

ORDINANCE NO. 635-D

AN ORDINANCE OF THE CITY OF SOUTHLAKE, TEXAS, AMENDING CHAPTER 2, ARTICLE VI, CODE OF ETHICS AND CONDUCT OF THE CODE OF ORDINANCES OF THE CITY OF SOUTHLAKE, TO AMEND SECTION 2- 265 DISCLOSURE OF INTEREST TO COMPLY WITH CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Southlake, Texas is a home rule city acting under its charter adopted by the electorate pursuant to article XI, section 5 of the Constitution and chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Southlake adopted a Code of Ethics and Conduct applicable to the conduct of officers, employees and board members while acting in their official capacities in representing the City of Southlake which is codified as Chapter 2, Article VI of the Southlake City Code; and

WHEREAS, the City Council of the City of Southlake desires to amend Chapter 2, Article VI of the Southlake City Code to reflect changes in Chapter 176 of the Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTHLAKE, TEXAS:

CITY OF SOUTHLAKE CODE OF ORDINANCES ORDINANCE NO. 635 -D CHAPTER 2,

ARTICLE VI. - CODE OF ETHICS AND CONDUCT

Effective Date: March 21, 1995

Revision Dates: No. 635-A - June 6, 2006; No. 635-8 - October 2, 2007; No. 635-C - November 3, 2015; *No. 635 - D - October 4, 2022*

STATEMENT OF PURPOSE:

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible only to the people of the city. Governmental decisions and policies should be made in the proper channels of the governmental structure. No officer, employee, or member of any board, commission, or committee should have any interest, financial or otherwise, or engage in any business, transaction, or professional activity or incur any obligation of any nature that conflicts with the proper discharge of their duties in the public interest. Public office and public employment are positions of public trust imposing the duty of a fiduciary upon all employees and officeholders, who are not to use their public position for personal gain. The public should have confidence in the integrity of its government. It is the policy of

the City of Southlake to uphold, promote, and demand the highest standards of ethical behavior from its Mayor, members of the City Council, employees, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups

Sec. 2-261. - DEFINITIONS.

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

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

Business entity shall mean any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust. .

City means the City of Southlake

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

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

Family Relationship means a relationship between a person and another person within the third-degree by consanguinity or the second-degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code, as amended.

Gift means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

Knowingly. A person acts knowingly, or with knowledge, concerning the nature of their conduct or to circumstances surrounding their conduct when they are aware of the nature of their conduct or that the circumstances exist.

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

Public servant means the Mayor, members of the City Council, City Manager, Municipal Judge, City Attorney, City Secretary, appointive officers, any member of a board, commission, or other voting body that is established by City government, or by this

Code, and any appointee, any employee, or any individual who provides services to the City within or outside of its offices or facilities under a personal services contract.

Vendor means a person who enters or seeks to enter into a contract with the City. The term includes an agent of a vendor. The term does not include a state agency except for Texas Correctional Industries.

Willful neglect of duty means the intentional failure of a public servant to perform the duties of their office.

Sec. 2-262. – Substantial Interest.

- A. A person has a substantial interest in a business entity if the individual:
- a. Has a controlling interest in the business entity;
 - b. Owns 10 percent (10%) or more of the voting stock or shares of the business entity or ownership of either 10 percent (10%) or more of the fair market value of the business entity (see Section 171.002, Texas Local Government Code, as amended); or
 - c. Received funds from the business entity that exceed 10 percent (10%) of the person's gross income for the previous year (see Section 171.002, Texas Local Government Code, as amended); or
 - d. Holds a position of member of the board of directors or other governing board of the business entity, except as provided by paragraph (2) below: or
 - e. Serves as an elected officer of the business entity; or
 - f. Is an employee of the business entity; or
 - g. Is a creditor, debtor, or guarantor of the entity for \$5,000.00 or more; or
 - h. Has property pledged to the business entity or is subject to an lien in favor of the business entity for \$5,000.00 or more.
- B. A person does not have a substantial interest in a business entity if the individual:
- a. Holds a position as a member of the board of directors or other governing board of a business entity; and
 - b. Has been designated by the City Council to serve on such board; and
 - c. Receives no financial benefit, for their service on such board; and
 - d. Is involved where the primary nature of the business entity is either charitable, nonprofit, or governmental.

