

**CITY OF OAK POINT, TEXAS**

**ORDINANCE NO. 2012-05-344**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAK POINT, TEXAS, AMENDING THE CODE OF ORDINANCES BY ESTABLISHING A NEW CHAPTER 1, ARTICLE 1.08, SECTIONS 1.08.001 TO 1.08.059, ENTITLED "CODE OF ETHICS;" ESTABLISHING A CODE OF ETHICS FOR THE CITY OF OAK POINT, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Oak Point, Texas, is a Type A General Law Municipality located in Denton, County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the City of Oak Point 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 City of Oak Point will repeal the City Employee personnel manual to remove the Code of Ethics for City Officials and adopt this Ordinance to provide a standalone Code of Ethics separate from those of the City employees; and

**WHEREAS**, the City Attorney of Oak Point has reviewed the Ordinance and has established the Code of Ethics meets all legal requirements.

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

**Section 1. FINDINGS INCORPORATED**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 2.** That Chapter 1 of the Code of Ordinances of the City of Oak Point, Texas, is hereby amended by adding a new Article 1.08, Sections 1.08.001 to 1.08.059, entitled "Code of Ethics," which shall read as follows:

**"ARTICLE 1.08 CODE OF ETHICS**

**Division 1. Declaration of Policy**

**Sec. 1.08.001 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 Oak Point City Council adopts this Code of Ethics in order to promote confidence in the government of the City of Oak Point, Texas, and thereby enhance the City's ability to function effectively. The Code of Ethics establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to City Officials. This Article also covers other individuals 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 legitimate interests of democracy.

### **Sec. 1.08.002 Definitions**

As used in this Article, 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, as amended.

**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, interlocal 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; or
- (3) The Oak Point Economic Development Corporation, and the Municipal Development District are considered Boards for the purpose of this Code.

**Business Entity.** "Business Entity" means a sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust, unincorporated association, or any other business entity recognized by law.

**City Council or City Council of Oak Point.** “City Council” or “City Council of Oak Point” means the elected governing body of the City of Oak Point, Texas.

**Code of Ethics.** “Code of Ethics,” “Ethics Code,” “this Code,” or “the Code” means Divisions 1 through 7 of this Article.

**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, Texas Government Code, or as amended, “the Act”); any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, (Chapter 551, Texas Government Code, or as amended) regardless of whether disclosure violates the Act and/or the Texas Open Meetings Act; and any information deemed confidential by law.

**City.** “City” or “Oak Point” means the City of Oak Point, Texas

**Consanguinity.** Relationship by “consanguinity” is defined in Sections 573.022 and 573.023 of the Texas Government Code, as amended.

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

**Gift.** A voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary value (such as 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. The term “Gift” excludes an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104 of the Texas Business and Commerce Code, as amended.

**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 other business entities.

**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 Actions.** “Official Action” is defined as any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an Official’s duties.

**Official Information.** “Official Information” is information gathered pursuant to the power or authority of the 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.

### **Sec. 1.08.003 Wording Interpretation**

The gender of the wording throughout this Article 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, Ordinances, or Resolutions of the City of Oak Point, Texas, shall mean as presently enacted or hereafter amended.

## **Division 2. Present City Officials**

### **Sec. 1.08.004 Improper Economic Benefit**

- (a) *General Rule.* A City Official shall not take any Official Action that benefits a Business Entity or real property when the City Official has a substantial interest in the Business Entity or real property of:

- (1) The Official;
  - (2) His parent, child, stepchild, spouse, or other family member within the first degree of Consanguinity or Affinity;
  - (3) His outside Client and/or Customers with any transaction outstanding;
    - (A) Client- A Client is someone with whom the Official has a contractual relationship; a commitment to provide goods 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 for 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 the purchase is transactional in nature, 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 he or his parent, child, stepchild, spouse or other family member within the first degree of Consanguinity or Affinity holds a substantial interest in the Business Entity;
  - (6) A Business Entity which the Official knows, or should know, is an Affiliated business or Partner of a Business Entity in which he or his parent, child, stepchild, spouse, or other family member within the first degree of Consanguinity or Affinity holds a substantial interest in the Business Entity;
  - (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 received and not rejected an unsolicited offer of employment or business opportunity; or
    - (B) Has accepted and received and not rejected an unsolicited offer of employment.
- (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) Disclose the conflict and immediately refrain from further participation in the Matter, including discussions with any persons likely to consider the Matter;
  - (2) Removed himself from the dais or area in which the other City Officials who are voting on the measure are seated; and
  - (3) Promptly file with the City Secretary the appropriate form for disclosing the

nature and extent of the conflict.

