



ORDINANCE NO. 243

AN ORDINANCE BY THE CITY OF UHLAND, TEXAS; ESTABLISHING A CITY CODE OF ETHICS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR ENFORCEMENT AND DISCIPLINARY ACTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Umland acknowledges the importance of ethical conduct to preserve the integrity and professional image of the City; and

WHEREAS, the City Council of the City of Umland intends to promote ethical conduct by the City's Elected Officials, Appointed Board Members, Employees, Vendors, Volunteers and Contractors; and

WHEREAS, the City Council of the City of Umland has determined that it is in the best interest of the City to establish a Code of Ethics in order to promote the health, safety, and general welfare of the municipality.

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

SECTION 1. SHORT TITLE.

This Ordinance shall be known as the City of Umland's "Code of Ethics".

SECTION 2. DEFINITIONS.

"Appointed Board Member" shall mean and include any person appointed by the City Council to any Board of the City.

"Board" shall mean and include any board, committee or commission created by the City Council for which the City Council appoints the members. The City boards include, but are not limited to, the Planning and Zoning Commission and the Economic Development Commission.

“City” shall mean the City of Uhland, Texas.

“Contractor” shall mean and include any person or entity providing goods or services to or on behalf of the City. A contractor may also be considered a vendor under certain appropriate circumstances.

“Consultants” shall mean all contractors providing professional services to the City to include, but are not limited to, legal consultants, engineering consultants and financial consultants.

“Elected Official” shall mean and include any person elected to an office of the City.

“Employee” shall mean and include any person for which is employed in any capacity by the City or a Board of the City.

“Member” shall mean and include any and all Elected Officials and Appointed Board Members.

“Presiding Officer” shall mean and include the Mayor or the Chair of a City Board conducting a meeting.

“Relative” shall mean and include a person with whom the Elected Official, Employee, or Appointed Board Member is related within the first, second or third degree of consanguinity or affinity.

“Staff” shall mean and include Employees and Volunteers.

“Vendor” shall mean and include any person or entity providing goods or services to the City.

“Volunteer” shall mean and include any person or entity that offers services to the City or a Board of the City without compensation for such services.

SECTION 3. APPLICABILITY.

All Elected Officials, Appointed Board Members, Employees, Vendors, Contractors and Volunteers shall conduct themselves to the highest standards of honesty and integrity as further detailed in this Ordinance.

SECTION 4. NEPOTISM.

Nepotism shall be prohibited at all times. Specific prohibitions of nepotism include, but are not limited to:

- a) An Elected Official shall not vote on the appointment of, hiring of or awarding of a contract to a relative of the Elected Official to any board or commission of the City, or to become a vendor, contractor or employee of the City or Board of the City.

- b) An Appointed Board Member shall not vote on the appointment of, hiring of or awarding of a contract to a relative of the Appointed Board Member to become a vendor, contactor or employee of the City or Board of the City.
- c) An Employee of the City with authority to hire, appoint or contract shall not hire, appoint or contract a relative of the Employee to become a vendor, contractor or employee of the City of Board of the City.

SECTION 5. CONFLICTS OF INTEREST.

All Elected Officials, Appointed Board Members, Employees, Vendors, Contractors and Volunteers shall act, at all times and in all ways, in the best interest of the City. State and Federal laws address conflicts of interest to include, but not limited to, gifts, personal benefits or gains, dual office holding and incompatibility. This Ordinance incorporates such laws and any amendments thereof regarding conflicts of interests for all purposes.

SECTION 6. DISCRIMINATION.

State and Federal laws address discrimination and this Ordinance incorporates such laws and any amendments thereof regarding discrimination for all purposes. This Ordinance specifically prohibits discrimination in any form based on race, color, religion, sex, national origin, age, citizenship, veteran status, marital status, medical condition, disability, or sexual orientation. Additionally, harassment, bullying and retaliation shall be prohibited at all times.

SECTION 7. PUBLIC AND MEDIA COMMUNICATION.

Effective media and public relations best serves 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.

When addressing the public in any form whether in person, in the media or on social media Elected Officials, Appointed Board Members, Employees, Vendors, Volunteers and Contractors shall:

- 1) not speak on behalf of the City, the City Council or any City Board at any place or time unless they have been so directed by the City Council or respective City Board. Any commentary offered at any time, in public or otherwise, is deemed to be the personal opinion of the person speaking;
- 2) treat all conversations with a member of the media or general public as on the record;
- 3) communicate with the City's Public Information Officer, when time permits, prior to interviews with the media; otherwise all interviews with a member of the media should be

reported to the City's Public Information Officer as soon as reasonably possible after the interview; and

- 4) consult with the City Administrator and City Attorney prior to commenting on highly sensitive issues that may require greater discretion when speaking to media, such as:
 - a. Legal issues, including liability issues and pending litigation;
 - b. Personnel issues, including those surrounding existing and former employees;
 - c. Questions that involve police or fire investigations; or
 - d. A community-wide situation or emergency.

