

SUBMIT TO:
CITY OF RICHMOND
CITY SECRETARY
402 MORTON STREET
RICHMOND, TX 77469



EST. 1837

ETHICS COMPLAINT FORM

An individual may file with the board a sworn complaint, on a form prescribed by the board, alleging that a person subject to a law administered and enforced by the board has violated a law administered and enforced by the board. Actual filing shall be in the city secretary's office. After two complaints filed by the same person or entity have been dismissed or resulted in a final determination that the employee or officer did not commit an ethical violation under this article, a filing fee in the amount of **\$150.00 shall be required for any subsequent complaint filing.**

The Board of Ethics and Compliance has authority to enforce Sections 2-91, 2-92, and 2-93 of the Richmond Code of Ordinances, attached.

The complaint must state on its face an allegation that, if true, constitutes a violation of a law administered and enforced by the board (Secs. 2-91, 2-92, and 2-93 and Chapter 573, Texas Government Code).

If the form does not provide sufficient space, please attach additional sheets.

1. Complainant's name

2. Complainant's street or mailing address

3. Name and position or title of each respondent

4. The alleged violation

(1)___No officer or employee shall knowingly or intentionally represent or appear on behalf of private interests of others before any agency of the city or any city board, commission or committee, or represent any private interest of others in any action or proceeding involving the city.

Date received: _____

Date delivered to board for compliance: _____

Date of preliminary review: _____

This subsection shall not be construed:

- a. To prohibit any city commission member from expressing concerns, questions, or comments to any city agency, board, commission, or committee which have been expressed to him by his constituents;
- b. To prohibit any employee or city commission member from representing himself before any agency, board or commission, if such city official or employee is not otherwise prohibited under this article from so acting; or
- c. To prohibit an officer from representing the private interests of others to any agency, board, or commission, other than the agency, board, commission, or committee on which the officer serves.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(2)___ Intentionally or knowingly, except as provided herein, represent or appear on behalf of the private interest of others before the city commission or a city agency, board, commission or committee of which the employee or officer is a member.

The officer or employee shall have the right to appear before the city commission or city agency board, committee or commission of which the officer or employee is a member on behalf of a nonprofit corporation or organization of which the officer or employee is a member to discuss any matters of concern to the nonprofit corporation or organization.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(3)___ Intentionally or knowingly solicit, accept or agree to accept a benefit that is not available to the general public under the same or similar circumstances from a person the officer or employee:

- a. Knows to be subject to regulation, inspection or investigation by the officer, employee or the city; or
- b. Knows to be subject to the authority of the officer or employee to make recommendations about or to approve purchasing of goods or services.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(4)___ Intentionally or knowingly use the officer's or employee's official position to secure special privileges or exemptions for himself or others which are contrary to the public interest.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(5)___ Intentionally or knowingly use any information which is not available to the general public and which is gained solely by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(6)___Intentionally or knowingly disclose information that at the time of its disclosure is confidential information by law or by city rules and/or policies.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(7)___Intentionally or knowingly engage in any outside activities which create a conflict of interest for the officer or employee (as defined in this article or state law).

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(8)___Intentionally or knowingly accept other employment incompatible with the officer's or employee's duties with the city.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(9)___ While on active duty or in the course and scope of his/her employment, service, or term with the city, in his official capacity, intentionally or knowingly use the influence or prestige of his position or title as an officer or employee of the city for or against any candidate for any elective office; provided, however, that all officials and employees are encouraged to register and vote as they may choose in all local, state, and national elections and no officer or employee shall be prohibited from participating in any political process solely in his individual capacity as a private citizen.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(10)___ Intentionally or knowingly use city supplies, equipment, or facilities for any purpose other than the conduct of official city business, unless otherwise provided for by law, regulations, city policy, or administrative orders or directives.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(11)___ In a proceeding before the board or city commission under this Ethics ordinance and with intent to deceive and with knowledge of the statement's meaning, make a false statement under oath or swear to the truth of a false statement previously made.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(12)___With knowledge that an investigation or board or city commission proceeding under this article is pending or in progress:

- a. Alter, destroy or conceal any record or thing with intent to impair its verity, legibility, or availability as evidence in an ethics investigation or proceeding before the board or city commission under this Ethics ordinance; or
- b. Make, present, or use any record, document or thing with knowledge of its falsity and with intent to affect the course or outcome of the ethics investigation or proceeding before the board or city commission.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(13)___Intentionally or knowingly violate Texas Government Code chapter 573 if the provision by its definition applies to the officer or employee in the officer's or employee's capacity with the city.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(14)___ Intentionally or knowing fail to in any zoning matter (not including the initial adoption of a zoning ordinance) which may appear before the city commission, any city commission member who has a substantial interest in any real property located within 200 feet of the zoning request or in any matter concerning city improvements/projects (other than streets, drainage, and utilities) to be located within 200 feet of real property owned, rented or leased by the official or on which the official operates a place of business shall disclose the existence of such interest to the other city commission members by written statement and thereafter abstain from voting in the matter and refrain from attempting to influence the vote of any other city commission member.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(15)___ No city commission member who is on the board of a nonprofit organization may intentionally or knowingly vote on any funding request made to the city commission by that nonprofit organization unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city commission.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(16)___ If a city commission member has a substantial interest in a business entity or a substantial interest in real estate, and a matter involving the business entity or real estate is pending before the city commission, the city commission member shall not vote on, attempt to influence or otherwise participate in the consideration of the matter, and shall file an affidavit with the city secretary,

