

ORDINANCE NO. 1466

AN ORDINANCE AMENDING THE PORTION OF CHAPTER 30 OF THE MANSFIELD CODE RELATING TO A CODE OF ETHICS AND CONDUCT FOR CITY ELECTED OFFICIALS AND BOARD AND COMMITTEE MEMBERS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mansfield is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Mansfield recognizes that the proper operation of democratic government requires that city elected officials and board and committee members be independent, impartial and responsible only to the people of the city; and

WHEREAS, the City Council deems it advisable to revise the Code of Ethics to provide a more specific code of ethics and conduct for the conduct of city elected officials and board and committee members, and procedures for the enforcement of such provisions.

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

SECTION 1.

Chapter 30 of the Mansfield City Code is hereby amended by changing the part of such Chapter entitled "Ethics" to read as follows:

CHAPTER 30

**CODE OF ETHICS AND CONDUCT FOR CITY ELECTED OFFICIALS
AND BOARD AND COMMITTEE MEMBERS**

Sec. 30-40 STATEMENT OF PURPOSE.

It is hereby declared to be the policy of the City of Mansfield that the proper operation of democratic government requires that city elected officials and members of boards and committees be independent, impartial and responsible only to the people of the city, that governmental decisions and policy should be made in the proper channels of the governmental structure; that no city elected official or member of any board, commission or committee should have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest; that public offices are positions of public trust imposing the duty of a fiduciary upon all office holders, who are not to use their public position for personal gain, and that the public should have confidence in the integrity of its government. To implement such a policy, the City Council deems it advisable to enact this code of ethics and conduct for all elected city officers and board and committee members, 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. This code of ethics and conduct is cumulative of other ordinances, city charter provisions and state statutes defining and prohibiting conflict of interest.

This code of ethics and conduct is not intended to be nor shall it be used as a political weapon to intimidate or embarrass persons affected.

Sec. 30.41 DEFINITIONS.

As used in this code of ethics and conduct, the following words and terms shall have the meaning ascribed thereto:

Advisory Board means a board, commission or committee of the city that functions only in an advisory or study capacity.

Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest. A pecuniary gain or advantage shall not include insignificant amounts or items of de minimis value. This policy does not establish dollar limits. "Insignificant" and "de minimis" shall have their usual meanings and be subject to interpretation on a case by case basis.

Business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized in law.

Candidate means every person who declares for or files for any office of the City of Mansfield to be filled by election.

Code means this code of ethics and conduct.

Compensation means any economic benefit received in return for labor, services, property, or investment.

Confidential Information means information to which the following apply:

- (1) At the time of the use or disclosure of the information, the information is not a public record subject to public disclosure under the Texas Public Information Act; and
- (2) The use or disclosure of the information will have, or could reasonably be expected to have, a material financial effect on any investment or interest in real property that a city officer, board or committee member, or any person to whom the city officer, board or committee member provides the information, has at the time of the use or disclosure of the information or acquires after the use or disclosure of the information.

Conflict of interest means action upon any matter which would constitute a violation of this code of ethics, Texas Penal Code or Texas Local Government Code, Chapter 171.

Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board or commission which can or may lead to a vote or formal action by that body.

Economic benefit means any money, real or personal property, purchase, sale, lease, contract, option, credit, loan discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Entity means a sole proprietorship, partnership, limited liability partnership, firm, corporation, professional corporation, holding company, joint stock company, joint venture,

receivership, trust or any other entity recognized by law through which business may be conducted.

False means a knowing or willful misrepresentation or concealment of any item required to be disclosed by this chapter.

Family member means a person related in the first or second degree of consanguinity to any person subject hereto.

Gift means a favor, hospitality, or economic benefit, other than compensation, but does not include campaign contributions reported as required by state law.

Intentionally means a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

Knowingly means a person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Ministerial act means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.

Officer means any member of the city council and any member of a board, commission or committee established by ordinance, charter or state law; provided no member of an advisory board or committee shall be deemed an officer of the city.

Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Substantial interest.

