

ORDINANCE NO. 116

**AN ORDINANCE REGULATING ETHICAL CONDUCT FOR OFFICERS AND EMPLOYEES OF THE TOWN OF HORIZON CITY, TEXAS.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HORIZON CITY, TEXAS, that;

Pursuant to Sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the Town of Horizon City hereby enacts and adopts this ordinance, which regulates ethical conduct for officers and employees of the Town of Horizon City.

**Section 116.010 Policy.**

All city officers and employees have a fiduciary duty to the citizens of the City to be ethical in fulfilling the responsibilities of their positions. At the very least, being ethical includes being disposed to comply with all laws that apply to one's position.

**Section 116.020 Purpose.**

1. Ethical conduct is motivated by sources inside and outside the law. The Texas local government, Election and Penal Codes regulate aspects of the conduct of city officers and employees. However, as ethical conduct is more than complying with state codes, the city strongly encourages all of its officers and employees to maintain the highest personal values and standards. While it is impossible to establish specific and exhaustive standards for all situations, the standards established in this chapter are minimum standards below which no city officer or employee's conduct should fall. This chapter has the following purposes;
  - a. To maintain and improve standards of public service;
  - b. To improve public confidence in the integrity of City government;
  - c. To provide a process by which officers and employees may identify and resolve ethical issues;
  - d. To avoid conflicts between the personal interest and the public responsibilities of City officers and employees;
  - e. To establish minimum standards of conduct to be adhered to by City officers and employees;
  - f. To require disclosure of private financial interests by certain individuals; and
  - g. To provide penalties for failure to adhere to the minimum standards set forth in this chapter.
2. This chapter is cumulative of and supplemental to all applicable provisions of the City Charter, other City ordinances, and State and Federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by the City Charter, other City ordinances, or State or Federal laws or regulations.

## Section 116.030 Definitions.

For the purposes of this ordinance:

1. **"Benefit"** means any economic gain or economic advantage to an officer or employee or to a relative of an officer or employee. "Benefit" does not include;
  - a. Political contributions made or received and reported in accordance with the law;
  - b. Awards, such as plaques, certificates, trophies or similar mementos, publicly presented in recognition of public service.
  - c. A gift or other benefit conferred on account of kinship or personal, professional, or business relationship independent of the official status of the recipient;
  - d. Gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities;
  - e. Commercially reasonable loans made to an officer or employee in the ordinary course of the lender's business;
  - f. Complimentary copies of trade publications;
  - g. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances, or ceremonies related to official City business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity;
  - h. Any economic gain or economic advantage, excluding cash or a negotiable instrument as described by Section 3.104, Texas Business and Commerce Code, conferred by any one person or organization if the economic value totals less than fifty dollars per calendar year; or
  - i. An honorarium, transportation or lodging, the acceptance of which is not prohibited under Sections 36.07 and 36.08, Texas Penal Code.
2. **"Board"** means a board, commission or committee:
  - a. Which is established to participate in some manner in the conduct of city government, including participation which is merely advisory, whether established by City ordinance, City Charter, interlocal contract, State law or any other lawful means; and
  - b. Any part of whose membership is appointed by the City Council, but does not include a board, commission, or committee, which is the governing body of a separate subdivision of the State.
  - c. The City Clerk shall maintain one or more lists of the boards whose members are subject to the various provisions contained in this chapter, and such lists shall be made available to the public during working hours upon request.
3. **"Business days"** means the weekdays excluding City holidays.
4. **"City resources"** means any City asset, including but not limited to facilities, equipment, supplies, software, and personnel services.

5. **"Confidential information"** means any written information that could be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under that act, unless disclosure has been authorized.
6. **"Employee"** means a person employed and paid a salary by the city whether under civil service or not, including those individuals on a part-time basis and including those officially selected for employment but not yet serving; but does not include an independent contractor or City Council Member. For purposes of this ordinance and for no other purpose, the term employee includes volunteers.
7. **"Negotiating concerning prospective employment"** means a discussion between a City officer or employee and another employer concerning the possibility of the City officer or employee considering or accepting employment with the employer, in which discussion the City officer or employee responds in a positive way.
8. **"Officer"** means a member of the City Council and any member of a board appointed by the City Council. It includes any member of a board that functions only in an advisory or study capacity.
9. **"Official city business"** means a purpose or function related to the duties or activities of office or employment.
10. **"Public event, appearances or ceremonies"** means those functions, activities and ceremonies conducted by or for the benefit of any governmental entity; a function, activity or ceremony conducted by a non-profit corporation or similar organization formed for educational, scientific, community-betterment or economic development purposes which relates to the purpose for which the non-profit corporation or organization was formed; or a function, activity or ceremony which honors or recognizes the accomplishments of a political, prominent or public figure.
11. **"Relative"** means a person who is related to an officer or employee as spouse or as any of the following, whether by marriage, blood or adoption; parent, child, brother, sister, aunt, uncle niece, nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, step son-in-law, stepdaughter, step daughter-in-law, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.
12. **"Volunteer"** means an individual who provides service to the City without any expectation of compensation or financial gain and without receiving any compensation or financial gain.