stating the nature and extent of the interest prior to any determination of the matter, if:

a. In the case of an interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

b. In the case of an interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

A city commission member shall be considered to have a substantial interest in a business entity or a substantial interest in real property if a relative of the city commission member has a substantial interest in real property or a substantial interest in the business entity. If the city commission member is required to file and does file an affidavit under this section, the city commission member shall not be required to abstain from further participation in the matter or matters requiring such affidavit if a majority of the city commission is composed of persons who are likewise required to file and who do file affidavits of similar interest on the same official action.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

(17)___ Intentionally or knowingly fail to take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the city commission has a substantial interest and the affected city commission member shall abstain from that separate vote. The city commission member who has complied in abstaining in such vote under procedures set forth in Texas Local Government Code Ch. 171 may vote on a final budget only after the matter in which the city commission member is concerned has been resolved.

A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred

5. Attach all documents or other material available to complainant that are relevant to the allegation and a list of all documents or other material within the knowledge of the complainant that are relevant to the allegation but are not in the possession of the complainant, including the location of the documents, if known.

(Please select the appropriate statement below.)

I, _____ (Complainant's name), upon my oath, do swear and affirm that the information contained in this complaint is within my knowledge and true and correct.

Complainant's signature

Sworn to and subscribed to before me this the ____ day of _____, 20__.

Notary Public, State of Texas

Commission expires: _____

Or

I, _____ (Complainant's name), upon my oath, do swear and affirm that I have good reason to believe and do believe that the violation alleged above did occur. The source and basis of my information and belief is as follows:

Complainant's signature

Sworn to and subscribed to before me this the ____ day of _____, 20__.

Notary Public, State of Texas

Commission expires: _____

Sec. 2-91. - Standards of conduct for officers and employees.

No officer or employee shall knowingly or intentionally:

(1) Represent or appear on behalf of private interests of others before any agency of the city or any city board, commission or committee, or represent any private interest of others in any action or proceeding involving the city. This subsection shall not be construed:

a. To prohibit any city commission member from expressing concerns, questions, or comments to any city agency, board, commission, or committee which have been expressed to him by his constituents;

b. To prohibit any employee or city commission member from representing himself before any agency, board or commission, if such city official or employee is not otherwise prohibited under this article from so acting; or

c. To prohibit an officer from representing the private interests of others to any agency, board, or commission, other than the agency, board, commission, or committee on which the officer serves.

(2) Except as provided herein, represent or appear on behalf of the private interest of others before the city commission or a city agency, board, commission or committee of which the employee or officer is a member. The officer or employee shall have the right to appear before the city commission or city agency board, committee or commission of which the officer or employee is a member on behalf of a nonprofit corporation or organization of which the officer or employee is a member to discuss any matters of concern to the nonprofit corporation or organization;

(3) Solicit, accept or agree to accept a benefit that is not available to the general public under the same or similar circumstances from a person the officer or employee:

a. Knows to be subject to regulation, inspection or investigation by the officer, employee or the city; or

b. Knows to be subject to the authority of the officer or employee to make recommendations about or to approve purchasing of goods or services;

(4) Use the officer's or employee's official position to secure special privileges or exemptions for himself or others which are contrary to the public interest;

(5) Use any information which is not available to the general public and which is gained solely by reason of his official position or employment for his own personal gain or benefit or for the private interest of others;

(6) Disclose information that at the time of its disclosure is confidential information by law or by city rules and/or policies;

(7) Engage in any outside activities which create a conflict of interest for the officer or employee (as defined in this article or state law);

(8) Accept other employment incompatible with the officer's or employee's duties with the city;

(9) While on active duty or in the course and scope of his employment, service or term with the city, in his official capacity, use the influence or prestige of his position or title as an officer or employee of the city for or against any candidate for any elective office; provided, however, that all officials and employees are encouraged to register and vote as they may choose in all local, state, and national elections and no officer or employee shall be prohibited from participating in any political process solely in his individual capacity as a private citizen;

(10) Use city supplies, equipment, or facilities for any purpose other than the conduct of official city business, unless otherwise provided for by law, regulations, city policy, or administrative orders or directives;

(11) In a proceeding before the board or city commission under this article and with intent to deceive and with knowledge of the statement's meaning, make a false statement under oath or swear to the truth of a false statement previously made; or

(12) With knowledge that an investigation or board or city commission proceeding under this article is pending or in progress:

a. Alter, destroy or conceal any record or thing with intent to impair its verity, legibility, or availability as evidence in an ethics investigation or proceeding before the board or city commission under this article; or

b. Make, present, or use any record, document or thing with knowledge of its falsity and with intent to affect the course or outcome of the ethics investigation or proceeding before the board or city commission.

