

ORDINANCE NO. 18-08-02-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS REPEALING CHAPTER 39, "CODE OF ETHICS" OF TITLE III, "ADMINISTRATION" OF THE CODE OF ORDINANCES OF THE CITY OF CORINTH AND ADOPTING A NEW CHAPTER 39, "CODE OF ETHICS" OF TITLE III, "ADMINISTRATION" OF THE CODE OF ORDINANCES OF THE CITY OF CORINTH; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AN AMENDMENT TO ADOPT THE CODE OF ETHICS WITH PROVISIONS APPLICABLE TO CURRENT AND FORMER CITY OFFICIALS, VENDORS AND COMPLAINANTS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Corinth, Texas 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 Texas Local Government Code; and

WHEREAS, on April 7, 2005, the City Council adopted Ordinance No. 05-04-10 which was codified as Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City of Corinth; and

WHEREAS, since the adoption of Chapter 39, the City Council has determined it appropriate to review and update the existing Code of Ethics to determine if amendments are appropriate; and

WHEREAS, with the assistance of the City's Board of Ethics and University of Texas Graduate Capstone Students, the existing Code of Ethics was reviewed; and

WHEREAS, the Board of Ethics conducted four public work sessions to discuss the provisions of the Code of Ethics, Best Practices in the field of municipal ethics were reviewed and incorporated, and upon that basis, a draft Code of Ethics was submitted for consideration by the City Council; and

WHEREAS, having review and discussed the proposed draft, the City Council has determined that the proposed amendments to the existing Code of Ethics, Chapter 39 of Title III of the Code of Ordinances, are reasonable and provide a basis for continuing public confidence in the conduct of the business and affairs of the City; and

WHEREAS, the City Council finds and determines that existing Chapter 39 Code of Ethics should be repealed in its entirety and the newly proposed Chapter 39, "Code of Ethics" as set forth herein should be adopted.

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

SECTION 1.

INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2.

AMENDMENTS

2.01 Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City of Corinth is hereby repealed in its entirety and a new Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City of Corinth is hereby adopted and shall read in its entirety as follows:

"DIVISION 1. GENERAL

Sec. 39.01. Purpose

The purpose of this Article is to foster an environment of integrity for those that serve the City of Corinth and our citizenry. The City Council enacted this Chapter in order to increase public confidence in our municipal government. It is the policy of the City that all City Officials and employees shall conduct themselves in a manner that assures the public that we are faithful stewards of the public trust. City Officials have a responsibility to the citizens to administer and enforce the City Charter and City Ordinances in an ethical manner. To ensure and enhance public confidence in our municipal government, each City Official must strive not only to maintain technical compliance with the principles of conduct set forth in this Chapter, but to aspire daily to carry out their duties objectively, fairly, and lawfully.

It is not the purpose of this Chapter to provide a mechanism to defame, harass or abuse their political opponents, or publicize personal grudges.

Sec. 39.02. Applicability

This Chapter applies to the following persons:

- a) City Officials;
- b) Former City Officials whose separation from city service occurred less than one (1) year ago;
- c) Vendors; and
- d) Complainant(s).

Sec. 39.03. Definitions

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

Accepted Complaint: a sworn allegation of a violation of this Chapter after the required documentation has been submitted to the City Secretary to be passed to the Committee Chair, and determined to be administratively complete.

Accused: a City Official who has been charged in a Complaint with having violated this Chapter.

Actionable Complaint: an Accepted Complaint that has been deemed by a quorum of the Commission to contain allegations and evidence that, if accepted as true, would support a finding that a violation of this Chapter occurred.

Advisory Opinions: written rulings regarding the application of this Chapter to a particular situation of behavior.

Baseless Complaint: a Complaint that does not allege conduct that would constitute a violation of this Chapter, or that does not provide evidence that, if true, would support a violation of this Chapter.

Board of Ethics: the oversight entity established by the Council to administer this Chapter.

