

**ORDINANCE NO. 01-2019**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARION, TEXAS, ESTABLISHING A CITY OF MARION CODE OF ETHICS; REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City desires to create a government that is characterized by moral conduct and foster trust from the citizens of Marion; and

**WHEREAS**, the City Council finds that the Code of Ethics is reasonable and necessary for the good governance of the City; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS, THAT:**

**Part 1. Enacted.**

The Code of Ethics, attached as Exhibit A, is adopted as the official Code of Ethics for the City of Marion.

**Part 2. Repeal of Conflicting Ordinances.**

All ordinances or parts of ordinances and sections of any of the City Ordinances in conflict with this Ordinance are hereby repealed.

**Part 3. Severability.**

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Part 4. Effective Date.**

This Ordinance shall take effect immediately upon its passage and adoption by the City Council.

**Part 5. Open Meetings.**

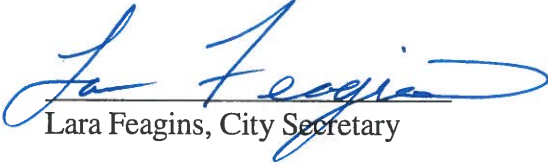
That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required by the Open Meetings Act. Ch. 551, Loc. Gov't. Code.

**PASSED and ADOPTED** this 4<sup>th</sup> day of March 2019.



Bill Seiler, Mayor  
City of Marion, Texas

ATTEST:



Lara Feagins, City Secretary



CITY OF MARION  
CODE OF ETHICS

**TITLE I. ADMINISTRATION**

Sec. 1.01.01 Introduction

- (a) **Title:** This Code and all additional ordinances passed in the future and specifically made a part hereto shall be collectively known and cited as the City of Marion Code of Ethics.
- (b) **Applicability:** This Code applies to City Councilmembers, employees, Commissioners, candidates for the City Council, and volunteers appointed by the Mayor and confirmed by the City Council.

Sec. 1.01.02 Policy Declaration

It is hereby declared to be the policy of the City that the proper operation of democratic municipal government requires that public officials and employees be independent and impartial; that the governmental decisions and policy be made in the proper channels of the governmental structure; that no officer or member of any Commission should have any interest in, or conflict with the proper discharge of public duties; and that public office should not be used for personal gain. To implement such a policy, the City Council deems it advisable to adhere to a Code of Ethics for designated officials, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the City's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

**TITLE II. OFFICIALS**

Sec. 2.01 General Prohibitions

- (a) **Gifts:** It is a violation of this Code for an Official to accept any gift or favor from any person, firm or corporation that might reasonably tend to influence the official in the discharge of public duties or to grant in the discharge of municipal operations any improper favor, service or thing of value. This prohibition does not apply to:
- (1) items cumulatively valued at fifty dollars (\$50) or less per calendar year.
  - (2) honorary items such as plaques, trophies, ribbons, and floral arrangements.
  - (3) entertainment in the form of food, beverages, travel or spectator events at which the recipient is a guest accompanying the host cumulatively valued at fifty dollars (\$50) or less per calendar year.

- (4) donations made to the City as an entity for use on City property or for City events.
- (b) Special Treatment: It is a violation of this Code for an Official to use a municipal position to secure or grant any special consideration, treatment, exemptions or advantage to the official, or to any person that is not available to the general public. This prohibition does not apply to non-monetary, honorary gestures, such as designated parking for officials invited as special guests at civic events.
- (c) Information: It is a violation of this Code for an Official to disclose confidential or privileged information that could adversely affect the property, fiscal affairs, or litigation interests of the City, nor use any information gained by reason of being an Official for one's own personal gain or benefit or for the private interest of others.
- (d) Financial Interest: It is a violation of this Code for an Official to transact any business on behalf of the City in an official capacity regarding any business entity or real property in which the Official has a Financial Interest.
- (e) Compensation: It is a violation of this Code for an Official to directly receive any fee or compensation for municipal services from any source other than the City.
- (f) Hindrance: It is a violation of this Code for an Official to knowingly perform or refuse to perform any act to deliberately thwart the execution of City ordinances, rules or regulations, or the achievement of official City programs.
- (g) Resources: It is a violation of this Code for an Official to use City supplies, equipment, facilities or personnel for any purpose other than the conduct of official City business, unless done so in accordance with a program made available to the general public.
- (h) Appointments and Removals: Neither the Council nor any of its members shall in any manner dictate the appointment, promotion, demotion, discipline or removal of any City employees other than the City Administrator or City Attorney, but any Councilmember may express its views and fully and freely discuss with the City Administrator or City Attorney anything pertaining to appointment and removal of such employees.
- (i) Interference with Administration: The Council shall deal with City employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator. Neither the Council nor any of its members shall give orders to or in any way publicly or privately exercise the influence of their office on any City employee in their official or personal capacity.
- (j) Attorney-Client Privilege: No Mayor or Councilmember shall disclose any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege, and it may only be waived by an affirmative vote of two-thirds of the City Council.

