

COPY

CITY OF FRISCO

ORDINANCE NO. 00-01-11

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, ESTABLISHING A CODE OF ETHICS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

Whereas: The City of Frisco desires for all of its citizens to have confidence in the integrity, independence, and impartiality of those who act on their behalf in government; and

Whereas: The Ethics Subcommittee of the City Council has proposed this Code of Ethics to define the bounds of reasonable ethical behavior by the City Council and all appointed City Officials.

Now, Therefore be it ordained by the City Council of the City of Frisco, Texas that this Ordinance be adopted in order to promote confidence in the government of the City of Frisco, and thereby enhance the City's ability to function effectively.

PART A: DECLARATION OF POLICY

SECTION 1: STATEMENT OF PURPOSE

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise Official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs. The Frisco City Council adopts this Code of Ethics in order to promote confidence in the government of the City of Frisco, and thereby enhance the City's ability to function effectively. The Code establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to City Officials. The Code also covers others whose actions inevitably affect public faith in City government, such as former City Officials, candidates for public office, and persons doing business with the City. By prohibiting conduct incompatible with the City's best interests and minimizing the risk of any appearance of impropriety, this Code of Ethics will further the legitimate interests of democracy.

SECTION 2: DEFINITIONS

As used in this Code of Ethics, the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise or more specific definitions set forth elsewhere in this code apply:

Affiliated. Business entities are "Affiliated" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent Business Entity.

Affinity. Relationship by "Affinity" is defined in Sections 573.024 and 573.025 of the Texas Government Code or as amended (*See Attachments "A" and "B"*).

Before the City. Representation or appearance "Before the City" means Before the City Council or a Board, commission, or other City entity.

Board. A Board, commission, or committee;

- (1) Which is established by City Ordinance, City Charter, inter-local contract between the City and another Party, or state law; or
- (2) Any part of whose membership is appointed by the City Council, but does not include a Board, commission, or committee that is the governing body of a separate political subdivision of the state.
- (3) The Frisco Community Development Corporation and the Frisco Economic Development Corporation are considered Boards for the purpose of this Code.

Business Entity. "Business Entity" means a sole proprietorship, partnership, firm, corporation, holding company, jointstock company, receivership, trust, unincorporated association, or any other business entity recognized by law.

Code of Ethics. "Code of Ethics," "Ethics Code," or "this Code" means Parts A through H of this Ordinance.

Confidential Government Information. "Confidential Government Information" is all information held by the City that is not available to the public under the Public Information Act, (Chapter 552, Local Government Code, or as amended, "the Act") and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, (Chapter 551, Local Government Code, or as amended) regardless of whether disclosure violates the Act and/or the Texas Open Meetings Act.

City. "City" means the City of Frisco, Texas.

Consanguinity. Relationship by "Consanguinity" is defined in Sections 573.022 and 573.023 of the Texas Government Code, or as amended. (*See Attachment "B"*)

Discretionary Contract. "Discretionary Contract" means any contract other than those which by law must be awarded on a qualified bid basis.

Economic Interest. "Economic Interest" is legal or equitable property interests in land, chattels, and intangibles, and contractual rights having a value of more than fifty thousand dollars (\$50,000.00). Service by a City Official as an Officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that City Official an Economic Interest in the property of the organization. "Economic Interest" does not include the contract and/or business relationship that the City Manager, City Secretary, City Attorney and/or his law firm, and/or the Municipal Court Judges and Magistrates and/or their respective law firms have with the City.

Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in such securities or other assets unless the person in question participates in the management of the fund.

Gift. A voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor as quid pro quo.

Indirect Ownership. A person "indirectly owns" an equity interest in a Business Entity where the interest is held through a series of business entities, some of which own interests in others.

Matter. Matter is defined as the events or circumstances of a particular situation.

Official. The term "Official" or "City Official" is defined as the following persons:

- (1) The Mayor
- (2) Members of the City Council
- (3) Municipal Court Judges and Magistrates
- (4) The City Manager
- (5) The City Secretary
- (6) The City Attorney
- (7) Members of the temporary or standing, current or future Boards, Commissions, Governing Bodies, and Boards of Directors when those Boards, Commissions, Governing Bodies, and Boards of Directors are appointed in their entirety or partially by the City Council of the City.

Official Action. "Official Action" is defined as:

- (1) any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an Official's duties, and
- (2) any failure to act, if the Official is under a duty to act and knows that inaction is likely to affect substantially an Economic Interest of the Official or any person or entity listed in Part B, Sections 1(a)(2) through 1(a)(8).

Official Information. "Official Information" is information gathered pursuant to the power or authority of City.

Partner. "Partner" is defined as partners in general partnerships, limited partnerships, limited liability partnerships, joint ventures, and any other partnership allowed by law.

Personally and Substantially Participated. The requirement of having "personally and substantially participated" in a Matter is met only if the individual in fact exercised discretion relating to the Matter. The fact that the person had responsibility for a Matter does not by itself establish that the person "personally and substantially participated" in the Matter.

Representation. "Representation" is defined as all forms of communication and personal appearances in which a person, not acting in performance of Official duties, formally or informally, serves as an advocate for private interests, regardless of whether the Representation is compensated. Lobbying, even on an informal basis, is a form of Representation. Representation does not include appearance as a fact witness or uncompensated expert witness in litigation or other Official proceedings.