Board Member: for the purposes of this Chapter, a person that is currently appointed to the Economic Development Corporation, Finance Audit Committee, Board of Construction Appeals, Zoning Board of Adjustments, Planning and Zoning Commission, Ethics Commission and Keep Corinth Beautiful Members.

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

Candidate: a person who has filed an application for a place on a ballot seeking public office, or one who has publicly announced the intention to do so.

Chapter: the Code of Ethics for the City of Corinth codified as Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City.

City: the City of Corinth in the County of Denton and State of Texas.

City Official: for the purposes of this Chapter, the term consists of the City Council, Economic Development Corporation, Finance Audit Committee, Board of Construction

Appeals, Zoning Board of Adjustments, Planning and Zoning Commission, Ethics Commission and Keep Corinth Beautiful Members.

Code: the Code of Ordinances of the City of Corinth, Texas, as such Code may be amended from time to time.

Committee: an ad hoc Board of Ethics subcommittee consisting of three (3) out of the five (5) members assigned by the City Secretary on a rotating basis.

Committee Chair: the person appointed to serve in the capacity provided for by Section 39.14 "Preliminary Assessment" of this Chapter.

Complainant: the individual who submitted a Complaint to the City.

Complaint: written documentation submitted to the City accusing a City Official of violating this Chapter.

Confidential Information: any written information that could or must be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written could be excepted from disclosure under that Act, unless disclosure has been authorized.

Conflicting Interest: a stake, share, or involvement in an undertaking in the form of any one (1) or more of the following:

- 1) Ownership of five percent (5%) or more voting shares or stock in a business entity;
- 2) Receipt of more than six-hundred dollars (\$600.00) in gross annual income from a business entity;
- 3) Ownership of more than six-hundred dollars (\$600.00) of the fair market value of a business entity;
- 4) Ownership of an interest in real property with a fair market value of more than six-hundred dollars (\$600.00);
- 5) Serves on the Board of Directors or as an Officer of a business entity; and/or
- 6) Serves on the Board of Directors or as an Officer of a nonprofit corporation.

The term Conflicting Interest shall not include ownership of an interest in a mutual or common investment fund that holds securities or assets unless the City Official participates in the management of the fund.

Council: the governing body of the City of Corinth, Texas, including the Mayor and City Council.

Deliberations: discussions by a City Official at the dais, voting as a City Official, presentations as a member of the audience before City Council or any City Board or Commission, conversing to or corresponding with other City Officials.

Frivolous Complaint: a sworn Complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.

Gift. Anything of monetary value, such as personal property, real property, services, meals, entertainments, and travel expenses. This definition shall not apply to:

- 1) a lawful campaign contribution;
- 2) meals, lodging, transportation and related travel expenses paid for (or reimbursed by) the City in connection with the City Official's attendance at a conference, seminar or similar event;
- 3) 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;
- 4) complimentary copies of trade publications and other related materials;
- 5) attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
- 6) Any gift which would have been offered or given to the City Official because of a personal, familial professional relationship regardless of the City Official's capacity with the City;
- 7) tee shirts, caps and other similar promotional material;
- 8) complimentary attendance at political or charitable fund raising events.

Pending Matter: an application seeking approval of a permit or other form of authorization required by the City, State or Federal law; a proposal to enter into a contract or arrangement with the City for the provision of goods, services, real property or other things of value; a case involving the City that is (or is anticipated to be) before a civil, criminal or administrative tribunal.

Person: associations, corporations, firms, partnerships and bodies politic and corporate, as well as to individuals.

Relative: a family member related to a City Official within the second degree of affinity (marriage) or consanguinity (blood or adoption).

Shall: a mandatory obligation, not a permissive choice.

Special Counsel: an independent, outside attorney engaged by the City to advise the City as an organization and/or the Board of Ethics.

Vendor: a person who provides or seeks to provide goods, services, real property to the City in exchange for compensation.

