



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Workshop Agenda - Final City Council

Monday, August 6, 2018

12:00 PM

Large City Hall Conference Room

630 E. Hopkins - Ethics Review Commission Recommendations Workshop

I. Call To Order

II. Roll Call

1. Consider the Ethics Review Commission's recommended amendments to the San Marcos Code of Ethics including; a. campaign contribution limits; b. mandatory reporting of ethics violations; c. requiring remedial ethics training for ethics ordinance violators; d. prohibiting officials from voting on contracts that benefit any business entity they serve in any capacity; and e. requiring lobbyists to register and provide periodic reports of lobbying activity; provide direction to city staff regarding preparation of an ordinance to be placed on a regular council meeting agenda for approval on first reading; and provide additional direction, if necessary, to the ERC regarding these matters

III. Adjournment.

POSTED ON MONDAY, JULY 30, 2018 AT 5:00PM

JAMIE LEE CASE, CITY CLERK

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov



Legislation Text

File #: ID#18-487, **Version:** 1

AGENDA CAPTION:

Consider the Ethics Review Commission's recommended amendments to the San Marcos Code of Ethics including; a. campaign contribution limits; b. mandatory reporting of ethics violations; c. requiring remedial ethics training for ethics ordinance violators; d. prohibiting officials from voting on contracts that benefit any business entity they serve in any capacity; and e. requiring lobbyists to register and provide periodic reports of lobbying activity; provide direction to city staff regarding preparation of an ordinance to be placed on a regular council meeting agenda for approval on first reading; and provide additional direction, if necessary, to the ERC regarding these matters

Meeting date: August 6, 2018

Department: Legal

Amount & Source of Funding

Funds Required: Click or tap here to enter text.

Account Number: Click or tap here to enter text.

Funds Available: Click or tap here to enter text.

Account Name: Click or tap here to enter text.

Fiscal Note:

Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.

Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Council received a presentation from the Ethics Review Commission on March 20, 2018 and discussed specific recommendations regarding amendments to the San Marcos Code of Ethics pertaining to the following subjects: a. campaign contribution limits; b. mandatory reporting of ethics violations; c. requiring remedial ethics training for ethics ordinance violators; d. prohibiting officials from voting on contracts that benefit any business entity they serve in any capacity; and e. requiring lobbyists to register and provide periodic reports of lobbying activity.

The purpose of this Special Meeting is to have Council vote for or against inclusion of each of these recommended amendments in an ordinance to be considered on first reading at a regular city council meeting. If necessary, Council will also have an opportunity to vote on specific direction to city staff and the Ethics Review Commission regarding these matters.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Recommendation:

Click or tap here to enter text.

Presentation To City Council – Ethics Ordinance Revisions

August 6, 2018

Requested Council Action

Provide clarification and direction to city staff and the Ethics Review Commission regarding proposed amendments to the San Marcos Code of Ethics

Review of ERC's Recommendations

- Limit campaign contributions? Effective date?
- Require city officials and employees to report ethics violations?
- Require remedial ethics training for ethics ordinance violators?
- Prohibit city officials from voting on contracts with business entities they serve in any capacity?
- Require lobbyists to register and submit periodic lobbying activity reports?

Campaign Contribution Limits

- Individual contribution limit: \$500 per candidate per election cycle
- Aggregate fund raising limits per election cycle:
 - For mayoral candidates: $\$1.25 \times \text{number of registered city voters on date of last mayoral election [32,682 registered voters on 11/07/2017]} = \$40,852.50$
 - For council candidates: $\$0.75 \times \text{number of registered city voters on date of last election for any council place}$
 - Runoff candidates: $\$1.50 \times \text{number of registered city voters on the date of the last regular municipal election}$

Campaign Contribution Limits (continued)

Contributions – include monetary, in-kind, and pledged contributions

Election Cycle – Revised by ERC (6-12-2018)

A period of time beginning on the day after the last election for the office of mayor or council member of a particular council place and ending on election day for that position

Other Proposed Amendments

Mandatory Reporting of Ethics Violations:

Amend Section 2.444 of the ethics ordinance to require city officials and employees who have knowledge of a violation of the code of ethics or state conflict of interest law to report the violation to the ERC

Voting on Certain Contracts Prohibited:

Amend Section 2.423 to prohibit a city official from voting on a contract with the city for any business entity that the official serves in any capacity

Other Proposed Amendments (continued)

Remedial Ethics Training:

Amend Section 2.444 to include, as a sanction for violation of the ethics ordinance, a requirement that the official or employee attend remedial ethics training including any updates to the ordinance

Lobbying Regulations

Key Terms Defined:

Lobbying – oral, written, or electronic communication with a city official, employee, or staff member to influence a municipal decision on behalf of the lobbyist himself, or on behalf of another person or entity

Includes: attempts to adopt or defeat adoption of an ordinance or resolution, to gain the award of a contract or approval of a land use/land development application

Lobbying Regulations (continued)

Excludes: communications regarding homestead property; family matters that are not business related; matters not involving financial benefit or detriment

Lobbyist – any person, including an attorney, who engages in lobbying on behalf of his/her principal, employer, or the owner of a business. Both the lobbyist and the principal would be subject to proposed registration and reporting requirements

Lobbying Regulations (continued)

Registration – required; failure to register can delay city's award of contract or land use decision until registration occurs

Activity Reports:

- required to be filed for each two month period
- include the name of the client, list of issues, matters or decisions
- names of city officials or employees contacted
- dollar amount of each gift, benefit or expenditure conferred on a city official in excess of \$50 or in a cumulative amount greater than \$200 per reporting period
- setting annual limit of \$500 on meals or gifts to a city official

Lobbying Regulations (continued)

Violations and Enforcement:

- complaints regarding lobbying violations would be heard by the ERC
- repeated violations – three violations within a five year period – results in suspension for one year
- could also result in municipal court prosecution

