

City of Justin
BOARD OF ETHICS

I. Creation:

There is hereby created a Board of Ethics for the City of Justin.

II. Appointment:

The Board of Ethics shall be appointed by majority vote of the City Council.

III. Number:

The Board of Ethics shall consist of five(5) members and up to three (3) alternates.

IV. Terms:

Board of Ethics members shall be appointed for two (2) year, staggered terms. Members may be reappointed for successive terms. Appointment to fill a vacancy shall be for the remainder of the unexpired term. Members of the inaugural Board of Ethics shall draw straws to determine which (3) members shall receive an initial term of one (1) year in order to stagger terms.

V. Eligibility:

- Must be 18 years of age at the time of application.
- Meet all requirements to be a qualified voter as set forth in the Texas Election Code at the time of application.
- Have resided in the Corporate limits of the City of Justin, or recently annexed territory for at least 12 months immediately preceding application.
- Not have been convicted of a felony offense, or a misdemeanor offense involving moral turpitude from which the person had not been pardoned or otherwise released from the resulting disability (for the purposes of the Home Rule Charter, a crime of moral turpitude shall mean a criminal offense involving fraud, deceit, dishonesty or a criminal offense that is inherently immoral).
- Comply with all other City Ordinances or resolutions that may be applicable.
- No employee of the City shall continue in such position after filing for a position on the Board of Ethics.
- An applicant must resign from any City of Justin Board position which they may currently hold.
- An applicant must provide along with the application for Board of Ethics consent for a background investigation. Such investigation shall be limited in scope to confirm compliance with this section.

VI. Ineligibility:

- Current service as a City Official.
- Separation from city service as a City Official within one (1) year of the appointment.
- Familial relations within the first (1st) degree of affinity (marriage), or the first (1st) degree of consanguinity (blood or adoption), or living within the household of a City Official.
- Current service as an elected official in Denton County.
- Conviction of a felony, or crime of moral turpitude.

VII. Scope of Authority:

The Board of Ethics jurisdiction shall have jurisdiction to conduct investigations and make recommendations on any ethics complaint filed.

VIII. Complaints:

- **Complainants** - Any person who has first-hand knowledge that there has been a violation of the Code of Ethics may allege such violations by submitting a complaint in writing to the Human Resources Department of the City of Justin. A complainant must be a resident of the City of Justin, own real property in the City of Justin, or be an employee or City Official to be eligible to file a complaint with the Board of Ethics.
- **Contents** - A complaint filed under this section must be in writing and under oath and must set forth in simple concise direct statements and must state:
 - a. The name of the Complainant.
 - b. The street or mailing address, email address, and the telephone number of the Complainant.
 - c. The name of the person violating the Code of Ethics. (if more than one person involved, then a separate complaint must be filed).
 - d. The position or title of the person accused of violating the Code of Ethics.
 - e. The nature of the alleged violation, including (whenever possible) the specific provision of the Code of Ethics that has been alleged to have been violated.
 - f. A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred.
 - g. All documents or other material available to the Complainant that are relevant to the allegation.
- **Violation Alleged** - The Complaint must state on its face an allegation that, if true constitutes a violation of the Code of Ethics.
- **Sworn Complaint** - A complaint must state that the Complaint is true and correct or that the Complainant has good reason to believe and does believe that the facts alleged constitute a violation of the Code of Ethics. The Complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

- **Limitations Period** - To be accepted, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of the Code of Ethics. A complaint will not be accepted more than two (2) years after the date of the act or omission.
- **Filing** - Complaints shall be submitted to the Human Resources Department of the City of Justin. Submission of Complaints may be made by hand delivery, U.S. Mail, or emailed directly to the Human Resources Department.
- **Acceptance of Complaint** – Within five (5) business days of receiving a Complaint, Human Resources shall determine if it is administratively complete, and timely.
 - 1). *Administratively Complete:* A complaint is administratively complete if it contains the information described above. If the Complaint is administratively complete, Human Resources shall proceed as described in the Code of Ethics. If the Complaint is incomplete, Human Resources shall send a written deficiency notice to the Complainant identifying the required information that was not submitted.
 - 2). The Complainant shall have ten (10) business days after the date Human Resources sends a deficiency notice to the Complainant to provide the required information to Human Resources, or the Complaint is automatically deemed abandoned and may not be processed in accordance with the Code of Ethics. Within five (5) business days of a Complaint being abandoned, Human Resources shall send written notification to the Complainant.
- **Notice of Acceptance** – Within five (5) business days of determining that a Complaint is administratively complete, Human Resources shall send a written notification of acceptance to the Complainant, Board of Ethics Chairperson, and the City Attorney.