#### **Section 116.040 Standards of conduct.**

Officers or employees:

1. Shall not accept a monetary or equivalent gift. This shall include the Mayor, City Representatives, or Appointed Officials, regarding City business or City matters. Non-monetary gifts may be accepted up to a value of twenty-five (\$25.00) dollars.

2. Shall not accept or solicit, for personal financial gain any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties.
3. Shall not use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives, or others. This provision does not preclude officers or employees from acting in any manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them.
4. Shall not participate in making or influencing any City governmental decision or action in which they know that they have any financial interest distinguishable from that of the public generally or from that of other City officers or employees generally.
5. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person.
6. Shall not use his or her position to secure official information about any person or entity for any purpose other than the performance of official responsibilities.
7. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions. This provision applies to former officers and employees as well as to current ones.
8. Shall not knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the City ordinances, rules or regulations or the achievement of official City programs.
9. Shall not utilize City resources for personal benefit or the personal benefit of a relative, friend or business associate, except to the extent that the benefit received is strictly incidental to the performance of official duties, or to the extent that the person is entitled by law to obtain public services from the city.
10. Shall not transact any business (other than ministerial acts) on behalf of the City with any business entity of which they are officers, agents or members, or in which they have a financial interest. In the event such a circumstance arises, then they shall make known their interest, and;
  - a. In the case of an officer, abstain from voting on the matter and refrain from discussion of the matter at any time with the other member of the body of which he or she is a member and with any other person or body in City government which may consider the matter; and
  - b. In the case of any employee, disclose the matter to an appropriate administrative authority within City government so that reassignment or other suitable action may be taken to remove the employee from any further involvement in the matter.
11. Shall not personally provide services for compensation, directly or indirectly, to a person or organization who is requesting any approval, investigation, or determination from the body or department of which the officer or employee is a member. This restriction does not apply to outside employment of an officer if the employment is the officer's primary source of income.

12. Shall not accept other employment or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the City, or which might impair their independent judgment in the performance of their public duty.
13. Shall not personally participate in a decision of a matter if the officer or employee is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the jurisdiction of the City, and in the case of an employee if it has been determined by the Chief Administrative Officer that a conflict of interest exists. (For purposes of this section, the term "decision" shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term "matter" shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the City). In such instance, the officer or employee shall;
  - a. In the case of an employee, immediately notify the official responsible for appointment to his or her position of the nature of the negotiation or arrangement and, if the Chief Administrative Officer determines that a conflict of interest exists, follow the instructions of the Chief Administrative Officer with regard to further involvement in the matter; or
  - b. In the case of a Board Member, immediately notify the board of which he or she is a member of the nature of the negotiation or arrangement and;
    - i. Refrain from discussing the matter at any time with other Board Members or member of the City Council if the City Council will also consider the matter; and
    - ii. Abstain from voting on the matter; or
  - c. In the case of a member of the City Council, file an affidavit with the city Clerk describing the nature of the negotiation or arrangement, and;
    - i. Refrain from discussing the matter at any time with other Council Members or members of a board that will consider the matter; and
    - ii. Abstain from voting on the matter.
14. Shall not receive any fee or compensation for their services as officers or employees of the city from any source other than the City, except as may be otherwise provided by law. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the City if there is no conflict with their City duties and responsibilities.
15. Shall not, in the case of a member of the City Council or an employee, personally represent or appear on behalf of the private interest of another before the City Council, or any City board or department; or, if the represented person's interest is adverse to that of the city, represent any person;
  - a. In any quasi judicial proceeding involving the City; or
  - b. In any judicial proceeding to which the City is a part;Provided that nothing in this subsection shall preclude;
  - i. A City Council member from speaking or appearing without compensation before the City Council or any board or department on behalf of constituents in the course of his or her duties as an elected official;

- ii. Any employee from performing the duties of his or her employment;
  - iii. Any employee from appearing before the City Council or any City Board or department, in a manner consistent with other City policies and rules, to discuss any general City policies or public issues, including the presentation of viewpoints or petitions of other employees; or
  - iv. A City Council Member or an employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.
16. Shall not, in the case of a Board Member, personally represent or appear on behalf of the private interests of another:
- a. Before the board of which he or she is a member;
  - b. Before the City Council unless the Board Member discloses his status as a Board Member to the council and the representation or appearance does not relate to a matter that was heard or decided by the board of which the Board Member is a member or a board that has appellate jurisdiction over the board of which the Board Member is a member;
  - c. Before a board which has appellate jurisdiction over the board of which he or she is a member; or
  - d. In a judicial or quasi-judicial proceeding to which the City or an employee of the City is a party, if the interest of the person being represented is adverse to that of the City or an employee of the City and the subject of the proceeding involves the board on which the Board Member is serving or the department providing support services to that board.

