recommendations are proper clarifications of the regulations and allow for better enforcement code of ethics and conduct by the ethics commission; and

WHEREAS, the City Council of the City of Windcrest find that providing official comments to regulation changes will be beneficial to citizens and those subject to the regulation. However, such official comments are not part of the regulation. They are to be treated as additional legislative findings and statements of intent but are not to be included in the regulation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the following sections of the Windcrest Code of Ordinances shall be amended and shall read as indicated below. All sections of Chapter 2 not specifically amended below remain intact and in effect:

Section 2-50 – Code of Ethics and Conduct

A. Statement of Purpose

- a) The citizens and businesses of the City of Windcrest are entitled to have fair, ethical and accountable local government ~~which~~ that earns the public's full confidence for integrity. The purpose of the Code of Ethics and Conduct is to establish guidelines for ethical standards of conduct for all elected and appointed officials and employees of the City of Windcrest by setting forth those acts or actions that are incompatible with the best interests of City of Windcrest by prohibiting conduct incompatible with the city's best interests and

minimizing the risk of any appearance of impropriety, this Code of Ethics and Conduct furthers the legitimate interests of democracy.

a)b) _____ The strong desire of the City of Windcrest to fulfill this expectation therefore requires that City Officials, both elected and appointed, and Employees:

1. Comply with both the letter and spirit of the City of Windcrest Code of Ethics and Conduct; and
2. Be independent, impartial and fair in their judgment and actions; and
3. Act in their respective positions for the public good, not for personal gain.

b)c) _____ ~~To this end,~~ the Windcrest City Council has adopted this Code of Ethics and Conduct for all of its City Officials and Employees to assure public confidence in the integrity of local government and its effective and fair operation.

B. Definitions

The following words, terms and phrases, when used in this code, shall have the meanings subscribed to them.

Business. A corporation, partnership, association, sole proprietorship, firm, holding company, joint stock company, receivership, trust or any other for profit or non-profit entity, company or association.

City Council. The legislative and governing body of the City of Windcrest consisting of the mayor and council city members.

City Official. Any member of the City Council and any appointed member of a board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

Former City Official. Any person who has been a member of the City Council and any appointed member of a board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

Employee. Any person employed by the City of Windcrest including those individuals on a part-time basis, on a full-time or part-time basis, including only independent contractors hired by the city for repetitive performance of services that are in furtherance of necessary operation and function of the City, and not independent contractors engaged for occasional services that are not repeated on a consistent basis.

Former Employee. Any person who has formally been employed by the City of Windcrest, on a full or part-time basis, including independent contractors hired by the city for repetitive performance of services that are in furtherance of necessary operation and function of the City, and not independent contractors engaged for occasional services that are not repeated on a consistent basis.

C. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, City Officials and Employees will work for the common good of the citizens people of Windcrest and not for any private or personal interest, and will assure fair and equal treatment of all persons, claims and transactions coming before the Windcrest City Council, boards, commissions, and committees.

D. Comply with the Law

City Officials and Employees shall comply with the laws of the nation, the State of Texas, and the City of Windcrest in the performance of their public duties. These laws include but are not limited to the United States and Texas constitutions, laws and statutes pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, open processes of government, and City ordinances and policies.

E. Conduct of City Officials and Employees

The professional and personal conduct of City Officials and Employees must be above reproach and avoid even the appearance of impropriety. City Officials and Employees shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other City Officials, Employees, and members of the public.

F. Information Contained on Personal Devices or Electronic Accounts

City Officials and Employees are prohibited from intentionally or knowingly deleting, altering, or hiding public information (i.e., information related to city business) that is sent or received on a personal device or electronic account. Individuals who have public information stored on their personal devices or electronic accounts must save such information or forward such information to the city's officer for public information.

G. Communications with Members of the General Public

City Officials and Employees shall be aware of the public perception held by their office or position with the City when communicating with members of the general public. Although City Officials and Employees have the right to express personal opinions on any issue, it must be made expressly clear that when speaking to members of the general public that they are speaking for themselves, and not speaking in an official capacity for the City or on behalf of City Council.

H. Promises, Obligations, and Commitments

City Officials and Employees shall refrain from unilaterally promising, obligating, committing, or otherwise obligate, either directly or indirectly, any action on behalf of the City, which has not been previously authorized by the City Council, City Manager, or any of the boards, commissions, and committees depending on the authority required to make such promise, obligation, or commitment.

F.I. Respect for Process

City Officials and Employees shall perform their duties in accordance with the processes and rules of order established by the City Council and its boards, commissions, and committees governing the public deliberation of public policy issues, meaningful involvement of the public, and Employees implementation of the City Council's policy decisions.

G.J. Conduct of Public Meetings

City Officials have an obligation to attend meetings and be prepared for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of meetings.

H.K. Decisions Based on Merit

It is expected that City Officials and Employees review material, participate in discussion and base their decisions on the merits and substance of the matter at hand when conducting any business in their official capacities in the furtherance of the best interests of the City of Windcrest.

I.L. Communication

Prior to taking final action on a matter under consideration, City Officials and Employees should publicly share information, which they may have received from sources outside the public decision-making process, that is relevant, reasonably related, or may impact any action by the City Council, boards, commissions, or committees.