Sec. 39.04. Expectations

- a) City Officials are expected to conduct themselves in a manner that fosters public trust.
- b) City Officials are charged with performing their public duties in a way that projects their own personal integrity and upholds the integrity of the organization.
- c) City Officials must avoid behavior that calls their motives into question and erodes public confidence.
- d) City Officials shall place the municipality's interests and the concerns of those the City serves above personal, individual interests.
- e) Those who serve the City are expected to value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence as values the City professes.
- f) City Officials must balance transparency with the duty to protect personal privacy and preserve the confidential information with which the City has been entrusted.

Sec. 39.05. Cumulative & Non-Exclusive

This Chapter is cumulative of and supplemental to all applicable provisions of the City Charter, Code, other City Ordinances, and State/Federal laws and regulations. Compliance with this Chapter does not excuse or relieve any person from any obligation imposed by any other provision of the Code, City Ordinance, or State/Federal laws and regulations. Attempts to enforce this Chapter shall not be construed as foreclosing or precluding other enforcement options provided by other law.

DIVISION 2. RULES OF CONDUCT

Sec. 39.06. Mandates

- a) **Duty to Report.** City Officials shall immediately report any conduct that the person knows to be a violation of this Chapter. Failure to report a violation of this Chapter is a violation of this Chapter. For purposes of this section, a report made to a fraud, waste or abuse 3rd party hotline, if any, shall be considered to be a report under this Section.
- b) **Direction and Supervision of Employees, Non-Interference by the City Council: Appointment and Removal of Department Heads.**
 - 1) Except for the purposes of inquiries and investigations as provided by the City Charter or otherwise by law, the City Council or its members shall deal with Board Members and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, either publicly or privately.
 - 2) Neither the City Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the City Manager or by any other City employee.
 - 3) The City Manager shall be responsible for and have the authority to appoint, suspend, and/or remove any of the directors of the departments of the City of Corinth.
- c) **Financial Disclosures.** All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law. All prospective Vendors and City Officials shall file disclosure forms as required by, and in accordance with, State law.

Sec. 39.07. Prohibitions

- a) **Conflicts of Interest.**
 - 1) *Deliberation Prohibited.* It shall be a violation of this Chapter for a City Official to knowingly deliberate regarding a pending matter for which the City Official has a Conflicting Interest. City Officials with a Conflicting Interest in a pending matter must recuse themselves and abstain from Deliberations. It is an exception to this recusal requirement if a majority of the Board or Commission on which the City Official serves is composed of persons who are likewise required to file (and who do file) disclosures on the same pending matter.

- 2) *Disclosure Required.* If a City Official has a Conflicting Interest in a pending matter, the City Official shall disclose the nature of the conflicting interest by filing a sworn statement with the City Secretary.
- 3) *Relative.* A City Official is considered to have a Conflicting Interest if the City Official's Relative has a conflicting interest.

b) Gifts.

- 1) *General.* It shall be a violation of this Chapter for a City Official to accept any Gift that might reasonably tend to influence such City Official in the discharge of official duties.
- 2) *Specific.* It shall be a violation of this Chapter for a City Official to accept any Gift for which the fair market value is one-hundred dollars (\$100.00) or greater. It shall be a violation of this Chapter for a City Official to accept multiple Gifts from a single source for which the cumulative fair market value exceeds one-hundred dollars (\$100.00) in a single fiscal year.
- 3) It shall be a violation of this Chapter for a Vendor to offer or give a Gift to a City Official exceeding one-hundred dollars (\$100.00) per Gift, or multiple Gifts cumulatively valued at more than one-hundred dollars (\$100.00) per a single fiscal year.

c) Representation of Others.