Solicitation. "Solicitation" of subsequent employment or business opportunities is defined as all forms of proposals and negotiations relating thereto.

SECTION 3: WORDING INTERPRETATION

The gender of the wording throughout this Ordinance shall always be interpreted to mean either sex. All singular words shall include the plural, and all plural words shall include the singular. All references to the laws of the State of Texas or the Home Rule Charter, Ordinances, or Resolutions of the City of Frisco Texas shall mean "as presently enacted or hereafter amended".

PART B: PRESENT CITY OFFICIALS

SECTION 1: IMPROPER ECONOMIC BENEFIT

(a) General Rule. To avoid the appearance and risk of impropriety, a City Official shall not take any Official Action that substantially affects in a positive way the Economic Interests of:

- (1) the Official;
- (2) his parent, child, stepchild, spouse, or other family member within the second degree of Consanguinity or Affinity;
- (3) his outside Client and/or Customer with any transaction outstanding;
 - (A) Client - A Client is someone with whom the Official has a contractual relationship; a commitment to provide products and/or professional services from the Official to the Client over a period of time. The contract could be either short-term or long-term in nature. The person receiving the services or goods would be considered a Client of the Official only during the period covered in the contract.
 - (B) Customer - A Customer is someone who simply purchases a product/service from an Official's business. Customer relationships are transactional; they rarely require a contract to complete the sale and the actual business transaction is completed within minutes. For example, the sale of an automobile is an example where a contract is signed but is the purchase is transactional in nature, and so the purchaser would be considered a Customer.
- (4) the outside employer of the Official;
- (5) a Business Entity in which the Official knows, or should know, that any of the persons listed in Part B, Section 1(a)(1) or 1(a)(2) holds an Economic Interest;
- (6) a Business Entity which the Official knows, or should know, is an Affiliated business or Partner of a Business Entity in which any of the persons listed in Part B, Section 1(a)(1) or 1(a)(2) holds an Economic Interest;
- (7) a Business Entity or nonprofit entity for which the City Official serves as an Officer or director or in any other policy making position; or
- (8) a person or Business Entity from whom the Official, directly or indirectly:
 - (A) has solicited within the past 24 months an offer of employment or business opportunities;
 - (B) has received and not rejected an unsolicited offer of employment or business opportunities; or
 - (C) has accepted an offer of employment or business opportunities which is binding or expected by the parties to be carried out.

(b) Recusal and Disclosure. A City Official whose conduct would otherwise violate Subsection (a) must recuse himself. From the time that the conflict is, or should have been recognized, he shall:

- (1) immediately refrain from further participation in the Matter, including discussions with any persons likely to consider the Matter; and
- (2) Remove himself from the room in which the meeting is being held; and
- (3) promptly file with the City Secretary the appropriate form for disclosing the nature and extent of the prohibited conduct.
- (4) a member of a Board shall promptly disclose the conflict to other members of the Board and shall leave the room during the Board's discussion of, or voting on, the Matter.

SECTION 2: UNFAIR ADVANCEMENT OF PRIVATE INTERESTS

(a) General Rule. A City Official may not use his Official position to grant or secure, or attempt to grant or secure, for any person (including himself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. This rule does not apply to actions taken by a City Official in the legislative process.

(b) Special Rules. The following special rules apply in addition to the general rule:

- (1) Acquisition of Interest in Impending Matters. A City Official shall not acquire an interest in, or be affected by, any contract, transaction, zoning decision, or other Matter (the "interest"), if the Official knows, or has reason to know, that the interest will be directly or indirectly affected by impending Official Action by the City.
- (2) Reciprocal Favors. A City Official may not enter into an agreement or understanding with any other person that Official Action by the Official will be rewarded or reciprocated by the other person, directly or indirectly.
- (3) Appointment of Relatives. A City Official shall not nominate, appoint or vote to nominate or appoint any relative within the third degree of Consanguinity or Affinity to any position of the City.
- (4) In any land Matter which comes Before the City Council, Planning and Zoning Commission, or Board of Adjustments and in which any member of the City Council or aforementioned Boards and commissions has a financial interest in any property within two hundred feet (200') of the Matter before it, such member shall disclose the existence of the interest by filing a statement with the record keeper. The member of the City Council, Planning and Zoning Commission, or Board of adjustments may speak on the item and, thereafter, leave the room. In addition, any state law provision regarding a conflict of interest shall also be followed.

It is the intention of this provision that the term "land matter" shall be interpreted broadly to include zoning, permit requests, variances, etc.

- (5) No City Council member who is on the Board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a Board of directors or trustees appointed in whole or in part by the City Council.
- (c) Recusal and Disclosure. A City Official whose conduct would otherwise violate Part B, Section 2(b)(3) shall adhere to the recusal and disclosure provisions stated in Part B, Section 1(b).