J.M. Conflicts of Interest, Disclosure, and Recusal

a) To avoid the appearance and/or risk of impropriety, a City Official or Employee shall not take any action that he or she knows is likely to affect the economic interests of:

1. the City Official or Employee;
2. his or her parent, child, spouse, or other family member within the third degree of affinity or within the third degree of consanguinity;

3. his or her outside client;
4. a member of his or her household; and
5. any outside employer of the City Official or Employee or of his or her parent, child, spouse, or member of the household.

b) Should a conflict arise, the City Official or Employee who is in conflict shall recuse him or herself from the time that the conflict is, or should have been recognized, if applicable, he or she shall:

1. immediately refrain from further participation in the matter, including discussions with persons likely to consider or participate in the matter;
2. file the appropriate form with the external auditor within three (3) business days disclosing the nature and extent of the prohibited conduct;
3. promptly bring the conflict to the attention of his or her supervisor who will then, if necessary, reassign responsibility for handling the matter to another employee; and
4. promptly disclose the conflict to other members of the council, board, commission, or committee in which he or she serves and shall not be present during the discussion of, or voting on, the matter.

a)c) City Officials and Employees shall familiarize themselves with and abide by the following conflicts of interest and disclosure statutes and principles:

1. ~~Section~~ Chapter 171 of the Texas Local Government Code which requires City Council members and City Officials to file an affidavit disclosing a substantial interest in a business or property that would be beneficially affected by a decision of the City Council and thereafter abstaining from participation in discussion and voting on the matter. Once the disclosure is made, the City Official is to remove themselves from the meeting area to ensure their presence does not hinder the discussion of the item or influence the vote.
2. ~~Section~~ Chapter 176 of the Texas Local Government Code, which requires City Council members and the City Manager to file a conflict of interest disclosure statement disclosing any business relationship with a person or business doing business with the city or being considered by the city for a business relationship and requires the disclosure of gifts of an aggregate value of more than \$100.00 in the twelve (12) month period preceding a transaction described in Section 176, other than gifts of food, lodging, transportation, or entertainment accepted as a guest.

~~Section 176.003(a)(2)(B) of the Local Government Code which requires the disclosure of gifts and aggregate value of more than \$250.00 in the twelve (12) month period preceding a transaction described in Section 176, other than gifts, food, lodging, transportation, or entertainment accepted as a guest.~~

3. ~~Section~~ Chapter 553.~~001-553.003~~ of the Texas Government Code, which requires the filing of an affidavit before the date the city will acquire a property in which City Officials or Employees ~~public servants~~ have a legal or equitable interest.
4. City Employees shall disclose potential conflicts of interest to their supervisor and avoid participation in the handling of matters wherein Employees have a personal interest.
5. In order to assure their independence and impartiality on behalf of the public good, City Officials and Employees are prohibited from using their positions to influence government decisions in which they have a personal interest.
6. In order to avoid a potential conflict of interest or the appearance of a potential conflict of interest, no person related to a member of the City Council or City Manager within the second degree by affinity (marriage) or third degree by consanguinity (blood relationship) as defined by Chapter 573 of the Texas Government Code shall be appointed to serve or remain in service on any City board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

K.N. Corruption

City Officials and Employees shall familiarize themselves with and abide by the State of Texas Penal Code mandates concerning corruption including ~~specifically Section 36.02 prohibiting bribes, Section 36.08(d) prohibiting illegal benefits, section 36.09 prohibiting receipt of prohibited gifts, Section 39.02 concerning abuse of official capacity and section 39.06(a) concerning misuse of official information.~~ under Chapter 36 of the Texas Penal Code.

L.O. Political Advocacy

- a) City Officials and Employees shall not utilize the city's name or logo for purposes of endorsing any political candidate or business. City Employees shall not engage in electioneering while on the job. "Electioneering" means working for the election of a candidate to political office, whether local, state, or national.
- b) City Employees shall not be ~~appointed~~ hired, retained, or terminated on the basis of their political beliefs, opinions, support of a particular candidate for office whether local, state, or national. City Employees shall not engage in political activities relating to a campaign for elected office while in uniform or ~~on active duty. in the performance of their respective~~

duties with the City of Windcrest. City Employees elected or appointed to city offices shall be required to resign their employment upon acceptance of the office.

- c) City Employees are prohibited from using their municipal title or position in any advertisement or endorsement of products, persons or activities, without exclusive previous written authorization by the City Council.

M.P. Confidential Information

a) A City Official or Employee shall not use his or her position to obtain official information about any person or entity for any purpose other than the performance of official duties.

b) A City Official or Employee shall not intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said official or employee's position concerning the property, records, operations, policies or affairs of the city, including those items discussed in closed or executive session. This rule does not prohibit any reporting of illegal or unethical conduct to authorities as a result of a court order.

a)c) City Officials and Employees shall respect the confidentiality of information concerning city property, personnel or proceedings. of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their or any other person's personal interests.

N.Q. Use of Public Resources

City officials and employees shall not use public resources generally unavailable to the public, such as City staff time, equipment, supplies or facilities, for private gain or personal purpose.

a) A City Official or Employee shall not use, request, or permit the use of city resources, facilities, equipment, supplies or staff time for private gain or personal purposes (including political purposes), except:

1. for a public purpose that is directly related to the governmental responsibilities of the City; or,
2. when those resources are lawfully available to the public.

O.R. Representation of Private Interests

In keeping with their role as stewards of the public interest, city officials and employees shall not appear on behalf of private interest of third parties before the Council or any board, commission, committee, or proceeding of the city.

A City Official or Employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the City its boards, commissions, and committees. For purposes of this subsection, the term compensation means

money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

S. Representation in Litigation Adverse to the City

- a) City Officials or Employees, shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to those of the city.
- b) A person who is classified as a City Official only because he or she is an appointed member of a board, commission, or committee shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is substantially related to the official's duties to the city.
- c) Former City Officials or Employees shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are, or could be adverse to the interests of the city, and the matter is one in which the former city official or employee personally participated prior to termination of his or her official duties.