- 1) *Current City Officials.* It shall be a violation of this Chapter for a City Official to represent for compensation any person, group, or entity before the City.
- 2) *Former City Officials.* It shall be a violation of this Chapter for a City Official to represent for compensation any person, group, or entity before the City for a period of one (1) year after termination of official duties.
- 3) For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

d) Improper Influence. It shall be a violation of this Chapter for a City Official to use such person's official title/position to:

- 1) Secure special privileges or benefits for such person or others;
- 2) 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;

- 3) Assert the prestige of the City Official's position for the purpose of advancing or harming private interests;
- 4) State or imply that the City Official is able to influence City action or any basis other than the merits; or
- 5) State or imply to state or local governmental agencies that the City Official is acting as a representative of the City, as an organization, or as a representative of the City Council without first having been authorized by the City Council to make such representation.

e) **Misuse of Information.**

- 1) *Personal Gain.* It shall be a violation of this Chapter for a former City Official to use any Confidential Information to which he had access by virtue of his official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal financial interest.
- 2) *Confidential Information.* It shall be a violation of this Chapter for a City Official to intentionally, knowingly, or recklessly disclose any Confidential Information gained by reason of said City Official's position concerning the property, operations, policies or affairs of the City. This rule does not prohibit the reporting of illegal or unethical conduct to authorities designated by law.

f) **Abuse of Resources.** It shall be a violation of this Chapter for a City Official to use, request, or permit the use of City facilities, personnel, equipment, software, supplies, or staff time for private purposes (including political purposes), except to the extent and according to the terms that those resources are generally available to the City Council for official City purposes.

g) **Abuse of Position.** It shall be a violation of this Chapter for any City Official to:

- 1) *Harassment & Discrimination.* Use the City Official's position to harass or discriminate against any person based upon ethnicity, race, gender, gender identity, sexual orientation, marital status, parental status, or religion.
- 2) *Interference.* Interfere with any criminal or administrative investigation alleging the violation of any provision of this Chapter, the City Charter, administrative policy or executive order in any manner, including but not limited to seeking to persuade or coerce City employees, or others to withhold their cooperation in such investigation is a violation of this Chapter.

h) **Subsequent Work on Prior Projects.** It shall be a violation of this Chapter for any former City Official, within one (1) year of the cessation of official duties for the

City, to perform work on a compensated basis relating to a City contract or arrangement for the provision of goods, services, real property or other things of value, if while in City service the former City Official personally and substantially participated in the negotiation, award or administration of the contract or other arrangement.

- i) **Travel.** It shall be a violation of this Chapter for any City Official to violate the Travel and Training Policy adopted by City Council, as amended.

DIVISION 3. IMPLEMENTATION

Sec. 39.08. Staffing

The City Secretary's Office shall be responsible to provide staff support to the Board of Ethics to assist in the implementation and enforcement of this Chapter.

Sec 39.09. Legal Counsel

- a) **City Attorney.** The City Attorney shall provide legal support to the Board of Ethics.
- b) **Special Counsel.** Independent, outside legal services shall be engaged by the City Attorney on the City's behalf to provide legal support to the Board of Ethics when:
 - 1) In the City Attorney's discretion it is necessary in order to comply with the Texas Disciplinary Rules of Professional Conduct (for lawyers), or is in the best interest of the City; or
 - 2) When the City Council deems Special Counsel is necessary.

Sec. 39.10. Training

- a) **Curriculum.** The City Secretary shall approve a training program that provides an introduction and overview of the expectation, mandates and prohibitions provided for by this Chapter.
- b) **Orientation.** City Officials shall complete training session regarding this Chapter within ninety (90) days of commencing the official duties.

- c) **Annual.** City Officials shall complete an annual training session regarding this Chapter.
- d) **Exiting Officials.** Information shall be provided by the City Secretary to City Officials terminating City service regarding the continuing restrictions on the representation of others by certain former City Officials.