- (a) A person has a substantial interest in a business entity if:
- (1) The interest is ownership of ten (10) percent or more of the voting stock or shares of the business entity or ownership of two thousand five hundred dollars (\$2,500.00) or more of the fair market value of the business entity; or
 - (2) Funds received by the person from the business entity exceed ten (10) percent of the person's gross income for the previous year; or
 - (3) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of two thousand five hundred dollars (\$2,500.00) or more; or
 - (4) An interest of a person related in the first or second degree by either affinity or consanguinity to the local public official is a "substantial interest"; or
 - (5) The person holds a position of member of the board of directors or other governing body of the business entity; or
 - (6) The person serves as an elected officer of the business entity; or
 - (7) The person is an employee of the business entity; or

- (8) The person is a creditor, debtor or guarantor of any person, group or business entity in the amount of five thousand dollars (\$5,000.00) or more; or**
- (9) Property of the person has been pledged to a person, group or business entity or is subject to a lien in favor of the person, group or business entity in the amount of five thousand dollars (\$5,000.00) or more.**

(b) A person does not have a substantial interest in a business entity if:

- (1) The person holds a position as a member of the board of directors or other governing board of a business entity; and**
- (2) The person has been designated by the city council to serve on such board; and**
- (3) The person receives no remuneration, either directly or indirectly, for his service on such board; and**
- (4) The primary nature of the business entity is either charitable, nonprofit or governmental.**

(c) A person has a substantial interest in real property if the interest is an equitable or legal interest with a fair market value of two thousand five hundred dollars (\$2,500.00) or more (see Section 171.002, Texas Local Government Code).

(d) A person has a substantial interest under this code if the person's spouse or a person related to the person in the first degree by consanguinity or affinity has a substantial

interest under this code of ethics and conduct (see Section 171.002, Texas Local Government Code). A person is related in the first degree by consanguinity to his or her father, mother, brother, sister, son or daughter. A person is related in the first degree by affinity to his or her father-in-law, mother-in-law, brother's spouse, sister's spouse, step-son, step-daughter, son-in-law or daughter-in-law.

Sec. 30.42 AFFECTED PARTIES.

The persons subject to the provisions hereof shall be:

- (a) The members of the city council, including the mayor; and
- (b) The members of any board, commission or committee established pursuant to the charter or the ordinances of this city, or the laws of this state, including, but not limited to:

Mansfield Housing Finance Corporation

Mansfield Library Board

Keep Mansfield Beautiful Commission

Mansfield Industrial Development Commission

Historic Landmark Commission

Economic Development Board

Mansfield Park Facilities Development Corporation

Capital Improvement Advisory Board

Board of Adjustments

City Council

Construction Codes Board of Adjustments and Appeals

Senior Citizens' Advisory Board

Planning and Zoning Commission

Animal Shelter Advisory Committee

- (c) Candidates for any City of Mansfield elected office; and
- (4) Any person listed within “Affected Parties” shall include all relevant information concerning the spouse of said person.

Sec. 30.43 STANDARDS OF CONDUCT.

- (a) City officers and advisory board members shall not use their position to secure special privileges and shall avoid situations that could cause any person to believe that they may have brought bias or partiality to a question before the council, any board, or decision maker. When an item to be considered by the council or any board presents a conflict of interest to a city officer or advisory board member, it will be the responsibility of the city official to make such conflict known to the city attorney and to remove himself/herself from discussion and voting on the matter. Members of the council will not condone, overlook or forgive any unethical or illegal activity. All members of the council agree to uphold the intent of this policy and to govern their actions accordingly.
- (b) City officers and advisory board members shall strive to recognize their responsibility to future generations by addressing the interrelationship of the social, cultural, and physical characteristics of the community when making policies.
- (c) City officers and advisory board members shall make a commitment to improve the quality of life for the individual and the community, and be dedicated to the faithful stewardship of the public trust.

- (d) City officers and advisory board members shall continue to be dedicated to friendly and courteous relationships with staff, other city officials and the public, and shall seek to improve the quality and image of public service.

Sec. 30.44 PROHIBITED CONDUCT.