T. Former City Officials and Employees

- a) Former City Officials or Employees shall not use or disclose confidential government information acquired during service as a City Official or Employee. This rule does not prohibit any disclosure that is no longer confidential by law, or the confidential reporting of illegal or unethical conduct to authorities designated by law.
- b) Former City Officials or Employees shall not represent for compensation any person, private group, or private entity, other than himself or herself, or his or her spouse or minor children, before the city for a period of two (2) years after termination of his or her official duties. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- c) A person who was classified as a City Official only because he or she was an appointed member of a board, commission, or committee shall not represent any person, group, or entity for a period of one (1) year after the resignation or termination of his or her official duties: before that board, commission, or committee in which he or she served; before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or committee, unless the board, commission, or committee is

only advisory in nature; or before a board, commission, or committee which has appellate jurisdiction over the board, commission, or committee of which the Former City Official was a member, if any issue relates to his or her former duties.

P.U. Advocacy

City Officials and Employees shall represent the official policies or positions of the City Council, board, commission, or committee to the best of their ability ~~when designated as delegates for this purpose, in the performance of their official duties.~~ When While in the performance of their official duties and when presenting their individual opinions and positions, City Officials and Employees shall explicitly state that ~~they~~ such opinion or position do not represent ~~their~~ that of the City of Windcrest, nor will they allow the inference that they do.

Q.V. Policy Role of City Officials and Employees

City Officials and Employees shall respect and adhere to the City of Windcrest's governmental structure as outlined in the city's charter, policies, and procedures. In this structure, the City Council determines the policies of the city with the advice, information and analysis provided by the public, boards, commissions, committees and ~~city staff~~ Employees of the City. Except as provided by city ordinance, City Officials therefore shall not interfere with the administrative functions of the City or the ~~professional duties~~ performance of the Employees' official duties; nor shall they impair Employees' ability to implement City Council policy decisions.

R.W. Independence of City Council, Boards, Commissions, and Committees

In order to safeguard the independence of the City Council, boards, commissions, and committees in the public decision-making process, ~~city officials and members of City Council and other City Officials~~ shall refrain from applying undue influence on the deliberations or outcomes of City Council, board, commission, and committee proceedings. This section does not prohibit City Officials from voicing their concerns or opinions while deliberating and discussing matters at public meeting that have brought before the City Council or any other board, commission, and committee.

S.X. Positive Work Place Environment

City Officials shall support the maintenance of a positive and constructive workplace environment for City Employees and for citizens and businesses dealing with the city. City Officials shall recognize their special role in dealing with City Employees and refrain from creating the perception of inappropriate direction to City Employees. When dealing with ~~City Employees, City~~

Officials must adhere to the restrictions prescribed Section 2-50 S, and must be cognizant of the weight and perception of their position as a City Official.

T.Y. Implementation

As an expression of the standards of conduct for City Officials and Employees expected by the city, the ~~Winderest~~ Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when City Officials and Employees are thoroughly familiar with it and embrace its provisions. Ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards, commissions, and committees and newly elected and appointed officials and new City Employees. City Officials ~~and employees~~ entering office, including those appointed to boards, commissions and committees and City Employees shall sign a statement affirming they have read and understood the ~~City of Winderest~~ Code of Ethics and Conduct. ~~In addition, the Code of Ethics and Conduct shall be reviewed periodically annually by the City Council, boards, commissions, committees, employees, and citizens for revision as it becomes necessary. Ethics Commission, and the City Council shall consider recommendations from the Ethics Commission and may consider recommendations from other City Officials, Employees, and citizens for revision as necessary.~~

U.Z. Compliance and Enforcement

- a) ~~The Winderest Code of Ethics and Conduct expresses standards of ethical conduct expected for City Officials and Employees of the Winderest City Council, boards, commissions, and committees. City Officials and Employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards, commissions, and committees and the Mayor have the additional responsibility to intervene when city officials' actions appear to be in violation of the Code of Ethics and Conduct and are brought to their attention. The City Council may impose sanctions, such as reprimand, formal censure, or loss of committee assignments, on city officials whose conduct does not comply with the City's ethical standards. The City Council also may act to remove members of boards, commissions, and committees from office. City Officials or Employees who have knowledge of a violation of any of the provisions of this Ethics Code shall use his or her best effort to report the violation as soon as possible but not more than three (3) days from the date in which City Official or Employee has acquired knowledge of the violation. A City Official or Employee shall not delegate to, or rely on, another person to make the report.~~
- b) Any City Official who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation within the above stated deadline is subject to an Ethics Complaint and investigation by the Ethics Commission. Alternatively, the City Council may impose sanctions, such as reprimand, formal censure, or loss of committee assignment upon City Officials whose conduct does not comply with

~~the City's ethical standards. The City Council may remove non-compliant members of boards, commissions, and committees from office.~~

- c) Any City Employee who has knowledge that a violation of the Ethics Code has been committed and intentionally fails to report such violation within the above stated deadline is subject to discipline or termination as determined by the city manager.

a)d)

Section 2-51 – Ethics Commission - Creation.

The City of Windcrest Ethics Commission is hereby established under this Code of Ordinances. Any reference hereinafter to the term “Commission” shall mean the City of Windcrest Ethics Commission.