Summary of Today's Actions

- Votes taken today on each recommendation
- Date for consideration of ordinance on first reading and effective date(s) for each amendment
- Direction to Ethics Review Commission and staff, if necessary, for additional work to be done regarding these matters

SURVEY: CAMPAIGN FINANCE AND LOBBYING ORDINANCES

City	Lobbying		Campaign Finance	
	YES	NO	YES	NO
Austin	X		X	
Bastrop		X		X
Bryan		X		X
Buda		X		X
Cedar Park		X		X
Cibolo		X		X
College Station		X		X
Georgetown		X		X
Kyle		X		X
Live Oak		X		X
Lockhart		X		X
Luling		X		X
Manor		X		X
Marble Falls		X		X
New Braunfels		X		X
Pflugerville		X		X
Round Rock		X		X
San Antonio	X		X	
Schertz		X		X
Seguin		X		X
Temple		X		X
Universal City		X		X
Waco		X		X
Westlake		X		X

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EMPLOYEE ETHICS-RELATED PROGRAMS AND TRAINING

Program/Training including Frequency

Employee Handbook

- Handbook is provided upon hiring of employee. The following are included:
 - Ethical Standards and Prohibited Practices (policy included at end of document)
 - Sexual Harassment and Anti-Retaliation Policy
 - Title VII/Equal Employment Opportunity/Affirmative Action
 - Americans with Disabilities Act
 - Family Medical Leave Act
 - Health Insurance Portability and Accountability Act
 - Affordable Care Act
 - Reporting of Complaints process
 - Violation(s) of policies process; Employee may be subject to:
 - Disciplinary action up to and including termination
 - Criminal prosecution if appropriate
 - Completion of additional/repeat training

Bid, RFP, RFQ, Quote Competitive Processes

- Non-disclosure Agreement
 - Ongoing
- Evaluation Committee Participant Affidavit; attest to:
 - Confidentiality
 - No personal interest in submitted proposals or proponents
 - Evaluation can withstand public and legal scrutiny
 - Committee recommendation leads to proponent selection whose services/products are acceptable and in the best interest of the City
 - Evaluation scores are not based on supervisor's preference or new information
 - Violations are reported to City Manager's Office or Abuse/Fraud hotline

IT Specific Items

- IT Procedural Guide
 - Upon hire
- Code of Conduct Policy for IT employees
 - Upon hire
- IT Organizational Handbook and IT Policy Acknowledgement Form for all employees
 - Upon hire
- Ongoing Professional Trainings for IT Managers and staff; includes:
 - Executive Leadership in Information Technology Excellence (ELITE)
 - Certified Government Chief Information Officer (GCIO)

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EMPLOYEE ETHICS-RELATED PROGRAMS AND TRAINING

Memberships that Require Annual Ethics Training for Participants (City Manager, Assistant City Managers, Chief of Staff)

- Texas City/County Management Association (TCMA)
- International City/County Management Association (ICMA)

Trainings

- Creating a Harassment Free Workplace
 - Quarterly for new employees; Citywide every 2 years
- TMLIRP Supervisory Training
 - Annual
- TMLIRP Leadership, Ethics and Integrity in the Workplace
 - March 2018; repeated as available
- Interviewing, hiring, and employee selection
 - Ongoing
- Effective Performance Evaluations
 - Annual
- New Employee Orientation
 - Upon hire
- Benefits Open Enrollment Sessions
 - Annual
- Procurement Card Training
 - Every 2 years
- IT Security Awareness Training
 - Upon hire; repeated every year
- IT Knowledge Assessment
 - Every year

Other Ongoing Items

- Integrity Hotline
- COSM Ethics Ordinance

Employee Initiatives to be Implemented

- Employee Handbook Update
- More Prominent Display of Ethics Hotline
- Internal Website for Employees to:
 - Report Waste
 - Suggest Process Improvements
- Included in City Manager's 1 year Work Plan in Organizational - New Culture Priority (page 5):
 - Code of Conduct
 - Core Values
 - Directors Team
 - All City Employees

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EMPLOYEE ETHICS-RELATED PROGRAMS AND TRAINING

- Ethics Training-move toward annual training through implementation of technology solutions

ETHICS POLICY EXCERPT FROM THE EMPLOYEE HANDBOOK:

Section 7.05 - Personal Conduct:

All employees are expected to maintain a high level of personal conduct on the job, to render courteous, efficient service to the public, to be mindful of safety practices and to exercise the utmost care in the use of City property.

A. Ethical Standards:

As a public service organization, City employees are held to a high standard of ethical conduct. Employees should conduct themselves in a manner that avoids even the appearance of impropriety on and off the job. Actions in violation of conduct standards are subject to disciplinary action. Items one through five will not be construed to deprive an employee of the right to present employment related complaints or the right of due process under the law, including the right to represent him/herself in a court proceeding.

Consistent with this public trust, City of San Marcos employees must not:

1. Use their official position to secure special privileges or exemptions, whether direct or indirect, for themselves or others.
2. Grant any special consideration, treatment, or advantage to any citizen, individual or group beyond that which is available to every other citizen, individual or group.
3. Disclose any confidential information gained by reason of the position of the employee 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 employee or others.
4. Accept other employment or engage in outside activities incompatible with the full and proper discharge of city duties, or which might impair independent judgement in the performance of City duties.
5. No City employee will knowingly represent any private person, including the employee or any immediate family member, or any group or interest before any department, agency, commission or board of the City except that:
 - a. An employee may represent his/her interests in his/her owner occupied homestead before a board, agency, commission or department of the City other than those under which the employee is employed; and
 - b. An employee may appear before a board, agency, department or commission of the City, other than those by which the employee is employed, in matters of civic and public concern, and not representing a private person, group or interest.
6. Have a financial interest, whether direct or indirect, in any contract with the City including but not limited to the sale to the City of any land, materials, supplies, or services.