- (a) No city officer or advisory board member, or their spouses shall knowingly:
 - (1) Accept or solicit any gift, favor, service or thing of value from any person, group or business entity that might reasonably tend to influence him or herein the discharge of his or her official duties. This prohibition shall not apply to:
 - (A) An occasional non-pecuniary gift, insignificant in value; or
 - (B) An award publicly presented in recognition of public service; or
 - (C) Any gift which would have been offered or given to him or her if he or she were not a city officer or advisory board member, or their spouses.
 - (2) Grant in the discharge of his or her official duties any improper favor, service or thing of value to any person, group or business entity.
 - (3) Solicit or accept, from any source, any compensation, gift, favor, service, economic benefit, or thing of value, including a promise of future employment, that might reasonably tend to influence him or her, in the discharge of his or her official duties, in consideration of any person subject hereto of exercising or having exercised any official power or performing or having performed any official duty on behalf of the city, from any person group or business entity:

- (A) Who is licensed or has a substantial interest in any business entity that is licensed by any city department, agency, commission or board on which the city officer or advisory board member serves; or
- (B) Who has a financial interest in any proposed ordinance or decision upon which the city officer-or advisory board member may or must act or make a recommendation; provided, however, that any city office or advisory board member and their spouses, may accept travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the city council prior to the occurrence of the ceremonial function.
- (4) Disclose any confidential information gained by reason of the position of the officer, advisory board member or spouse concerning the property, operations, policies or affairs of the city, or use such confidential information to advance any personal interest, financial or otherwise, of such officer or advisory board member, spouse or others. This subparagraph (4) shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this ordinance.
- (5) Use one's position or office to secure special privileges or exemption for himself or another or for the private gain of the city officer, advisory board member or his or her spouse.
- (6) Hold himself out as representing the city in any capacity other than that for which he was appointed, or elected.

- (7) Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment in the performance of his or her official duties.
- (8) Make unauthorized use, or permit unauthorized use, of city owned vehicles, equipment, materials or property.
- (9) Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- (10) After termination of service with the city, appear before any board or commission of the city in relation to any case, proceeding or application in which he or she personally participated or which was under his or her active consideration during the period of his or her service.
- (11) Transact any business in his or her official capacity with the city with a business entity in which he or she has a substantial interest.
- (12) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
- (13) Perform or refuse to perform any act in order to deliberately thwart the execution of city ordinances, rules or regulations or the achievement of official city programs.
- (14) Be an interested party to any exchange, purchase, or sale of property, goods, or services with the city, or enter into any contract with the city, except in full and impartial compliance with statutes, City Charter, ordinances and regulations

applicable thereto and subject to any restrictions of the Charter of the City of Mansfield; provided further, that such persons shall receive no favor or special concession or inducement not customarily available and granted by the city in such a transaction; and provided further, that any discretion by officers of the city, in connection with any such transaction shall be exercised impartially and upon the same standards applied to all Mansfield citizens.

(b) No member of the city council or city officer shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the city council or any department, agency, board or commission of the city; or

(2) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission is a party; or

(3) In any action or proceeding in the municipal court(s) of the city which was instituted by a city officer or employee in the course of his or her official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.

(c.) No member of a city board or commission shall knowingly represent, directly or indirectly, any person, group or business entity:

(1) Before the city council or the board or commission of which he or she is a member; or

(2) Before a board or commission which has appellate jurisdiction over the board or commission of which he or she is a member; or

- (3) In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, board or commission thereof is a party; or
- (4) In any action or proceeding in the municipal court(s) of the city which was instituted by a city officer or employee in the course of his or her official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.
- (d) The restrictions contained in paragraphs (b) and ©) do not prohibit the following:

 - (1) A member of a city board or commission (other the city council), or his or her spouse, appearing before the city council or a city department, agency, board or commission to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall appear before the board or commission of which he or she is a member;
 - (2) An officer of an employee organization appearing before the city council or a city department, agency, board or commission to address employment matters.
- (e) The city council shall not approve or award any bid or contract for the city's purchase of goods or services from any person, group, or entity which at any time prior to such award or approval, has hired a person who, at any time within such six-month period, was either a member of the Mansfield City Council or the chief or assistant administrator of any city department or agency that had direct, or indirect, review or consideration, or recommending or approval authority for the project or decision which is the subject of the award of such bid or contract.

