

ORDINANCE NO. 2006- 68

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF McALLEN, CHAPTER 2 ADMINISTRATION, ARTICLE I. IN GENERAL, SECTION 2-1 CITY LIMITS, BY RENUMBERING SUCH SECTION AS SECTION 2-318 AND RENAMING ARTICLE I ETHICS PROVISIONS AND ADDING SECTIONS 2-1 THROUGH 2-4; PROVIDING FOR REGULATION OF CONFLICTS OF INTERESTS OF OFFICERS OF THE CITY OF McALLEN GENERALLY; PROVIDING FOR DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS AND PERSONS DOING BUSINESS WITH THE CITY; PROVIDING FOR THE APPLICATION OF CERTAIN REGULATIONS TO RELATIVES OF OFFICIALS OF THE CITY; PROVIDING FOR OPEN MEETINGS AND OPEN RECORDS TRAINING FOR CITY OFFICIALS; PROVIDING FOR RESTRICTIONS ON POLITICAL CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES AND THIRD PARTIES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.

WHEREAS, the Board of Commissioners believes that public servants, including elected and appointed officials should assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable; and

WHEREAS, the Board of Commissioners believes that public servants, including elected and appointed officials should employ objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and improper influences; and

WHEREAS, the Board of Commissioners believes that public servants, including elected and appointed officials should make decisions that are based on “what is right” rather than “who is right” and in the best interest of the City as a whole.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF McALLEN, TEXAS, THAT:

SECTION I: The Code of Ordinances of the City of McAllen, Chapter 2 Administration, Article I. In General, Section 2-1 City Limits. is hereby amended by renumbering such section as Section 2-318 and Chapter 2 Administration, Article I is hereby amended and shall read in its entirety as follows:

ARTICLE I. ETHICS

Sec. 2-1 Purpose.

The purpose of this Article pertaining to ethics is to establish ethical standards of conduct for elected and appointed board and commission members and designated employees by setting forth those acts or actions that are incompatible with the best interest of the City and by directing disclosure by public officials of private financial or other interests in matters affecting the City. The standards adopted herein are cumulative with State of Texas law, such as conflicts relating to the sale, purchase or subdivision of real property or the designation of depository banks, and Federal law dealing with the conflicts of interest and other official conduct prohibitions and restrictions and all public officials and employees of the City are expected to be familiar with such laws and comply therewith. Other areas dealing generally with the subject of ethics (i.e.: nepotism) may be found in specific policies or ordinances (i.e.: human resources policy) where the ethics subject is more germane to the specific subject matter of City operations covered by the policy or ordinance.

Sec. 2-2 Conflict of Interest and Disclosure Requirements.

(a) This section is applicable to the following Boards, Commissions and officials: Mayor, City Commission, Public Utility Board, Hidalgo/McAllen Bridge Board, Anzalduas Bridge Board, Development Corporation of McAllen, Planning and Zoning Commission, Zoning Board of Adjustments, Building Board of Adjustments and Appeals, Civil Service Commission, and all other Boards or Commissions as listed in Section 2-76 of this Code, Department heads acting in an executive position for such board or commission (hereinafter referred to as "public officials"). This section is also applicable to the public official when also applicable to a family member of the public official defined as a spouse, parent, child or sibling of the public official or the parent, child or sibling of the spouse of the public official (hereinafter referred to as "family members").

(b) No public official shall participate in a discussion, deliberation or vote on any matter coming before the public official or take any action where the public official has independent approval authority, where the public official or his/her family member has a financial, business or property interest that may be effected by action on the matter. The public official is deemed to have a designated interest where the effect on the public official's interest is distinguishable from its effect on the general public. As an example for real property, the public official shall be deemed to have an interest that is distinguishable from the general public where the public official's real property is within 200 feet of the subject matter real property (i.e.: zoning or condition use permit application) or where the public official's real property is located within a specific project subject matter area. Prior to the consideration of any subject matter by the board or commission or by the individual public official, any public official having any of such interests shall disclose the same on a form to be promulgated by the City Secretary. The official conflict of interest form required by Chapter 171 Local Government Code may be used for the purposes of that Chapter and this Subsection.

(c) A public official shall disclose the occurrence of any wages, compensation, distributions, gifts, gratuities and entertainment contributions received by the public official or the public official's family from any person or entity that has submitted a proposal to do business, is doing business or has done business

with the City within the preceding twelve month period from the date that public official becomes aware that such person or entity proposes, is doing or has done business with the City. The term “doing business with the City” includes but is not limited to contracting for sale of goods or provision of services or construction activity, zoning and conditional use applications and real estate sales or purchases. Acceptances of items of nominal value that are clearly tokens of respect or friendship and not related to any particular transaction or activity are not subject to this disclosure requirement. The City Secretary shall promulgate the disclosure forms required to be filed under this subsection and the forms required to be filed under Chapter 176 Local Government Code may be used for the purposes of that Chapter and this Subsection.

