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AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS REVIEW COMMISSION); TO CHANGE THE CHAPTER TITLE TO "ETHICS"; TO AMEND ALL SECTIONS; TO REPEAL SECTION 2.92.052 (REPORTING OF GIFTS); AND TO ADD SECTIONS 2.92.080 (COMPLAINTS) AND 2.92.090 (PENALTY); TO SPECIFY PROCEDURES AND DUTIES FOR THE ETHICS REVIEW COMMISSION; TO EXPAND AND CLARIFY THE PURPOSE, PROCEDURES, DEFINITIONS, STANDARDS OF CONDUCT AND REPORTING OF GIFTS REQUIREMENTS; TO EXPAND THE FINANCIAL DISCLOSURE REQUIREMENTS; AND TO SPECIFY PROVISIONS FOR COMPLAINTS MADE UNDER THE ORDINANCE AND CREATE SANCTIONS; THE PENALTY BEING AS PROVIDED IN SECTIONS 2.92.090 AND 1.08.010 - 1.08.030 OF THE EL PASO MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

Section 1. That the Title of Chapter 2.92 of the El Paso Municipal Code be changed from "Ethics Review Commission" to "Ethics".

Section 2. That Section 2.92.010 (Declaration of Policy) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.010 Policy

All city officers and employees have a fiduciary duty to the citizens of the city to be ethical in fulfilling the responsibilities of their positions. At the very least, being ethical includes being disposed to comply with all laws that apply to one's position.

Section 3. That Section 2.92.020 (Commission created—Membership--Terms) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.020 Purpose

A. Ethical conduct is motivated by sources inside and outside the law. The Texas Local Government, Election and Penal Codes regulate aspects of the conduct of city officers and employees. However, as ethical conduct is more than complying with state codes, the city strongly encourages all of its officers and employees to maintain the highest personal values and standards. While it is impossible to establish specific and exhaustive standards for all situations, the standards established in this chapter are minimum standards below which no city officer or employee's conduct should fall. This chapter has the following purposes:

1. To establish an ethics review commission;
2. To maintain and improve standards of public service;

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3. To improve public confidence in the integrity of city government;
4. To provide a process by which officers and employees may identify and resolve ethical issues;
5. To avoid conflicts between the personal interest and the public responsibilities of city officers and employees;
6. To establish minimum standards of conduct to be adhered to by city officers and employees;
7. To require disclosure of private financial interests by certain individuals;
8. To require reporting of certain gifts received by certain individuals;
9. To provide for complaints and resolution of ethical issues and concerns; and
10. To provide penalties for failure to adhere to the minimum standards set forth in this chapter.

B. This chapter is cumulative of and supplemental to all applicable provisions of the city charter, other city ordinances, and state and federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by the city charter, other city ordinances, or state or federal laws or regulations.

C. The city attorney's office shall prepare, maintain and make available a chart that summarizes the application of the various obligations imposed by this chapter and the charter on officers and employees.

Section 4. That Section 2.92.030 (Definitions) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.030 Definitions

For the purposes of this chapter:

- A. "Benefit" means any economic gain or economic advantage to an officer or employee or to a relative of an officer or employee. "Benefit" does not include:
1. Political contributions made or received and reported in accordance with law;
 2. Awards, such as plaques, certificates, trophies or similar mementos, publicly presented in recognition of public service;
 3. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
 4. Gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities;
 5. Commercially reasonable loans made to an officer or employee in the ordinary course of the lender's business;
 6. Complimentary copies of trade publications;
 7. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity;
 8. Any economic gain or economic advantage, excluding cash or a negotiable instrument as described by Section 3.104, Texas Business and Commerce Code, conferred by any

one person or organization if the economic value totals less than fifty dollars per calendar year; or

9. An honorarium, transportation or lodging, the acceptance of which is not prohibited under Sections 36.07 and 36.08, Texas Penal Code.

B. "Board" means a board, commission or committee:

1. which is established to participate in some manner in the conduct of city government, including participation which is merely advisory, whether established by city ordinance, city charter, interlocal contract, state law or any other lawful means; and

2. any part of whose membership is appointed by the city council, but does not include a board, commission, or committee, which is the governing body of a separate subdivision of the state.