#### **Section 116.050 Reporting requirements.**

##### **Financial Disclosure.**

1. Each Officer, the Mayor, all Department Heads and the Executive Assistant to the Mayor shall file with the City Clerk, within ten business days after the date of his or her appointment, selection, approval by the City Council or election, a signed, sworn statement disclosing:
  - a. Where, by whom and in what specific capacity that person is employed or self-employed;
  - b. A list of all businesses owned or operated, profit or non-profit.
  - c. Membership on Boards of Directors of corporations, whether organized for profit or not;
  - d. Partnership interests;
  - e. The name and address of any business in which the person has a financial investment, and in the case of mutual funds and other similar pooled investments, the name of the fund or investment. For purposes of this subsection, a financial investment shall not include funds on deposit with financial institutions such as checking and saving accounts, investments in United States saving bonds, and similar investments that earn simple, compounded or money-market interest rates; unless the person has previously been appointed to a position that requires the filing of a financial disclosure



form and the person already has a current financial disclosure form on file with the city clerk.

- f. All person required to file by this section, shall within ten (10) business days of the adoption of this ordinance file a signed and sworn financial statement.
2. Each person submitting a statement of financial disclosure required under this section shall utilize a form provided by the city clerk. Approved forms are attached hereto as Appendix A (long form) and Appendix B (short form).
3. Each person subject to this section shall thereafter file with the City Clerk a signed and sworn financial disclosure statement between October 1st and October 30th of each year while in office or employed by the city, or at any other time in which the person changes his or her primary employment or has made changes in financial investments which cumulatively total more than thirty-five (35%) percent of the person's total investments. Those persons who have no changes to report regarding the information required to be reported, may, in lieu of filing a complete financial disclosure form, file a short form annual report, provided that they have filed a complete financial disclosure form within the previous five years.
4. Each candidate for elective office, and each candidate for a department Head or Executive Assistant to the Mayor position shall be provided with a notice of financial disclosure requirements at the time of application for such office or employment.
5. Only boards whose regulation is pre-empted by Federal or State law are exempt from the financial disclosure requirements.
6. The City Clerk shall, no later than November 30th of each year, prepare a report that notes whether each person subject to the filing requirement of this section has filed the required financial disclosure statement. In the event that a person subject to the filing requirement has not filed his or her financial disclosure statement by the required date or in the event that a person fails to file his or her financial disclosure form within ten business days after the date of their appointment and they do not already have a current financial disclosure form on file, the City Clerk shall send a written notice by certified mail, return receipt requested, with a copy sent by regular mail, to the person to advise the person that the clerk's records indicate that the person is subject to the requirements of this section, the person has not filed a financial disclosure statement as required by this section and that the person has fifteen days from the date of the letter to file his or her financial disclosure statement. If the person is the Executive Assistant to the Mayor or a non-contractual Department Head, the City Clerk will also advise the individual of the failure to timely file the financial disclosure statement will result in their automatic dismissal. If the person is a Department Head or Executive Assistant to the Mayor, the City Clerk may hand deliver the notice required under this section in lieu of mailing it and shall provide a copy of the notice to the Mayor.
7. In the event that a Board Member, contractual Department Head, or the City Clerk fails to file his or her financial disclosure statement by the deadlines required under this section, the following action will be taken:
  - a. The City Clerk shall send a notice to each member of the City Council and the Mayor for their review and consideration regarding the possible removal from

office or employment after thirty (30) days non-compliance, in accordance with section 3.04 and section 4.02 of the City Charter

- b. In the event the non-compliance is the City Clerk, the Mayor may appoint a person to send notification to the City Council.
8. In the event that the Board Member is a City Councilperson, the City Clerk shall send a written notice by certified mail, return receipt requested, with a copy sent by regular mail, to the person to advise the person that the clerk's records indicate that the person is subject to the requirement of this section, the person has not filed a financial disclosure statement as required by this ordinance and that the person has fifteen (15) days from the date of the letter to file his or her financial disclosure statement; and
- a. The City Clerk shall send a notice to each member of the City Council and the Mayor for their review and consideration regarding the possible removal from office after thirty (30) days non-compliance, in accordance with section 3.02 and 3.04 of the City Charter.

#### **Section 116.060 Penalty.**

The failure of any officer or employee to comply with the ethical standards of conduct set forth in this ordinance, which apply to him or her shall constitute grounds for expulsion, reprimand, removal from office, or termination of employment. In the case of a City Council member, the matter shall be decided by a vote of the City Council in accordance with procedures established by the City Charter. In the case of City Board Members, the matters shall be decided by the City Council. The decision of these bodies shall be final.