A Complaint shall be considered an Accepted Complaint when Human Resources has deemed the submittal administratively complete and timely.

- **Confidentiality** – A Complaint that has been submitted to the City is hereby deemed confidential until such time as the Complaint is either dismissed or placed on an agenda for consideration by the Board of Ethics in accordance with the Code of Ethics. The Confidentiality created by the Board of Ethics includes the fact that a Complaint was submitted and the contents of that Complaint. It shall be a violation of the Code of Ethics, for a Human Resources, City Attorney, or to publicly disclose information relating to the filing or processing of a Complaint, except as required for the performance of official duties or as required by law.

Requests for records pertaining to Complaints shall be responded to in compliance with the State law. The limited confidentiality created by the Board of Ethics is limited in scope and application by the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code.

- **Ex Parte Communications** – After a Complaint has been filed and during the pendency of a Complaint before the Board of Ethics, it shall be a violation of the Code of Ethics:
 - 1) For the Complainant, or any person acting on their behalf to engage or attempt to engage directly or indirectly about the subject matter or merits of a Complaint in *ex parte* communication with a member of the Board of Ethics or any known witness to the Complaint.
 - 2) For a member of the Board of Ethics, to knowingly allow an *ex parte* communication about the subject matter or merits of a Complaint, or to communicate about any issue of fact or law relating to the Complaint directly or indirectly with any person other than a member of the Board of Ethics, Human Resources, the City Attorney's office or Special Counsel.

IX. Preliminary Assessment:

- **Referral to Chairperson** – Accepted Complaint(s) shall be referred to the Chairperson of the Board of Ethics within (5) business days of being determined an Accepted Complaint.
- **Validity of Complaint** – Within five (5) business days of receiving an Accepted Complaint, the Chairperson will request the Board of Ethics to convene to determine the validity of the Complaint.
- **Board Determination** – Within five (5) business days of being convened the Board of Ethics shall review the Complaint on its face and determine whether the Complaint is an Actionable Complaint, Baseless Complaint or Frivolous Complaint.

Actionable Complaints shall be returned to the Chairperson for listing on an agenda for investigation. Human Resources will notify the person accused in the complaint that the Board of Ethics has received an Complaint and forward the Accused a copy of the complaint. As well as notify both the Complainant and the Accused of the Board of Ethics meeting to investigate the complaint. The accused may submit a written statement to Human Resources prior to the Board of Ethics investigation.

X. Meetings:

- **Called Meetings** – Meetings of the Board of Ethics shall be called upon request of the Chairperson, three (3) members or Human Resources.

- **Quorum** – The quorum necessary to conduct meetings of the Board of Ethics shall be three (3). The Chairperson shall count toward the establishment of a quorum.
- **Hearings** –
 - 1) *Scheduling* – Hearings shall be scheduled by Human Resources upon the filing of:
 - a. A Committee determination that a Complaint is Actionable Complaint.
 - 2) *Purpose* – The Purposes of the hearing(s) shall be solely to determine whether:
 - a. A violation of the Code of Ethics occurred and if so to make recommendations for the appropriate sanction.
 - b. An accepted Complaint is a Frivolous Complaint.
 - 3) *Rules of Procedure*: The Board of Ethics shall adopt rules of procedure governing how to conduct hearings on Actionable Complaints. Such procedural rules are subject to confirmation or modification by the City Council.
 - 4) *Sworn Testimony*: All witness testimony provided to the Board of Ethics shall be under oath.
 - 5) *Burden of Proof*: Because the burden of showing that a violation of the Code of Ethics occurred is placed on the Complainant, it is the Complainant that has the obligation to put forth evidence, including testimony, supporting the Complaint. The complainant is required to testify at the hearing. A complainant’s failure to testify at a hearing shall be grounds for dismissal of a Complaint.
- **Open Meeting** – All meetings and hearings of the Board of Ethics shall be conducted pursuant to the Texas Open Meeting Act. The Board of Ethics may convene in Executive Session (i.e., conduct a closed meeting) as allowed by the act. All final action of the Board of Ethics shall take place in open session.
- **Postponement in Certain Instances** – If a Complaint alleges facts that are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the Board of Ethics may, when a majority of its members deem appropriate, postpone any hearing or any appeal concerning the Complaint until after the criminal investigation or criminal proceedings are terminated.