SECTION 3: GIFTS

- (a) General Rule. A City Official shall not solicit, accept, or agree to accept any Gift or benefit:
- (b) Special Applications. Subsection (a) does not include:
- (1) a Gift to a City Official relating to a special occasion, such as a wedding; anniversary, graduation, birth, illness, death, or holiday, provided that the value of the Gift is fairly commensurate with the occasion and the relationship between the donor and recipient;
 - (2) reimbursement of reasonable expenses for travel authorized in accordance with City policies;
 - (3) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;
 - (4) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;
 - (5) a scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants; or
 - (6) admission to an event in which the City Official is participating in connection with Official duties;
 - (7) lawful campaign contributions;
 - (8) attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City;
 - (9) exchanging Gifts with his family and relatives;
 - (10) exchanging Gifts at church functions or City parties or functions where only City Officials and their employees are invited or attended.
 - (11) exchanging Gifts or receiving a bonus from their place of full-time employment.
- (c) Gifts to Closely Related Persons. A City Official shall take reasonable steps to persuade a parent, spouse, child, stepchild, or other relative within the second degree of Consanguinity or Affinity (*see Attachment "B"*) not to solicit, accept, or agree to accept any Gift or benefit which would violate Subsection (a) if the Official solicited, accepted, or agreed to accept it.

SECTION 4: CONFIDENTIAL INFORMATION

- (a) Improper Access. A City Official shall not use his position to secure Official Information about any person or entity for any purpose other than the performance of Official responsibilities.
- (b) Improper Disclosure or Use. A City Official shall not disclose Confidential Government Information or use such information to further or impede anyone's personal interests.

This rule does not prohibit:

- (1) any disclosure or use that is authorized or required by law;
- (2) the confidential reporting of illegal or unethical conduct to authorities designated by law.

SECTION 5: REPRESENTATION OF PRIVATE INTERESTS

- (a) Representation by a Member of the Board. A City Official who is a member of a City Board shall not serve as a representative before that Board or body any person, group, or entity.
- (b) Representation Before the City. A City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, Before the City.
- (c) Representation in Litigation Adverse to the City.
- (1) Salaried Officials. A salaried City Official shall not represent any person, group, or entity, other than himself, or his 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.
 - (2) Non-Salaried Officials. A non-salaried Official shall not represent any person, group, or entity, other than himself, or his 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 interests of the City and the Matter is substantially related to the non-salaried Official's duties to the City.

SECTION 6: PUBLIC PROPERTY AND RESOURCES

A City Official shall not use, request, or permit the use of City facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

- (a) pursuant to duly adopted City policies, or
- (b) to the extent and according to the terms that those resources are lawfully available to the public.

SECTION 7: POLITICAL ACTIVITY

Limitations on the political activities of City Officials are imposed by state law, the City Charter, and City personnel rules. In addition, the following ethical restrictions apply:

- (a) Influencing Subordinates. A City Official shall not, directly or indirectly, induce or attempt to induce any subordinate of the Official:
- (1) to participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue, or
 - (2) to refrain from engaging in any lawful political activity, except as prohibited by the City Charter.
- (b) In elections for candidates other than for City Council of the City, a member of the City Council may not:
- (1) Use the prestige of the member's position with the City on behalf of a candidate;
 - (2) Solicit or receive contributions; or
 - (3) Serve as the designated campaign treasurer for a candidate as required by Chapter 252, Texas Election Code, or as amended (*See Attachment "C"*)
- (c) In any election, a member of the City Council or City Board, may not:
- (1) Use the prestige of the member's position with the City on behalf of a candidate;
 - (2) Serve as the designated campaign treasurer for a candidate as required by Chapter 252, Texas Election Code, or as amended (*See Attachment "C"*); or
 - (3) Personally solicit or receive contributions for a candidate other than for himself. A member, however, is not prohibited from serving on a steering committee for a candidate other than for City Council to plan a program of Solicitation and listing the member's name without reference to the office held when the committee as a whole is listed.
- (d) Part B, Sections 7(b) and 7(c) do not prohibit a member of the City Council or of a Board from lending the member's name in support of a candidate so long as the office held with the City is not mentioned in connection with the endorsement.
- (e) Paid Campaigning. A City Official shall not accept any thing of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he participated in, or provided advice relating to, the exercise of discretionary authority by the City Council or a Board that contributed to the development of the ballot item.
- (f) Official Vehicles. A City Official shall not display or fail to remove campaign materials on any City vehicle under his control.

Limitations on the use of public property and resources for political purposes are imposed by Part B, Section 6.

A general statement merely encouraging another person to vote does not violate this rule.

SECTION 8: ACTIONS OF OTHERS

- (a) Violations by Other City Officials. A City Official shall not knowingly assist or induce, or attempt to assist or induce, another City Official to violate any provision in this Code of Ethics.
- (b) Using Others to Engage in Forbidden Conduct. A City Official shall not violate the provisions of this Code of Ethics through the acts of another.

SECTION 9: INTERACTION WITH CITY STAFF

- (a) City Councilmembers' and Board Members' interaction with the City Manager or staff must recognize the lack of authority in any individual City Councilmember, Board Member or group of City Councilmembers or Board Members except when explicitly authorized by the City Council or Board.
- (b) City Councilmembers and Board Members will not make public individual judgements of the performance of the City Manager, his staff, the City Attorney, the City Secretary, or the Municipal Judge except as authorized by City policy, ordinance, or the City Charter.
- (c) City Councilmembers and Board Members may not attempt to coerce or intimidate City Employees, interfere with City Employees' duties, or otherwise circumvent the authority of the City Manager.