A. Organization and Qualifications

- a) **Members of Commission:** The City of Windcrest Ethics Commission shall consist of five (5) members and two (2) alternate members of the community appointed by the City Council who shall be citizens of Windcrest. Each appointed member shall be a voting member and are appointed for a two (2) year term by the City Council. Due to the nature and role of the Ethics Commission, an appointed member of the Commission can be removed by an affirmative vote of no less than four (4) City Council members. Members of the Ethics Commission may be removed with or without cause. The City Council may vote to fill an unexpired term by an affirmative vote of three (3).¹
- b) **Officers of Commission:** The Ethics Commission shall have at least three (3) officers: Chair, Vice-Chair, and a Secretary. The Chair shall preside over all meetings. In the absence of the Chair, the Vice-Chair shall assume the duties of presiding officer. In the absence of both the Chair and Vice-Chair at a meeting, any one of the present members may preside over a meeting so long as a quorum can be constituted. The member with the longest tenure on the Commission shall be the presiding officer unless changed by an affirmative vote of those members present and voting at a particular meeting. The Secretary shall keep minutes or may designate a minute keeper to record Commission business. The Ethics Commission may appoint such other officer positions or assign such subcommittees as the Commission deems proper. The Ethics Commission shall elect its officers from amongst its appointed members. Whomsoever presides over a meeting shall retain their ability to vote on any motion or matter.²

1 Official Comments: The Commission has the authority to investigate members of the City Council. The Council finds this to be authorized and willingly imposes this authority on the Commission. However, in order to limit or reduce political influence from affecting actions of the Commission, members of the Commission need to be secured in their positions by requiring no less than four votes for removal. However, the Council must also be cautious of Commission members who exceed their authority, individually. So the Council must retain a certain, but limited, ability to remove and make appointments.

2 Official Comments: All appointees to the Commission are appointed only as members. By accepting an officer role on the Commission, such members do not lose their right, ability, or duty to vote, even if they must preside over a meeting.

c) **Qualifications:** Members of the Ethics Commission shall have good moral character and shall be residents of the City of Windcrest for at least six (6) months prior to being appointed. To be qualified to sit on the Commission, each member shall³:

- a. NOT be any salaried city official or employee;
- b. NOT be an elected public official for any governmental body;
- c. NOT be an candidate for any elected public office;
- d. NOT be an official of a political party;
- e. NOT be a campaign treasurer, campaign manager, official or other policy or decision-maker for the campaign of any candidate for elected public office;
- f. NOT be a campaign treasurer, campaign manager, official or other policy or decision-maker for any political action committee as defined in the Texas Election Code;
- g. NOT be a member of any other city board or commission for the City of Windcrest; and
- h. NOT have a conviction of a felony or any crime involving moral turpitude or have been found by the Ethics Commission to have previously violated any provision of the City Code of Ethics.

d) **Removal:** A member of the Ethics Commission shall be removed immediately from office for the failure to satisfy or continue to satisfy the qualifications and restrictions set out above. The Ethics Commission shall be the judge of the qualifications of its members. The Commission's ability to determine qualifications does not affect the City Council's ability to remove and replace a commission member, with or without cause, by an affirmative vote of at least four (4) councilmembers.⁴

e) **Term Periods:** The terms of the Ethics Commission shall be staggered terms as follows:

- A. Place 1 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;

3 Official Comments: Prior wording caused confusion. This amendment does not change the substance of the qualification. It simply makes it easier for a member of the public to read the provision and know what is prohibited and what is allowed for qualifications.

4 Official Comment: The Commission is expected to regulate its own members and has been granted the ability to pass reasonable rules and regulations for its own operation. In order to limit or minimize political influence as well as the appearance of improper influence from the Council, the Commission is given the ability to remove its own members for failing to meet the mandatory qualifications.

- B. Place 2 Term - Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- C. Place 3 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- D. Place 4 Term - Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- E. Place 5 Term – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years;
- F. Alternate Place A1- Begins March 1, 2019 with a term expiring March 1, 2020 as a one-year term, then being a two-year term from March 1, 2020 forward in time with the term expiring on March 1st in even numbered years;
- G. Alternate Place A2 – Begins March 1, 2019 with a two-year term expiring March 1st in odd numbered years.

Section 2-53 – Duties and Authority

A. **General Authority:** The ~~City of Winderest~~ Ethics Commission has the authority and duty to investigate written complaints of alleged violations of the Code of Ethics and Conduct by a member of the City Council, a member of a City-appointed board, commission or committee, a petitioner committee under the City’s charter, a statutory municipal officer, a city official or any city department head. Following its investigation into an ethics complaint, the Ethics Commission shall impose a penalty, make a recommendation to the City Council or to the City Manager on the complaint, or impose a penalty and make a recommendation for further action. The determination of whether the Commission’s recommendation is sent to the City Council or the City Manager shall be based on the whether the individual made the subject of the complaint reports to the City Manager or City Council. Nothing in this article prevents the City Council or City Manager from exercising its authority under the City charter even if such overlaps with the authority granted to the Ethics Commission.⁵

B. Limitation on Investigation and Complaints:

- a) **Employees:** Other than the City Manager, a statutory city officer or department heads, the Ethics Commission shall have no authority to investigate complaints against city employees as such authority is reserved for the City Manager. Notwithstanding this

