

**CITY OF KEENE, TEXAS**

**ORDINANCE NO. 2024-668**

**AN ORDINANCE OF THE CITY OF KEENE, TEXAS AMENDING THE CITY OF KEENE CODE OF ORDINANCES, TITLE III, “ADMINISTRATION,” BY ADDING A DIVISION 6. ENTITLED “CODE OF CONDUCT”; PROVIDING FOR PURPOSE; PROVIDING FOR TITLE AND APPLICATION; PROVIDING DEFINITIONS; PROVIDING STANDARDS OF CONDUCT; PROVIDING FOR ADDITIONAL STANDARDS; PROVIDING FOR DISCLOSURE OF SUBSTANTIAL INTEREST; PROVIDING FOR COMPLAINTS AGAINST OFFICERS; PROVIDING FOR VIOLATIONS; PROVING FOR ADOPTION OF STATE STATUTES; PROVIDING FOR LIMITATIONS; PROVIDING FOR INTERPRETATION OF CONTENT; PROVIDING FOR CHARTER CONTROLS; PROVIDING FOR ACKNOWLEDGMENT OF CODE OF CONDUCT; PROVIDING A REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Keene is a duly organized political subdivision of the State of Texas engaged in the provision of municipal government and related services for the benefit of the citizens of the City of Keene, TX; and

**WHEREAS**, the City of Keene desires to ensure that the conduct of its appointed board members and elected officials are of the highest integrity and order; and

**WHEREAS**, the City of Keene City Council finds and determines that the adoption of a code of conduct for appointed board members and elected officials of the City will be in the best interests of the citizens of Keene.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF KEENE, TEXAS, THAT:**

**SECTION 1.** All the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** From and after the effective date of this Ordinance, the City Council of the City of Keene, Texas, hereby amends Title III, “Administration” of the City of Keene Code of Ordinances by adding a Division 6 entitled “Code of Conduct” to read as follows:

**“DIVISION 6. -CODE OF CONDUCT**

**Sec. 30-70. Purpose.**

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the city; that no officer shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business,

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transaction or professional activity to conflict with the proper discharge of their duties in the public interest; that public office not be used for personal gain; and that the city council at all times shall be maintained as a nonpartisan body; and that public officials act with civility and respect to one another, city staff and the public. To implement such a policy, the city council deems it advisable to enact a code of conduct for all officials, whether elected or appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, 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, the overriding interest being that such officers of the city shall at all times strive to avoid even the appearance of impropriety.

**Sec. 30-71. Title; application.**

- (a) This article shall be known as the code of conduct.
- (b) This code of conduct shall apply to all officials as defined herein.
- (c) This code of conduct does not apply to employees, including those individuals employed on a full-time, part-time or internship basis nor to independent contractors of the city. The standards of conduct for employees are governed by the Keene Personnel Manual and City Charter.
- (d) This code of conduct does not apply to members of city boards, committees or commissions who do not exercise quasi-judicial responsibilities or responsibilities beyond those that are advisory in nature.

**Sec. 30-72. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them herein, except where the context clearly indicates a different meaning:

*Benefit* means anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

*Business entity* means any person, entity, corporation (whether for-profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the city. Business entity also includes any business entity that represents a party conducting or seeking to conduct business with the city.

*Confidential information* means any information to which an official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge.

*Contract* means any lease, claim, account or demand against or agreement with any person, whether express or implied, executed or executory, oral or written.

*Corporation* means any corporation that has a board of directors appointed in whole or in part by the city council.

*City* shall mean the City of Keene, Johnson County, Texas.

*City council* means the governing body of the city, consisting of the mayor and city council members.

*Knowingly* means a person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to

a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

*Employee* means any person employed by the city, including those individuals on a part-time or internship basis, but does not include independent contractors.

*Gift* means anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions which are regulated by federal, state, and/or local laws or ordinances, nor does it include the receipt or acceptance of things of value presented to officials as groups or sub-groups.

*Officer or official* means any member of the city council and any appointed member of a city board, commission, corporation, or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the city council, who exercises responsibilities beyond those that are advisory in nature. Such term shall include the members of the planning and zoning commission, the board of adjustment, the building standards commission and fire board. Such term also includes the members of the board of directors of the Keene Economic Development Corporation, and the Keene Community Development Corporation because such boards are authorized to expend local sales tax revenue pursuant to the Development Corporation Act of 1979, Vernon's Ann. Civ. St. art. 5190.6.

*Special privileges* means a right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

*Substantial interest* means (i) the ownership of ten (10) percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten (10) percent or more, or fifteen thousand dollars (\$15,000.00) or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten (10) percent of the person's gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than fifteen thousand dollars (\$15,000.00) does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of two thousand five hundred dollars (\$2,500.00) or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.) An officer is considered to have a substantial interest under this code of conduct if a person related to the officer in the second degree of consanguinity or affinity has a substantial interest under this code of conduct.

