

ORDINANCE NO. 18-M-31

AN ORDINANCE BY THE CITY OF SCHERTZ, TX AMENDING CITY COUNCIL CODE OF ETHICS; AMENDING SECTION 3 PROCEDURE FOR CONDUCTING INQUIRIES REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Schertz has previously adopted a Code of Ethics; and

WHEREAS, the City Council through its action taken on August 14, 2018 desires to update the existing City Council Code of Ethics amending Section 3 Procedure for Conducting Inquiries; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend, update, and clarify the Code of Ethics as they relate to dealing with the Procedure for Conducting Inquiries.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:

Section 1. That the City Council Code of Ethics Section 3 be amended as follows:

The role of leading an inquiry of any Council member for any violation or alleged violation of this policy lies with the Mayor, Mayor Pro-Tem, and, if approved by Council, an independent attorney or investigator. If the Mayor is the subject of an inquiry, the Mayor Pro-Tem, or the next ranking official by seniority and, if approved by Council, an independent attorney or investigator will lead the inquiry. The City Attorney shall not conduct the investigation of any Council member.

All Council members ~~who are not the subject of an inquiry~~ have a right to participate in the inquiry process regarding violations or alleged violations and their subsequent enforcement.

Any member of the Council who is the subject of an inquiry shall have the ability to provide a written statement responding to the findings of the inquiry

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such

conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

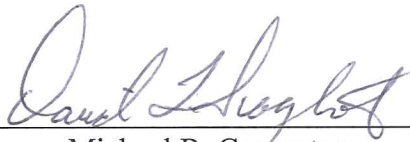
Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.


PASSED ON FIRST READING, the 28TH day of August 2018.

PASSED, APPROVED and ADOPTED ON SECOND READING, the 4th day of September 2018.



Mayor, Michael R. Carpenter

ATTEST:



City Secretary, Brenda Dennis





City Council Code of Ethics

Introduction

The City Council Code of Ethics (the “Codes”) applies only to the members of the City Council: the Mayor, the Mayor Pro-Tem and the other City Council members. Furthermore, all provisions of the Codes apply equally to the Mayor, Mayor Pro-Tem and City Council members, who must follow the content of the Codes as well as the spirit.

It is the policy of the City Council that all of its members shall abide by federal and state law. It is also the policy of the City Council that all of its members shall abide by the provisions set forth in the City Charter and all City ordinances and policies, including the Codes.

Purpose

By adopting these Codes, Council members commit to:

- transparent and accountable governance;
- honest, fair and respectful dealings with fellow Council members, City staff, and the wider community; and
- working together to deliver the best outcomes for the long-term interests of the City.

These standards, together with the ongoing requirement for Council members to abide by Council policies, as they change from time to time, will ensure that public trust and confidence in the City Council is enhanced.

Limitations

The Codes are intended to support, explain or otherwise clarify the articles set forth in the City Charter or to exercise the specific right given to the City Council in the City Charter in Article III, Section 3.01 and Article IV, Section 4.08, to exercise its governmental powers. Nothing in the Codes is intended to contradict or supersede the City Charter or state law.

Procedure

1. Council Member and Board, Committee or Commission Member Interactions
 - a. City boards, committees and commissions are formed in order to provide independent recommendations to Council and, in the case of some commissions, to conduct hearings in order to make determinations, which may or may not be subject to appeal to the Council.
2. Council Members Serving as Council Liaisons
 - a. A Council liaison is a Council member who is specifically assigned to be the liaison between the City Council and a board, committee or commission. The primary role of the liaison is that of facilitator of communications between the