⁵ Official Comments: The intent of this general authority is to allow the Commission the ability to investigate and enforce the Ethics Code against those individuals appointed by the Council or those individuals who interact with the City as part of a commission, committee or board. The City Council believes the Ethics Commission’s time and efforts are better spent handling complaints against appointees or committee/commission members, especially those who report to the Council, instead of all employees. Employees who can be directly and quickly disciplined by their supervisor or the City Manager are not subject to the authority of the Ethics Commission. However, when exercising his/her discretion regarding an employee, if the City Manager desires guidance on how the Ethics Code might apply, the City Manager may request an opinion from the Commission. Such opinion is advisory in nature and does not constitute a determination or decision of the Commission.

provision, the City Manager may request an ethics opinion from the Ethics Commission which may be used by the City Manager in making any determinations.

b) **Municipal Judge:** The Ethics Commission has no authority to investigate complaints against the municipal judge, as such authority rests with the State Commission of Judicial Conduct.

c) **Termination or Forfeiture:** The Ethics Commission shall have no authority to ~~make a final determination on a written complaint or~~ impose a penalty of forfeiture of office or termination of employment. Such limitation does not prevent the Ethics Commission from making recommendations or referrals for termination or forfeiture to the City Council.—

d) **Limitations Period:** The Ethics Commission shall not consider any alleged ethics code violation that occurred more than one (1) year prior to the date of the filing of the complaint. The termination, resignation, or forfeiture of a member of the City Council, any member of a City-appointed board, commission or committee, or any city department head does not affect the jurisdiction of the Ethics Commission to investigate and act upon any alleged violations occurring prior to the date of said termination, resignation, or forfeiture.

~~d)e)~~ Charter: The Ethics Commission has neither the authority or the duty to consider, and/or investigate any complaints of alleged violations of the City's Charter. Such authority resets solely with the City Council.

C. **Written Complaint Required:** In order to consider whether a violation of the ethics code has occurred, the Ethics Commission must receive a formal written complaint. Any person may file an appropriate complaint. Before a written complaint is considered by the Ethics Commission regarding alleged violations of the ethics code the person bringing the complaint shall first submit a completed and sworn complaint to the Office of the City Secretary on a form adopted by the Commission. An ethics complaint form is available at the Office of the City Secretary. Following the submission of a complaint, the City Secretary shall provide the complaint to the Ethics Compliance Officer for review. Once the ethics complaint has been accepted as compliant under the Ethics Code by the Ethics Compliance Officer, the ethics complaint shall be submitted to the Chair for the Commission's consideration.

D. **Commission Initiated Investigation:** The Ethics Commission may direct the Ethics Compliance Officer to determine if a complaint is appropriate against any official subject to the City's Ethics Code and may initiate an investigation. In the absence of a formal written complaint, the Ethics Commission may consider whether a violation of the Ethics Code has occurred only after it has provided written notice to the individual subject to the investigation which must include the nature of the alleged violation, the specific ethics code provision believed to have been violated, the facts describing the alleged violation and an opportunity for the official to respond. Such notice shall serve as a formal written complaint.⁶

⁶ Official Comment: This provision allows the Commission the ability to begin an investigation on its own without a formal written complaint from a third party. However, in order to provide constitutional due process to the individual

- E. **Annual Review:** The Ethics Commission shall also have the authority to annually review the City's ethics policies and code and submit recommendations to the City Council.
- F. **Adoption of Procedural Rules:** The Ethics Commission shall have the authority to -establish, adopt, and amend any procedural rules and regulations necessary to properly execute Commission business.
- G. **Member Initiated Complaints and Recusal:** An Ethics Commission member shall not deliberate or vote on any complaint that the member filed. A member of the Ethics Commission shall recuse himself or herself from any case in which, because of familial relationship, employment, any prohibited economic interest, or because of any reason his or her impartiality might reasonably be questioned. If the number of Commission members recused from a case is so large that a quorum of the Ethics Commission cannot be constituted, as provided for in Section 2-51, the City Manager shall nominate a sufficient number of ad hoc members to constitute a quorum. Ad hoc members of the Ethics Commission must be confirmed by a majority vote of the City Council and serve only for the nominated case.

Section 2-54 - Ethics Compliance Officer

- A. **Designation:** The City Attorney or his attorney designee, shall serve as the Ethics Compliance Officer for the City. The Ethics Compliance Officer shall act as legal counsel to the Ethics Commission on matters related to Commission business. As legal counsel to the Ethics Commission, the Ethics Compliance Officer shall not represent any person or party in any proceeding before the Ethics Commission.⁷
- B. **Authority and Duty:** The Ethics Compliance Officer shall also have the duty to review alleged ethics complaints to ensure the written complaint meets the required form and substance as stated in this article prior to the submission to the Ethics Commission. In reviewing alleged ethics complaints, the Ethics Compliance Officer shall not determine the truth of the matters alleged but shall determine whether the act or actions alleged could constitute an ~~ethics-code~~ violation under the Code of Ethics and Conduct~~ethics-code~~, if proven true. Should the Ethics Compliance Officer determine that the act or action alleged would not constitute an ~~ethics~~ violation of the Code of Ethics and Conduct, even if true, the ~~ethics~~-complaint shall be dismissed by the Ethics Compliance Officer. Should the Ethics Compliance Officer determine

subject to the investigation, written notice of the grounds for the investigation and the ability to respond must be provided.

⁷ Official Comment: The Commission needs a screening officer with skill in determining whether certain conduct could potentially violate the Ethics Code. The intent is not for the screening officer to decide the validity of each complaint. The intent is for the screening officer to assume all alleged facts are true for initial evaluation purposes, and if true, would such facts violate a provision of the Ethics Code. If such allegations, if proven true, would not violate the Ethics Code, then the complaint is not a proper complaint. If the allegations could violate the Ethics Code, the screening officer is required to determine the complaint is complaint and to forward it to the Commission. The Commission is the body which determines the factual accuracy of any complaint, the credibility of any statements or testimony, and the validity of any evidence.

that the complaint submitted contains alleged violations of the City Charter, such complaints shall be forward to the City Council.