SECTION 10: CITY COUNCIL INTERACTION WITH GENERAL PUBLIC

City Councilmembers' and Board Members' interaction with public, press or other entities must recognize the same limitation as expressed in Section 9 and the inability of any City Councilmember or Board Member or group of City Councilmembers or Board Members to speak for the City Council or Board except when explicitly authorized by the Council, Board, or City Charter.

SECTION 11: PROHIBITED INTERESTS IN CONTRACTS

- (a) Charter Provision. The Charter of the City of Frisco, in Section 14.08, states "No Officer, whether elected or appointed, or any Employee, whether full or part time, of the City shall have a substantial financial interest, direct or indirect, in any contract, other than employment contracts, with the City; or have a substantial financial interest, direct or indirect in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an Officer or Employee, except as allowed in Article 988B—V.A.C.S. Any willful violation of this section shall constitute malfeasance in office and any Officer or Employee found guilty thereof shall thereby forfeit his office or position. Any violation of this Section with the knowledge, express or implied, of the person of the corporation contracting with the

governing body of the City shall render the contract involved voidable by the City Manager or a majority vote of the full membership of the Council."

(b) Financial Interest. An City Official has a prohibited "financial interest" in a contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

(1) the Official;

(2) his parent, child, stepchild, or spouse;

(3) a Business Entity in which the Official directly or indirectly owns:

(A) ten (10) percent or more of the voting stock or shares of the Business Entity, or
(B) ten (10) percent or more of the Business Entity; or

(4) a Business Entity of which any individual or entity listed in Part B, Section 11(b)(1) or 11(b)(3) is:

(A) a subcontractor on a City contract; or
(B) an Affiliated business or Partner.

(c) Definitions. For purposes of enforcing Section 14.08 of the City Charter under the provisions of this Section:

(1) a City "Employee" is any Employee of the City.

(2) a City "Officer" is:

(A) the Mayor or any City Council member;

(B) a Municipal Judge or Magistrate; or

(C) a member of a Board which is more than advisory in function. The term does not include members of the Board of another governmental entity even if some or all of these members are appointed by the City.

PART C: FORMER CITY OFFICIALS

SECTION 1: CONTINUING CONFIDENTIALITY

A former City Official shall not use or disclose Confidential Government Information acquired during service as a City Official. This rule does not prohibit:

- (a) any disclosure or use that is authorized or required by law; or
- (b) the confidential reporting of illegal or unethical conduct to authorities designated by law.

SECTION 2: SUBSEQUENT REPRESENTATION

- (a) Representation by a Former Board Member. A person who was a member of a Board shall not represent before that Board any person, group, or entity for a period of one (1) year after the termination of his Official duties.
- (b) Representation Before the City. A former City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, Before the City for a period of one (1) year after termination of his Official duties, unless hired by the City under the authority granted within the Charter.
- (c) Representation in Litigation Adverse to the City. A former City Official shall not, absent consent from the City, represent any person, group, or entity, other than himself, or his 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 one in which the former City Official "Personally and Substantially Participated" prior to termination of his Official duties.

SECTION 3: DISCRETIONARY CONTRACTS

- (a) Impermissible Interest in Discretionary Contract or Sale. This Subsection applies only to contracts or sales made on a discretionary basis, and not to contracts or sales made on a competitive bid basis. Within one (1) year of the termination of Official duties, a former City Official shall not have a financial interest, direct or indirect, in any contract with the City, and shall not be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or service. Any violation of this Section, with the knowledge, expressed or implied, of the individual or Business Entity contracting with the City Council shall render the contract involved voidable by the City Manager or the City Council. A former City Official has a prohibited "financial interest" in a contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:
 - (1) the former Official;
 - (2) his parent, child, stepchild, or spouse;
 - (3) a Business Entity in which the former Official directly or indirectly owns:

- (A) ten (10) percent or more of the voting stock or shares of the Business Entity, or
 - (B) ten (10) percent or more of the fair market value of the Business Entity; or
- (4) a Business Entity of which any individual or entity listed in Part C, Section 3(a)(1) or 3(a)(3) is:
- (A) a subcontractor on a City contract; or
 - (B) an Affiliated business or Partner.
- (b) Prior Participation in Negotiation or Awarding. A former City Official may not, within one (1) year of the termination of Official duties, perform work on a compensated basis relating to a Discretionary Contract, if he "Personally and Substantially Participated" in the negotiation or awarding of the contract.
- (c) Definitions. For purposes of Part C, Section 3(a) of this rule:
- (1) A "former City Official" is any person who, immediately prior to termination of Official duties, was:
 - (A) the Mayor or a member of City Council;
 - (B) a Municipal Judge or Magistrate; or
 - (C) a member of a Board which is more than advisory in function. The term "former City Official" does not include a former member of the Board of another governmental entity even if some or all of its members were appointed by the City Council.
 - (2) The term "contract" means any contract other than a contract for the personal services of the former City Official.
 - (3) The term "service" means any services other than the personal services of the former Official.