#### **Section 116.070 Prohibited Acts.**

1. No appointive officer or employee of the City shall continue in such a position after becoming a candidate for nomination or election to any public office.
2. No appointive officer or employee of the City shall make a contribution to the campaign fund of any person seeking election to a City office or to any political party supporting a candidate for election to a City office, nor shall the officer or employee be solicited for this purpose, but the right to express and opinion or cast a vote as a citizen shall not be limited.
3. No person seeking appointment to or promotion in the service of the City shall either directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or on account of or in connection with the appointment, promotion, or examination conducted for appointment or position.
4. Any person who either alone or with others willfully violates any provision of this section shall be ineligible for appointment or election to a position in the City for a period of four (4) years, and if the person is an officer or employee of the City, the person shall immediately forfeit the office or position that he or she holds.



## **CONFIDENTIAL FINANCIAL DISCLOSURE REPORT**

### **(LONG FORM)**

#### **Instructions:**

#### **Do not report:**

1. Federal Government retirement benefits or Social Security benefits.
2. Accounts including certificates of deposit, savings accounts, or any other form of deposit in a bank, savings, and loan, credit union, or similar financial institutions.
3. Money market, mutual funds, or money market accounts.
4. United States Government obligations (including treasury bonds, bills notes, and savings bonds).
5. Government securities issued by U.S. Government agencies of government sponsored corporations, such as TVA, GNMA, and FNMA.
6. IRA's, 401K's, 457's, or like retirement accounts, where account holders do not personally control individual investment interests.
7. The underlying holdings of a trust that 1) was not created by you, your spouse, or dependent children, and 2) the holdings or sources or income of which you, your spouse, and dependent children have no past or present knowledge. An example is a trust created by a relative, from which you receive periodic income, but have no knowledge about its assets.

#### **PRIVACY ACT STATEMENT**

The Town of Horizon City's Ethics Ordinance requires the reporting of this information. The primary use of the information on this form is to determine compliance and conflict of interest with City business. Additional disclosures of the information on this report may be made; (1) to a Federal, State, or local law enforcement agency if the disclosing becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision.

#### **PENALTIES**

Falsification of information or failure to file or report information required, may subject you to removal or dismissal and may also subject you to criminal prosecution.

## WHEN TO FILE:

New Department Heads, Elected Officials, and appointed positions, must file within ten (10) business days after his or her appointment, selection, approval by City Council, or election.

## REPORTING PERIODS:

Each person subject to the Ethics ordinance must file an annual sworn statement between October 1st and October 31st of each year. If you have a long form on file and you have not changed thirty-five (35%) percent of your total investments, you may file a sworn short form as your annual report.

## WHERE TO FILE:

The City Clerk of the Town of Horizon City.

Name \_\_\_\_\_  
Position/Title \_\_\_\_\_  
Address \_\_\_\_\_  
Home Phone \_\_\_\_\_  
Work Phone \_\_\_\_\_

Employer's name, address and phone number \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List of all businesses owned or operated, profit or non-profit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Membership on Boards of Directors, whether organized for profit or not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any partnership interests:

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Business in which you have a financial investment (excluding "do not report" list above).

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Asset and income sources not exempt from reporting:

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**I certify that the statements I have made on this form are true, complete, and correct to the best of my knowledge.**

\_\_\_\_\_  
Signature

Signed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public in and for  
El Paso County, Texas

Reviewed:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPENDIX B

**FINANCIAL DISCLOSURE REPORT**  
(SHORT FORM)

I, \_\_\_\_\_, swear that less than thirty-five (35%) percent of my total investments have not changed since I filed a Financial Disclosure Report, Long Form.

\_\_\_\_\_  
Signature

Signed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public in and for  
El Paso County, Texas

Reviewed:


\_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_


\_\_\_\_\_  
Date: \_\_\_\_\_

This ordinance was duly enacted together with all requisites and formalities incident thereto the enactment of ordinances and such is evidenced by the below signatures.

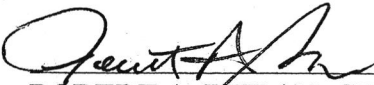
SIGNED and EXECUTED on this 10th day of August, 2004.

  
\_\_\_\_\_  
DIANE WHITTY  
Mayor, Town of Horizon City

ATTEST:

  
\_\_\_\_\_  
SANDRA SIERRA, TOWN CLERK

APPROVED:

  
\_\_\_\_\_  
ROBERT A. DURAN, CITY ATTORNEY  
First Reading: 07/13/04  
Second Reading: 08/10/04  
Approved: 08/10/04