3. the city clerk shall maintain one or more lists of the boards whose members are subject to the various provisions contained in this chapter, and such lists shall be made available to the public during working hours upon request.

C. "Confidential information" means any written information that could 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.

D. "Employee" means a person employed and paid a salary by the city whether under civil service or not, including those individuals on a part-time basis and including those officially selected for employment but not yet serving; but does not include an independent contractor or city council member. For purposes of this ordinance and for no other purpose, the term employee includes volunteers.

E. "Negotiating concerning prospective employment" means a discussion between a city officer or employee and another employer concerning the possibility of the city officer or employee considering or accepting employment with the employer, in which discussion the city officer or employee responds in a positive way.

F. "Officer" means a member of the city council and any member of a board appointed by the city council. It includes any member of a board that functions only in an advisory or study capacity.

G. "Relative" means a person who is related to an officer or employee as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, step son-in-law, stepdaughter, step daughter-in-law, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

H. "Volunteer" means an individual who provides services to the city without any expectation of compensation or financial gain and without receiving any compensation or financial gain.

I. "Public event, appearances or ceremonies" means those functions, activities and ceremonies conducted by or for the benefit of any governmental entity; a function, activity or ceremony conducted by a non-profit corporation or similar organization formed for educational, scientific, community-betterment or economic development purposes which relates to the purpose for

which the non-profit corporation or organization was formed; or a function, activity or ceremony which honors or recognizes the accomplishments of a political, prominent or public figure.

- J. "Official city business" means a purpose or function related to the duties or activities of office or employment.
- K. "City resources" means any city asset, including but not limited to facilities, equipment, supplies, software, and personnel services.
- L. "Quasi-judicial proceeding" means by hearing or proceeding held by a public administrative officer, to include but not be limited to a hearing officer, arbitrator or administrative law judge, who is required to hear or investigate facts and to draw conclusions from them as a basis for his or her official action and to exercise discretion of a judicial nature.
- M. "Business days" means the weekdays excluding city holidays.

Section 5. That Section 2.92.040 (Standards of Conduct) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.040 Ethics Review Commission

- A. Ethics Review Commission Established. In order to assist the city council, an ethics review commission of nine members is hereby established.
- B. Mission. The ethics review commission shall serve as an advisory body to the mayor and city council on matters concerning ethics in government of the city of El Paso.
- C. Membership
 - 1. All members of the ethics review commission shall be residents of the city. No member shall be a city employee, hold any City of El Paso elected office, be appointed to any position governed by this ordinance, or be a candidate for any City of El Paso elected office. A member may contribute to a City of El Paso political campaign, but to the extent this prohibition is consistent with the charter, no member shall participate in any City of El Paso political campaign or in a campaign relating to a City of El Paso referendum or other ballot issue.
 - 2. Members shall be appointed for a two-year period, except that appointments made to fill vacancies created during a term shall be for the remainder of the term. The term of office for each appointee shall commence on February 21st and shall terminate on February 20th at the conclusion of the respective term. Terms shall be staggered in the following manner.

| | |
|----------------------|-------------------------------------|
| Mayor's appointee | terms expire in even-number years |
| District 1 appointee | terms expire in even-numbered years |
| District 2 appointee | terms expire in odd-numbered years |
| District 3 appointee | terms expire in even-numbered years |
| District 4 appointee | terms expire in odd-numbered years |

| | |
|----------------------|-------------------------------------|
| District 5 appointee | terms expire in odd-numbered years |
| District 6 appointee | terms expire in even-numbered years |
| District 7 appointee | terms expire in even-numbered years |
| District 8 appointee | terms expire in odd-numbered years |

D. Procedures

1. The ethics review commission shall select from among its members a chair and a vice-chair and shall adopt, subject to the approval of city council, such rules governing its proceedings as it may deem proper. Such rules and regulations must be consistent with the city charter and ordinances of the city and shall parallel, to the extent possible, the rules adopted by city council to govern its own meetings.
2. The ethics review commission shall be assigned staff by the city council to assist in its duties as the city council deems necessary.