- board, committee or commission and the Council. A Council member who is appointed to sit as a member of a board, committee or commission is not a liaison for purposes of this policy.
- b. A Council liaison shall facilitate communications between the board, committee or commission and the Council. The liaison should not be an advocate for the board, committee or commission, give direction to a board, committee or commission or influence a decision of a board, committee or commission. The liaison may, however, assist and provide guidance to a board, committee or commission with their work plans or agendas.
 - c. A Council Liaison Acts as the:
 - i. Spokesperson on behalf of the Council *when so directed by the Council*.
 - ii. Contact person, if the board, committee or commission (or an individual board, committee or commission member) wants such a channel of communication.
 - iii. Council representative present to identify procedural and structural issues relating to the effective functioning of the board, committee or commission for Council.
 - d. Council Liaison Participation Expectations:
 - i. Attendance is discretionary with the Council member. Attendance as a liaison at a board, committee or commission meetings is not required.
 - ii. Liaisons shall have no vote on the board, committee or commission.
 - iii. Liaison attendance at board, committee or commission retreats is discouraged unless attendance is requested by the board, committee or commission.
 - iv. Liaisons do not have a right to be in attendance at board, committee or commission closed sessions and shall abstain from attending such closed sessions unless invited to attend by the collective board, committee or commission.

Ethical Conduct Rules

1. Ethical Conduct Rules for all City Council Members
 - a. During City Council meetings, City Council members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the City Council.



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- b. During City Council meetings, a City Council member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.
- c. During City Council meetings, a City Council member desiring to question the administrative staff shall address questions to the City Manager, who shall be entitled either to answer the question(s) or designate a member of City staff. Such designation may occur at any time, including prior to a City Council meeting. City Council members shall not berate nor admonish staff members.
- d. During City Council meetings, a City Council member, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, to raise a point of order, procedure or privilege, or unless the speaker chooses to yield to questions from another member. If a City Council member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks so as to comply with rules of the City Council.
- e. During City Council meetings, City Council members shall confine their questions to the particular matters before the assembly, and in debate, shall confine their remarks to the issues before the City Council.
- f. During City Council meetings, when there is more than one speaker on the same subject, City Council members will delay their comments until after all speakers on the subject have been heard.
- g. Council members shall clearly state when he/she has been directed by Council to speak on behalf of the City Council at the meeting of any board, committee or commission. All other commentary offered before a board, committee or commission is deemed to be the personal opinion of the Council member.
- h. Council members shall not speak on behalf of the Council at any place or time unless they have been so directed by the body of the City Council. Any commentary offered at any time, in public or otherwise, is deemed to be the personal opinion of the City Council member speaking.



- i. Council members shall not speak to any board, committee or commission member on any matter that may come before the Council in a manner designed to influence the member.
 - j. No Council member shall privately lobby any member outside of the meetings in an attempt to influence his or her individual vote.
 - k. Any Council member who has testified on his or her own behalf or as a witness before a board, committee or commission on any administrative action which then comes to Council is disqualified from participating as a Council member on the matter *only if there is a legal conflict of interest.*
2. Confidentiality of Information Shared in Closed Session
- a. Council members should keep all matters discussed in closed session confidential.
 - b. Any Council member who is found to have violated State Law with regards to the conduct of closed sessions shall be deemed to have violated the Codes.
3. Individual Members of Council Providing Direction or Instruction to the City Manager or Staff
- a. Only the City Council, acting as a body, is permitted to provide direction and instruction to the City Manager, City Secretary, City Attorney or the City Judge (or Judges) regarding any matter confronting the City, whether policy-related or otherwise.
 - b. No member of Council (specifically including the Mayor, the Mayor Pro-Tem and the individual Council members) shall, at any time, give individual instruction to, attempt to define policy for, or make any demand of the City Manager, City Secretary, City Attorney or the City Judge (or Judges) or any member of staff.
 - c. No member of Council shall attempt to influence the City Manager, City Secretary, City Attorney, City Judge (or Judges) or any member of staff to circumvent City rules, policies or ordinances.



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- d. Any member of Council may, of course, at any time, make requests of the City Manager, City Secretary, City Attorney or the City Judge (or Judges) or any member of staff for information, assistance, or other help as may be necessary, so long as no orders, threats, promises, intimidations, or ultimatums, explicit or implicit, are issued.
- e. The single exception to this rule is that in times of emergency lawfully declared by the Mayor, the Mayor may act independently as to matters of urgent need until a meeting of the Council, in quorum, can be called.
- f. Any member of Council giving individual instruction or making a demand of the City Manager, City Secretary, City Attorney or the City Judge (or Judges) or any member of staff, with the exception of times of emergency lawfully declared by the Mayor, during which time the Mayor may act independently until a meeting of the Council, in quorum, can be called, shall be deemed to have violated the Codes.