**Sec. 1.08.005 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 the 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 second degree by Affinity to any paid position of the City.
  
  - (4) *Real Property Within 200 Feet.* 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 real property within two hundred feet (200') of the Matter before it, such member shall disclose the existence of the interest by filing a conflicts disclosure statement with the record keeper. The member of the City Council, Planning and Zoning Commission, or Board of Adjustments may not speak on the land matter, and must 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) *Nonprofit Organizations.* No City Councilmember 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 part by the City Council.

- (c) *Recusal and Disclosure.* A City Official whose conduct would otherwise violate Section 1.08.005(b)(3) shall adhere to the recusal and disclosure provisions provided for in Section 1.08.004(b) of this Article.

#### **Sec. 1.08.006 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 relation 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;
  - (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 attend;
  - (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 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.

#### **Sec. 1.08.007 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 interest. This rule does not prohibit:

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

#### **Sec. 1.08.008 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 for any person, group, or entity before that Board or body.

(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 interest 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 interest 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.

#### **Sec. 1.08.009 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.

#### **Sec. 1.08.010 Political Activity**

Limitations on the political activities of City Officials are imposed by state law, the City Ordinance, 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 State Law.
- (b) *Paid Campaigning.* A City Official shall not accept anything 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.
- (c) *Official Vehicles.* A City Official shall not display or fail to remove campaign materials on any City vehicle under his control.
- (d) *Limitations on Use of Public Property.* Limitations on the use of public property and resources for political purposes are imposed by Section 1.08.009 of this Article.
- (e) *Exception.* A general statement merely encouraging another person to vote does not violate this Article.

**Sec. 1.08.011 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 provisions in this Article.
- (b) *Using Others to Engage in Forbidden Conduct.* A City Official shall not violate the provisions of this Article through the acts of another.

**Sec. 1.08.012 Interaction with City Staff**

- (a) City Councilmembers' and Board Members' interaction with the City Manager or City 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 may not attempt to coerce or intimidate City employees, interfere with City employees' duties, or otherwise circumvent the authority of the City Manager.

**Sec. 1.08.013 City Council Interaction with General Public**

City Councilmembers and Board Members who interact with the public, press or other entities must recognize the same limitation as expressed in Section 1.08.012 of this Article, and the inability of any City Councilmember or Board Member or group of City Councilmembers or Board Members to speak on behalf of the City Council or Board except when explicitly authorized by the Council, Board, or Ordinance.

**Secs. 1.08.014 to 1.08.019 – Reserved.**

**Division 3. Former City Officials**

**Sec. 1.08.020 Continuing Confidentiality**

A former City Official shall not use or disclose Confidential Government Information acquired during services as a City Official. This Section 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.

**Sec. 1.08.021 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 following 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 law or ordinance.
- (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 interest 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.

**Sec. 1.08.022 Discretionary Contracts**

- (a) Within one (1) year of the termination of Official Duties, a former City Official may not be an employee of the City nor shall the former City Official have a Financial Interest, direct or indirect, in any contract or sales made with the City that are not awarded based upon a competitive bid. A “former City Official” is any person who, immediately prior to termination of Official duties, was:
- (1) The Mayor or a member of City Council;
  - (2) A Municipal Judge or Magistrate; or
  - (3) 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.
- (b) A former City Official may enter into a consulting contract with the City to provide personal services.
- (c) In this section, “Financial Interest” has the same meaning of “substantial interest” as defined in Chapter 171 of the Texas Local Government Code, as amended, and means a Financial Interest in a contract with the City or a sale to the City of land, materials, supplies or services made on a discretionary basis, and that are not awarded based upon a competitive bid 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 or \$15,000 or more of the fair market value of the Business Entity; or
  - (4) A Business Entity of which any individual or entity listed in Section 1.08.022(c)(3) is:
    - (A) A subcontractor on a City contract; or
    - (B) An Affiliated business or Partner.

**Secs. 1.08.023 to 1.08.029 – Reserved.**

#### **Division 4. Members of the Public and Others**

##### **Sec. 1.08.030 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 in violation of the obligations imposed by this

Article.

