

Integrity at City Hall: Ethics & Codes of Conduct



City of Socorro
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*If we're being elected to look good,
I'd rather not be there.*

- Former San Antonio Councilman

Agenda

- Resign to Run
- Dual Office Holding
- Conflict of Interest
- Incompatibility
- Nepotism
- Public Disclosures
- Criminal Offenses
- Ethics Ordinances
- Best Practices



Resign to Run

- Texas Constitution art. 3, §19
- By Accepting 2nd Office, Resign from 1st
- If currently hold seat that has more than 1 yr remaining on a term of 3 or 4 years.
- Run for more than one office at a time
- Run for Legislature when hold paid office
- Many exceptions



Dual Office Holding

- Texas Constitution art. 16 §40
- Prohibits Holding More Than One:
 - Civil Office (Sovereign Functions)
 - Of Emolument (\$)
- Applies to all branches of government
- Merely declining to accept pay is insufficient
- Exceptions (e.g., school teachers, municipal judges, reserve police officers, fire fighters)

Conflict of Interest

- Tex. Loc. Gov't Code §171
- Related to Finances and Real Estate
- Substantial Interest:
 - 10% Stock
 - \$15,000 in fmv
 - 10% Income
 - \$2,500 Real Property
- Must **Abstain** (Talking & Voting)
- Must **Declare** (Through Affidavit)



Conflict of Interest- Plats

- Tex. Loc. Gov't Code §212
- Substantial Interest in Subdivided Tract if:
 - Own \$2,500 of land
 - Act as Developer
 - Own 10% Stock of Business
 - 10% of fmv of Business
 - \$5,000 of fmv of Business
 - 10% of Income
- Must File Affidavit & Abstain



Conflict of Interest- Banks

- Tex. Loc. Gov't Code §131
- Bank is not disqualified as Depository unless:
 - One or more officers who have a duty to select the city's depository
 - are officers or directors, or
 - Own 10% of bank's stock



Incompatibility

- Common Law Rule (not Statutory)
- Case-By-Case Determination by Courts
- *Thomas v. Abernathy County Line ISD* (1927)
- Conflict of Loyalties
- Conflict of Duties
- Can't appoint yourself
- Can't be own Supervisor
- e.g., Councilmember can't be City Manager, Mayor can't be on School Board



Nepotism

- Tex. Gov't Code §573
- Can't Bestow Patronage on Relatives
- Mayor & Council's family cannot be hired by City if related within:
 - 2nd degree by affinity (marriage)
 - 3rd degree by consanguinity (blood or adoption)
- Full-Time, Part-Time (but not volunteer)
- Ok if Charter gives Hiring Authority to City Manager

Public Disclosures

- Tex. Loc. Gov't Code §176
- Mayors & Council Members must file
- Conflicts Disclosures Statements
 - Business / Employment Relationships (\$2,500+)
 - Family Relationships (1st Degree)
 - Gifts (\$250+ in 12 mos.)
- When related person is seeking city business

Criminal Offenses-Bribery

- Tex. Penal Code §36.02
- Public Servant violates the law if they
 - Offer, Solicit or Accept
 - Any Benefit as Consideration
 - For a Decision, Opinion, Vote, Recommendation, or Action



Criminal Offenses-Coercion

- Tex. Penal Code §36.03
- Coercion is a Threat (to harm, expose, ridicule)
- Coercion of a Public Servant:
 - A Person Attempts to Influence a Public Servant
- Coercion of a Voter



Criminal Offenses-Obstruction

- Tex. Penal Code §36.06
- Obstruction or Retaliation :
 - Harms or Threatens to Harm
 - Public Servant
 - In Retaliation for Service, or
 - To Prevent or Delay Service



Criminal Offenses-Honorarium

- Tex. Penal Code §36.07
- Gifts for Services:
 - Public Servant Solicits or Accepts
 - Honorarium
 - For Services would not have been requested to provide *but for* official duties or position
- Transportation & Lodging OK if related to speaking event
- Gifts, Awards & Momentos are OK if -\$50

Criminal Offenses-Misuse Info

- Tex. Penal Code §39.06
- A Public Official cannot use
- For Personal Gain or Speculation
- Knowledge acquired by holding public office
- Not available to the general public



Criminal Offenses-Abuse of Office

- Tex. Penal Code §39.02
- Public Servant commits offense if
 - Intends to obtain a **benefit**, or
 - Intends to **harm** or **defraud** another
 - Violates law regarding office held, or
 - Misuses government property, services, personnel, or other belonging to government



Codes of Conduct

- Home-Rule Charters
- Ethics Ordinances
 - Board of Ethics
 - Process & Criteria
 - Reprimands, Punishment
 - Representation of Others
 - Moonlighting
 - Revolving Door
 - Purchasing Rules
 - Vendor Disclosures
 - Lobbying



Best Practices

- Be familiar with the Law
- Learn from other cities (+/-)
- Network with honorable colleagues
- Remember you are part of a team
- Know your place
- Trust your staff
- Do your homework
- Put Your Citizens 1st