E. Duties. The ethics review commission shall:

1. Oversee all ethics matters and assist the city council in resolving ethical issues.
2. Review, evaluate and provide recommendations on issues as requested by the city council.
3. Provide recommendations for the city council regarding orientation programs or procedures for officers and volunteers focusing on education of the importance of ethics in City government and on the provisions of this chapter.
4. Provide information to the community on ethics in city government, as may be necessary for the promotion of the public trust.
5. Review, evaluate and provide recommendations to the city council on complaints.
6. Provide information on the disposition of specific issues by referring to minutes of commission meetings and ethics review commission reports.
7. Periodically review and propose changes to this chapter.
8. Develop guidelines and procedures to promote compliance with this chapter.
9. Prepare written annual reports for the city council. Submit additional reports as needed.

Section 6. That Section 2.92.050 (Financial Interests) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.050 Standards of Conduct

Officers or employees:

- A. Shall not accept or solicit, for personal financial gain any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties.
- B. Shall not use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives, or others. This provision does not preclude officers or employees from acting in any manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them.

- C. Shall not participate in making or influencing any city governmental decision or action in which they know that they have any financial interest distinguishable from that of the public generally or from that of other city officers or employees generally.
- D. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person.
- E. Shall not use his or her position to secure official information about any person or entity for any purpose other than the performance of official responsibilities.
- F. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions. This provision applies to former officers and employees as well as to current ones.
- G. Shall not knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official City programs.
- H. Shall not utilize city resources for personal benefit or the personal benefit of a relative, friend or business associate, except to the extent that the benefit received is strictly incidental to the performance of official duties, or to the extent that the person is entitled by law to obtain public services from the city.
- I. Shall not transact any business (other than ministerial acts) on behalf of the city with any business entity of which they are officers, agents or members, or in which they have a financial interest. In the event such a circumstance arises, then they shall make known their interest, and:
 - 1. in the case of an officer, abstain from voting on the matter and refrain from discussion of the matter at any time with the other members of the body of which he or she is a member and with any other person or body in city government which may consider the matter; and
 - 2. in the case of an employee, disclose the matter to an appropriate administrative authority within city government so that reassignment or other suitable action may be taken to remove the employee from any further involvement in the matter.
- J. Shall not personally provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, investigation, or determination from the body or department of which the officer or employee is a member. This restriction does not apply to outside employment of an officer if the employment is the officer's primary source of income.
- K. Shall not accept other employment or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the city, or which might impair their independent judgment in the performance of their public duty.
- L. Shall not personally participate in a decision in a matter if the officer or employee is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the jurisdiction of the city, and in the case of an employee if it has been determined by the chief administrative officer that

a conflict of interest exists. For purposes of this section, the term “decision” shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term “matter” shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the city. In such instance, the officer or employee shall:

1. in the case of an employee, immediately notify the official responsible for appointment to his or her position of the nature of the negotiation or arrangement and, if the chief administrative officer determines that a conflict of interest exists, follow the instructions of the chief administrative officer with regard to further involvement in the matter; or
2. in the case of a board member, immediately notify the board of which he or she is a member of the nature of the negotiation or arrangement and:
 - a. refrain from discussing the matter at any time with other board members or members of the city council if the city council will also consider the matter; and
 - b. abstain from voting on the matter; or
3. in the case of a member of the city council, file an affidavit with the city clerk describing the nature of the negotiation or arrangement and:
 - a. refrain from discussing the matter at any time with other council members or members of a board that will consider the matter; and
 - b. abstain from voting on the matter.

M. Shall not receive any fee or compensation for their services as officers or employees of the city from any source other than the city, except as may be otherwise provided by law. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the city if there is no conflict with their city duties and responsibilities.

N. Shall not, in the case of a member of the city council or an employee, personally represent or appear in behalf of the private interest of another before the city council, or any city board or department; or, if the represented person's interest is adverse to that of the city, represent any person:

1. in any quasi-judicial proceeding involving the city; or
2. in any judicial proceeding to which the city is a party;

provided that nothing in this subsection shall preclude:

- a. a city council member from speaking or appearing without compensation before the city council or any board or department on behalf of constituents in the course of his or her duties as an elected official;
- b. any employee from performing the duties of his or her employment;
- c. any employee from appearing before the city council or any city board or department, in a manner consistent with other city policies and rules, to discuss any general city policies or public issues, including the presentation of viewpoints or petitions of other employees; or
- d. a city council member or an employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.