**Secs. 1.08.031 to 1.08.034 – Reserved.**

### **Division 5. Ethics Review Process**

#### **Sec. 1.08.035 Definitions**

As used in this Division 5, the term “ethics laws” is defined as Chapters 171 and 176 of the Texas Local Government Code, as amended. The term “ethical violation” is defined as a violation of any of those statutes.

#### **Sec. 1.08.036 City Attorney Opinions**

The City Attorney, or independent attorney hired by the City Council to issue to any City Official, upon reasonable request, formal written opinions regarding the applicability of the provisions of the ethics laws to an action the City Official is considering taking in the future.

#### **Sec. 1.08.037 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 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 or law. All paper relating to a pending Complaint is confidential to the extent allowed by law.
- (c) *Notification.* A copy of a Complaint meeting Section 1.08.037(a) of this Article 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 a copy of the ethics rules, and shall be informed that:
- (1) Within fourteen (14) days of receipt of the Complaint, he may file a sworn response with the City Secretary;

- (2) Failure to file a response does not preclude the City Attorney from processing the Complaint;
  - (3) A copy of any responses filed by the person charged in the Complaint will be provided by the City Secretary to the complainant, who may within seven (7) days reply to said sworn response 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) The person charged in the Complaint may request a hearing; and
  - (5) City Officials have a duty to cooperate with the City Attorney pursuant to this Section 1.08.037 of this Article.
- (d) *Assistance.* The City Secretary shall provide information to persons who inquire about the process for filing a Complaint.

**Sec. 1.08.038 Procedure for Complaints Against City Officials**

(a) *Review by City Attorney.*

- (1) Within seven (7) business days after the City Attorney received the Complaint, the City Attorney or independent attorney hired by the City Council (or person designated by the City Council if the Complaint is made against the City Attorney) shall make an initial assessment of the Complaint. The City Attorney or independent attorney hired by the City Council (or person designated by the City Council if the Complaint is made against the City Attorney) shall assume that all facts alleged in the Complaint are true and determine if the facts alleged constitute a violation of this Article.
- (2) After the initial assessment of the Complaint is completed, the City Attorney or independent attorney hired by the City Council (or person designated by the City Council if the Complaint is made against the City Attorney) shall meet with the City Council at its next regularly scheduled meeting to present a written report describing in detail the nature of the Complaint and the assessment of the City Attorney or independent attorney ( or person designated by City Council if the Complaint is against the City Attorney) whether the facts as alleged constitute a violation of this Article. This report shall be made in executive session to the extent allowed by law.
- (3) In an open session of a City Council meeting, a majority of those City Councilmembers not implicated by the Complaint may:
  - (A) Dismiss the complaint based on any of the following grounds:
    - (i) the complaint does not allege facts sufficient to constitute a violation of the ethics laws;

- (ii) the failure of the complainant to cooperate in the review and consideration of the Complaint;
- (iii) the Complaint does not comply with the requirements of filing a Complaint; or
- (iv) the City Attorney or independent attorney (or person designated by City Council if the complaint is made against the City Attorney) concludes that the conduct of the City Official referred to in the Complaint was made in good faith reliance on a written opinion by the City Attorney that concluded that the conduct was not a violation of this Article.

(B) Determine that the Complaint on its face does not state a violation of the ethics laws; or

(C) Determine that the Complaint alleges facts that, if true, are sufficient to constitute a violation of this Article, and refer it for investigation as described in Section 1.08.038(b) below.

(b) *Investigation of the Complaint.*

(1) If a majority of the City Council not implicated by the allegations in the Complaint vote that the Complaint alleges facts sufficient to constitute a violation of this Article:

- (i) The City Attorney or independent attorney (or person designated by the City Council if the Complaint is made against the City Attorney) will, within five (5) business days of such vote by the City Council, appoint an attorney from a list of five (5) attorneys previously selected by the City Council for these purposes, to investigate the allegations in the Complaint;
- (ii) The investigating attorney will have all of the powers of investigation given to the City Council ; and
- (iii) The investigating attorney will have thirty (30) business days (or longer, if extended by a majority vote of the City Council) to conduct the investigation and report back to the City Council.