- C. **Notice of Defects in Form:** If the Ethics Compliance Officer determines an alleged complaint is defective in form, the complainant must be advised of the defect and given a reasonable opportunity to correct any defects in the form of the complaint. Should the complainant refuse to correct or fail to correct any defects in form, the Ethics Compliance Officer shall dismiss the complaint as non-compliant. Should the Ethics Compliance Office determine the complaint falls outside the Commission's authority but within the purview of the City Manager, the Ethics Compliance officer shall forward the complaint to the City Manager's office.
- D. **Appointment of Independent Outside Attorney:** Should a conflict arise wherein the City Attorney cannot perform the duties required of the Ethics Compliance Officer, an independent outside attorney, who does not otherwise represent the city, shall be appointed by the City Manager and shall have the same duties and authority under Section 2-54 and shall be entitled to reasonable compensation as determined by the City Manager for the duties performed in the particular case. An automatic conflict exists when a complaint alleging the a violation of the ethics code by the City Manager, Mayor, a member of the City Council, City Attorney or an Assistant City Attorney; or when requested by the City Attorney due to a potential legal conflict of interest. Should the City Manager not be able or willing to appoint an independent outside attorney, then such appointment shall be made by the Mayor.

Section 2-55 – Written Ethics Complaint

- A. A complaint filed under this article shall be submitted on the form adopted by the Ethics Commission which can be obtained at the Office of the City Secretary. A complaint shall contain the following minimum requirements:
- a) The name, mailing address, and telephone number of the person submitting the complaint;
 - b) The name of the person(s) whom is/are alleged to have committed a violation of the Code of Ethics and Conduct and their position and/or title held or formerly held;
 - c) The date of the alleged ethics violation; including the facts supporting specific provision(s) of the ethics code that are alleged to have been violated; and
 - d) The ethics complaint form is sworn to before a notary public or other person authorized by law to administer oaths under penalty of perjury.
- B. The Ethics Commission may adopt additional minimum requirements for the complaint as it deems necessary, but may not reduce the requirements established by this section of the Code.

Section 2-56 – Penalties and Recommendations

- A. **Commission Imposed Penalties:** Should the ~~Commission~~ Ethics Commission find a violation of the ethics code, the ~~Commission~~ Ethics Commission may directly impose the following penalties:
- a) A civil penalty of not more than \$500.00 per violation;
 - b) A letter of admonition when the violation was determined to be unintentional or inadvertent;
 - c) A letter of reprimand when the violation was determined to be intentional or knowingly committed; and
 - d) A command to attend specific training.
- B. **Recommendations:** In addition to the authority to assess the above penalties, the ~~Commission~~ Ethics Commission may also recommend action be taken by the City Council or City Manager, including but not limited to termination or forfeiture of office. Further, the ~~Commission~~ Ethics Commission may refer any matter to the appropriate criminal prosecutor to determine the existence of any criminal conduct and whether criminal prosecution may be warranted. However, the absence of a referral from the ~~Commission~~ Ethics Commission shall not preclude any prosecutor from exercising his or her discretion in handling matters he or she deems to constitute criminal conduct.

Section 2-57 – Appeal and Disposition

- A. **Determination with Penalties:** If the ~~Commission~~ Ethics Commission makes a determination a violation of the Ethics Code occurred and imposes a penalty, such decision may be appealed by the person subject to the penalty to the City Council. Such appeal shall be submitted, in writing, to the Office of the City Secretary within ten (10) calendar days from the date that the penalties are imposed. The appeal shall state the reasons why the decision is unwarranted and should be dismissed. Following the submission of a written appeal, penalties shall be suspended until the City Council either upholds or dismisses the penalties imposed by the Ethics Commission. Alternatively, the City Council, at its discretion, may impose a lesser penalty than what has been imposed by the Ethics Commission.
- B. **City Council Consideration:** The City Council may consider the appeal based on a review of the Ethics Commission records or may hold its own investigatory hearing on the appeal. The appellant is entitled to written notice of the council meeting at which the appeal will be considered for action and whether the Council will be conducting its own investigation or simply reviewing the appeal from the Commission.
- C. **Recommendations Not Appealable:** With the exception of complaints filed against a City Council member or the City Manager, no appeals may be taken if the ~~Commission~~ Ethics Commission makes a recommendation but imposes no penalty. If the ~~Commission~~ Ethics Commission

Commission makes a recommendation to the City Council, the person subject to the recommendation is entitled to written notice of the council meeting at which the recommendation will be considered.⁸

III. SEVERABILITY

That it is hereby declared to be the intent of the City Council for the City of Windcrest that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public 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.

V. EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by state and local law.

PASSED on first reading on the ____ day of _____, 2020 at a regular meeting of the City Council of the CITY of WINDCREST, Texas which meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

PASSED AND APPROVED on second reading on the _____ day of _____, 2020

⁸ Official Comments: From a technical standpoint, if no penalty is present, a recommendation does not impose an obligation upon the person subject to Commission's recommendation. The recommendation is therefore not an appeal in the normal sense. A recommendation without a penalty is simply a report to the City Council or City Manager on a respondent. Council's consideration should not be thought of as an appeal, but as the Council being the body to take initial action. However, because the members of the City Council and the City Manager positions are more prone to perception, political influence and indirect injury in the eyes of the public, such respondents are given the ability to formally challenge the recommendation prior the Council taking action. But the end result is the same in that no direct penalty is imposed by the recommendation and the City Council must or City Manager must still take action before a determination is final.

at a regular meeting of the City Council of the CITY of WINDCREST, Texas which meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, §551.001, et.seq. at which meeting a quorum was present and voting.