SECTION 8. SERVING AS A LIAISON.

City boards, committees and commissions are formed in order to provide independent recommendations to the City 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 City Council.

A liaison is a person who may be appointed by any City department head or Board to be the liaison between the department or Board and another department, Board or the City Council. A Council liaison is a Member of the City Council who is specifically appointed by the City Council to be the liaison between the City Council and a Board.

The primary role of a liaison is that of facilitator of communications between the appointing department, Board or City Council and the other department, Board or City Council.

A liaison is not required to attend meetings of the department, Board or City Council to which they are appointed. The liaison shall not be an advocate for neither the appointing department, Board or City Council nor for the department, Board or City Council to which they were appointed. No liaison shall give direction to or influence a decision of the department, Board or City Council to which they were appointed. The liaison may, however, assist and provide guidance to the department, Board or City Council to which they are appointed with the department's, Board's or City Council's work plans or agendas. When a liaison attends a department, Board or City Council meeting they shall have no vote on any matter before the department, Board or City Council, and shall have no right to attend Board or City Council meeting closed sessions.

A Council Member or Staff person who is appointed by the City Council to sit as a member of a Board is not a liaison for purposes of this Code of Ethics.

SECTION 9. FINANCIAL INTEGRITY AND RESPONSIBILITY.

Elected Officials, Appointed Board Members, Employees, Vendors, Volunteers and Contractors are expected to act responsibly and exercise sound judgment with City funds and assets. The City Council adopts a City budget for each fiscal year and the City Administrator manages that budget

throughout the fiscal year. To maintain financial integrity every transaction involving City funds or assets shall be documented with an accurate record detailing the authority to do so, the amount of the transaction, the purpose, and any other terms necessary to accurately record the transaction. The authority for each transaction shall therefor include the person or Board authorizing the expenditure and the budget item under which the transaction is accounted for.

SECTION 10. SPECIFIC ETHICAL CONDUCT OF MEMBERS.

A. Meeting Conduct.

During any meeting of the City Council or any meeting of a City Board all Members shall:

- 1) 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;
- 2) address the presiding officer 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;
- 3) address questions for the City Staff to the City Administrator, who shall be entitled either to answer the question(s) or designate a member of City staff to answer.
- 4) not berate nor admonish staff members;
- 5) 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;
- 6) cease speaking immediately when the member is called to order while speaking 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
- 7) confine their questions to the particular matters before the assembly, and in debate, shall confine their remarks to the issues before the City Council;
- 8) delay their comments until after all speakers on the subject have been heard when there is more than one speaker on the same subject; and
- 9) keep all matters discussed in closed session confidential.

B. Communication with City Staff, Contractors, and Vendors.

1. Only the City Council, acting as a body, is permitted to provide direction and instruction to the City Administrator, City Secretary, City Attorney or the City Judge (or Judges) regarding any matter confronting the City, whether policy-related or otherwise.

2. No individual Member (specifically including the Mayor, the Mayor Pro-Tern and any Chair or Vice-Chair) shall, at any time, give individual instruction to, attempt to define policy for, or make any demand of City Staff, the City Judge (or Judges), City Consultants, City Vendors, or City Contractors.
3. No Member shall attempt to influence City Staff, the City Judge (or Judges), City Consultants, City Vendors, or City Contractors to circumvent City rules, policies, resolutions or ordinances.
4. Only the City Administrator may provide direction and instruction to the City Staff.
5. When Contracting with Consultants, Vendors or other Contractors the contract shall detail to whom the Consultant, Vendor or Contractor reports.
6. Any Member may, of course, at any time, make requests of the City Staff, the City Judge (or Judges), City Consultants, City Vendors, or City Contractors 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.
7. 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.

SECTION 11. ENFORCEMENT.

A. Violation of this Code of Ethics.

Any Elected Officials, Appointed Board Members, Employees, Vendors, Contractors and Volunteers not adhering to this Code of Ethics or any other law relating to ethics shall be in violation of this Ordinance.