After investigating the allegations in the Complaint, the investigating attorney will submit to the City Council and the City Official accused of the alleged violation of this Article a comprehensive report detailing the investigating attorney's opinion as to whether a violation of this Article has occurred, and the basis for the opinion.

(c) *Hearing.*

- (1) Within five (5) calendar days after receipt of the report by the investigating attorney, the person accused of the alleged violation of this Article will give written notice to the investigating attorney if he wants a hearing before the City Council.
- (2) If the City Official accused of the alleged violation does not timely request a hearing, the City Council will consider and act upon the investigating attorney's report in open session at a City Council meeting.
- (3) If the City Official accused of the alleged violation wants a hearing before the City Council, the hearing will be heard before the City Council within twenty (20) business days of the date the City Official accused of the alleged violation of this Article. At the hearing each side (a) may be represented by legal counsel; (b) may present documentary evidence relevant to the matter being heard; and (c) may solicit testimony from witnesses and cross examine witnesses presented. To the extent permitted by law, the hearing will be held in open session. The City Council will prescribe the rules of the conduct of the hearing.
- (4) The investigating attorney will represent the City against the person accused of the alleged violation of this Article, and has the burden of proof by a preponderance of the evidence at the hearing.
- (5) After presentation of the evidence, the City Council may retire into executive session to deliberate its decision. The decision of the City Council will be made in open session, and the decision is final.

(d) *Punishment.*

- (1) In the event the City Council determines that a City Official or Former City Official has violated the Code of Ethics, the City Council may impose the remedies available pursuant to Section 1.08.045 of this Article.
- (2) The City Council may not assess a civil fine for an alleged violation of this Code of Ethics.

**Secs. 1.08.039 to 1.08.044 – Reserved.**

## **Division 6. Enforcement Mechanisms**

### **Sec. 1.08.045 Disciplinary Action**

City Officials who engage in conduct that violates this Article may be notified, warned, reprimanded, suspended, or removed from office or employment by the City Council, to the extent allowed by law. Disciplinary action under this Section 1.08.045 may be imposed in addition to any other penalty or remedy contained in this Article or any other law.

**Sec. 1.08.046 Civil Fine, Penalty**

Any City Official or former City Official that violates this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not exceeding Five Hundred Dollars (\$500). Each continuing day's violation under this Article shall constitute a separate offense. This Section shall not preclude the City of Oak Point from filing suit to enjoin the violation. Oak Point retains all legal rights and remedies available to it pursuant to local, state, and federal laws.

**Sec. 1.08.047 Voiding or Ratification of Contract**

If an Ethics Review finds that there has been a violation of any provision in Sections 1.08.004 to 1.08.013; Sections 1.08.020 to 1.08.022; or Section 1.08.030 of this Article 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 Article or any other law.

**Secs. 1.08.047 to 1.08.049 – Reserved.**

**Division 7. Administrative Provisions**

**Sec. 1.08.050 Other Obligations**

This Code of Ethics is cumulative of and supplemental to applicable state and federal law. Compliance with the provisions of this Article 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.

**Sec. 1.08.051 Review of Ethics Code**

The City Council of the City of Oak Point shall appoint an Ethics subcommittee every five (5) years to review this Code of Ethics, and shall report its finding and present its recommendations to the City Council.

**Sec. 1.08.052 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 of Ethics 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 and Chapters 171 and 176 of the Texas Local Government Code, as amended. Such materials and programs shall be designed to maximize understanding of the obligations imposed by this Article.

**Secs. 1.08.053 to 1.08.059 – Reserved.”**

**Section 3. SEVERABILITY CLAUSE**

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

**Section 4. PENALTY CLAUSE**

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense.

**Section 5. SAVINGS CLAUSE**

All rights and remedies of the City of Oak Point, Texas are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

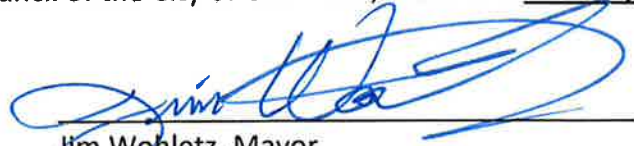
**Section 6. REPEALER CLAUSE**

Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section 7. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED** by the City Council of the City of Oak Point, Texas this **21st day of May 2012.**



Jim Wohletz, Mayor  
City of Oak Point, Texas

[SEAL]



ATTEST:



Amy Bockes, City Secretary  
City of Oak Point, Texas