(f) A person subject hereto who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the city for the entity, if said official receives any fee, compensation or other monetary payment from the entity, unless the city council appointed such city official to the board of directors or such corporate office.

(g) Nothing in this article shall prohibit the city council from participating in a vote or decision relating to salaries or travel budgets of city council members.

(h) No person subject hereto shall use his official position to secure confidential information for any purpose other than official responsibilities.

(I) No person subject hereto shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are customary, incidental or lawfully available to the public.

(j) No member of the city council shall interfere with the city manager's administrative duties of appointment to and removal of persons from employment with the city. Except for the purpose of inquiry, the city council and its members shall deal with the city departments and city employees for which the city manager is responsible solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately.

(k) The restrictions in Section 30.44 do not prohibit the following:

(1) Rendering service to the city as an officer, employee or advisory board member;
or

- (2) The paying of taxes, fines, utility service or filing fees; or
- (3) Subject to restrictions contained in the charter of the city, executing and performing any community facilities contract or plat in compliance with laws and regulations applicable to any person; provided, however, that if any city ordinance, rule or regulation allows any discretion by the appropriate officers of the city in the interpretation or enforcement of such ordinance, rule or regulation, such officers shall exercise ~~any~~ such discretion in favor of the city in connection with any such community facilities contract or plat; or
- (4) Purchasing goods or services from the city in full compliance with all applicable state and local laws; or
- (5) Members and spouses of members of the advisory boards set up by ordinance, charter or state law who are not otherwise officers of the city, may engage in any exchange, purchase or sale of property, goods or services with the city, or enter into a contract with the city, provided, however, that the board of which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage; or
- (6) A city contract for the purchase of services or personal property with a business entity in which a member of the governing body has a substantial interest if the business entity is the only business entity that provides the needed service or product within the jurisdiction of the city and is the only business entity that bids on the contract.

Sec. 30.45 DISCLOSURE OF INTEREST.

(a) The City Council hereby directs all members of the City Council, or members of appointed Boards and Commissions to present a statement annually to the City Secretary by October 15th of each fiscal year in a form as set forth on the attached Exhibit "A" which is incorporated herein for all purposes; such statement providing a complete disclosure of business and professional relationships with entities that do business with the City of Mansfield or plan to do business with the City of Mansfield in the future. Any individual required to complete this statement has a duty to amend the statement if a change in its disclosures should occur during each fiscal year. Amendments must occur within thirty (30) days of the individual acquiring knowledge of the business relationship. Any individual who fails to file a required disclosure pursuant to this section within sixty (60) days of its due date may be removed from office by majority vote of the council for failure to conform to the requirements of the Ethics Ordinance.

(b) If any officer or advisory board member has a substantial interest in any person, group or business entity, or real property involved in any decision pending before such officer or advisory board member, or the body of which he or she is a member, such officer or advisory board member shall disclose such interest as provided in paragraph (d) below and shall not, except as provided in paragraph (d) below, discuss the substance of the matter at any time with any other member of the board of which he or she is a member or any other body which will vote on the matter or otherwise participate in the consideration of the matter.

(c) If any of the following interests are involved in any decision pending before any city or advisory board member, or the body of which he is a member, such officer or advisory board member must disclose such interest as provided in paragraph (d) below, but he shall be permitted to vote on and participate in the consideration of such matter:

- (1) A decision concerning a bank or other financial institution from which the officer or advisory board member has a home mortgage, automobile loan, or other installment loan, if the loan is not currently in default, was originally for a term of more than two (2) years and cannot be accelerated except for failure to make payments according to the terms thereof;
- (2) A decision concerning a bank or other financial institution in which the officer or advisory board member holds a savings account, checking account or certificate of deposit and which is fully insured by the U.S. government or an agency thereof;
- (3) A decision concerning a business entity with which the officer or advisory board member has a retail or credit card account;
- (4) A decision concerning the approval of substitution of collateral by a city depository bank;
- (5) A decision concerning real property in which the officer or advisory board member has a substantial interest if it is not reasonably foreseeable that such decision would have a special economic effect on the value of the property, distinguishable from the effect on the public (See Section 171.004, Texas Local Government Code).