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7. Participate, directly or indirectly, in the sale or transfer of City-owned real property or personal property, to the employee, to any entity in which the employee has a personal interest, or to any person to whom the employee is related. (See Section 7.45 Nepotism Policy)
8. Use one's position or office of employment, or the city facilities, personnel, equipment or supplies, for the personal use or private gain of the city employee or immediate family members.
9. Participate in the discussion, consideration or decision by the City of any matter in which the employee has a conflicting personal interest, or fail to publicly disclose the nature and extent of the conflicting interest to the employee's supervisor and to the City Clerk.
10. Accept any improper gifts or gratuities (Section 7.10 - Gifts and Gratuities).
11. Misappropriate City funds, property or assets.

The above list of prohibited activities is not all-inclusive. Any conduct of an employee that places the personal interests of the employee above those of the City or of the public may be treated as a violation of the public trust and is subject to disciplinary action.

In addition to supervisory control over ethical standards, the City Ethics Review Commission oversees compliance by employees with the City's Ethics Code. The Commission may investigate alleged violations and recommend appropriate cases for criminal prosecution.

<p>CITY OF SAN MARCOS ETHICS ORDINANCE (SAN MARCOS CITY CODE, CHAPTER 2, ARTICLE 5) Updated February 2010</p>
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ARTICLE 5. CODE OF ETHICS

DIVISION 1. GENERALLY

Sec. 2.421. Policy and purposes.

(a) *General policy statement.* It is the policy of the city that all city officials and employees shall conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, impartiality or devotion to the best interest of the city and the public trust which the city holds.

(b) *Appearance of impropriety.* Public service is a public trust. All city officials and employees are stewards of the public trust. They have a responsibility to the citizens of the city to administer and enforce the City Charter and city ordinances. To ensure and enhance public confidence in city government, each city official and employee must strive not only to maintain technical compliance with

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EMPLOYEE ETHICS-RELATED PROGRAMS AND TRAINING

the principles of ethical conduct set forth in this article and in state law, but also to avoid the appearance of impropriety at all times.

(c) This code of ethics has five purposes:

(1) To encourage ethical conduct on the part of city officials and employees;

(2) To encourage public service with the city;

(3) To establish standards for ethical conduct for city officials and employees by defining and prohibiting conduct that is incompatible with the interests of the city;

(4) To require disclosure by city officials and employees of their economic interests that may conflict with the interests of the city; and

(5) To serve as a basis for disciplining those who fail to abide by its terms.

(d) This code of ethics is not intended to be used as a political weapon or to intimidate or embarrass affected persons. The officials charged with administration of this code of ethics shall administer it in a manner that avoids any such use of this code of ethics.

Sec. 2.422. Definitions.

In this article:

Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service or other tangible or intangible thing of value. *Benefit* includes a pecuniary gain or pecuniary advantage to any other person in whose welfare the beneficiary has a direct and substantial interest.

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Business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law, including a nonprofit organization or governmental entity.

Economic interest includes a legal or equitable interest in real property, personal property, or intangible property, or a contractual right. Service by a city official or employee as an officer, director, advisor, or other active participant in a nonprofit educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an *economic interest* in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an *economic interest* in the securities or other assets unless the person in question participates in the management of the fund.

Employee means any person employed by the city, whether under civil service regulations or not, including those individuals on a part-time basis, but not including any independent contractor.

Immediate family means the spouse, children, brothers, sisters and parents of an officer or employee.

Officer or official means the mayor or any member of the city council and any appointive member of a city board, commission or committee established by ordinance, charter or state law on a permanent basis.

Sec. 2.423. Prohibition against involvement in actions affecting economic interests.

(a) *General rule.* It is unlawful for a city official or employee to take any official action that he or she knows is likely to:

(1) Affect an economic interest of:

(A) The official or employee;

(B) His or her immediate family member;

(C) A member of his or her household;

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(D) An outside employer of the official or employee or of his or her immediate family member;

(E) A business entity in which the official or employee or his or her immediate family member holds an economic interest;

(F) A business entity for which the city official or employee serves as an officer or director or in any other policy making position; or

(G) A person or business entity from whom the official or employee, or his or her immediate family member, has solicited, received and not rejected, or accepted an offer of employment within the past twelve months; or

(2) Confer a benefit on the official or employee, or deprive the official or employee of a benefit, where the effect of the action on the official or employee is distinguishable from the effect of the action on members of the public in general or a substantial segment of the public.

(b) *Meaning of “affect”.*

(1) In subsection (a)(1) above, an action is likely to *affect* an official’s or employee’s economic interest if it meets all of the following:

(A) The action is likely to have an effect on that interest, either positive or negative, that is distinguishable from its effect on members of the public in general or a substantial segment of the public.

(B) The effect of the action on that interest is direct, and not secondary or indirect. However, the action need not be the only producing cause of the effect in order for the effect to be direct.

(C) The effect on the interest must be more than insignificant or de minimis in nature or value.

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(2) In determining whether a person, entity or property is or was *affected* by a vote or decision, it will not be necessary to prove the actual existence or occurrence of an economic effect or consequence if the effect or consequence would be reasonably expected to exist or occur.

(c) *Recusal and disclosure.* A city official or employee whose conduct would otherwise violate subsection (a), or a state conflict of interest law, if he or she took an action must abstain from participation in the action in accordance with the following:

(1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter, from the time he or she discovers or reasonably should have discovered the matter triggering the recusal;

(2) Promptly file a form for disclosing the nature and extent of the interest triggering the recusal with the city clerk, if the person is an official, or with the person's supervisor, if the person is an employee;

(3) Promptly notify the person's supervisor of the nature and extent of the interest triggering the recusal, if the person is a city employee, so that the supervisor can reassign responsibility for handling the matter to another person; and

(4) Promptly disclose the interest triggering the recusal, if the person is a member of a city board or commission, to other members of the board or commission, and leave the room in which the board or commission is meeting during the board or commission's discussion of, or voting on, the matter.