XI. Disposition:

- **Dismissal** – If the Board of Ethics determines at the conclusion of a hearing by simple majority vote of its members that a Complaint should be dismissed, it may do so upon finding:
 - 1) The Complaint is a Baseless Complaint or Frivolous Complaint.
 - 2) The alleged violation did not occur.
 - 3) The Complainant failed to testify at the hearing.

- **Sanctions** – If the Board of Ethics determines at the conclusion of a hearing that a violation has occurred, it may within ten (10) business days recommend any of the following sanctions:
 - 1) *Letter of Notification* – If the violation is clearly unintentional, or when the Accuser’s action was made in reliance on a written opinion of the City Attorney. A letter of notification shall advise the Accused of any steps to be taken to avoid future violations.
 - 2) *Letter of Admonition* – If the Board of Ethics finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notifications.
 - 3) *A Reprimand* – If the Board of Ethics finds that the violation:
 - A) Was minor and was committed knowingly, intentionally or in disregard of the Code of Ethics.
 - B) Was serious and may have been unintentional.
 - 4) *Recommendation of Suspension*. If the Board of Ethics finds that a violation:
 - A) Was serious and that was committed knowingly, intentionally or in disregard of the Code of Ethics or a state conflict of interest law.
 - B) Was minor but similar to a previous violation by the Person, and was committed knowingly, intentionally or in disregard to the Code of Ethics.

All recommendations by the Board of Ethics shall be transmitted to the Accused, Complainant, Human Resources, City Attorney and City Council.

- **Frivolous:**
 - 1) *Prohibition* – It is a violation of the Code of Ethics for a Person to submit a Frivolous Complaint.
 - 2) *Super-Majority Vote* – If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds (2/3) of its members that a Complaint was Frivolous, the Board may prohibit the Complainant from filing a Complaint with the Board for a period of time up to one (1) year after the date the Frivolous determination was made.
 - 3) *Factors* – In making a determination on frivolity, the Board of Ethics shall consider the following factors:
 - A) The timing of the sworn Complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, and with respect to the date of any pending election in which the Accused is a Candidate or is involve with a candidacy, if any.
 - B) The nature and type of any publicity surrounding the filing of the Complaint, and the degree of participation by the Complainant in publicizing the fact that a Complaint was filed.

- C) The existence and nature of any relationship between the Accused and the Complainant before the Complaint was filed.
- D) If the Accused is a Candidate, the existence and nature of any relationship between the Complainant and any Candidate or group opposing the Accused.
- E) Any evidence that the Complainant knew or reasonably should have known that the allegations in the Complaint were groundless.
- F) Any evidence of the Complainant's motives in filing the Complaint.

XII. Reconsideration:

The Complainant or Accused may request the Board of Ethics to reconsider its recommendations. The request must be filed with Human Resources within five (5) business days of receiving the final opinion of the City Council. The request for reconsideration shall be sent to the Chairperson of the Board of Ethics, and the non-filing party (Complainant or Accused). If the Chairperson finds, in the Chairperson's sole discretion, that the request includes new evidence that was not submitted at a prior hearing, and that the new evidence bears directly on the Board of Ethics's previous recommendation, the Chairperson shall schedule a hearing on the request for reconsideration to occur within thirty (30) days after filing of the reconsideration request. Absent new evidence the Chairperson shall unilaterally dismiss the request for reconsideration and provide the decision to the Parties.