- C. Has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of \$2,500.00 or more (see Section 171.002, Texas Local Government Code), as amended.
- D. Has a substantial interest under this ordinance if the person's Family Member has a substantial interest under this chapter (see Section 171.002, Texas Local Government Code), as amended.

Sec. 2-263. - PENALTIES FOR VIOLATION OF ARTICLE; FORFEITED POSITION; EXEMPTIONS; INJUNCTIONS.

- A. It is not the intent of this code that violations be subject to criminal penalties, except where otherwise provided by state law.
- B. Whenever the City Council has determined that any officer, employee, or advisory board member has violated any provision of this article, such officer, employee, or advisory board member may be subject to discipline, including the possibility of forfeiture of their office or position for all non-elected officers or employees. Nothing in this ordinance shall be construed to prohibit such officer, employee, or advisory board member from being re-elected, reappointed, or otherwise rehired to any position forfeited under the provisions of this article.
- C. The City Council may exempt from the provisions of this article any conduct found to constitute a violation by an officer, employee, or advisory board member if it finds that the enforcement of this article with respect to such conduct is not in the public interest.
- D. Any contract or transaction that was the subject of an official act or action of the city in which there is an interest prohibited by this article, or that involved the violation of a provision of this article, shall be voidable at the option of the City Council.
- E. At the discretion of the City Council, the city attorney or designee will have the power if a violation of the provisions of this article is threatened or has occurred, to bring a civil action or proceeding, at law or in equity, for a judgment enjoining any violation of the provisions of this article or requiring the relinquishment of any prohibited interest or the voiding of any such contract or transaction, taking into account the interests of the city and any third persons who may be injured thereby. If the City Council determines that the public interest may best be served by not voiding a contract or transaction entered into in violation of this article, such contract or transaction may be enforced and an action or proceeding may be brought against any officer, employee, or advisory board member found in violation of provisions of this article for damages, not to exceed twice the damages suffered by the city or twice the profit or gain realized by the officer, employee, or advisory board member, whichever is greater.

Sec. 2-264 - STANDARDS OF CONDUCT.

- A. No city officer, employee, or advisory board member, or their spouses and or their children. shall knowingly:
1. Accept or solicit any gift, favor, service, or thing of value from any person, group, or business entity, including a promise of future employment, that might reasonably tend to influence them in the discharge of their official duties or that the officer, employee, or advisory board member knows or should know is being offered with the intent to influence the officer's or employee's official conduct. This prohibition shall not apply to:
 - a. An occasional non-monetary gift, that is not cash, and is insignificant in value; or
 - b. An award publicly presented in recognition of public service; or
 - c. Any gift that would have been offered or given to the officer employee or advisory board member or their spouse and or children if they were not a city officer, employee, or advisory board member; or
 - d. Any travel and related expenses to attend ceremonial functions provided that such acceptance and attendance have been approved by the City Council prior to the occurrence of the ceremonial function.
 2. Grant in the discharge of their official duties any improper favor, service, or thing of value to any person, group, or business entity;
 3. Knowingly disclose any confidential information gained in connection to the position of the officer, employee, or advisory board member concerning property, operations, policies, or affairs of the city, or use such confidential information to advance any personal interest, financial or otherwise, of such officer, employee, or advisory board member, or others. This subparagraph shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct outlined in this article.
 4. Use one's position, office of employment, city facilities, personnel, equipment, or supplies to secure special privileges or exemptions for themselves or others or for the private gain of the city officer, employee, advisory board member, or their spouse and or children.
 5. Engage in any exchange, purchase, or sale of property, goods, or services with the city, except:
 - a. Rendering services to the city as an officer, employee, or

advisory board member.