Sec. 2.424. Standards of conduct.

(a) *Standards for immediate family members.* It is unlawful for an immediate family member to intentionally or knowingly:

(1) Solicit, accept or agree to accept from another person any benefit that the member's relative, who is a city officer or employee, is prohibited from soliciting, accepting or agreeing to accept under state law;

(2) Misuse any official information obtained from the member's relative, who is a city officer or employee, to which the relative has access by virtue of the relative's office or employment and that has not been made public, in a manner prohibited as to the relative under state law; or

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(3) Misuse, as defined in V.T.C.A., Penal Code §39.01, any city property, services, personnel or any other thing of value belonging to the city that has come into the member's custody or possession by virtue of the office or employment of the member's relative who is a city officer or employee.

(b) *Representation and appearance at meetings.* No city officer or employee shall knowingly:

(1) Appear before the body of which the officer or employee is a member, as a representative for any private person, including the officer or employee or any immediate family member, or any group or interest;

(2) Represent, directly or indirectly, any private person, including the officer or employee or any immediate family member, or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission or board thereof is a party;

(3) Accept other employment or engage in outside activities incompatible with the full and proper discharge of city duties or that might impair independent judgment in the performance of city duties; or

(4) Make a false statement of material fact at a public meeting.

This subsection shall not be construed to deprive an officer or employee of the right to due process under the law, including the right to represent himself/herself in a court proceeding.

(c) *Representation by council members.* No city council member shall knowingly represent any private person, including the city council member or any immediate family member, or any group or interest in any matter before any department, agency, commission or board of the city, except that city council members may represent their interests in their owner-occupied homesteads before a board, agency, commission or department of the city other than the city council.

(d) *Representation in municipal court.* In any action or proceeding in the municipal court which is instituted by a city officer or employee in the course of official duties:

(1) No city council member shall knowingly represent any private person other than himself or herself. If a city council member elects to have a trial in municipal court, the city

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council, without the participation of the affected city council member, will appoint a special judge to preside over the trial.

(2) No city officer or employee shall knowingly represent any private person other than himself or herself, including any immediate family member, or any group or interest.

(e) *Representation in land use and development matters.* A member of the planning and zoning commission shall not knowingly represent the member or any other person, group or interest in any matter before the zoning board of adjustments involving land use or development, and a member of the zoning board of adjustments shall not knowingly represent the member or any other person, group or interest in any matter before the planning and zoning commission involving land use or development. This subsection does not apply to members representing their interests in their owner-occupied homesteads.

(f) *Prohibited use of city position.* A city official or employee shall not use his or her position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A city official or employee who represents to a person that the official or employee may provide an advantage or impediment to the person based on the official's or employee's office or position violates this rule.

Sec. 2.425 . Contracts with city; eligibility for appointment or election to office.

(a) No member of the city council and no city employee shall have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having an interest shall be ineligible for election as a city council member or appointment as a city employee, and any city council member or city employee who acquires an interest shall forfeit the office or employment. Any violation of this subsection with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council.

(b) In subsection (a) of this section and in subsection 2.425(c), the term "sale to the city" includes a sale to city-sponsored entities and organizations subject to substantial control by the city in one or more of the following respects:

(1) All or a majority of the governing body of the entity or organization is appointed by the city council;

(2) The city provides more than one-half of the operating funds of the entity or organization;

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(3) The city has approval authority over purchasing decisions made by the entity or organization;

(4) The city has approval authority over bonds or other indebtedness issued by the entity or organization; or

(5) The city has approval authority over the budget of the organization.

(c) This section does not apply to acquisition of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.

Sec. 2.426 . Restrictions on former employees.

(a) No former city employee shall, for a period of one year from the date of leaving city employment, knowingly:

(1) Appear at a meeting of a board or commission staffed by members of the department of which the employee was a member, as a representative for any private person, including the employee or any immediate family member, or any group or interest.

(2) Represent, directly or indirectly, any private person, including the former employee or any immediate family member, or any group or interest in any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, commission or board thereof is a party.

This subsection shall not be construed to deprive a former employee of the right to due process under the law, including the right to represent himself/herself in a court proceeding.

(b) In any action or proceeding in the municipal court which is instituted by a city officer or employee in the course of official duties, no former city employee shall, for a period of one year from the date of leaving city employment, knowingly represent any private person other than himself or herself, including any immediate family member, or any group or interest.

(c) For a period of one year from the date of leaving employment, a former city employee shall not have any financial interest in the sale to the city of any land, materials, supplies or service.

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Any violation of this subsection with the actual or constructive knowledge of the former city employee shall render the contract voidable by the city manager or the city council. This subsection shall not apply to a former city employee whose employment was terminated as part of a reduction in force.

Secs. 2.427--2.440. Reserved.

DIVISION 2. ETHICS REVIEW COMMISSION

Sec. 2.441. Established; composition; term of members.

An ethics review commission is established, to be composed of seven members, all of whom will reside in the city. Members of the commission will be appointed for staggered three year terms, and will serve until their respective successors are appointed.

Sec. 2.442. Organization; rules and regulations.

The ethics review commission each year will elect from its membership its chairperson and will promulgate its own rules and regulations as to its forms and procedures and maintain proper records of its opinions and proceedings.

Sec. 2.443. Authority and duties.

(a) *Generally.* The ethics review commission shall act as authorized by section 12.02 of the Charter concerning conflicts of interest, ethical conduct or interests of city officials and employees.

(b) *Review and recommendations.* The commission will meet at least once a year to review this article and may make recommendations to the city council.