PART D: PERSONS DOING BUSINESS WITH THE CITY

SECTION 1: PERSONS SEEKING CONTRACTS

- (a) Disclosure of Parties, Owners, and Closely Related Persons. For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and this Code of Ethics, an individual or Business Entity seeking a contract from the City is required to disclose, on a form provided by the City:
- (1) the identity of any individual who would be a party to the contract, and the names of any persons to whom the such individual is related as parent, child, stepchild, or spouse;
 - (2) the identity of any Business Entity that would be a party to the contract and the name of:
 - (A) any individual or Business Entity that would be a subcontractor on the contract; and
 - (B) any individual or Business Entity that is known to be an Affiliated business or Partner of any individual or Business Entity disclosed in compliance with Part D, Section 1(a)(1) of this rule; and
 - (3) the identity of any individual or Business Entity employed for purposes relating to the contract being sought by any individual or Business Entity disclosed in compliance with Part D, Section 1(a)(1) of this rule.
- (b) Political Contributions. Any individual or Business Entity seeking a Discretionary Contract from the City must disclose, on a form provided by the City, all political contributions totaling two hundred fifty dollars (\$250) or more within the past twenty-four (24) months made directly or indirectly to any member of City Council, or to any political action committee that contributes to City Council elections, by any individual or Business Entity whose identity must be disclosed under Part D, Section 1(a). Indirect contributions by an entity include, but are not limited to, contributions made through the Officers or owners of the entity.
- (c) Briefing Papers and Open Records. Briefing papers prepared for the City concerning any proposed Discretionary Contract shall reveal the information disclosed in compliance with Part D, Sections 1(a) and 1(b), and that information shall constitute an open record available to the public.

PART E: MEMBERS OF THE PUBLIC AND OTHERS

Part E applies to current and former City Officials, persons doing business with the City, and lobbyists, as well as to members of the public and any other person (including business entities and nonprofit entities).

SECTION 1: FORMS OF RESPONSIBILITY

No person shall induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct violative of the obligations imposed by this ethics code.

PART F: ETHICS REVIEW PROCESS

SECTION 1: DEFINITIONS

As used in Part F, the term "ethics laws" is defined as this Code of Ethics, Article 14 of the City Charter, and Section 171 of the Texas Local Government Code. The term "ethical violation" is defined as violations of any of these enactments.

SECTION 2: COMPLAINTS

(a) Filing. Any person who believes that there has been a violation of the ethics laws may file a sworn Complaint with the City Secretary. The "Complaint" shall:

- (1) identify the person or persons who allegedly committed the violation;
- (2) provide a statement of the facts on which the Complaint is based;
- (3) to the extent possible, identify the rule or rules allegedly violated; and
- (4) Be sworn to in the form of an affidavit and be based on personal knowledge of the affiant and be subject to the laws of perjury.

The complainant may also recommend other sources of evidence that the City Attorney should consider and may request a hearing.

(b) Confidentiality. No City Official shall reveal information relating to the filing or processing of a Complaint except as required for the performance of Official duties. All papers relating to a pending Complaint are confidential.

(c) Notification. A copy of a Complaint meeting Part F, Section 2(a) shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the Complaint. The person charged in the Complaint shall also be provided with a copy of the ethics rules and shall be informed:

- (1) that, within fourteen (14) days of receipt of the Complaint, he may file a sworn response with the City Secretary;
- (2) that failure to file a response does not preclude the City Attorney from processing the Complaint;
- (3) that a copy of any response filed by the person charged in the Complaint will be provided by the City Secretary to the complainant, who may within seven (7) days respond by sworn writing filed with the City Secretary, a copy of which shall be provided by the City Secretary to the person charged in the Complaint;
- (4) that the person charged in the Complaint may request a hearing; and
- (5) that City Officials have a duty to cooperate with the City Attorney, pursuant to Part F, Section 3 of this Code.

(d) Assistance. The City Secretary shall provide information to persons who inquire about the process for filing a Complaint.

SECTION 3: PROCEDURE FOR COMPLAINTS AGAINST CITY OFFICIALS

Within three (3) business days after receipt, it shall be the duty of the City Attorney (or Ethics Compliance Officer as designated by the City Council in the case the complaint is made against the City Attorney) to make the initial determination/evaluation of the Complaint as to whether or not the facts alleged, if true, would at face value constitute a violation of this Code. If it is determined by the City Attorney that the facts as alleged would not constitute a violation, then in accordance with the notice requirements of the Texas Open Meetings Act, the City Attorney shall present a written report describing in detail the nature of the Complaint and the findings of the City Attorney to the City Council at its next regularly scheduled meeting. A majority of those City Council members not implicated by the allegation(s) may either invoke the investigatory procedure contained herein or reject the Complaint. Any vote to reject the Complaint shall be in a public hearing called for that purpose.

If it is determined by the City Attorney that the facts as alleged could constitute a violation of this Code, then the City Attorney shall, within three (3) business days after receipt of the Complaint, notify the Mayor and City Council of the existence and nature of the Complaint. The Mayor or any three (3) members of the City Council may cause a meeting of the City Council to convene, whether regular or special, within five (5) business days after being so notified by the City Attorney to further consider said Complaint in Executive Session. At said meeting, the City Attorney shall present a written report to the City Council describing in detail the nature of the Complaint and his findings and conclusions as to a possible violation of this Code. In any event, within two (2) business days after the rendering of said report, the City Attorney shall select and appoint an independent private attorney to fully investigate the alleged improprieties. Said attorney shall be selected from a list of five (5) attorneys appointed by the City Council for these purposes. The City Council shall appoint such list of Attorneys on an as-needed basis. These attorneys, when assigned by the City Council to investigate a specific Complaint, shall have all of the powers of investigation as is given to the City Council by reason of Section 3.17 of the City Charter. The investigating attorney shall report back to the City Council in writing as soon as possible but in no event more than fifteen (15) calendar days from the day of appointment unless an extension is granted by a majority of the eligible City Council members. Said report shall be comprehensive in support of the attorney's opinion as to whether or not a violation of this Code occurred.