- b. Paying taxes, fines, utility service, or filing fees;
 - c. Executing and performing any developer's agreement or plat in compliance with laws and regulations applicable to any person; provided, however, if any city ordinance, rule, or regulation allows any discretion by the appropriate officers or employees of the city in the interpretation or enforcement of such ordinance, rule, or regulation, any such discretion shall be exercised in favor of the city in connection with any such developer's agreement or plat;
 - d. Advisory board members who are not otherwise officers or employees of the city, may engage in any exchange, purchase, or sale of property, goods, or services with the city, or enter into a contract with the city, provided that the board on which they are a member has no advisory function or awareness, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.
6. Hold themselves out as representing the city in any capacity other than that for which they were appointed, elected, or hired.
 7. Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independent judgment in the performance of their official duties.
 8. Make or permit the unauthorized use of city-owned vehicles, equipment, materials, or property.
 9. Grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
 10. Conduct any business in their official capacity with the city with a business entity in which they have a substantial interest.
 11. Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
 12. Knowingly perform or refuse to perform any act to deliberately prevent the execution of city ordinances, rules, or regulations or the achievement of official city programs.
 13. Misuse or misappropriate use of city funds.

- B. No officer, advisory board member, or city employee shall knowingly represent, directly or indirectly, any person, group, or business entity:
1. Before the City Council or any department, agency, board, or commission of the city;
 2. In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board, or commission thereof is a party; or
 3. In any action or proceeding in the municipal courts of the city that was instituted by a city officer or employee during their official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.
- C. No former city employee shall, for a period of one year from the date of leaving city employment, knowingly:
1. Appear before any board or commission of the city in relation to any case, proceeding, or application in which they personally participated or which was under their active consideration, during the period of their service or employment.
 2. Represent, directly or indirectly, any private person, including the former employee or any immediate family member, or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission, or board thereof is a party.
 3. Knowingly represent any private person other than themselves, including any immediate family member, or any group or interest in any action or proceeding in the municipal court, which is instituted by a city officer or employee in the course of official duties.
 - a) This subsection shall not be construed to deprive a former employee of the right to due process under the law, including the right to represent themselves in a court proceeding.
 - b) Have any financial interest in the sale to the city of any land, materials, supplies, or service. Any violation of this subsection with the actual or constructive knowledge of the former city employee shall render the contract voidable by the city manager or the city council. This subsection shall not apply to a former city employee whose employment was terminated as part of a reduction in force or to a former employee whose skills or experience are so unique that failure to contract with them would be a detriment to the city as determined by the city manager.

D. The restrictions in this section do not prohibit the following:

1. A city employee, officer, or advisory board member (other than City Council), or their spouse and or children, appearing before the City Council or a city department, agency, board or commission to represent themselves in a matter affecting their property; provided, however, that no such person, or their spouse and or children, shall appear before the board or commission of which they are a member; or
2. A city employee or officer of an employee organization appearing before the City Council or a city department, agency, board, or commission to address employment matters.
3. The restrictions in this section do not apply to business associates of officers, employees, or advisory board members, but only personally to the officers, employees, and advisory board members themselves.

Sec. 2-265. -DISCLOSURE OF INTEREST.

- A. If any city officer, employee, or advisory board member has a substantial interest in a business entity or real property involved in any decision pending before such officer, employee, or advisory board member, or the body of which they are a member, such officer, employee, or advisory board member shall disclose such interest as provided in subsection (e) below and shall not, except as provided in subsection (b) below, discuss the substance of the matter at any time with any other member of the board of which they are a member or any other body that will vote on or otherwise participate in the consideration of the matter.
- B. If any of the following interests or relationships are involved in any decision pending before any city officer, employee, or advisory board member, or the body of which they are a member, such officer, employee, or advisory board member must disclose such interest or relationship as provided in subsection (e) a but they shall be permitted to vote on and participate in the consideration of such matter:
 1. A decision concerning a bank or other financial institution from which the officer, employee, or advisory board member has a home mortgage, automobile loan, or other installment loans if the loan is not currently in default, was originally for a term of more than two years, and cannot be accelerated except for failure to make payments according to the terms thereof;
 2. A decision concerning a bank or other financial institution in which the officer, employee, or advisory board member holds a savings account, checking account, or certificate of deposit and that is fully insured by the U.S. government or an agency thereof;
 3. A decision concerning a business entity with which the officer, employee, or advisory board member has a retail or credit card account;