(c) *Hearings.* The commission shall consider and conduct hearings on complaints of violations of this article and of state conflict of interest laws in accordance with Section 2.444.

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(d) *Advisory opinions.* The commission shall render advisory opinions on potential conflicts of interest or violation of this article at the request of a public official or employee subject to the terms of this article. The opinion must relate to an action proposed to be taken by the person requesting the opinion.

(e) *Opinions binding.* Any advisory opinion rendered by the commission to a person is binding on the commission in any subsequent complaint concerning the person about whom the opinion was requested and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in connection with the opinion.

Sec. 2.444. Complaints; review and hearings; sanctions for violations.

(a) *Complaint procedure.*

(1) Any resident or employee of the city who believes a person has violated a provision of this article or a state conflict of interest law may file a written complaint with the city attorney. The complaint must:

(A) Identify the complainant and the person who allegedly committed the violation;

(B) Provide a sufficient statement of the facts which if true would constitute a prima facie violation of a provision of this article or a state conflict of interest law;

(C) Specify the provision of this article or a state conflict of interest law which is alleged to have been violated;

(D) Identify sources of evidence, if any, that the complainant recommends should be considered by the commission; and

(E) Be filed on a form prescribed by the commission available on the City of San Marcos website and from the city attorney's office.

(F) No complaints shall be filed within a period beginning on the 60th day prior to the first day of early voting for any city election and ending on the later of the regular election day or runoff election day.

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(2) The city attorney will acknowledge the receipt of the complaint to the complainant and provide a copy of the complaint to the commission and to the person accused within seven business days of accepting the complaint form.

(b) Review of complaints by commission.

(1) The commission shall review each complaint in executive session prior to conducting a hearing to determine whether the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law.

(2) If the commission determines that the complaint is defective in form or does not allege sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall dismiss the complaint, and provide notice, including the reasons for the dismissal, to the complainant and to the person accused.

(3) If the commission determines that the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law, the commission shall schedule a hearing on the complaint.

(c) Hearings.

(1) The commission will adopt rules of procedure to govern hearing on complaints. The rules will allow for the presentation of evidence by the complainant and the person accused, and cross examination of witnesses.

(2) The chair of the commission or any person acting in that capacity, and the recording secretary of the commission, are authorized to administer oaths to persons who testify at hearings conducted by the commission.

(d) Ex parte communications. It is unlawful for a person who has filed a complaint alleging a violation of this article or a state conflict of interest law by a city officer or employee, or a person against whom such a complaint has been filed, to communicate verbally or in writing about the subject matter of the complaint with a member of the ethics review commission at any time other than during a public meeting of the commission. All such communications by such persons to the commission outside of a

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public meeting of the commission must be directed to the city attorney. The city attorney will collect all such communications and provide them to the commission with the agenda materials for the meeting at which the complaint is considered. The city attorney will make copies of these communications available to interested persons in accordance with state law.

(e) *Sanctions.* If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the following sanctions:

(1) A letter of notification, if the violation is clearly unintentional, or when the official or employee's action was made in reliance on a written opinion of the city attorney. A letter of notification shall advise the official or employee of any steps to be taken to avoid future violations.

(2) A letter of admonition, if the commission finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notification.

(3) A reprimand, if the commission finds that the violation:

(A) was minor and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law; or

(B) was serious and may have been unintentional.

A copy of any reprimand directed to an official shall be sent to the city council. A copy of any reprimand directed to an employee shall be sent to the city manager and included in the employee's personnel file.

(4) A recommendation of suspension from office or employment, if the commission finds that the violation:

(A) was serious and that was committed knowingly, intentionally or in disregard of this article 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 article or a state conflict of interest law.

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A recommendation of suspension of an official appointed by the city council shall be transmitted to the city council, and the council will have final authority on whether to impose a suspension. A recommendation of suspension of an employee shall be directed to the city manager, who will have final authority on whether to impose a suspension.

(5) A recommendation for recall or removal from office or employment, if the commission finds that the violation was serious and was committed knowingly, intentionally or in disregard of this article or a state conflict of interest law. A recommendation for recall of a city council member or removal of an official appointed by the city council will be forwarded to the city council. A recommendation for removal of an employee will be forwarded to the city manager.

(6) In addition to a sanction under subdivisions (1) through (5) above, the commission may recommend to appropriate authorities that a person be prosecuted for a violation of this article or a state conflict of interest law.

Sec. 2.445. Special counsel.

An independent outside attorney approved by the city council, who does not otherwise represent the city, shall be retained to serve as special counsel to the ethics review commission in the following situations:

(1) When a complaint is filed alleging that the mayor or a member of the city council, or the city manager, city attorney, city clerk or municipal court judge violated this article or a state conflict of interest law.

(2) When an advisory opinion is requested under section 2.443(d) by the mayor or a member of the city council, or by the city manager, city attorney, city clerk or municipal court judge.

Sec. 2.446. Discipline for violations.

The penalties prescribed in section 1.015 do not limit the power of the city manager to discipline employees under the city manager's supervision or the power of the city council to discipline its members for violations of this article or a state conflict of interest law.

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Secs. 2.447--2.460. Reserved.

DIVISION 3. FINANCIAL DISCLOSURE

Sec. 2.461. Definitions.

In this division:

Board member means a member of a board or commission whose membership is wholly appointed by the city council.

Business entity means a corporation, partnership, sole proprietorship, firm, holding company, joint stock company, receivership, trust or any other entity organized for profit.

Candidate means every person who declares for or files for any city office to be filled by election.

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

Family member means the spouse and any dependent children of any official or candidate.

Gift means a benefit received other than as compensation, but not including campaign contributions reported as required by state law.