The City Council shall consider the findings of said report at the meeting at which it is presented at which time the person(s) accused shall have the right to a full and complete hearing with the opportunity to call witnesses and present evidence on his behalf. No final action, decision, or vote with regard to any Matter shall be made except in a meeting which is open to the public.

PART G: ENFORCEMENT MECHANISMS

In addition to other remedies provided by law, the following remedies are available with respect to violations of this code of ethics:

SECTION 1: DISCIPLINARY ACTION

City Officials who engage in conduct that violates this Code may be notified, warned, reprimanded, suspended, or removed from office or employment by the City Council. Disciplinary action under Part G, Section 1 may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law.

SECTION 2: CIVIL FINE

Any person, whether or not a City Official, who violates any provision of this Code of Ethics is subject to a fine not exceeding five hundred dollars (\$500.00).

SECTION 3: PROSECUTION FOR PERJURY

Any person who files a false sworn Complaint under Part F, Section 2(a) of this Code is subject to criminal prosecution for perjury under the laws of the State of Texas.

SECTION 4: VOIDING OR RATIFICATION OF CONTRACT

If an Ethics Review finds that there has been a violation of any provision in Sections 1 through 11 of Part B; Sections 1 through 3 of Part C; Part D; or Part E that is related to the awarding of a contract, the City Council must vote on whether to ratify or void the contract. Such action shall not affect the imposition of any penalty or remedy contained in this code of ethics or any other law.

SECTION 5: DISQUALIFICATION FROM CONTRACTING

(a) Any person (including business entities and non-profit entities) who intentionally or knowingly violates any provision of Part D (Persons Doing Business with the City) may be prohibited by the City Council from entering into any contract with the City for a period not to exceed three (3) years.

(b) It is a violation of this Code of Ethics:

- (1) for a person prohibited from entering into a contract with the City to enter, or attempt to enter, into a contract with the City during the period of disqualification from contracting; or
- (2) for a City Official to knowingly assist a violation of Part G, Section 5 of this rule.

- (c) Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.
- (d) A Business Entity or nonprofit entity may be disqualified from contracting based on the conduct of an employee or agent, if the conduct occurred within the scope of the employment or agency.

PART H: ADMINISTRATIVE PROVISIONS

SECTION 1: OTHER OBLIGATIONS

This Code of Ethics is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this code shall not excuse or relieve any person from any obligation imposed by state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Even if a City Official is not prohibited from taking Official Action by this Code of Ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

SECTION 2: EFFECTIVE DATE

This Code of Ethics shall take effect on JANUARY 5 of 2000. No person shall be bound by this Code of Ethics until they have had an opportunity to read and understand it as a condition of their candidacy for membership as a City Official. Individuals seated as City Officials at the time this Ordinance is approved by the City Council shall not be bound by it until such time they reapply for a City Official position, at which point their signed acknowledgement of receipt and understanding of this Code shall be a condition of their candidacy for reelection or reappointment.


SECTION 3: DISTRIBUTION AND TRAINING

- (a) At the time of application for a position of City Official, every applicant shall be furnished with a copy of this Code of Ethics. No application shall be considered complete without a signed acknowledgement of receipt and understanding of this Code by the applicant.
- (b) The City Attorney or Ethics Compliance Officer as designated by the City Council shall develop educational materials and conduct educational programs for the City Officials on the provisions of this Code of Ethics, Article 14 of the City Charter, and Section 171 of the Texas Local Government Code. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.


SECTION 4: SEVERABILITY

If any provision of this Code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision or application.

READ, CONSIDERED, PASSED AND APPROVED by the City of Frisco, Texas, on this the fourth day of January, 2000.

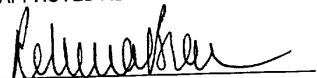

Kathleen A. Seei, Mayor

ATTEST:

By: 
City Secretary



APPROVED AS TO FORM


City Attorney
Abernathy, Roeder, Boyd & Joplin, P.C.

Attachment "A"
Texas Government Code, Sections 573.024 and 573.025

Sec. 573.024. Determination of Affinity.

- (a) Two individuals are related to each other by affinity if:
 - (1) they are married to each other; or
 - (2) the spouse of one of the individuals is related by consanguinity to the other individual.
- (b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.
- (c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, effective Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 260, Sec. 32, effective May 30, 1995.

Sec. 573.025. Computation of Degree of Affinity.

- (a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.
- (b) An individual's relatives within the third degree by affinity are:
 - (1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and
 - (2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, effective Sept. 1, 1993.

Attachment "B"
Texas Government Code, Sections 573.022 and 573.023
Including Chart of Consanguinity

Sec. 573.022. Determination of Consanguinity.

(a) Two individuals are related to each other by consanguinity if:

- (1) one is a descendant of the other; or
- (2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, effective Sept. 1, 1993.

Sec. 573.023. Computation of Degree of Consanguinity.

