

ORDINANCE NO. O-2025-215

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III, SECTIONS 2-116, 2-121, AND 2-122 CODE OF ORDINANCES (2018 EDITION), CITY OF ROUND ROCK, TEXAS, REGARDING THE CITY'S CODE OF ETHICS; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:

I.

That Chapter 2, Article III, Section 2-116, Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby amended as follows:

- (b) This code of ethics has four purposes:
- (1) To encourage high ethical standards in official conduct by city officials and employees;
 - (2) To establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city;
 - (3) To require disclosure by such officials, candidates, and employees of private financial or other interests in matters affecting the city; and
 - (4) To serve as a basis for disciplining those who fail to abide by its terms.
- (c) The provisions of this division shall not apply to political contributions, loans, expenditures, reports or regulation of political campaigns, or the conduct of candidates in such campaigns, except as expressly provided herein.

(d) The provisions of this division shall only apply to standards of conduct or disclosures specifically set forth in section 2-118, section 2-119 and section 2-120.

II.

That Chapter 2, Article III, Section 2-121, Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby amended as follows:

Sec. 2-121. - Ethics review commission.

- (a) An ethics review commission is hereby established to be composed of seven members, all of whom shall reside in the city.
- (b) Each commission member shall be appointed by the city council and shall occupy a position on the commission, such positions being numbered 1 through 7.
- (c) The commission members shall be appointed to two-year staggered terms. Positions 1, 3, 5, and 7 shall expire on May 1, 1991, with successive two-year terms, and positions 2, 4, and 6 shall expire on May 1, 1992, with successive two-year terms.

- (d) All vacancies shall be filled for the unexpired term. A member shall hold office until his successor has been appointed by the city council.
- (e) The commission shall elect a chairman and a vice-chairman to one-year terms. The vice-chairman shall act as chairman in the absence of the chairman.
- (f) Four or more members of the commission shall constitute a quorum, but no action of the commission shall be of any force or effect unless it is adopted by the favorable vote of four or more members.
- (g) The commission shall meet at least once a year to review this section and may make recommendations to the city council for amendments hereto.
- (h) The ~~commission-city attorney~~ shall render advisory opinions on potential conflicts of interest or violations of this division at the request of a city official, member of a city or commission, or employee subject to the terms of this division. Such advisory opinions shall be rendered within a reasonable time, but in no event later than 30 days after a request therefor is received by the ~~commission-city attorney~~.
- (i) It shall be a defense to an alleged violation of this division that the person accused previously requested an advisory opinion of the ~~commission-city attorney~~ and acted on such opinion in good faith, unless material facts were omitted or misstated by the person requesting the opinion. Such advisory opinion shall also be binding on the commission in any subsequent charges concerning the person requesting the opinion.
- (j) Independent legal counsel shall be utilized to advise the commission and participate in hearings. This shall include rendering any legal opinions requested by the commission. The city council shall annually designate and retain independent counsel who shall be a duly licensed attorney in the state.

III.

That Chapter 2, Article III, Section 2-122, Code of Ordinances (2018 Edition),

City of Round Rock, Texas, is hereby amended as follows:

Sec. 2-122. – Complaints and Disposition of alleged violations.

- (a) A sworn complaint based on personal knowledge alleging a violation of this division shall specify the provisions of this division alleged to have been violated, and shall name the city official, candidate, or employee being charged.

THE STATE OF TEXAS:

COUNTY OF WILLIAMSON:

TO: THE ETHICS REVIEW COMMISSION OF THE CITY OF ROUND ROCK, TEXAS:

COMES NOW (complainant), and makes this complaint, UPON HIS/HER PERSONAL KNOWLEDGE AND UNDER OATH against (name of person complained against), and would show the Commission that:

On or about the _____ day of _____, ____.

(insert date of the action, or omission, complained of)

_____.

(name of person complained against)

a/an (insert appropriate designation; city official, candidate, employee, board of commission member) of the City of Round Rock, Texas, violated the following provision(s) of Division 3, Code of Ordinances, City of Round Rock, Texas, to wit: (specify by section and subsection number the provision(s) alleged violated), by committing the following act, or omission, to-wit:

(Describe above, the action, or omission, alleged to violate each Code provision cited. You may attach additional pages if more space is required.)