Identification means, for an individual, the person's name, street address, city and state. For any entity other than an individual, the term "identification" means the name, address, city and state of the entity's principal location or place of business; the type or nature of the entity's principal location or place of business; the type or nature of the entity; the date on which it came into existence; the state of incorporation, if any; and the names of the partners or officers of the entity.

Income means a benefit received.

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Source of income means any business entity, employment, investment or activity which earned or produced income, including interest, dividends, royalties or rents.

Sec. 2.462. Financial disclosure statement required.

(a) Between March 15 and April 30 of each year, every city council member, and the city manager, city attorney, municipal court judge, and city clerk shall file a sworn financial disclosure statement with the city clerk reflecting the financial situation of the official as of December 31 of the previous year and the official's financial activity between January 1 to December 31 of the previous year.

(b) A newly elected city council member and a newly appointed city manager, city attorney, municipal court judge, or city clerk shall file a sworn financial disclosure statement with the city clerk within 30 days from the date the position is assumed. The statement shall reflect the financial condition as of the date and financial activity for the previous 12 months.

(c) A candidate for city council shall file a sworn statement with the city clerk not later than ten days from the date the candidate files with the city clerk an application to be placed on the official ballot. This statement shall include:

(1) A list of any financial interest the person has, direct or indirect, in real property located within the corporate limits or within the extraterritorial jurisdiction of the city.

(2) A list of any financial interest the person has, direct or indirect, in any business entity located in the city or its extraterritorial jurisdiction or any business entity doing business with the city.

(3) The financial interests listed by the person shall include those held at any time during the 12 months preceding the date of filing for office and shall include any interest held by the candidate or a family member of the candidate.

(d) All board members shall file a disclosure statement with the city clerk within 30 days after their initial appointment, and thereafter between October 1 and October 31 of each year, regarding their relevant substantial interests in business entities and real property during the 12-month period preceding the date of the statement. The statement shall be on a form provided by the city. For purposes of this section, the term "business entity" and the determination of substantial interests in business entities and real property shall be as defined and determined under V.T.C.A., Local Government Code Chapter 171. The form shall note whether the person claims a homestead exemption on any real property owned by the person.

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(e) Any person filing a statement required by this section may include additional time periods.

Sec. 2.463. Information required on financial disclosure statement.

(a) Every person required to file a financial disclosure statement under subsection 2.462(a) or (c) shall include in that statement the following information:

(1) The person's name, the name of each family member and all names under which the person or family members do business.

(2) Identification of each source of income amounting to more than \$100.00 received in the reporting periods by the person or family members, stating the name, address, and nature of the source of income and stating the amount of income received; and identification of each option held, owned, acquired or sold during the reporting period, stating the nature of the option, the amount of transaction, and identification of the other parties to the transaction.

(3) Identification of each business entity, nonprofit entity or union in which the person or family member:

a. Was a partner, manager, officer, member of the board of directors, proprietor or beneficiary, during the reporting period, stating the position held; or

b. Had an ownership interest of more than \$100.00 at the fair market value at any time during the reporting period, stating the value and a description of that ownership interest; provided that, where the ownership interest includes or consists of shares of stock, the number of shares owned shall be stated together with the number of outstanding shares; and if sold during the reporting period a statement of the net gain or loss realized from the sale.

(4) Identification by street address, legal or lot-and-block description of all real property located within the city and its extraterritorial jurisdiction, together with its fair market value and present use, in which the person or family member has an interest as:

a. Fee simple owner;

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- b. Beneficial owner;

- c. Partnership owner, naming the partners;

- d. Joint owner with an individual or corporation, naming them;

- e. Board member, officer or the owner of more than five per cent of a corporation that has title to the real property, naming the corporation; or

- f. A leaseholder, naming the person or corporation from whom the property is leased and the amounts of annual rental.

The form shall note whether the person claims a homestead exemption on any real property owned by the person.

(5) Identification of persons, business entities or guarantors to whom the person or a family member owed a debt of more than \$100.00 during the reporting period, stating the amount, but not including debts owed to persons related within the second degree of consanguinity or affinity and excluding loans to a political campaign which were reported as required by law. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated.

(6) Provided this information is not privileged by law, identification of persons, entities or guarantors who owed the person or a family member a debt of more than \$100.00 during the reporting period, stating the amount, including all bonds, notes and other commercial paper held or owed by the person reporting or any family member during the reporting period, but not including debts owed by persons related within the second degree of consanguinity or affinity. If this debt was repaid during the reporting period, the date and amount of repayment shall also be stated.

(7) Identification of the source of each gift or accumulation of gifts from one source of more than \$100.00 in value received by the person or family member, or received by another person for the use and benefit of the person or family member, within the reporting period, stating the amount; but this requirement does not include:

- a. A gift received from a relative if given because of kinship; or

- b. A gift received by will, by intestate succession or as distribution from an inter vivos or testamentary trust established by a spouse or ancestor.

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(8) Provided this information is not privileged by law, if the person filing the statement is the owner of five per cent or more of any business entity, the person shall list all customers from whom the entity received at least ten per cent of its gross income during the reporting period.

(9) Identification of any financial interest in or any transaction during the reporting period with any holder of any franchise issued by the city, other than as a utility or franchise customer or patron, stating the nature and amount of interest and transaction, including transactions by any family member and any business entity in which the person filing the statement has an ownership interest of five per cent or more.

(b) Except for the identification of transactions and amounts required by subsection (a)(9) of this section, any amount required to be reported under subsection (a) of this section may be reported by categories as follows:

- (1) *Category I.* At least \$100.00 but less than \$10,000.00;
- (2) *Category II.* At least \$10,000.00 but less than \$20,000.00; or
- (3) *Category III.* At least \$20,000.00 but less than \$50,000.00.
- (4) *Category IV:* At least \$50,000.00 but less than \$75,000.00;
- (5) *Category V:* At least \$75,000.00 but less than \$100,000.00; and
- (6) *Category VI:* \$100,000.00 or more, report to nearest \$100,000.