4. City Council Media Communication Guidelines

- a. Effective media relations best serve the City by providing accountability to the public and transparency of government, ensuring accurate information is conveyed to the public, establishing and maintaining an accurate public perception of the City; informing residents of City programs and services, and promoting the City's achievements, activities and significant events.
- b. Council Members and the Mayor have been elected to represent our community and are free to speak to the media on any subject. This policy and its included guidelines are intended to ensure that accurate consistent information is provided to the media and that City Council's integrity and professional image is preserved.
- c. Guidelines:
 - 1. Council Members and the Mayor have the right to express personal opinions on any issue, but must make it clear that they are speaking for themselves, are not speaking in an official capacity for the City, and are not speaking on behalf of City Council, unless the position has been adopted by the City Council;
 - 2. All conversations with a member of the media should be treated as on the record.
 - 3. Where time permits City Council members and the Mayor should communicate with the City's Public Information Officer prior to interviews with the media; otherwise all interviews with a member of the media should be reported to the



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City's Public Information Officer as soon as reasonably possible after the interview.

4. There are certain highly sensitive issues that may require greater discretion when speaking to media. These issues include:
 - i. Legal issues, including liability issues and pending litigation;
 - ii. Personnel issues, including those surrounding existing and former employees;
 - iii. Questions that involve police or fire investigations; or
 - iv. A community-wide situation or emergency.

It is highly encouraged that City Council members and the Mayor contact the City Manager for any relevant information prior to commenting on such matters.

Violations

1. Violation of the Code of Ethics
 - a. Council members are expected to abide by the Codes at all times.
 - b. Any Council member not adhering to the Codes shall be in violation of said Codes.
2. Violations of Provisions of the City Charter
 - a. Council members are expected to abide by the articles set forth in the City Charter.
 - b. Any Council member who acts in violation of or in a manner inconsistent with the provisions of the City Charter shall be deemed to have violated the Codes.



3. Violations of Law or Policy by Council Members

Depending on the circumstances of alleged violations of law or policy, the Council may initiate an investigation of the allegations prior to the filing of a request for any of the actions described in this policy.

Nothing in this policy shall preclude individual Council members from making public statements regarding such alleged conduct.

In deciding whether or not to open an investigation (whether pursuant to these rules or pursuant to Article IV, Section 4.10 of the City Charter), City Council should consider:

- a. whether a Council investigation may compromise other investigations regarding the same alleged actions, and, if the actions may result in criminal charges, whether the right of the accused Council member to a fair jury trial may be compromised by proceeding with an investigation;
- b. if persons involved in the allegations may choose to exercise their constitutional right against self-incrimination, which may limit the investigation's ability to present a full picture of alleged events; and
- c. how to ensure the protection of rights of those accused of violations of law or policy, those making such accusations, and those who have information regarding the accusations.

At any point during any of the processes described in this policy, the Council may refer the matter, as appropriate, to the Bexar, Comal or Guadalupe County District Attorney, the Texas Elections Commission, or to another law enforcement agency, for investigation. Following such a referral, the Council may proceed with any actions it chooses to take under the provisions of the City Charter.

Reporting Violations

Any suspected violation or alleged violation by a Council member must be reported to the Mayor. Any suspected violation or alleged violation by the Mayor shall be reported to the Mayor Pro-Tem and the City Attorney. In the case of a City staff member making the report regarding a Council member, the report shall be made to the City Manager, who will then report it to the Mayor. Upon report, the City Manager and City Attorney will assist the Mayor (or the Mayor Pro-Tem regarding a report concerning the Mayor) in following the procedures addressing violations or alleged violations.



Procedure for Conducting Inquiries

The role of leading an inquiry of any Council member for any violation or alleged violation of this policy lies with the Mayor, Mayor Pro-Tem, and, if approved by Council, an independent attorney or investigator. If the Mayor is the subject of an inquiry, the Mayor Pro-Tem, or the next ranking official by seniority and, if approved by Council, an independent attorney or investigator will lead the inquiry. The City Attorney shall not conduct the investigation of any Council member.

All Council members have a right to participate in the inquiry process regarding violations or alleged violations and their subsequent enforcement.