B. Reporting Violations.

Any suspected violation or alleged violation must be reported to the City Attorney. Any suspected violation or alleged violation by the City Attorney shall be reported to the Mayor and the City Council.

C. Procedure for Conducting Inquiries of Violations.

The role of leading an inquiry for any violation or alleged violation of this Code of Ethics or any other law relating to ethics of lies with the City Attorney, and, if approved by Council, an independent attorney or investigator. If the City Attorney or a City Judge is the subject of an inquiry, the Mayor and the City Council and, if approved by Council, an independent attorney or investigator will lead the inquiry.

In deciding whether to open an inquiry the following shall be considered:

- 1) whether an inquiry may compromise other investigations regarding the same alleged actions, and, if the actions may result in criminal charges, whether the right of the accused to a fair jury trial may be compromised by proceeding with an inquiry;
- 2) if persons involved in the allegations may choose to exercise their constitutional right against self-incrimination, which may limit the inquiry's ability to produce a full picture of alleged events; and
- 3) 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 the matter, as appropriate, may be referred to the Hays or Caldwell County District Attorney, the Texas Ethics Commission, or to another law enforcement agency, for investigation. Such a referral does not prohibit the internal City inquiry to proceed as described herein this Ordinance.

The City Attorney shall report the findings of the inquiry to the following appropriate authority:

- 1) City Administrator if the accused is a City Employee, Volunteer, Contractor or Vendor; or
- 2) Mayor and City Council if the accused is the City Administrator or a Consultant.

D. Disciplinary Action for Violations.

The appropriate authorities receiving the findings of an inquiry, as detailed above, may delegate their authority to determine what action or actions, if any, are to be taken; and additionally, may delegate their authority to enforce such action or actions, if any. If the authority or its designee determines that the inquiry produces sufficient evidence that a violation of this Code of Ethics or any other law relating to ethics has occurred the following disciplinary actions may be taken, along with any other lawful actions and remedies available, as deemed appropriate, by the authority or its designee:

1. Cautioning

Cautioning is identified as a private verbal reprimand due to a single and first violation of this Code of Ethics, and shall not be recorded. If the City Administrator, the City Attorney, a City Judge or a Member, other than the Mayor, is receiving the cautioning, it shall be administered in private by the Mayor with only one (1) other member of Council present; and if the Mayor is receiving the cautioning it shall be administered by the Mayor Pro-Temp with only one (1) other member of Council.

2. Warning

Warning is identified as a written formal reprimand due to multiple violations or a second violation of this Code of Ethics or a violation of other law relating to ethics; and shall be issued only for City Staff, Consultants, Contactors and Vendors and by the appropriate authority. If

the City Administrator, the City Attorney, or a City Judge is receiving the warning, it shall be signed and administered by the Mayor and only one (1) other member of Council.

3. Censure

Censure is identified as an official and public reprimand of a Member by the City Council for multiple violations of this Code of Ethics or for a violation of other law relating to ethics. Therefore, Members who are placed under censure are considered to be 'NOT in good standing' with the City. The censure of any Member shall be administered in writing and may last up to sixty (60) days. There shall be no extensions of censure and a member placed under censure may return to a 'good standing' status with the City once their censure period has ended. When considering a censure the City Council shall conduct a hearing in accordance with the Open Meetings Act and shall be publicly vote on whether to censure the accused Member. A censure shall pass with a 2/3 vote in favor of by those Council Members present.

4. Termination

Termination is identified as a removal from a staff position or contractor or vendor status with the City due to continuous or the third violation of this Code of Ethics or a second violation of other law relating to ethics. The appropriate authority shall notify the accused in person and in writing of the termination.

The above detailed disciplinary actions are only a guide and are not meant to be an exhaustive list of the disciplinary or other actions available for violations of this Code of Ethics and nothing herein preempts a violation from being turned over to law enforcement authorities.

SECTION 12. CONFLICT.

All Ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 13. 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 thereof 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.

SECTION 14. SAVINGS CLAUSE.

This Ordinance shall remain in full force and effect, save and except as amended.

SECTION 15. MEETING OPEN TO PUBLIC.

It is hereby found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that the public notice of the time, place and purpose of said meeting was given as required.

SECTION 16. EFFECTIVE DATE.

This Ordinance shall be effective upon passage and approval.

PASSED, APPROVED and ADOPTED ON the 5th day of February, 2020.

Ayes 5 Nays 0 Abstain 0

Vicki Hunter

Vicki Hunter, Mayor

ATTEST:

Karen Galláher

Karen Galláher, City Administrator

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