Sec. 2.464. Retention of statements and inspection.

(a) The city clerk shall maintain all statements required to be filed with the city clerk under section 2.462 as public records and shall retain them for a period of three years, after which the statements will be returned to the person filing them or will be destroyed.

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(b) The financial disclosure statement file maintained by the city clerk under this section shall be kept in alphabetical order for each year in which statements are filed. This file is open to public inspection during normal hours. The city clerk shall maintain a list of all persons requesting to inspect these files, identifying the files inspected.

Sec. 2.465. Forms of statements.

Financial disclosure statements shall be filed on the form promulgated by the city clerk. The city clerk will provide a form to any person requesting one and, not less than ten days before the last day set for filing a statement by any person, shall send a form to the person.

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 2, ARTICLE 5, CODE OF ETHICS, OF THE SAN MARCOS CITY CODE; ADDING A NEW DIVISION 4 – CAMPAIGN FINANCES; SETTING A LIMIT OF \$500 ON INDIVIDUAL CONTRIBUTIONS TO CANDIDATES FOR MAYOR OR CITY COUNCIL PER ELECTION CYCLE; SETTING AGGREGATE LIMITS ON CONTRIBUTIONS TO CANDIDATES FOR THE OFFICE OF MAYOR AND COUNCIL MEMBER; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 2, Article 5, Code of Ethics, of the San Marcos City Code is hereby amended to add a new Division 4, Campaign Finances, to read as follows:

ARTICLE 5. CODE OF ETHICS

DIVISION 4. CAMPAIGN FINANCES

Sec. 2.466. Definitions.

In this division;

Campaign contribution means and includes a contribution to a candidate for mayor or city council in any of the following forms: a monetary contribution; a non-monetary contribution (in-kind contribution); or a pledged contribution.

Election cycle means the period of time beginning on the day after the last election for the office of mayor or council member of a particular council place and ending on the day of the next election for that position.

Sec. 2.467. Individual Contribution Limit.

An individual may not make campaign contributions in an amount exceeding \$500 per election cycle to a candidate for mayor or to a candidate for council member of a particular council place.

Sec. 2.468. Aggregate Fund Raising Limits.

- (a) *Candidates for mayor.* A candidate for the office of mayor, including an incumbent mayor, shall not accept campaign contributions during an election cycle in an amount exceeding an aggregate limit to be determined as follows: an amount equal to \$1.25

multiplied by the number of registered voters in the city on the date of the last election for the office of mayor.

- (b) *Candidates for city council positions.* A candidate for the position of council member of a particular council place, including an incumbent council member, shall not accept campaign contributions during an election cycle in an amount exceeding an aggregate limit to be determined as follows: an amount equal to \$0.75 multiplied by the number of registered voters in the city on the date of the last election for any council position.
- (c) *Candidates in a run-off election or special called election.* A candidate in a run-off election or special called election for the office of mayor or council member shall not accept campaign contributions during an election cycle in an amount exceeding an aggregate limit determined as follows: an amount equal to \$1.50 multiplied by the number of registered voters on the date of the last regular municipal election.

SECTION 2. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 5. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on the ___ day of _____, 2017.

PASSED, APPROVED AND ADOPTED on second reading on the ___ day of _____, 2017.

John Thomaides
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney

DRAFT

Lobbying Rules and Requirements for Lobbyists

Purpose of this ordinance:

The lobbying provisions of this ordinance are designed to improve transparency with regard to city business and services to the public. To maintain public confidence and public trust in our city officials and employees when public resources are used and municipal decisions are made, this lobbying ordinance requires certain individuals to register and report exchanges with city officials and city employees.

I. Definitions.

Lobbying means any communication (oral or written or electronic) by a lobbyist for the purpose of influencing a municipal decision on behalf of that person or another person, company, corporation, partnership, or group. It may include an attempt to introduce, pass, defeat, or amend any local legislation, resolution, or decision. Any communication with city staff or employee, city officials, appointed city officials (permanent or temporary), or contracted employees of the city for the purpose of influencing a municipal decision is included.

Lobbyist is any person, including an attorney, who engages in lobbying, whether directly or through the act(s) of another. If an agent or employee engages in lobbying for a principal or employer or owner of a business, both the agent and principal, or the employee and employer, are lobbyists.

Qualifying contracts, applications, and activities that trigger lobbying registration include but are not limited to: Contracts with the city or subcontractors under a city contract, Procurements with the city, Requests for Proposal (RFP), Requests for Information (RFI), Applications for zoning changes or preferred scenario amendment requests, requests for special considerations for city services or a change in the Master Plan, or Comprehensive Plan, Planned Development Districts applications (PDD), Public Improvement Districts (PID), Municipal Utility Districts (MUD), Conditional Use Permits (CUP), Tax Increment Financing, Economic Development Incentive Agreements, Variances considered by the Planning and Zoning Commission (P&Z) or Zoning Board of Adjustments (ZBOA), Warrants, Waivers, Development Agreements, Platting or re-platting of land for a development, or any special requests that are a deviation from the comprehensive plan or Land Development Code (LDC) for the purpose of increasing or acquiring profit or avoiding loss. It may not be necessary to prove the intention of increasing or acquiring profit or avoiding loss in order to be a qualifying application. Not all variances, waivers, or the platting or re-platting of land automatically trigger lobbying registration (see Exceptions to lobbying).

Exceptions to lobbying: individuals whose communications represent their own interests for their homestead, or family other than business, or other matters that do not involve possible personal financial benefit or detriment are not required to register as lobbyists. Individuals who file a complaint or seek information or advice, regarding a matter that does not involve possible financial benefit to a business with which the individual is involved or whose interest the individual is

representing are also exempted.

II. General requirements.

(a) Initial compliance and continued adherence to lobby ordinance required.