- (b) Upon the aforesaid sworn complaint of any person being filed with the city secretary's office, or on its own initiative, the commission shall consider possible violations of this division by city officials, candidates and employees. A complaint shall not be deemed to be filed on the initiative of the commission save and except the complaint be signed and sworn to by two members of the commission, one of which is the chairman of the commission, after consultation with the legal counsel of the commission. A complaint filed by an individual member of the commission shall be deemed to have been filed in the commission member's capacity as a private citizen and, in such event, the member of the commission filing the complaint shall not thereafter participate in a commission meeting at which such complaint is considered save and except that the commissioner filing the complaint may participate as a complainant at such meeting.
- (c) A complaint alleging a violation of this division must be filed with the city secretary within two years from the commission of the action alleged as a violation, and not afterward.
- (d) Not later than three working days after the city secretary receives a sworn complaint, the city secretary shall acknowledge the receipt of the complaint to the complainant, and provide a copy of the complaint to the city attorney, the independent counsel, ~~the commission~~ and the person complained against. ~~Not later than ten working days after receipt of a complaint, the commission shall notify in writing the person who made the complaint and the person complained against of a date for a preliminary hearing. If the commission does not hold a preliminary hearing within 20 working days of receipt of the complaint, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give him the appropriate notification.~~
- (e) Not later than five working days after the city clerk receives a sworn complaint that is made against a member of the city council, the city manager, the assistant city manager(s) or the city attorney, the independent legal counsel shall review the complaint and issue a written determination to the city clerk and city attorney as to whether the complaint is sufficient or insufficient. For a complaint to be sufficient it must: (i) be in the format set forth in subsection (a); (ii) be timely filed; (iii) complain of the actions of a city official or employee subject to the provisions of this division; and (iv) allege violations that are specifically regulated under this division and invoke the commission's jurisdiction.
- (f) Not later than five working days after the city clerk receives a sworn complaint that is made against any other city official or employee other than a member of the city council, the city manager, the assistant city manager(s), or the city attorney, the city attorney shall review the complaint and issue a written determination to the city clerk and independent legal counsel as to whether the complaint is sufficient or insufficient. For a complaint to be sufficient it must: (i) be in the format set forth in subsection (a); (ii) be timely filed; (iii) complain of the actions of a city official or employee subject to the provisions of this division; and (iv) allege violations that are specifically regulated under this division and invoke the commission's jurisdiction.
- (g) After a determination by independent legal counsel or the city attorney is made that the complaint is insufficient and is received by the city clerk, the city clerk shall notify the complainant within three (3) working days that the complaint has been rejected and provide a copy to the complainant of the determination of insufficiency. No further action will be taken by the city on the complaint.
- (h) After a determination by independent legal counsel or the city attorney is made that the complaint is sufficient and is received by the city clerk, the city clerk shall provide a copy of the complaint and determination of sufficiency to the commission. Not later than ten working days after receipt of the complaint, the commission shall notify in writing the person who made the complaint and the person complained against of a date for a preliminary hearing. If the commission does not hold a preliminary

hearing within 20 working days of receipt of the complaint, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give him the appropriate notification.