(k) Closed Session: No Mayor or Councilmember shall disclose any information or documentation which was provided during a discussion or deliberation in a closed session of a Council meeting under the Texas Open Meetings Act unless or until such information or documentation is made public by action of the Council.

Sec. 2.02 Representation; Influence

(a) City Councilmember: It is a violation of this Code for a City Councilmember to represent another person before the City Council or Commission. It is also a violation of this Code for a Councilmember to represent any private interest of others in any action or proceeding involving the City or participate on behalf of others in any litigation to which the City might be a party or to accept any retainer or compensation that is contingent upon a specific action taken by the City.

(b) Commissioner: It is a violation of this Code for a Commissioner to represent another person before a Commission of which the Commissioner is a member, or before the City Council or Commission that has appellate jurisdiction over the Commission of which the Commissioner is a member, with regard to matters that may be the subject of specific action by any such body.

(c) Influence: Marion is a Type A general-law municipality. The City Council consists of five aldermen and a mayor. Subject to conflict laws and rules, each of the five aldermen may vote on an item before the Council. The mayor votes in the event of a tie. It is a violation of this section for the mayor, an alderman or an employee, in connection with the representation of private interests before the City, to:

(1) Assert the prestige of the official's or employee's City position for the purpose of advancing private interests; or

(2) State or imply that he or she has authority that such individual does not possess to influence City action in any manner than what is allowed by law.

Sec. 2.03 Concurrent Employment

It is a violation of this Code for an Employee to accept other employment or engage in outside consulting as an independent contractor if such activities are incompatible with the full and proper discharge of the Employee's municipal duties and responsibilities with the City, or which might impair the Employee's independent judgment in the performance of municipal duties. It is incompatible for an Employee to represent or accept employment from any person engaged in a judicial or administrative proceeding adverse to the City. It is incompatible for an Employee to accept employment with a Vendor. Incompatibilities may be waived in writing by the City Council.

Sec. 2.04 Subsequent Employment

It is a violation of this Code for an Employee to, within one (1) year of leaving the City's employment, accept employment or engage in consulting as a contractor representing any person before the City Council, or any Commission in matters related to the particular field of endeavor or area of interest involved in such person's services to the City.

### **TITLE III. MANDATORY DISCLOSURES**

#### Sec. 3.01 Financial Interest

No member of the Council, Commissioner or employee of the City shall have a substantial financial interest, as defined by the Texas Local Government Code as amended, either directly or indirectly in any business entity doing business with the City, contracts with the City, sale of land or any interest in land to the City, or sale of any supplies or services to the City. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved provided such stock ownership amounts to less than ten percent (10%) of the corporation stock or as falls within the scope of Chapter 171 of the Texas Local Government Code as now or hereafter amended. Any willful violation of this Section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. If any corporation or person contracting with the City has knowledge, expressed or implied, that an employee or officer of the City has violated or attempted to violate this Title, and such person or corporation fails to report such violation, the contract(s) such person or corporation has with the City shall be subject to cancellation by the Council.

#### Sec. 3.02 Disclosure

- (a) City Councilmembers and Commissioners must disclose a Financial Interest in any matter pending before a body upon which the Official serves to the City Administrator on a form prescribed by the City Secretary, no later than seventy-two (72) hours prior to City Council action.
- (b) Employees must disclose a Financial Interest in any matter pending before the Employee (in the scope of their employment) to the City Administrator on a form prescribed by the City Secretary.
- (c) Volunteers must disclose a Financial Interest in any matter pending before the Volunteer (in the scope of their position with the City) to the City Administrator on a form prescribed by the City Secretary.

#### Sec. 3.03 Filing of Complaint

- (a) Before a complaint for failure to file a disclosure is referred to the City Council, the City Secretary will notify the subject of such complaint and provide the subject with seven (7) business days to submit the required disclosure. If the disclosure is timely submitted,

the complaint will be administratively dismissed by the City Secretary.

Sec. 3.04 Filing of Disclosures

Financial Interest disclosures required pursuant must be filed with the City Secretary.

Sec. 3.05 Dissemination of Disclosures

(a) Financial Interest disclosures filed by non-Employee Officials shall be distributed by the City Secretary to the mayor, City Administrator, and chairperson of the Commission upon which the official sits (as applicable).

(b) Financial Interest disclosures filed Employees shall be distributed by the City Secretary to the City Administrator.

(c) Disclosures filed pursuant to this Division are public records that are available through the City Secretary in accordance with the Texas Public Information Act.