If a lobbyist fails to comply with any provision of this ordinance, his or her principal shall not be awarded a contract with the city or obtain any land development permit or legislative approval or other similar services from the city until registration as a lobbyist has occurred or other compliance is made. Any failure to comply with registration or ongoing lobbying activity requirements will result in postponement of land development or other services.

(b) Contested status of lobbyists or registration information.

Requests for determinations regarding requirements to register as a lobbyist or complaints regarding an individual's failure to register as a lobbyist shall be referred to the Ethics Review Commission for a final decision to be made within thirty (30) days. During the Ethics Review Commission's review process, any contract awards, activities, and applications that require a determination regarding the lobbyist registration requirement shall not be considered or approved.

(c) Lobbyists.

Lobbyists are required to identify themselves as lobbyists and disclose their principals, or employers and the project, interest, or business they are representing when speaking before the city council or any board or commission.

III. Registration and disclosures.

All lobbyists are required to register prior to applying for qualifying applications with the city clerk's office or online at the city's website unless exempted (see exceptions to lobbying).

(a) Registration required.

Initial or subsequent registration shall be on a form prescribed by the Ethics Review Commission and available from the City Clerk and shall include the following information:

- (1) Full name, telephone number, permanent address, and nature of the business for:
 - a. The lobbyist;
 - b. The client (or Principal);
 - c. Any person, other than the client, on whose behalf the lobbyist has been engaged by the client to lobby;
 - d. Any person, other than the client, who is known by the lobbyist to contribute financially to the compensation of the lobbyist, or which, in whole or in major part, plans, supervises, or controls the lobbyist's lobbying activities on behalf of the client;

- e. Any lobbying firm for which the lobbyist is an agent or employee with respect to the client; and
 - f. Each employee or agent of the lobbyist who has acted or whom the lobbyist expects to act as a lobbyist on behalf of the client;
- (2) A statement of all municipal questions on which the lobbyist or its agents or employees have lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby;
 - (3) A list of any positions held by the lobbyist or its agents or employees as an official or employee of the City, as those terms are during the past two (2) years;
 - (4) If the lobbyist or an agent or employee is a former City official or employee, a statement that the lobbyist's lobbying activities have not violated and will not foreseeably violate former City officials and employees of the Ethics Code.

(b) Activity reports.

Each lobbyist shall file with the City Clerk a separate report signed under oath concerning the lobbyist's lobbying activities. A firm, entity, or individual that employs agents or employees who lobby on behalf of that organization's or employer's clients may file activity reports regarding lobbying activities on behalf of all the organization's or employer's clients, so long as all activities by agents and employees that must be disclosed are reported on consolidated reports to be filed on or before the 15th day of every other month beginning in March of each year. Each report shall list lobbying activities for the preceding two (2) calendar months. Activity reports shall be filed for every reporting period whether or not lobbying activities occurred. When a lobbyist files an activity report disclosing the lobbying activities of its agents or employees, the lobbyist's agents and employees are not required to file separate activity reports. If the lobbyist is not an individual, an authorized officer or agent of the lobbyist shall sign the form. The report shall be on the form prescribed by the Ethics Review Commission and available from City Clerk and shall include, with respect to the previous reporting period, the following information:

- (1) The name of the lobbyist, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed;
- (2) A list of the specific issues upon which the lobbyist or its agents or employees engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
- (3) A list of the City officials contacted by the lobbyist or its agents or employees on behalf of the client with regard to a municipal question;
- (4) A list of the employees or agents of the lobbyist who acted as lobbyists on behalf of the client;
- (5) The dollar amount of each gift, benefit, or expenditure greater than fifty dollars (\$50) or in a cumulative amount greater than two hundred dollars (\$200) per reporting period made to, conferred upon, or incurred on behalf of a City official or his or her immediate family by the lobbyist, or by anyone acting on behalf of the lobbyist, shall be itemized by date, City official, actual cost, entity and address, and circumstances of the transaction;

- (6) The name and position of each City official or member of a City official's immediate family who is employed by the lobbyist.

(c) Preservation of records.

Each lobbyist shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this section for seven (7) years from the date of filing of the report containing such items. These records must be provided to the Ethics Review Commission upon request by the Commission.

V. Restricted activities.

(a) False statements.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false, misleading, or incomplete statement of fact to any City official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a City official without notifying such official in writing of the truth.

(b) Failure to correct erroneous statement.

A lobbyist who learns that a statement contained in a registration form or activity report he or she filed during the past three (3) years is false shall correct that statement by written notification to the City Clerk within thirty (30) days of learning of the falsehood.

(c) Personal obligation of City officials.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City official under a personal obligation to such lobbyist or person.

(d) Improper influence.

A lobbyist—(City official?) shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

(e) Use of false identification.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(f) Prohibited representations.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that he or

she can control or obtain the vote or action of any City official.

(g) Limitations on gifts.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a City official or a City employee or his or her immediate family, with the exception of: an individual meal or gift with a cost or value of fifty dollars (\$50) or less, and not more than a cumulative value of five hundred dollars (\$500) in a single calendar year, on behalf of a single principal.

(h) Prohibited lobbying or anti-lobbying clause.

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with City officials and employees regarding a contract after a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been issued. If contact is required with City officials and employees, such contact will be made in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agent(s) shall lead to disqualification of their offer from consideration at the time of the award. **Violations of this clause shall be enforced by the Purchasing Department head or city manager.**

VI. Enforcement and Sanctions.

The Ethics Review Commission will hear complaints on Lobbying.

(a) Three (3) violations of this lobbying ordinance requirements, as determined by the Ethics Review Commission, within five (5) years, will bar the individual lobbyist and/or the principal from engaging in lobbying activities with the City of San Marcos for one (1) year.

(b) Each violation of this ordinance may be prosecuted as a separate offense.