O. Shall not, in the case of a board member, personally represent or appear in behalf of the private interests of another:

1. before the board of which he or she is a member;

2. before the city council unless the board member discloses his status as a board member to the council and the representation or appearance does not relate to a matter that was heard or decided by the board of which the board member is a member or a board that has appellate jurisdiction over the board of which the board member is a member;
3. before a board which has appellate jurisdiction over the board of which he or she is a member; or
4. in a judicial or quasi-judicial proceeding to which the city or an employee of the city is a party, if the interest of the person being represented is adverse to that of the city or an employee of the city and the subject of the proceeding involves the board on which the board member is serving or the department providing support services to that board.

Section 7. That Section 2.92.052 (Reporting of gifts) of the El Paso Municipal Code be repealed.

Section 8. That Section 2.92.060 (Restrictions on providing post-employment representation of others) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.060 Restrictions

- A. An officer or employee in a position which involves significant reporting, decision-making, advisory, or supervisory responsibility who leaves the service or employment of the city shall, during the 12 months after leaving the service or employment of the city, disclose his previous position and responsibilities with the city whenever he represents any other person or organization in any formal or informal appearance before the city council or a city board or department, provided however, this subsection shall not apply to a former board member except when the former board member represent any other person or organization before the board of which he or she had been a member and any subsequent appearance before a board with appellate jurisdiction or the city council on the same matter or issue.
- B. Former officers and employees shall not use for their personal benefit and shall not disclose, except as may be required by law, confidential information gained in the course of or by reason of their positions. This provision shall not prohibit the disclosure of any such information to incumbent city officers or employees to whose duties such information may be pertinent.

Section 9. That Section 2.92.070 (Penalty) of the El Paso Municipal Code is amended to read as follows:

Section 2.92.070 Reporting Requirements

- A. Financial Disclosure
 1. Each officer, excluding elected officials whose financial disclosure requirements are governed by city charter, and each department head and executive assistant to the mayor shall file with the city clerk, within 10 business days after the date of his or her appointment, selection or approval by the city council, a signed, sworn statement disclosing:

- a. Where, by whom and in what specific capacity that person is employed or self-employed;
- b. Membership on boards of directors of corporations, whether organized for profit or not;
- c. Partnership interests;
- d. The name and address of any business in which the person has a financial investment, and in the case of mutual funds and other similar pooled investments, the name of the fund or investment. For purposes of this subsection, a financial investment shall not include funds on deposit with financial institutions such as checking and savings accounts, investments in United States savings bonds, and similar investments that earn simple, compounded or money-market interest rates;

unless the person has previously been appointed to a position that requires the filing of a financial disclosure form and the person already has a current financial disclosure form on file with the city clerk.

- 2. Each person submitting a statement of financial disclosure required under this section shall utilize a form provided by the city clerk.
- 3. No person submitting such a statement of financial disclosure must indicate therein the extent of financial involvement in any investments.
- 4. Each person subject to this section shall thereafter file with the city clerk a signed and sworn financial disclosure statement, between June 1 and June 30 of each year while in office or employed by the city, or at any other time in which the person changes his or her primary employment or has made changes in financial investments which cumulatively total more than 35% of the person's total investments. Those persons who have no changes to report regarding the information required to be reported, may, in lieu of filing a complete financial disclosure form, file a short form annual report, provided that they have filed a complete financial disclosure form within the previous five years.
- 5. Each candidate for elective office, and each candidate for a department head or executive assistant to the mayor position shall be provided with a notice of financial disclosure requirements at the time of application for such office or employment.
- 6. The following types of boards are exempt from the financial disclosure requirements of this chapter:
 - a. boards whose regulation is pre-empted by federal or state law;
 - b. boards expressly exempted by the city council for reasons to be stated by the city council upon granting such exemption.
- 7. The city clerk shall, no later than August 15th of each year, prepare a report which notes whether each person subject to the filing requirement of this section has filed the required financial disclosure statement as of the date of the report. In the event that a person subject to the filing requirement has not filed his or her financial disclosure statement by the date of the completion of the report or in the event that a person fails to file his or her financial disclosure form within 10 business days after the date of their appointment and they do not already have a current financial disclosure form on file, the city clerk shall send a written notice by certified mail, return receipt requested, with a copy sent by regular mail, to the person to advise the person that the clerk's records indicate that the person is subject to the requirement of this section, the person has not filed a financial disclosure statement as required by this section and that the person has 15 days from the date of the letter to file his or her financial disclosure statement. If the person is a board member covered under subsection A 8 e below, the city clerk will also