Sec. 39.11. Board of Ethics

- a) **Creation.** There is hereby created a Board of Ethics for the City of Corinth.
- b) **Appointment.** The Board of Ethics shall be appointed by majority vote of the City Council.
- c) **Number.** The Board of Ethics shall consist of five (5) members.
- d) **Terms.** Board of Ethics members shall be appointed for two (2) year, staggered terms. Members may be reappointed for successive terms. Appointment to fill a vacancy shall be for the remainder of the unexpired term. Members of the inaugural Board of Ethics shall draw straws to determine which (3) members shall receive an initial term of one (1) year in order to stagger terms.
- e) **Eligibility.** Membership on the Board of Ethics is limited to residents of the City of Corinth.
- f) **Ineligibility.** The following shall disqualify a person from serving on the Board of Ethics:
 - 1) Current service as a City Official on a board or commission other than the Board of Ethics;
 - 2) Separation from city service as a City Official within one (1) year of the appointment;
 - 3) Familial relations within the first (1st) degree of affinity (marriage), or the first (1st) degree of consanguinity (blood or adoption), with another City Official;
 - 4) Current service as an elected official in Denton County; or
 - 5) Conviction of a felony, or crime of moral turpitude.

- g) **Scope of Authority.** The Board of Ethic's jurisdiction shall be limited to implementation and enforcement of this Chapter.
- h) **Amendments.** The Board of Ethics may recommend amendments to this Chapter. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this Chapter.

Sec. 39.12. Advisory Opinions

- a) **Requests.** Any City Official may request an Advisory Opinion on a question of compliance with this Chapter. Requests shall be submitted in writing to the City Secretary, who shall assign the request to the Committee.
- b) **Issuance.** A Committee of the Board of Ethics shall issue Advisory Opinions upon request. Advisory Opinions shall be issued within thirty (30) days of receipt of the request.
- c) **Reliance.** It shall be an affirmative defense to a Complaint that the Accused reasonably relied in good faith upon an Advisory Opinion issued by a Committee. In making a determination on the proper disposition of a Complaint, the Board of Ethics may dismiss the Complaint if the Board finds that:
 - 1) The Accused requested an Advisory Opinion;
 - 2) The request for an Advisory Opinion fairly and accurately disclosed the relevant facts; and
 - 3) Less than five (5) years elapsed between the date the Advisory Opinion was issued and the date of the conduct in question.

Sec. 39.13. Complaints

- a) **Complainants.** Any person who has first-hand knowledge that there has been a violation of this Chapter may allege such violations by submitting a Complaint in writing or through a fraud, waste and abuse 3rd party hotline, if any. The persons who may submit Complaints includes (but is not limited to) the City Secretary and members of the Board of Ethics. A Complainant must be a resident in the City of Corinth, own Real Property in the City of Corinth or be an employee or City Official to be eligible to file a Complaint with the Board of Ethics.

- b) **Form.** Complaints shall be written on, or accompanied by, a complete form promulgated by the City Secretary or through a fraud waste abuse 3rd party hotline.
- c) **Contents.** A Complaint filed under this section must be in writing and under oath and must set forth in simple, concise, direct statements and must state:
- 1) the name of the Complainant;
 - 2) the street or mailing address, email address, and the telephone number of the Complainant;
 - 3) the name of each person Accused of violating the Chapter;
 - 4) the position or title of each person Accused of violating the Chapter;
 - 5) the nature of the alleged violation, including (whenever possible) the specific provision of this Chapter alleged to have been violated;
 - 6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and
 - 7) all documents or other material available to the Complainant that are relevant to the allegation.
- d) **Violation Alleged.** The Complaint must state on its face an allegation that, if true, constitutes a violation of this Chapter.
- e) **Affidavit.** A Complaint must be accompanied by an affidavit stating that the Complaint is true and correct or that the Complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Chapter. The Complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.
- f) **Limitations Period.** To be accepted, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Chapter. A Complaint will not be accepted more than two (2) years after the date of the act or omission.
- g) **Filing.** Complaints shall be submitted to the Board of Ethics. Submission of Complaints may be made by hand delivery, U.S. Mail, through a fraud, waste

and abuse 3rd party hotline, or email directed to an email address publicly listed by the City Secretary.

h) **Acceptance of Complaint.** Within five (5) business days of receiving a Complaint, the City Secretary shall determine if it is administratively complete, and timely.