### **Sec. 30-73. Standards of conduct.**

No officer of the city shall:

- (1) Fail to file a conflicts disclosure statement as is required by V.T.C.A. chapter 176, Texas Government Code.
- (2) Participate in a vote or decision on any matter in which the officer has a substantial interest as is prohibited by V.T.C.A chapter 171, Texas Government Code.
- (3) Represent or appear in behalf of private interests of others before the city council, or any agency, board, commission, corporation, or committee of the city, nor shall represent any private interests of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city is or might be an adverse party.

- (4) Accept any gift from any person that might reasonably tend to influence such officer in the discharge of such person's official duties. The prohibition against gifts shall not apply to:
  - a. A lawful campaign contribution;
  - b. An honorarium in consideration for services unless the officer would not have been asked to provide the services but for the officer's position;
  - c. Meals, lodging, transportation in connection with services rendered by the officer at a conference, seminar or similar event that is more than merely perfunctory;
  - d. Complimentary copies of trade publications and other related materials;
  - e. Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
  - f. Any gift which would have been offered or given to the person if such person was not an officer or employee of the city;
  - g. An occasional item with a value less than fifty dollars (\$50.00);
  - h. Tee shirts, caps and other similar promotional material;
  - i. Meals, transportation and lodging in connection with a seminar or conference at which the officer is providing services;
  - j. Gifts on account of kinship or a personal, or professional, or business relationship independent of the officer's status;
  - k. Complimentary attendance at political or charitable fund raising events; and
  - l. Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public events.
- (5) Use such person's official position to secure special privileges or benefits for such person or others.
- (6) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.
- (7) Disclose confidential information.
- (8) Engage in any outside activities which will conflict with or will be incompatible with such person's official position or duties as an officer of the city.
- (9) Use city supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance or city policy.
- (10) Act as a surety on any official bond required for any officer or employee of the city, or for a business that has a contract, work or business with the city.
- (110) Violate any provision contained in the city council rules of order and procedures adopted by the city council.

**Sec. 30-74. Additional standards.**

- (a) No member of the city council, the board of directors of the Keene Economic Development Corporation and the Keene Community Development Corporation who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city council.
- (b) With the exception of those proceedings allowed under this article, no member of the city council shall personally appear in such person's own behalf before the city council, or any city board, commission, corporation or committee but may designate and be represented by a person of their choice in any such personal matter.
- (c) No member of the city council, the planning and zoning commission, or board of adjustment shall participate in, or vote on, any land use matter (e.g. zoning, variances, plats, permits) in which such officer has a substantial interest in any real property within two hundred (200) feet of the real property, the subject of the land use matter.
- (d) Each member of the city council will conduct themselves publicly and privately in a manner that is representative of a public servant and beneficial to the city, and will not permit the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on fellow councilmembers, City staff, or anyone who works in any capacity related to the city.
- (e) Each member of the city council will not act, base any decision on, or falsely allege against fellow councilmembers that their actions are motivated by, discrimination or prejudice based on race, sex, religion, or national origin.
- (f) Each member of the city council will not post on social media any information that misrepresents, distorts, or otherwise falsifies the facts, nor will any member of the city council use malicious or unfounded accusations that aim at creating or exploiting doubts in the public's mind about the personal integrity of fellow councilmembers.
- (g) Each member of the city council will not harass, intimidate, bully, or use any other threatening, disruptive behavior toward councilmembers, city staff or anyone that they have authority over.

**Sec. 30-75. Disclosure of substantial interest.**

Any officer, who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the officer is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest, and shall abstain from further participation in such matter. The affidavit shall be on a form provided by the city and must be filed with record keeper for such body, board, commission, corporation or committee.

**Sec. 30-76. Complaints against officers.**

All complaints or allegations of a violation of this code of conduct against an officer shall be made in writing on a form provided by the city, sworn to before a notary public, and filed of record with the city secretary. Such complaint shall describe in detail the act or acts complained of and the specific section(s) of this code of conduct alleged to have been violated. A general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein; and anonymous complaints shall not be considered. The city secretary shall provide a copy of the complaint to the affected officer, city council and immediately refer the complaint to the city attorney, who shall initially review the complaint to determine if the complaint contains sufficient detail and alleges a violation of the code of conduct. The affected officer may file a written response to the complaint within seven (7) business days after the complaint is filed with the city secretary, who shall forward the response, if any, to the city attorney.

The city attorney shall submit a written report to the council as soon as possible but not later than fifteen (15) business days after the receipt of the complaint, unless an extension is granted by a majority of the non-implicated councilmembers. The city attorney may contact the complainant, interview witnesses, and examine any documents necessary for the report. Such report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the city attorney's opinion as to whether a violation of this code of conduct occurred. When the city attorney receives a vague complaint or one lacking in detail, the city attorney shall contact the complainant to request a written clarification. If the complainant fails to provide the city attorney with written clarification, or if after written clarification is provided, it is the opinion of the city attorney that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the code of conduct, a written report to that effect shall be submitted to the city council. If the city attorney determines that a criminal violation may exist, the city attorney shall refer the matter to the appropriate law enforcement agency.