Sec. 2-3 Employees Generally

(a) The City Manager is hereby directed to establish and maintain a conflict of interest policy covering the outside employment of City employees that recognizes that employees owe their primary allegiance to the duties and obligations of the City and provides for the directive that employees shall avoid outside activities and conduct that cause conflicts of interests.

(b) The City’s Internal Audit department is hereby directed to establish and maintain an employee fraud detection program in concurrence with the City Manager’s office.

Sec. 2-4 Open Meetings and Open Records Training

(a) Each member of the Boards and Commissions and the respective department heads listed in Section 2-2 (a) of this article shall complete a course of training regarding the responsibilities of the governmental body and the board members under the Open Meetings Act (Chapter 551 Texas Government Code) and the Public Information Act (Chapter 552 Texas Government Code). Each Board or Commission member or department head that has not completed the training as of the effective date of the adoption of this Article shall complete the training within ninety (90) days after the effective date. Training completed under the provisions of Chapters 551 and 552 meets the training requirement hereunder.

(b) The City Secretary of the City of McAllen is hereby designated the Public Information Coordinator for the City of McAllen and all Boards and Commissions of the City of McAllen. In such capacity the City Secretary as the Public Information Coordinator shall complete the training as required under the provisions of Section 552.012 of the Texas Government Code.

(c) The City Secretary and City Attorney, within 180 days after the effective date of this act will provide training to all Board and Commission members and all City Department Heads covering the provisions of this Article. All new Board and Commission members appointed or elected after the effective date of this Article shall be given this training by the City Secretary and the City Attorney’s Office as part of their indoctrination material and presentations.

(d) The Public Information Coordinator may designate a Public Information Specialist who shall have the duty of receipt of Public Information requests and the coordination of responses thereto. The designation of the Public Information Specialist shall be advertised by posting on the City’s website and posting along with other statutory or regulatory required posting relating to the Open Records Act.

- (d) A City official or employee shall not use their position to obtain official information about any person or entity for any purpose other than the performance of official duties.
- (e) A City official or employee shall not disclose any confidential information gained by reason of their position except for a legitimate business purpose relating to City operations or functions which are in the best interests of the City.
- (f) A City official or employee shall not utilize any City information that has not generally been made available to the public for the personal gain of the City official or employee or of any family member or business affiliate of the City official or employee or family member.

Sec. 2.5 Political Campaign Contribution and Expenditure Limitations

- (a) No person, other than a spouse, son, daughter or parent of the political candidate, or political committee shall make a political contribution to a candidate for election to the office of Mayor or City Commissioner of the City of McAllen in excess of \$10,000 for office of Mayor for a regular election and \$5,000 for any runoff election and in excess of \$5,000 for any commissioner office for a regular election and \$2,500 for any runoff election.
- (b) No person as a candidate for election to the office of Mayor or City Commissioner may accept a political contribution from any person, other than a spouse, son, daughter, or parent of the candidate, or political committee in excess of the limits specified in paragraph (a) above.
- (c) No person or political committee may make political expenditures or pay for political advertisings relating to an election for the Mayor or a City Commissioner where the total costs are in excess of the limits specified in paragraph (a) above.

SECTION II: This ordinance shall be and remain in full force and effect from and after it passage by the Board of Commissioners and execution by the Mayor.

SECTION III: The City Secretary of the City of McAllen is hereby authorized and directed to cause the contents of Section I hereof to be published, added and/or deleted in the appropriate location in the Code of Ordinances of the City of McAllen.

SECTION IV: The City Secretary is hereby authorized and directed to cause the caption of this ordinance to be published in a newspaper having general circulation in McAllen, Texas in accordance with the provisions of the Code of Ordinances of the City of McAllen, Section 2-56. **Publication of ordinances.**

SECTION V: If any part or parts of this ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this ordinance is considered severable.

SECTION VI: If any person is found guilty of any violation of the provisions hereof then upon such

conviction such person may be fined in accordance with the provisions of Section 1-14 of this Code.

CONSIDERED, PASSED and APPROVED this 12th day of June, 2006, at a regular meeting of the Board of Commissioners of the City of McAllen, Texas, at which quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

SIGNED this 5th day of July, 2006.

CITY OF McALLEN, TEXAS

By: Richard F. Cortez
Richard F. Cortez, Mayor

ATTEST:

Annette Villarreal
Annette Villarreal, City Secretary

Approved as to form:

James E. Darling
James E. Darling, City Attorney