4. A decision concerning the approval of the substitution of collateral by a city depository bank; and
 5. A decision concerning real property in which the officer, employee, or advisory board member has a substantial interest if it is not reasonably foreseeable that such decision would have a special economic effect on the value of the property, distinguishable from the effect on the public (see Section 171.004, Texas Local Government Code, as amended).
- C. If a City Officer, Advisory Board member, or a City employee, or a family member a City Officer, Advisory Board member, or a City employee, receives one or more gifts that have an combined value of more than \$100 in the twelve-month period preceding the date the City executes a contract with the vendor or considers entering into a contract with the vendor, the City Officer, Advisory Board member, or the City employee must disclose such gift as provided in subsection (f), (g) or (h), as applicable, but they may be permitted to vote on and participate in the consideration of such matter. This requirement shall not apply to gifts accepted by the City Council member, the City Manager, or City employee if the gift is a political contribution as defined by Title 15, Election Code, or food accepted as a guest.
- D. If any of the following relationships exist between a vendor and a City Officer, Advisory Board Member, or a City employee, the City Officer, Advisory Board Manager, or the City employee must disclose the relationship as provided in subsection (f), (g), or (h) as applicable and shall not, in accordance with subsection (a), discuss the substance of the matter at any time with any other member of the board of which they are a member or any other body that will vote on or otherwise participate in the consideration of the matter:
1. The City enters into a contract with a vendor or is considering entering into a contract with a vendor and the vendor has an employment or other business relationship with the City Officer, Advisory Board Member or City employee, or Family Member of the City Officer, Advisory Board Member or City employee, that results in the City Officer, Advisory Board Member, or City employee, or their Family Member, receiving taxable income, other than investment income, that exceeds \$2500 during the 12-month period preceding the date the contract between the City and the vendor is executed, or the date the City considers entering into a contract with the vendor; or
 2. The City enters a contract with a vendor or is considering entering into a contract with a vendor, and the vendor has a Family Relationship with the City Officer, Advisory Board Member, or City employee.
- E. A city officer, employee, or advisory board member shall disclose the existence of any substantial interest in a business entity or real property involved in any decision pending before such officer, employee, or advisory board member, or the body of which they are

a member. To comply with this paragraph, a city officer or advisory board member shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by § 171.004 of the Texas Local Government Code, as amended, or, if not so required, shall publicly disclose in the official records of the body or of the city secretary the nature of the interest. To comply with this paragraph, a city employee shall notify their superior, and the Director of Human Resources in writing of the nature of any substantial interest they may have in a business entity or real property which would be affected by an exercise of discretionary authority by the city employee. The employee's superior shall assign the matter to another employee.

- F. A City Council member, the City Manager, or a City employee shall disclose a relationship as defined in subsections (c) and (d) that exists between the City Council member, the City Manager, the City employee, or Family Member of the City Council member, City Manager, or City employee and vendor by filing a conflicts disclosure statement with the City Secretary as required by § 176.003 of the Texas Local Government Code, as amended. The disclosure statement form is available from the City Secretary. This disclosure shall be filed no later than 5:00 p.m. on the seventh business day after the date on which the City Council member, the City Manager, or the City employee becomes aware of the existence of a relationship as defined in subsections (c) and (d).
- G. An advisory board member shall disclose a relationship as defined in subsections (c) and (g) that exists between the advisory board member, or family member of the advisory board member with a vendor by filing a written statement with the City Secretary on a form promulgated by the City Secretary for that purpose. This statement shall be filed not later than 5:00 p.m. on the seventh business day after the date on which the advisory board member becomes aware of the existence of a relationship as defined in subsections (c) and (d).
- H. An employee of the city who has a relationship as defined in subsections (c) and (d) between the employee, or family member of the employee, with a vendor shall indicate such by filing a written statement with the Director of Human Resources on a form promulgated by the Human Resources Department for that purpose.