Dan Reese, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

Ryan Henry, City Attorney

DRAFT

ORDINANCE NO. 2018-686(O)

**A ORDINANCE REPEALING PREVIOUS ETHICS CODES AND POLICIES
AND ADOPTING A NEW CODE OF ETHICS AND CONDUCT FOR CITY
OFFICIALS AND EMPLOYEES**

WHEREAS, various ethics codes and policies have heretofore been adopted and approved by the City Council; and

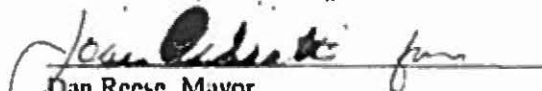
WHEREAS, the City Council desires to periodically review and update its ethics policies in order to enhance accountability and transparency for the welfare of the citizens of the City of Windcrest.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that previous ethics codes and policies of the city are hereby repealed, and the attached City of Windcrest Code of Ethics and Conduct for City Officials and Employees is hereby adopted.

This policy shall become effective on the first day of the month following the final adoption of this ordinance.

DULY PASSED AND APPROVED, on the 3rd day of December, 2018 at a regular meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

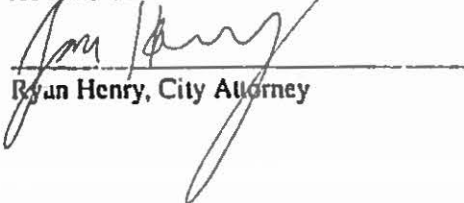
CITY OF WINDCREST, TEXAS


Dan Reese, Mayor

ATTEST:


David Rodulfo Jr., Asst. City Secretary

APPROVED:


Ryan Henry, City Attorney

ORDINANCE NO. 2018-686(O)

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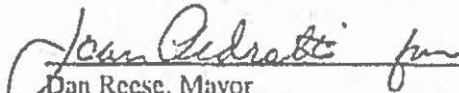
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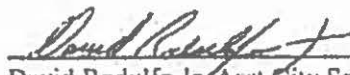
This policy shall become effective on the first day of the month following the final adoption of this ordinance.

DULY PASSED AND APPROVED, on the 3rd day of December, 2018 at a regular meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS


Dan Reese, Mayor

ATTEST:


David Rodolfo Jr, Asst. City Secretary

APPROVED:

Ryan Henry, City Attorney

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

Statement of Purpose

The citizens and businesses of Windcrest are entitled to have fair, ethical and accountable local government which earns the public's full confidence for integrity. The strong desire of the City of Windcrest to fulfill this expectation therefore requires that city officials, both elected and appointed, and employees:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Be independent, impartial and fair in their judgment and actions;
- The office or position be used for the public good, not for personal gain; and

To this end, the Windcrest City Council has adopted this Code of Ethics and Conduct for city officials and employees to assure public confidence in the integrity of local government and its effective and fair operation.

Definitions

The following words, terms and phrases, when used in this article, shall have the meanings subscribed to them in this section.

Business. A corporation, partnership, sole proprietorship, firm, holding company, joint stock company, receivership, trust or any other for profit or non-profit entity.

City Council. The legislative and governing body of the city consisting of the mayor and council city members.

City Official. Any member of the city council and any appointed member of a board, commission, or committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis.

Employee. Any person employed by the city, including those individuals on a part-time basis, including independent contractors hired by the city for repetitive performance of services, but not independent contractors engaged for occasional services.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, city officials and employees will work for the common good of the people of Windcrest and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Windcrest City Council, boards, commissions, and committees.

2. Comply with the Law

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

City officials and employees shall comply with the laws of the nation, the State of Texas, and the City of Windcrest in the performance of their public duties. These laws include, but are not limited to: the United States and Texas constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of City Officials and Employees

The professional and personal conduct of city officials and employees must be above reproach and avoid even the appearance of impropriety. City officials and employees shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other city officials and employees, board, commission, and committee members and the public.

4. Respect for Process

City officials and employees shall perform their duties in accordance with the processes and rules of order established by the City Council and boards, commissions, and committees governing the public deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

5. Conduct of Public Meetings

City officials have an obligation to attend meetings and be prepared for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of meetings.

6. Decisions Based on Merit

It is expected that city officials and employees review material, participate in discussion and base their decisions on the merits and substance of the matter at hand.

7. Communication

Prior to taking final action on a matter under consideration, city officials and employees should publicly share substantive information, which they may have received from sources outside the public decision-making process, that is relevant to such action by the Council, boards, commissions, or committees.