(d) A city officer or advisory board member shall disclose the existence of any substantial interest in any person, business entity or real property involved in any decision pending before such officer or advisory board member, or the body of which he is a member. To comply with this paragraph, a city officer or advisory board member shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Section 171.004 of the Texas Local Government Code or, if not so required, shall publicly

disclose in the official records of the city to the city secretary the nature of the interest. In disclosing a substantial interest in a business entity, a city officer or advisory board member shall not be required to disclose the dollar amount of any income that he or she receives from the business entity.

(e) Where the interest of a city officer or advisory board member in the subject matter of a vote or decision is remote or incidental, the city officer or advisory board member may participate in the vote or decision and need not disclose the interest.

(1) "Remote interest" means an interest of a person or entity, including a city officer or advisory board member, who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the council member would be affected in common with the general public.

(2) "Incidental interest" means an interest in a person, entity or property which is not a substantial interest and which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This article does not establish dollar limits on the terms "insignificant value" and "de minimis" which shall have their usual meanings and be subject to interpretation on a case by case basis.

Sec. 30. 46. VOTING FOR APPOINTMENTS TO CITY BOARDS, COMMISSIONS AND COMMITTEES AND APPLICANT RESPONSIBILITY TO REPORT CAMPAIGN CONTRIBUTIONS

Any person being considered, or with an application pending, for appointment to any city board, commission, or committee established pursuant to the charter or ordinances of the

city, or the laws of the State of Texas, if that person has made a financial contribution of \$250.00 or more to the election campaign of a member of the city council during the two years preceding the date of the proposed appointment, the council member or members who received such contribution(s) must abstain from voting on such appointment. All persons shall enter upon the Application for City Boards, Commissions, information regarding any financial contribution as noted above, or if an application is on file for an appointment, shall notify the City Secretary of such contributions for notation on the application within 30 days of the passage of this Ordinance. The City Secretary shall send a copy of this Section to all persons who have an application on file requesting appointment. The provisions of this section shall apply only to contributions made on or after January 1, 2004.

Sec. 30.47 ENFORCEMENT

(a) The city council shall have the primary responsibility for the enforcement of this code.

(b) In matters where it is alleged that a city officer or board member, other than a member of the city council, violated this code, the city council may direct the city attorney to investigate or prosecute any apparent violation of this code by one or more such persons. At the direction of the city council, the city attorney shall have the power to investigate any such complaint, to initiate any suit, to file any complaint in municipal court, and to prosecute any such complaint or action on behalf of the city where such complaint or action is appropriate against a city officer or board member, other than a member of the city council.

(c) In matters where it is alleged that a member of the city council violated this code, the city council may direct the city attorney to investigate as in (b) above, or if the council feels the alleged conduct is an extreme violation of this code, the council may select an outside, independent attorney to investigate or prosecute any apparent violation of the code by a member of the city council. The city council shall select such attorney from a list of five

experienced, qualified attorneys to be nominated by the city attorney. At the direction of the city council, such independent attorney shall have the power to investigate any such complaint, to initiate any suit, to file any complaint in municipal court, and to prosecute any such complaint or action on behalf of the city where such complaint or action is appropriate against a member of the city council.

(d) Any person who believes that a violation of any portion of this code has occurred may file a complaint with the city council which may then proceed as provided in paragraph (b) or paragraph ©) above. However, nothing in this code shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

Sec. 30.48 ADVISORY OPINIONS

(a) Where any officer or advisory board member has a doubt as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, he may apply to the city attorney for an advisory opinion. The officer or advisory board member shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of the code before such advisory opinion is made.

(b) The city attorney shall only issue advisory opinions concerning how this code applies prospectively to a particular situation, or how the definition of terms used herein applies prospectively to such a situation. The city attorney shall not issue advisory opinions to city officer or advisory board members in matters when a complaint is already pending with the city council or the situation in question has already occurred. These matters shall be handled as provided in Section 34.46 hereof.