1) *Administratively Complete.* A Complaint is administratively complete if contains the information described above. If the Complaint is administratively complete, the City Secretary shall proceed as described in this Chapter. If the Complaint is incomplete the City Secretary shall send a written deficiency notice to the Complainant identifying the required information that was not submitted.

2) The Complainant shall have ten (10) business days after the date the City Secretary sends a deficiency notice to the Complainant to provide the required information to the City Secretary, or the Complaint is automatically deemed abandoned and may not be processed in accordance with this Chapter. Within five (5) business days of a Complaint being abandoned, the City Secretary shall send written notification to the Complainant.

i) **Notification of Acceptance.** Within five (5) business days of determining that a Complaint is administratively complete, the City Secretary shall send a written notification of acceptance to the Complainant, the Accused, and the City Attorney.

A Complaint shall be considered an Accepted Complaint when the City Secretary has deemed the submittal administratively complete, and timely.

j) **Confidentiality.** A Complaint that has been submitted to the City is hereby deemed confidential until such time as the Complaint is either dismissed or placed on an agenda for consideration by the Board of Ethics in accordance with this Chapter. The confidentiality created by this Chapter includes the fact that a Complaint was submitted and the contents of that Complaint. It shall be a violation of this Chapter for a City Official to publicly disclose information relating to the filing or processing of a Complaint, except as required for the performance of official duties or as required by law. Requests for records pertaining to Complaints shall be responded to in compliance with the State law. The limited confidentiality created by this Chapter is limited in scope and application by the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code.

- k) **Ex Parte Communications.** After a Complaint has been filed and during the pendency of a Complaint before the Board of Ethics, it shall be a violation of this Chapter:
- 1) For the Complainant, the Accused, or any person acting on their behalf, to engage or attempt to engage directly or indirectly about the subject matter or merits of a Complaint in *ex parte* communication with a member of the Board of Ethics or any known witness to the Complaint; or
 - 2) For a member of the Board of Ethics, to knowingly allow an *ex parte* communication about the subject matter or merits of a Complaint, or to communicate about any issue of fact or law relating to the Complaint directly or indirectly with any person other than a member of the Board of Ethics, the City Secretary's office, the City Attorney's office, or Special Counsel.

Sec. 39.14. Preliminary Assessment

- a) **Referral to Chairperson.** Accepted Complaint(s) shall be referred to the Chairperson of the Board of Ethics within five (5) business days of being determined an Accepted Complaint.
- b) **Assignment of Panel.** Within five (5) business days of receiving an Accepted Complaint, the Chairperson of the Board of Ethics shall assign the Complaint to a Committee for preliminary assessment, and appoint a member of the Committee as the Committee Chair.
- c) **Committee Determination.** Within five (5) business days of being assigned an Accepted Complaint, the Committee shall review the Complaint on its face and determine whether the Complaint is an Actionable Complaint, Baseless Complaint, or Frivolous Complaint.

Actionable Complaints shall be returned to the Chairperson for listing on an agenda for a public hearing. Baseless Complaints and Frivolous Complaints shall be dismissed. Written notification of the Committee's determination shall be filed with the City Secretary and sent to the Chairperson, Complainant, the Accused, and the City Attorney within two (2) business days. Written notifications of dismissal shall include notice of the right to appeal.

- d) **Appeals.** Determination of a Committee may be appealed to the Board of Ethics by either the Complainant or the Accused, as applicable. An appeal shall be perfected by filing a written notice of appeal with the City Secretary within

ten (10) business days of the date the written notification is placed in the mail for delivery.