advise the board member that the failure to timely file the financial disclosure statement will result in the automatic removal of that board member from his or her office. If the person is a department head or executive assistant to the mayor, the city clerk may hand-deliver the notice required under this section in lieu of mailing it and shall provide a copy of the notice to the mayor.

8. In the event that a board member fails to file his or her financial disclosure statement by the deadlines calculated under subsections A 1 or 7 above, the following actions will be taken:
 - a. In the event that the board member is a member of the Civil Service Commission, the city clerk shall prepare and send a notice of the failure of the Civil Service Commission member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Civil Service Commission member from office in accordance with section 6.1-15 of the City Charter.
 - b. In the event that the board member is a member of the Zoning Board of Adjustment, the city clerk shall prepare and send a notice of the failure of the Zoning Board of Adjustment member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Zoning Board of Adjustment member from office in accordance with section 211.008, Texas Local Government Code.
 - c. In the event that the board member is a member of the Public Service Board other than the Mayor, the city clerk shall prepare and send a notice of the failure of the Public Service Board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Public Service Board member from office in accordance with the applicable removal provisions contained in any pertinent ordinance adopted by the City of El Paso for the issuance of water or sewer revenue bonds.
 - d. In the event that the board member is a member of the El Paso Housing Finance Corporation, the Industrial Development Authority, or other similar corporation organized pursuant to state law, the city clerk shall prepare and send a notice of the failure of the board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the board member from office in accordance with the applicable removal provisions contained in any Articles of Agreement or by-laws of the corporation or statutory provisions.
 - e. In the event that the board member is a member of any other city board subject to the requirement of this section, that board member shall be deemed removed from office without action or review by the city council. The city clerk shall prepare and send a notice of the removal to the board member and to the city council member who had appointed the board member. The removal shall be effective on the date that the notice is deposited in the United States mail or if not mailed, upon delivery to the board member.
9. The removal provision established in subsection A 8 e for the failure of a board member to file a financial disclosure statement shall be in addition to and shall be controlling over any other city ordinance or city council resolution that establishes procedures for the removal of board members.

B. Reporting of Gifts

1. Each officer, department head and executive assistant to the mayor shall keep a written record of all reportable gifts received during his or her term of office or employment.
2. Such record shall be made for each calendar month. The record shall include a description of the reportable gift received; the name of the person and organization giving the reportable gift; the relationship of the donor to the reporter; the value or estimated value of the reportable gift and if the value is unknown or cannot reasonably be estimated, a statement that the value is unknown or cannot reasonably be estimated; and the immediate or intended disposition of the reportable gift. A reportable gift consisting of a certificate or admission ticket to a future event or activity shall be deemed to have been received on the date on which the certificate or admission ticket was received.
3. Such monthly record shall be submitted to the city clerk on the form she provides no later than the tenth day of the following month for each month during which a reportable gift is received.
4. Reportable gifts shall mean the following:
 - a. Any hosting, such as travel and expenses, entertainment, meals or refreshments, that has a value of more than \$50.00, other than hosting provided on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
 - b. Any honorarium with a value of more than \$50.00; and
 - c. Any other economic gain or economic advantage that has a value of more than \$50.00 and which was conferred on account of the official status of the recipient or in connection with official city business.
5. Any hosting, honorarium or other economic gain or economic advantage that is refused and returned to the sender within seventy-two hours of receipt shall not constitute a reportable gift under this section.
6. For purposes of this section, "honorarium" shall mean a payment, other than reimbursement for meals, travel or lodging expenses, for services provided in connection with addressing an audience or engaging in a seminar.