(c) Until amended or revoked, any advisory opinion shall be binding on the city, the city council, and the city attorney in any subsequent actions concerning the public officer or advisory board member who sought the opinion and acted on it in good faith, unless material

facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any judicial proceedings initiated by any private citizen.

Sec. 30. 49 PENALTIES; FORFEITED POSITION; EXEMPTIONS; INJUNCTIONS

(a) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this code shall be guilty of a misdemeanor and fined not more than Five Hundred Dollars (\$500) for each violation. Each day that a violation continues or is permitted to exist shall constitute a separate offense.

(b) Whenever the city council has determined that any officer or advisory board member has violated any provision of this code, such officer or advisory board member shall be subject to discipline, including forfeiture of his or her office or position. Any removal of an official from elected office shall be done in accordance with applicable state laws. This ordinance shall be construed to prohibit any such officer or advisory board member from being re-elected, or reappointed to any position with the City of Mansfield for a period of three years from the date of termination.

(c) The city council may exempt from the provisions of this code any conduct found to constitute a violation by an officer or advisory board member if it finds that the enforcement of this code with respect to such conduct is not in the public interest.

(d) Any contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this code, or which involved the violation of a provision of this code, shall be voidable at the option of the city council.

(e) At the discretion of the city council, the city attorney or the city's outside independent attorney shall have the power, where a violation of the provisions of this code is

threatened or has occurred, to bring a civil action or proceeding, at law or in equity, for a judgment enjoining any violation of the provisions of this code or requiring the relinquishment of any prohibited interest or the voiding of any such contract or transaction, taking into account the interests of the city and any third persons who may be injured thereby. Where the city council determines that the public interest may best be served by not voiding a contract or transaction entered into in violation of this code, such contract or transaction may be enforced and an action or proceeding may be brought against any officer or advisory board member found in violation of provisions of this code for damages, not to exceed twice the damages suffered by the city or twice the profit or gain realized by the officer or advisory board member, whichever is greater.

Sec. 30.50 DISTRIBUTION OF CODE OF ETHICS AND CONDUCT.

The city secretary shall cause a copy of this code in booklet form to be distributed to and signed for by every officer and advisory board member of the city within thirty (30) days after enactment of this code. Each officer and advisory board member thereafter elected or appointed shall be furnished and sign for a copy before entering upon the duties of his or her office.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances of the City of Mansfield, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid

judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

The City Secretary of the City of Mansfield shall publish this ordinance in booklet or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

SECTION 5.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.


PASSED AND APPROVED this 10th day of November, 2003.

PASSED AND APPROVED this 24th day of November, 2003.


PASSED AND APPROVED this 8th day of December, 2003.


David Harry, Mayor

ATTEST:


Vicki Collins, City Secretary

APPROVED AS TO FORM AND LEGALITY:


Allen Taylor, City Attorney

CONFLICT OF INTEREST STATEMENT

I have read and understand the attached conflict of interest policy, which was approved by the City Council at its regularly scheduled meeting on June 26, 2000.

In compliance with this policy, the following is a list of all businesses or other for profit organizations of which I, my spouse, or my minor children, am(are) officer(s), more than 10% stockholder(s) (have a business interest of \$2,500 or more excluding ownership of publicly traded stocks and mutual funds), director(s), trustee(s), owner(s), partner(s), or employee(s) or for which I act as an agent, with which the City of Mansfield is doing business or plans to do business in the future. **(If none, write none.)**

1. _____
2. _____
3. _____
4. _____
5. _____

I agree that if any matter comes before the City Council concerning an existing or contemplated business transaction between the City of Mansfield and any entity in which I, my spouse, or my minor children has/have an interest (as defined above), I will disclose such potential conflict and will withdraw from the meeting while such matter is in the item of business for which a meeting of the City of Mansfield has been called, I will not be counted to establish a quorum, nor will I participate in any deliberations or vote on the matter.

This statement does not preclude the requirement for signing a conflict of interest affidavit at each meeting where a conflict of interest exists.

Name

Date