(a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

- (1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
- (2) the number of generations between the relative and the nearest common ancestor.

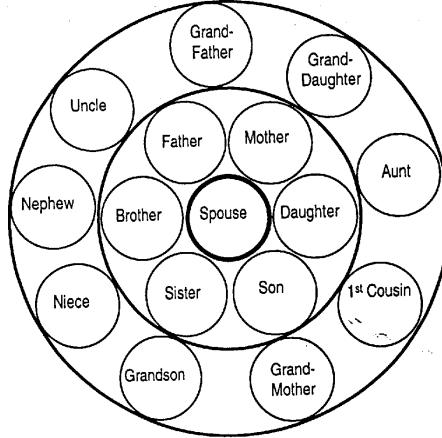
(c) An individual's relatives within the third degree by consanguinity are the individual's:

- (1) parent or child (relatives in the first degree);
- (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
- (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

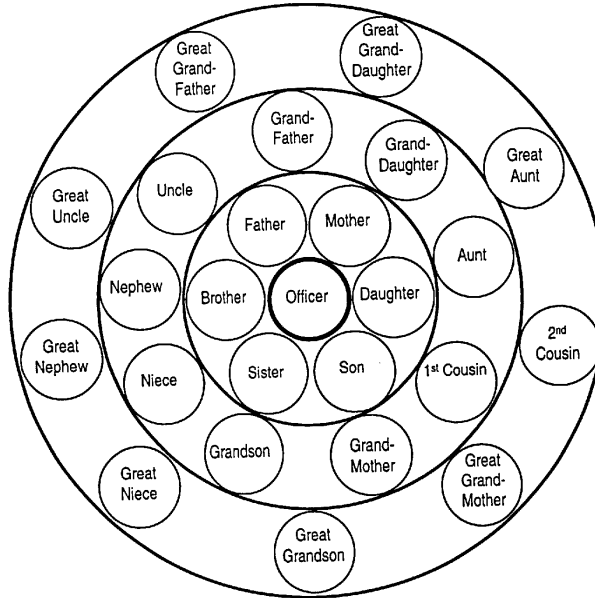
Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, effective Sept. 1, 1993.

Charts of Affinity and Consanguinity

Affinity Kinship Chart
(Marriage)



Consanguinity Kinship Chart
(Blood)



Attachment "C"
Texas Election Code, Section 252

CHAPTER 252. CAMPAIGN TREASURER

Sec. 252.001. Appointment of Campaign Treasurer Required.

Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987.

Sec. 252.002. Contents of Appointment.

(a) A campaign treasurer appointment must be in writing and include:

- (1) the campaign treasurer's name;
- (2) the campaign treasurer's residence or business street address;
- (3) the campaign treasurer's telephone number; and
- (4) the name of the person making the appointment.

(b) A political committee that files its campaign treasurer appointment with the commission must notify the commission in writing of any change in the campaign treasurer's address not later than the 10th day after the date on which the change occurs.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.05, effective Aug. 30, 1993.

Sec. 252.003. Contents of Appointment by General-Purpose Committee.

(a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a general-purpose committee must include:

- (1) the full name, and any acronym of the name that will be used in the name of the committee as provided by Subsection (d), of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the committee, if applicable, or the name of each person who determines to whom the committee makes contributions or the name of each person who determines for what purposes the committee makes expenditures;
- (2) the full name and address of each general-purpose committee to whom the committee intends to make political contributions; and
- (3) the name of the committee and, if the name is an acronym, the words the acronym represents.

(b) If any of the information required to be included in a general-purpose committee's appointment changes, excluding changes reported under Section 252.002(b), the committee shall file an amended appointment with the commission not later than the 30th day after the date the change occurs.

- (c) The name of a general-purpose committee may not be the same as or deceptively similar to the name of any other general-purpose committee whose campaign treasurer appointment is filed with the commission. The commission shall determine whether the name of a general-purpose political committee is in violation of this prohibition and shall immediately notify the campaign treasurer of the offending political committee of that determination. The campaign treasurer of the political committee must file a name change with the commission not later than the 14th day after the date of notification. A campaign treasurer who fails to file a name change as provided by this subsection or a political committee that continues to use a prohibited name after its campaign treasurer has been notified by the commission commits an offense. An offense under this subsection is a Class B misdemeanor.
- (d) The name of a general-purpose committee must include the name of each corporation, labor organization, or other association or legal entity other than an individual that directly establishes, administers, or controls the committee. The name of an entity that is required to be included in the name of the committee may be a commonly recognized acronym by which the entity is known.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.02, effective Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 107, Sec. 3.06, effective Aug. 30, 1993.

Sec. 252.0031. Contents of Appointment by Specific-Purpose Committee.

- (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) must include the name of and the office sought by the candidate. If that information changes, the committee shall immediately file an amended appointment reflecting the change.
- (b) The name of a specific-purpose committee for supporting a candidate for an office specified by Section 252.005(1) must include the name of the candidate that the committee supports.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 7.15(a), effective Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 5.03, effective Jan. 1, 1992.

Sec. 252.0032. Contents of Appointment by Candidate.

- (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a candidate must include:
- (1) the candidate's telephone number; and
 - (2) a statement, signed by the candidate, that the candidate is aware of the nepotism law, Chapter 573, Government Code.
- (b) A campaign treasurer appointment that is filed in a manner other than by use of an officially prescribed form is not invalid because it fails to comply with Subsection (a)(2).