8. Conflicts of Interest and Disclosure

City officials and employees shall familiarize themselves and abide by the following conflicts of interest and disclosure statutes and principles:

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

- a. Section 171 of the Local Government Code which requires council members and certain officers to file an affidavit disclosing a substantial interest in a business or property that would be beneficially affected by a decision of the city council and thereafter abstaining from participation in discussion and voting on the matter. Once the disclosure is made the city official is to remove themselves from the meeting area to ensure their presence does not hinder the discussion of the item or influence the vote.
- b. Section 176 of the Local Government Code which requires city council members and the city manager to file a conflicts disclosure statement disclosing any business relationship with a person or business doing business with the city or being considered by the city for a business relationship.
- c. Section 176.003(a)(2)(B) of the Local Government Code which requires the disclosure of gifts of an aggregate value of more than \$250.00 in the twelve (12) month period preceding a transaction described in Section 176, other than gifts of food, lodging, transportation, or entertainment accepted as a guest.
- d. Sections 553.001-553.003 of the Government Code which requires the filing of an affidavit before the date the city will acquire a property in which public servants have a legal or equitable interest.
- e. City employees shall disclose potential conflicts of interest to their supervisor and avoid participation in the handling of matters wherein employees have a personal interest.
- f. In order to assure their independence and impartiality on behalf of the public good, city officials and employees are prohibited from using their positions to influence government decisions in which they have a personal interest.
- g. In order to avoid a potential conflict of interest or the appearance of a potential conflict of interest, no person related to a member of the City Council or City Manager within the second degree by affinity (marriage) or third degree by consanguinity (blood relationship) as defined by Chapter 573 of the Texas Government Code shall be appointed to serve or remain in service on any City board or commission.

9. Corruption

City officials and employees shall familiarize themselves and abide by the Penal Code mandates concerning corruption, including specifically Section 36.02 prohibiting bribes, Section 36.08(d) prohibiting illegal benefits, Section 36.09 prohibiting receipt of prohibited gifts, Section 39.02 concerning abuse of official capacity and Section 39.06(a) concerning misuse of official information.

10. Political Advocacy

City officials and employees shall not utilize the city's name or logo for purposes of endorsing any political candidate or business. City employees shall not engage in electioneering while on the job. Electioneering means working for the election of a candidate to political office.

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

City employees shall not be appointed or retained on the basis of their political support or activities. Employees shall not engage in political activities relating to a campaign for elective office while in uniform or on active duty. Employees elected to city offices shall be required to resign their employment upon acceptance of the office.

City employees are prohibited from using their municipal title or position in any advertisement or endorsement of products, persons or activities, without exclusive authorization by the City Council.

11. Confidential Information

City officials and employees shall respect the confidentiality of information concerning City property, personnel or proceedings of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal interests.

12. Use of Public Resources

City officials and employees shall not use public resources generally unavailable to the public, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

13. Representation of Private Interests

In keeping with their role as stewards of the public interest, city officials and employees shall not appear on behalf of private interests of third parties before the Council or any board, commission, committee, or proceeding of the City.

14. Advocacy

City officials and employees shall represent the official policies or positions of the City Council, board, commission, or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, city officials and employees shall explicitly state they do not represent their body or the City of Windcrest, nor will they allow the inference that they do.

15. Policy Role of City Officials and Employees

City officials and employees shall respect and adhere to the Windcrest city governmental structure as outlined in the City's charter, policies and procedures. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions, and committees and City staff. Except as provided by the City ordinance, city officials therefore shall not interfere with the administrative functions of the City or the professional duties of the City staff; nor shall they impair the ability of staff to implement Council policy decisions.

16. Independence of City Council, Boards, Commissions, and Committees

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

In order to safeguard the independence of the city council, boards, commissions, and committees in the public decision-making process, city officials and members of such boards, commissions, and committees shall refrain from applying undue influence on the deliberations or outcomes of city council, board, commission, and committee proceedings.

17. Positive Work Place Environment

City officials shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. City officials shall recognize their special role in dealing with City employees and refrain from creating the perception of inappropriate direction to staff.

18. Implementation

As an expression of the standards of conduct for city officials and employees expected by the City, the Windcrest Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when city officials and employees are thoroughly familiar with it and embrace its provisions. Ethical standards shall be included in the regular orientations for candidates for City Council, applicants to boards, commissions, and committees and newly elected and appointed officials and new employees. City officials and employees entering office, including those appointed to boards, commissions and committees shall sign a statement affirming they have read and understood the City of Windcrest Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be reviewed periodically by the City Council, boards, commissions, and committees, and the City Council shall consider recommendations from boards, commissions, committees, employees, and citizens for revision as it becomes necessary.

19. Compliance and Enforcement

The Windcrest Code of Ethics and Conduct expresses standards of ethical conduct expected for city officials and employees of the Windcrest City Council, boards, commissions, and committees. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards, commissions, and committees and the Mayor have the additional responsibility to intervene when city officials' actions appear to be in violation of the Code of Ethics and Conduct and are brought to their attention. The City Council may impose sanctions, such as reprimand, formal censure, or loss of committee assignment, on city officials whose conduct does not comply with the City's ethical standards. The City Council also may act to remove members of boards, commissions, and committees from office.

City of Windcrest Code of Ethics and Conduct For City Officials and Employees

STATEMENT OF COMMITMENT

As a member of the Windcrest City Council or of a Windcrest city board, commission or committee or an employee, I agree to uphold the Code of Ethics and Conduct and conduct myself by the following model of behavior.

I will:

- Recognize the worth of individual city officials and employees and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual city officials, City staff and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Windcrest;
- Treat all people with whom I come in contact in a manner I wish to be treated;
- Before I speak or act I will ask myself the following questions:
 1. Is it the truth?
 2. Is it fair to all concerned?
 3. Will it build goodwill and better relationships?
 4. Will it be beneficial to all concerned?

This document has been explained to me in Spanish; I fully understand the contents and agree to abide by its rules.

Este documento se me ha explicado en español; entiendo completamente el contenido y concuerdo en respetar sus reglas.

Council, Board, Commission, Committee, Employee

Position

Signature

Date