Sec. 39.15. Meetings

- a) **Calling Meetings.** Meetings of the Board of Ethics shall be called upon request of the Chairperson, three (3) members, or the City Secretary.
- b) **Quorum.** The quorum necessary to conduct meetings of the Board of Ethics shall be three (3). The Chairperson shall count toward the establishment of a quorum.
- c) **Hearings.**
 - 1) *Scheduling:* Hearings shall be scheduled by the City Secretary upon the filing of:
 - A) a Committee determination that a Complaint is an Actionable Complaint; or
 - B) an Appeal challenging a Committee's dismissal of a Complaint as a Baseless Complaint or Frivolous Complaint.
 - 2) *Purpose:* The purposes of the hearing(s) shall be solely to determine whether:
 - A) a violation of this Chapter occurred, and if so to assess the appropriate sanction;
 - B) an Accepted Complaint was erroneously dismissed as a Baseless Complaint or Frivolous Complaint by a Committee; and/or
 - C) an Accepted Complaint is a Frivolous Complaint.
 - 3) *Rules of Procedure:* The Board of Ethics shall adopt rules of procedure governing how to conduct hearings on Actionable Complaints. Such procedural rules are subject to confirmation or modification by the City Council.
 - 4) *Sworn Testimony:* All witness testimony provided to the Board of Ethics shall be under oath.

- 5) *Burden of Proof:* Because the burden of showing that a violation of this Chapter occurred is placed on the Complainant, it is the Complainant that has the obligation to put forth evidence, including testimony, supporting the Complaint. The Complainant is required to testify at the hearing. A Complainant's failure to testify at a hearing shall be grounds for dismissal of a Complaint.
- d) **Open Meetings.** All meetings and hearings of the Board of Ethics shall be conducted pursuant to the Texas Open Meetings Act. The Board of Ethics may convene in Executive Session (i.e., conduct a closed meeting) as allowed by the act. All final action of the Board of Ethics shall take place in open session.
 - e) **Postponement in Certain Instances.** If a Complaint alleges facts that are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the Board of Ethics may, when a majority of its members deem appropriate, postpone any hearing or any appeal concerning the Complaint until after the criminal investigation or criminal proceedings are terminated.

Sec. 39.16. Disposition

- a) **Dismissal.** If the Board of Ethics determines at the conclusion of a hearing by simple majority vote of its members that a Complaint should be dismissed, it may do so upon finding:
 - 1) the Complaint is a Baseless Complaint or Frivolous Complaint;
 - 2) the alleged violation did not occur;
 - 3) the Accused reasonably relied in good faith upon an Advisory Opinion, as provided in this Chapter; or
 - 4) the Complainant failed to testify at the hearing.
- b) **Sanctions.** If the Board of Ethics determines at the conclusion of a hearing that a violation has occurred, it may within ten (10) business days impose or recommend any of the following sanctions:
 - 1) *Letter of Notification.* If the violation is clearly unintentional, or when the Accuser's action was made in reliance on a written opinion of the City Attorney. A letter of notification shall advise the Accused of any steps to be taken to avoid future violations.

- 2) *Letter of Admonition.* If the Board of Ethics finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notifications.
- 3) *A Reprimand.* If the Board of Ethics finds that the violation:
 - A) was minor and was committed knowingly, intentionally or in disregard of this Chapter; or
 - B) was serious and may have been unintentional.
- 4) *Recommendation of Suspension.* If the Board of Ethics finds that a violation :
 - A) was serious and that was committed knowingly, intentionally or in disregard of this Chapter or a state conflict of interest law; or
 - B) was minor but similar to a previous violation by the Person, and was committed knowingly, intentionally or in disregard of this Chapter.