Sec. 2-266. - ENFORCEMENT.

- A. The City Council and City Manager shall have the primary responsibility for the enforcement of this article. The Director of Human Resources shall also have responsibility for enforcement of this article as it pertains to employee conduct. The City Council, City Manager, and Director of Human Resources, as appropriate, may direct the city attorney to investigate any apparent violation of the article. Additionally, the City Council may employ or appoint any qualified attorney to investigate any violation or series of violations of this article by one or more persons. At the direction of the City Council, the city attorney shall have the power to

investigate any complaint and to take any action on behalf of the city where such action is appropriate.

- B. Any person who believes that a violation of any portion of the article has occurred may file a complaint with the City Council who may then proceed as provided in paragraph (a) above. However, nothing in this article shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

Sec. 2-267. - ADVISORY OPINIONS.

- A. Where any officer, employee, or advisory board member has a doubt as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, they may apply to the City Manager, Director of Human Resources, and/or Ethics Hotline. The officer, employee, or advisory board member shall have the opportunity to present their interpretation of the facts at issue and of the applicability of provisions of the code before an advisory opinion is made.
- B. Until amended or revoked, any advisory opinion shall be binding on the city, the City Council, and the city attorney in any subsequent actions concerning the public officer, employee, or advisory board member who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

Sec. 2-268. - DISTRIBUTION OF COPIES OF ARTICLE.

The city secretary shall cause a copy of this code of ethics and conduct to be distributed to every officer, employee, and advisory board member of the city within thirty (30) days after enactment of this code. Each officer, employee, and advisory board member thereafter elected, hired, or appointed shall be given a copy before entering upon the duties of their office or employment and shall sign a written statement acknowledging receipt of the copy. A copy of the ordinance shall be provided to each officer, employee, and advisory board member each year.

Sec. 2-269 - SOUTHLAKE CODE OF CONDUCT.

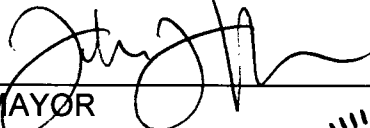
The Council hereby directs the City Manager to maintain a Southlake Code of Conduct to be included in the City Personnel Manual which shall incorporate the provisions of this Code of Ethics and Conduct and proscribe conduct in accordance with adopted Southlake Values.

CONCLUSION

To be a public servant in Southlake is an honor. This includes both employment and voluntary services directly contributing to the quality of life in Southlake. Citizens fortunate enough to serve the city, whether as a general volunteer or as an elected or appointed member of City council, a board and/or commission, will do so with pride, integrity, and with the highest of ethical standards.


This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED on the 1st reading the 20th day of September, 2022.

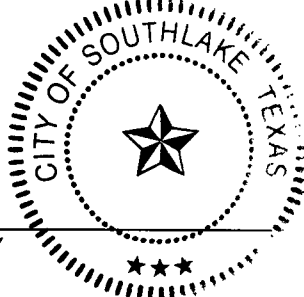


MAYOR

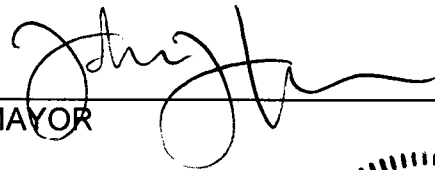
ATTEST:



CITY SECRETARY




PASSED AND APPROVED on the 2nd reading the 4th day of October, 2022.

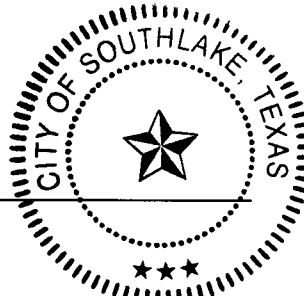


MAYOR

ATTEST:



CITY SECRETARY



APPROVED AS TO FORM AND LEGALITY:

E. Allen Jaffe Jr
CITY ATTORNEY

DATE: 10/4/22

ADOPTED: 10/4/22

EFFECTIVE: 10/8/22