If it is determined by the city attorney that the facts as alleged could constitute a violation of this code of conduct, then the city attorney shall, within fifteen (15) business days after receipt of the complaint, notify the mayor and council members of the existence and nature of the complaint. The mayor or any two (2) members of the city council may cause a meeting of the city council to convene, whether regular or special, within fifteen (15) business days after being so notified by the city attorney to further consider said complaint in executive session. In any event, the city attorney shall immediately proceed to fully investigate the alleged improprieties. For purposes of this investigation, the city attorney shall have all of the powers of investigation as are given to the city council by reason of the City Charter and shall report back to the city council as soon as possible but in no event more than fifteen (15) business days from the date of notification of the city council unless an extension is granted by the city council. Said report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the city attorney's opinion as to whether a violation of this code of conduct occurred. The city attorney has the same power to subpoena witnesses and the production of documents, books, records, and other evidence as are given the city council under the City Charter when acting pursuant to this subsection.

The city council shall consider the complaint and the city attorney's report at an executive session of the city council. The affected officer may request that the complaint be considered in a public meeting. At such meeting, the city attorney shall present a written report to the city council describing in detail the nature of the complaint and the city attorney's findings and conclusions as to a possible violation of this code of conduct. The affected officer shall have the right to a full and complete hearing before the city council with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated councilmembers in attendance shall conduct a hearing and review the complaint. The city council may reject the complaint or take action authorized by Section 30-77.

No action or decision with regard to the complaint shall be made except in a meeting which is open to the public.

The city council may appoint outside legal counsel or may direct the city attorney to appoint outside legal counsel, or the city attorney in the city attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the city attorney under subsections of this section. The outside legal counsel shall have the same power to subpoena witnesses and the production of documents, books, records, and other evidence as the city attorney under this section when acting pursuant to this section.

A complaint or allegation of a violation of this code of conduct may only be made against an officer while such person holds such position or office. A complaint made against an officer pursuant to this section shall be processed and resolved unless such person resigns from, or ceases to hold such position or office, prior to resolution of the complaint.

**Sec. 30-77. Violations.**

The city council may take any one (1) or more of the following actions in an open meeting concerning a complaint:

- (1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.
- (2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations.
- (3) Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification.
- (4) Issue a reprimand when a violation has been committed knowingly or intentionally.
- (5) Remove from office an officer, other than a city councilmember, for a serious or repeated violation of this code of conduct. Removal shall be in compliance with the Charter and state law.
- (6) Pass a resolution of censure or a recommendation of recall when the city council finds that a serious or repeated violation of this code of conduct has been committed intentionally by a member of the city council.

**Sec. 30-78. Adoption of state statutes.**

(a) V.T.C.A., Local Government Code ch. 171, as amended, being the statute which regulates conflicts of interest of public officers of municipalities in the state, is hereby adopted and made a part of this code of conduct for all purposes. To the extent that there are any conflicts with terms used in this ordinance and chapter 171, the statute shall control.

(b) V.T.C.A., Local Government Code ch. 176, as amended, being the statute which regulates the filing of a conflicts disclosure statement by a city council member with respect to a vendor doing business with the city, is hereby adopted and made a part of this code of conduct for all purposes.

**Sec. 30-79. Limitations.**

A complaint that an officer has violated a provision(s) of the code of conduct shall be filed not later than six (6) months after the date the complained act(s) occurred or it is barred.

**Sec. 30-80. Interpretation of content.**

Any officer may request and the city attorney shall issue, a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this code of conduct as it affects such person.

**Sec. 30-81. Charter controls.**

In the event any violation of this code of conduct constitutes a violation of an express provision of the city charter as is provided therein, the remedies in this ordinance will not control over the remedies and provisions of the city charter.

**Sec. 30-82. Acknowledgement of code of conduct.**

The city secretary will provide each officer a copy of the code of conduct at the time such person is initially elected or appointed, and when such person is re-elected or reappointed. Each officer shall within ten (10) days after such person is initially elected or appointed, and when re-elected or reappointed, file with the city secretary an acknowledgement, in a form provided by the city secretary, that such person has received a copy of, and has read the code of conduct. The city secretary shall provide a copy of the code of conduct to all officers each time the code of conduct is amended.”

**SECTION 3.** All ordinances, orders or resolutions heretofore passed and adopted by the Keene City Council of Keene, Texas, are hereby repealed to the extent that said ordinances, resolutions, or parts thereof, are in conflict herewith.

**SECTION 4.** If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**SECTION 5.** This Ordinance shall take effect and be in full force from and after its passage, as provided by the Revised Civil Statutes of the State of Texas.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KEENE, THIS 29<sup>th</sup> DAY OF FEBRUARY 2024.**

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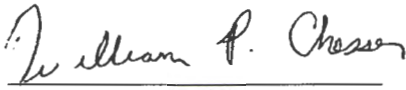
Lisa Parrish, Mayor

**ATTEST:**

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Holly Russell, City Secretary

Reviewed by legal:



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Pat Chesser, City Attorney