Added by Acts 1989, 71st Leg., ch. 2, Sec. 7.15(a), effective Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3A.03, effective Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76,

Sec. 5.95(26), effective Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 2, effective Sept. 1, 1997.

Sec. 252.004. Designation of Oneself.

An individual may appoint himself or herself as campaign treasurer.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 238, effective Sept. 1, 1997.

Sec. 252.005. Authority with Whom Appointment Filed: Candidate.

An individual must file a campaign treasurer appointment for the individual's own candidacy with:

- (1) the commission, if the appointment is made for candidacy for:
 - (A) a statewide office;
 - (B) a district office filled by voters of more than one county;
 - (C) state senator;
 - (D) state representative; or
 - (E) the State Board of Education;
- (2) the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in Subdivision (1);
- (3) the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county;
- (4) the county clerk if:
 - (A) the appointment is made for candidacy for an office of a political subdivision other than a county;
 - (B) the governing body for the political subdivision has not been formed; and
 - (C) no boundary of the political subdivision crosses a boundary of the county; or
- (5) the commission if:
 - (A) the appointment is made for candidacy for an office of a political subdivision other than a county;
 - (B) the governing body for the political subdivision has not been formed; and
 - (C) the political subdivision is situated in more than one county.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.07, effective Aug. 30, 1993.

Sec. 252.006. Authority With Whom Appointment Filed: Specific-Purpose Committee for Supporting or Opposing Candidate or Assisting Officeholder.

A specific-purpose committee for supporting or opposing a candidate or assisting an officeholder must file its campaign treasurer appointment with the same authority as the appointment for candidacy for the office.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987.

Sec. 252.007. Authority With Whom Appointment Filed: Specific-Purpose Committee for Supporting or Opposing Measure.

A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with:

- (1) the commission, if the measure is to be submitted to voters of the entire state;
- (2) the county clerk, if the measure is to be submitted to voters of a single county in an election ordered by a county authority;
- (3) the secretary of the governing body of the political subdivision or, if the political subdivision has no secretary, with the governing body's presiding officer, if the measure is to be submitted at an election ordered by an authority of a political subdivision other than a county;
- (4) the county clerk if:
 - (A) the measure concerns a political subdivision other than a county;
 - (B) the governing body for the political subdivision has not been formed; and
 - (C) no boundary of the political subdivision crosses a boundary of a county; or
- (5) the commission if:
 - (A) the measure concerns a political subdivision other than a county;
 - (B) the governing body for the political subdivision has not been formed; and
 - (C) the political subdivision is situated in more than one county.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.08, effective Aug. 30, 1993.

Sec. 252.008. Multiple Filings by Specific-Purpose Committee not Required.

If under this chapter a specific-purpose committee is required to file its campaign treasurer appointment with more than one authority, the appointment need only be filed with the commission and, if so filed, need not be filed with the other authorities.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.09, effective Aug. 30, 1993.

Sec. 252.009. Authority With Whom Appointment Filed: General-Purpose Committee.

A general-purpose committee must file its campaign treasurer appointment with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.10, effective Aug. 30, 1993.

Sec. 252.010. Transfer of Appointment.

- (a) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment.
- (b) The original appointment terminates on the filing of the copy with the appropriate authority or on the 10th day after the date the decision to seek a different office is made, whichever is earlier.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987.

Sec. 252.011. Time Appointment Takes Effect; Period of Effectiveness.

- (a) A campaign treasurer appointment takes effect at the time it is filed with the authority specified by this chapter.
- (b) A campaign treasurer appointment continues in effect until terminated.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987.

Sec. 252.012. Removal of Campaign Treasurer.

- (a) A campaign treasurer appointed under this chapter may be removed at any time by the appointing authority by filing the written appointment of a successor in the same manner as the original appointment.
- (b) The appointment of a successor terminates the appointment of the campaign treasurer who is removed.
- (c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee is removed by the committee, the departing campaign treasurer shall immediately file written notification of the termination of appointment with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.11, effective Aug. 30, 1993.

Sec. 252.013. Termination of Appointment on Vacating Position.

- (a) If a campaign treasurer resigns or otherwise vacates the position, the appointment is terminated at the time the vacancy occurs.
- (b) A campaign treasurer who vacates the treasurer's position shall immediately notify the appointing authority in writing of the vacancy.
- (c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee resigns or otherwise vacates the position, the campaign treasurer shall immediately file written notification of the vacancy with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.12, effective Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 239, effective Sept. 1, 1997.

Sec. 252.014. Preservation of Filed Appointments.

The authority with whom a campaign treasurer appointment is filed under this chapter shall preserve the appointment for two years after the date the appointment is terminated.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987.

Sec. 252.015. Assistant Campaign Treasurer.

- (a) Each specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) or a statewide or district measure and each general-purpose committee may appoint an assistant campaign treasurer by written appointment filed with the commission.
- (b) In the campaign treasurer's absence, the assistant campaign treasurer has the same authority as a campaign treasurer.
- (c) Sections 252.011, 252.012, 252.013, and 252.014 apply to the appointment and removal of an assistant campaign treasurer.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, effective Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.13, effective Aug. 30, 1993