Any member of the Council who is the subject of an inquiry shall have the ability to provide a written statement responding to the findings of the inquiry.

Enforcement of Violations

The members of City Council have the obligation to govern themselves responsibly in the enforcement of any violation of this policy. The objective for establishing rules of enforcement pertaining to this policy is to provide fair, consistent, concise, and efficient guidelines for the use of enforcement against violations of this policy. As a general matter, enforcement of this policy may be progressive, but circumstances may indicate that strong actions be taken immediately. Furthermore, Council is not bound to the enforcement guidelines of this policy, and should make decisions on a case-by-case basis. City Council, as a collective body, may change the order of the disciplinary steps listed below, or may choose not to use any step, depending on the circumstances under review.

City Council members may take any appropriate disciplinary action including, but not limited to:

- Cautioning
 - Cautioning is identified as a verbal reprimand due to a violation of the policy. The cautioning is only a verbal reprimand and shall not be recorded.
 - A cautioning shall only be administered in private by the Mayor with only one (1) member of Council present. If the Mayor is receiving the cautioning, it shall be administered in private by the Mayor Pro-Tem with only one (1) member of Council present.

- Correction




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- Correction is identified as a verbal reprimand due to multiple policy violations. The correction of any Council member, including the Mayor, will not be administered in writing and shall be conducted in accordance with the Open Meetings Act.
 - A quorum of Council plus one (1), including the corrected Council member, shall be present during the correction of another Council member.
 - The City Attorney shall be notified of the correction before the correction is administered and the City Attorney shall be present during the administration of the correction.
- Censure
 - The act of placing a Council member under censure is an official and public reprimand of a City Council member by the body of the City Council for multiple and/or serious infractions against the City Council Code of Ethics. Therefore, City Council Members who are placed under censure are considered to be 'not in good standing' with the body of the Council.
 - The censure of any Council member, including the Mayor, shall be administered in writing.
 - Censure may last up to sixty (60) days or as appropriately defined by City Council on a case by case basis.
 - At the end of the censure period, the censure has expired and shall not be extended.
 - A Council member placed under censure may return to a good standing status once their censure period has ended.
 - The body of the City Council may determine to end the censure period of a Council member prior to the conclusion of said period at their discretion.
 - All censure hearings shall be conducted in accordance with the Open Meetings Act.
 - Because censures are administered in writing, a censure must be publicly voted on in open session of City Council. The censure of any Council member must be passed by a 2/3 supermajority vote.

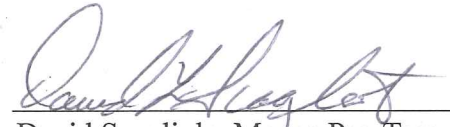


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The following Members of Council have received and agreed to place their signatures on this adopted document this 4th Day of September 2018.




Michael R. Carpenter, Mayor



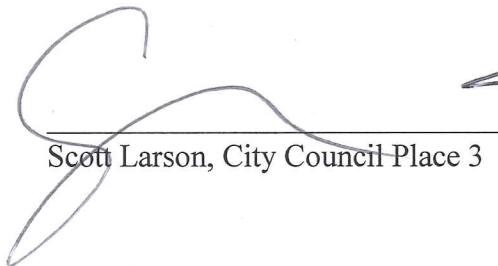
David Scagliola, Mayor-Pro-Tem,
City Council Place 5



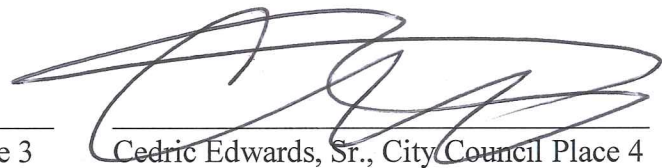
Mark Davis, City Council Place 1



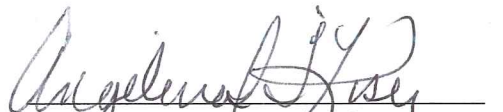
Ralph Gutierrez, City Council Place 2



Scott Larson, City Council Place 3



Cedric Edwards, Sr., City Council Place 4



Angelina Kiser, City Council Place 6



Bert Crawford, City Council Place 7