- (ei) The commission may consider possible violations of this division on its own initiative. Within seven days of the commission's decision to consider a possible violation of this division, the commission shall draft a written complaint specifying the provisions of this division alleged to have been violated and shall file a copy with the city secretary, and provide a copy to the city attorney, the independent counsel, and the person complained against. Not later than 15 days after the drafting of the complaint, the commission shall notify in writing the person complained against of the date for the preliminary hearing.
- (fi) After a complaint has been filed and during the pendency of a complaint before the commission, a member of the commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the commission; provided that a member may consult with the attorney or the staff liaison for the commission as to process, procedure and legal issues.
- (gk) As soon as reasonably possible, but in no event more than 60 days after receiving a complaint, the commission shall conduct a preliminary hearing.
 - (1) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this division has occurred. The person filing a complaint, or the independent counsel in cases considered upon the commission's own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. Members of the commission may question the complainant, the independent counsel for the commission, or the city official or employee named in the complaint.
 - (2) The city official or employee named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The official or employee may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the official or employee agrees that a violation has occurred, he may so state and the commission may consider the appropriate sanction.
 - (3) The complainant and the city official or employee named in the complaint shall have the right of representation by counsel.
 - (4) At the conclusion of the preliminary hearing, the commission shall decide whether a final hearing should be held, provided the commission may proceed to determine the appropriate sanction if the charged city official, appointee, or employee does not object and admits the charged violation, and the commission determines that there are no fact issues to be resolved. If the commission determines that there are reasonable grounds to believe that a violation of this division has occurred, it shall schedule a final hearing. If the commission does not determine that there are reasonable grounds to believe that a violation of this division has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.
 - (5) The commission, at any time during the preliminary hearing, may also dismiss a complaint if the complaint does not allege conduct which would be a violation of this division. Before a complaint is dismissed for failure to allege a violation, the complainant shall be permitted one opportunity, within ten days of such preliminary hearing, to revise and resubmit the complaint.
 - (6) The complainant, the independent counsel, and the city official or employee named in the complaint may ask the commission at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled.
- (hl) Final hearing.
 - (1) The final hearing shall be held as expeditiously as possible following the determination by the commission that there are reasonable grounds to believe that a violation of this division has occurred, but in no event shall it be held more than 30 days after said determination. The

commission may grant two postponements, not to exceed 15 days each, upon the request of the city official or employee named in the complaint.

- (2) The issue at a final hearing shall be whether a violation of this division has occurred. The commission shall make its determination based on clear and convincing evidence in the record. All witnesses shall make their statements under oath. If the commission determines that a violation has occurred, it shall state its findings in writing, shall identify the particular provisions of this division which have been violated, and within five working days shall deliver a copy of the findings to the complainant, if any, the person named in the complaint and the city secretary.
- (3) If a complaint proceeds to a final hearing, the commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation.

(4) If a complaint is withdrawn by the complainant within 48 hours of a preliminary hearing or a final hearing, the complainant shall be barred from re-filing an ethics complaint against the same city official or employee for substantially the same conduct. It shall be in the discretion of the independent legal counsel and/or city attorney to determine whether the conduct was substantially similar. If the complaint was made against a member of the city council, the city manager, an assistant city manager, or the city attorney, the independent legal counsel shall make the determination. If the complaint was made against any other city official or employee, the city attorney shall make the determination.

(5) The city shall pay reasonable legal fees for legal representation of a city employee complained against if the actions complained about are within his scope of his employment.

(m) *Frivolous complaint.* At the conclusion of the preliminary hearing or the final hearing, the commission may determine that the complaint filed against the subject of the complaint is a frivolous complaint.

(1) For the purposes of subsection (i), a "frivolous complaint" is a sworn complaint that is groundless and brought for the purpose of harassment.

(2) In deciding whether a complaint is frivolous, the commission may consider:

a. The timing of the 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 respondent is a candidate or is involved with candidacy;

b. The nature and type of any publicity surrounding the filing of the sworn complaint, and the degree of participation by the complainant in publicizing the fact that a sworn complaint was filed;

c. The existence and nature of any relationship between the complainant and the subject of the complaint before the complaint was filed;

d. If the subject of the complaint is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the subject of the complainant;

e. Any evidence that complainant knew or reasonably should have known that the allegations were groundless; and

f. Any evidence of the complainant's motives in filing the complaint.

(3) Before making a determination that a sworn complaint against a complainant is frivolous, the complainant shall be heard at the request of the complainant or commission.

(4) By a record vote of a simple majority of those present, the commission may determine that the complaint filed by the complainant is frivolous and may recommend sanctions.

(5) The commission may impose the following sanctions for a frivolous complaint:

a. A civil penalty of not more than five hundred dollars (\$500.00);

Formatted: Font: Italic

Formatted: Indent: Left: 0", Hanging: 0.3"

b. Imposition of attorneys' fees incurred by the city official complained against, the employee complained against, or the city in defense of the employee complained against; and

c. Any other sanction permitted by law.

Formatted: Indent: Left: 0.31", Hanging: 0.56", Tab stops: 0.88", Left + Not at 0.31"

IV.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ and **APPROVED** on first reading this the ____ day of _____, 2025.

READ, APPROVED and **ADOPTED** on second reading this the ____ day of _____, 2025.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

ANN FRANKLIN, City Clerk