The final authority to impose a suspension rests with the City Council regarding Board Members.
- 5) *Ineligibility.* If the Board of Ethics finds that a Vendor has violated this Chapter, the Board may recommend to the City Manager and City Council that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Notice of all sanctions imposed by the Board of Ethics shall be transmitted to the Accused, Complainant, City Secretary, City Attorney, and City Council.

c) **Frivolous.**

- 1) *Prohibition.* It is a violation of this Chapter for a Person to submit a Frivolous Complaint.
- 2) *Super-Majority Vote.* If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds (2/3) of its members that a Complaint was Frivolous, the Board may prohibit the Complainant from filing a Complaint with the Board for a period of time up to one (1) year after the date the Frivolous determination was made.
- 3) *Factors.* In making a determination on frivolity, the Board of Ethics shall consider the following factors:

- A) the timing of the sworn Complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, and with respect to the date of any pending election in which the Accused is a Candidate or is involved with a candidacy, if any;
 - B) the nature and type of any publicity surrounding the filing of the Complaint, and the degree of participation by the Complainant in publicizing the fact that a Complaint was filed;
 - C) the existence and nature of any relationship between the Accused and the Complainant before the Complaint was filed;
 - D) if the Accused is a Candidate, the existence and nature of any relationship between the Complainant and any Candidate or group opposing the Accused;
 - E) any evidence that the Complainant knew or reasonably should have known that the allegations in the Complaint were groundless; and
 - F) any evidence of the Complainant's motives in filing the Complaint.
- 4) *External Remedies.* Complainants who submit Frivolous Complaints are hereby notified that their actions may subject them to criminal prosecution or perjury (criminal prosecution), or civil liability for the torts of defamation or abuse of the process.

Sec. 39.17. Reconsideration

The Complainant or Accused may request the Board of Ethics to reconsider its decision. The request must be filed with the City Secretary within five (5) business days of receiving the final opinion of the Board of Ethics. The request for reconsideration shall be sent to the Chairperson of the Board of Ethics, the City Secretary, and the non-filing party (Complainant or Accused). If the Chairperson finds, in the Chairperson's sole discretion, that the request includes new evidence that was not submitted at a prior hearing, and that the new evidence bears directly on the Board of Ethic's previous determination, the Chairperson shall schedule a hearing on the request for reconsideration to occur within thirty (30) days after filing of the reconsideration request. Absent new evidence, the Chairperson shall unilaterally dismiss the request for reconsideration and provide the decision to the Parties."

**SECTION 3.
CUMULATIVE REPEALER**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION 4.
SAVINGS**

All rights and remedies of the City of Corinth, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting zoning which have secured at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 5.
SEVERABILITY**

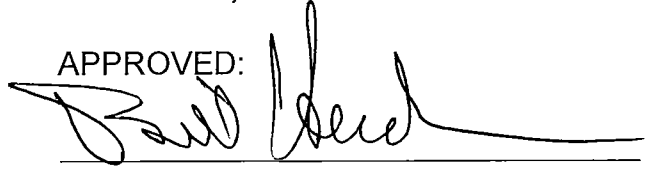
The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

**SECTION 6.
EFFECTIVE DATE**

This ordinance shall take effect upon its publication as required by law. The City Secretary is directed to publish the caption and penalty of this ordinance two times.

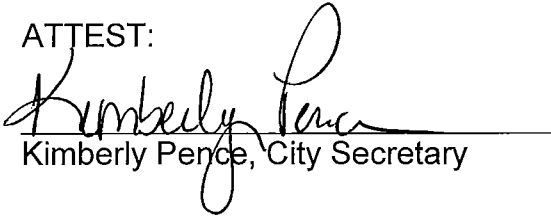
PASSED AND APPROVED THIS 2ND DAY OF AUGUST, 2018.

APPROVED:

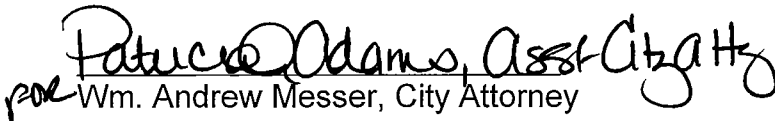


Bill Heidemann, Mayor

ATTEST:


Kimberly Pence, City Secretary

APPROVED AS TO FORM:


Wm. Andrew Messer, City Attorney