Sec. 2-92. - Other ethical standards.

It shall be an ethical violation under this article for an officer or employee to intentionally or knowingly violate the Texas Government Code ch. 573 if the provision by its definition applies to the officer or employee in the officer's or employee's capacity with the city.

Sec. 2-93. - Additional standards of conduct for city commission.

The city commission shall be subject to the following additional standards of conduct which must be committed intentionally or knowingly to constitute a violation:

(1) In any zoning matter (not including the initial adoption of a zoning ordinance) which may appear before the city commission, any city commission member who has a substantial interest in any real property located within 200 feet of the zoning request or in any matter concerning city improvements/projects (other than streets, drainage, and utilities) to be located within 200 feet of real property owned, rented or leased by the official or on which the official operates a place of business shall disclose the existence of such interest to the other city commission members by written statement and thereafter abstain from voting in the matter and refrain from attempting to influence the vote of any other city commission member.

(2) No city commission member who is on the board of a nonprofit organization may vote on any funding request made to the city commission by that nonprofit organization unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city commission.

(3) If a city commission member has a substantial interest in a business entity or a substantial interest in real estate, and a matter involving the business entity or real estate is pending before the city commission, the city commission member shall not vote on, attempt to influence or otherwise participate in the consideration of the matter, and shall file an affidavit with the city secretary, stating the nature and extent of the interest prior to any determination of the matter, if:

a. In the case of an interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

b. In the case of an interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

For purposes of this subsection (a)(3), a city commission member shall be considered to have a substantial interest in a business entity or a substantial interest in real property if a relative of the city commission member has a substantial interest in real property or a substantial interest in the business entity. If the city commission member is required to file and does file an affidavit under this section, the city commission member shall not be required to abstain from further participation in the matter or matters requiring such affidavit if a majority of the city commission is composed of persons who are likewise required to file and who do file affidavits of similar interest on the same official action.

(4) The city commission shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the city commission has a substantial interest and the affected city commission member shall abstain from that separate vote. The city commission member who has complied in abstaining in such vote under procedures set forth in Texas Local Government Code ch. 171 may vote on a final budget only after the matter in which the city commission member is concerned has been resolved.

GOVERNMENT CODE

TITLE 5. OPEN GOVERNMENT; ETHICS

SUBTITLE B. ETHICS

CHAPTER 573. DEGREES OF RELATIONSHIP; NEPOTISM PROHIBITIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 573.001. DEFINITIONS. In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;

(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or

(C) a judge of a court created by or under a statute of this state.

Sec. 573.002. DEGREES OF RELATIONSHIP. Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

SUBCHAPTER B. RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

Sec. 573.021. METHOD OF COMPUTING DEGREE OF RELATIONSHIP. The degree of a relationship is computed by the civil law method.

Sec. 573.022. DETERMINATION OF CONSANGUINITY. (a) Two individuals are related to each other by consanguinity if:

- (1) one is a descendant of the other; or
- (2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

Sec. 573.023. COMPUTATION OF DEGREE OF CONSANGUINITY. (a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

- (1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
- (2) the number of generations between the relative and the nearest common ancestor.

(c) An individual's relatives within the third degree by consanguinity are the individual's:

- (1) parent or child (relatives in the first degree);
- (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
- (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

Sec. 573.024. DETERMINATION OF AFFINITY. (a) Two individuals are related to each other by affinity if:

- (1) they are married to each other; or
- (2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Sec. 573.025. COMPUTATION OF DEGREE OF AFFINITY. (a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

(b) An individual's relatives within the third degree by affinity are:

(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and

(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

SUBCHAPTER C. NEPOTISM PROHIBITIONS

Sec. 573.041. PROHIBITION APPLICABLE TO PUBLIC OFFICIAL. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an

individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

Sec. 573.042. PROHIBITION APPLICABLE TO CANDIDATE. (a) A candidate may not take an affirmative action to influence the following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Section 573.002:

(1) an employee of the office to which the candidate seeks election; or

(2) an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.

(b) The prohibition imposed by this section does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees.

Sec. 573.043. PROHIBITION APPLICABLE TO DISTRICT JUDGE. A district judge may not appoint as official stenographer of the judge's district an individual related to the judge or to the district attorney of the district within the third degree.

Sec. 573.044. PROHIBITION APPLICABLE TO TRADING. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an

individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

SUBCHAPTER D. EXCEPTIONS

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district;

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

Sec. 573.062. CONTINUOUS EMPLOYMENT. (a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and

(2) that prior employment of the individual is continuous for at least:

(A) 30 days, if the public official is appointed;

(B) six months, if the public official is elected at an election other than the general election for state and county officers; or

(C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SUBCHAPTER E. ENFORCEMENT

Sec. 573.081. REMOVAL IN GENERAL. (a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

Sec. 573.082. REMOVAL BY QUO WARRANTO PROCEEDING. (a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

Sec. 573.083. WITHHOLDING PAYMENT OF COMPENSATION. A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

Sec. 573.084. CRIMINAL PENALTY. (a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than \$100 or more than \$1,000.