**TITLE IV. ABSTENTION**

Sec. 4.01 Abstention Required

(a) In the event that a Financial Interest arises under this Code in a matter pending before a body upon which an Official serves or in a matter pending before an Employee, the Official or Employee must abstain from deliberations (discussion and action) on the matter.

(b) If a majority of the members of the body upon which they serve also files disclosures of Financial Interests, Officials are not required to abstain from deliberations.

**TITLE V. REPORT REQUIRED**

(a) A City official, employee, or person subject to this Code of Ethics Ordinance who has knowledge or a reasonable belief of a violation including self-violation, of any of the provisions of this Code of Ethics Ordinance shall report this violation as provided below within a reasonable time after the person has knowledge of a violation. A City official or employee shall not delegate to, or rely on, another person to make the report. Any City official, employee, or person subject to this Code of Ethics Ordinance who has knowledge or a reasonable belief that a violation, including a self-violation, of this Code of Ethics Ordinance has been committed and intentionally fails to report such violation is subject to the penalties herein.

(b) A report made under this section shall be made to:

(1) The City Attorney or his or her designee; or

- (2) The City Administrator or his or her designee.
- (c) A report shall state:
- (1) The name of the City official or employee who believes that a violation of a provision of this Code of Ethics Ordinance has been or may be committed;
  - (2) The identity of the person or persons who allegedly committed the violation;
  - (3) A statement of the facts on which the belief is made; and
  - (4) Any other pertinent information concerning the alleged violation.
- (d) Notice of all reports shall be provided to the City Attorney and City Administrator within two (2) business days of receipt.

#### **TITLE V. CORRECTIVE MEASURES**

##### Sec. 5.01 Sanctions by Council

- (a) Council Action: After discussion by the Council in accordance with the Texas Open Meetings Act, the Council may impose the following sanctions on an Official or Vendor:
- (1) Verbal Reprimand issued orally in open session; or
  - (2) Written Reprimand.

##### Sec. 5.02 Sanctions by City Council upon certain Officials

After discussion by the Council in accordance with the Texas Open Meetings Act, the City Council may impose the following sanctions upon Officials who are not Employees:

- (a) verbal reprimand issued orally in open session;
- (b) written reprimand;
- (c) suspension in the form of a temporary cessation of duties;
- (d) forfeiture of office or position (does not apply to City Councilmembers);
- (e) designation of the Subject as ineligible for hiring to any employment position or appointment to Commission membership; and/or



(f) instruction that the City Prosecutor refer the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

#### Sec. 5.03 Sanctions by City Council upon City Councilmember

After discussion by the Council in accordance with the Texas Open Meetings Act, the City Council may impose the following sanctions upon City Councilmembers:

- (a) verbal reprimand issued orally in open session;
- (b) written reprimand; and/or
- (c) instruction that the City Prosecutor refer the matter to state or federal law enforcement agencies, as may be appropriate, for possible violations of state or federal law.

#### Sec. 5.04 Eligibility

Removal of an Official for violation of this Code shall render the person ineligible to be a Commissioner or Employee of the City for one (1) year.

#### Sec. 5.05 Other Law

The prohibitions and mandates contained in this Code are separate from and in addition to any regulations enacted in the City's personnel policies and state or federal law. Nothing herein shall preclude the City from pursuing enforcement of any applicable state and federal laws.

#### Sec. 5.06 Definitions

In this Code, unless the context otherwise requires, these terms are defined as follows:

*Applicant.* Any person seeking approval of a permit, variance, or other form of approval or municipal authorization from the City.

*Commission.* A City-created citizen advisory board, standing committee, or commission.

*Commissioner.* An appointed member of a City Commission.

*Councilmember.* The Mayor or members of the City Council, whether elected or appointed.

*Employee.* Any person employed by the City as evidenced by the City's payroll records. The term does not include independent contractors or seasonal (temporary) employees.

*Financial Interest.* An economic interest in the form of ownership of stock, ownership

of real property, employment relationship, independent contractor relationship, party status in a judicial proceeding, or party status in an administrative law proceeding. This interest is shared among relatives within the 1st Degree by consanguinity (blood or adoption) and affinity (marriage).

*Official.* A Commissioner, Councilmember, Employee, or Volunteer.

*Party.* A named plaintiff, defendant, petitioner or respondent in a legal matter, or related to a plaintiff, defendant, petitioner or respondent within the 1st Degree by consanguinity (blood or adoption) and affinity (marriage).

*Person.* Any human being, agency, association, company, corporation or partnership.

*Reprimand.* A criticism for violation of the Code of Ethics.

*Subject.* A person alleged in a complaint to have committed a violation of this Code.

*Vendor.* Any person having, or seeking the approval or extension of, an agreement, contract or work order to provide goods or services to the City.

*Volunteer.* A person providing services to the City or acting on behalf of the City who is appointed by the Mayor and confirmed by the City Council.