Section 10. That Section 2.92.080 of the El Paso Municipal Code is created to read as follows:

Section 2.92.080 Complaints

- A. Individuals may submit matters concerning an ethical issue under the provisions of this chapter involving an officer or volunteer subject to the jurisdiction of the ethics review commission for review by the ethics review commission. The commission may review those matters that fall within its purview.
- B. All persons must utilize the complaint form made available by the city attorney's office and include enough information to adequately explain the issues to enable the ethics review commission to determine whether or not the complaint states an allegation under the ethics ordinance and is supported by just cause.

- C. The completed ethics ordinance complaint form is submitted to the city attorney's office for review to determine whether the matter described is within the purview of the ethics review commission.
- D. If the matter is referred to the ethics review commission by the city attorney's office, the commission will schedule a review of the matter within 45 days. The person submitting the complaint and any persons named in the complaint will be sent written notice of the date, time and place of the meeting by the city attorney's office so that these persons may have the opportunity to attend the meeting at which the review will take place.
- E. The ethics review commission shall review the issues presented in the complaint form and shall make a preliminary finding as to whether or not the complaint states an allegation under this chapter and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this chapter.
- F. If the preliminary finding is that the complaint does not state an allegation under this chapter or does not have just cause based upon the statements and evidence submitted, the complaint must be dismissed. The ethics review commission shall create a written report of their finding and dismissal. Such report shall be filed with the minutes of the meeting in the office of the city clerk, and the city attorney's office shall mail a copy of the report to those persons who were provided notice of the hearing.
- G. If the complaint is found to state an allegation supported by just cause, the eligible members of the ethics review commission will hear the issues.
- H. After hearing the issues on the complaint, the ethics review commission will issue a written summary of the matter and a decision or recommendation based on the information available to the commission. The ethics review commission must:
 - 1. dismiss the complaint or find that no violation of the ordinance occurred with the grounds for such dismissal or finding set forth in the report;
 - 2. find that there may have been a violation of this chapter and identify in the report the particular provision or provisions alleged to have been violated; or
 - 3. recommend to the city council that the city council take up the matter in lieu of a recommendation for a specific action from the ethics review commission and identify the reasons for such recommendation in the report.
- I. If after hearing the issues, the ethics review commission dismisses the complaint or finds that no violation of the ordinance occurred, the ethics review commission shall create a written report of their findings or dismissal, and such report shall be filed with the minutes of the meeting in the office of the city clerk, and a copy of the report shall be mailed to those persons who were provided notice of the hearing.
- J. If after hearing the issues, the ethics review commission determines that a violation of this chapter may have occurred, it shall refer the matter to the city council and request that the city council determine if the ethics review commission should proceed to recommend a sanction in the matter as permitted under this chapter. If the complaint involves a member of the city

council and the city council determines that the ethics review commission should proceed further with the matter, the city council shall take action to appoint independent legal counsel for the ethics review commission and any subsequent proceedings and shall refer the matter back to the ethics review commission for proceedings to recommend a sanction in accordance with this chapter.

K. During any authorized subsequent proceedings, the ethics review commission may consider the recommendation of the issuance of any of the following sanctions.

1. Letter of notification. A letter of notification may be recommended when the ethics review commission finds that a violation of this chapter was clearly unintentional or when the action or conduct found to have been a violation of this chapter was performed by the official in reliance on a written opinion of the city attorney. A letter of notification may advise the official to whom the letter is directed of any steps to be taken to avoid future violations.
2. Letter of admonition. A letter of admonition may be recommended when the commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.
3. Letter of reprimand. A reprimand may be recommended when the commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.
4. Removal from office. Removal from office may be recommended when the commission finds that a serious or repeated violation of this chapter was committed by an officer intentionally or through culpable disregard of this chapter.

L. If the ethics review commission recommends the imposition of a sanction, it shall prepare a written report containing its recommendation. The report will be sent to the city clerk who shall, within 14 days of receipt, place the matter on the city council agenda for discussion and action by the city council regarding the recommendation of the ethics review commission. If the city council votes to accept the recommendation of the ethics review commission for the imposition of a letter of notification, a letter of admonition, or a letter of reprimand or makes its separate determination for the imposition of a sanction, the city attorney shall draft the letter of sanction and mail a copy of the letter to the person receiving the sanction, certified, return receipt requested. In the event that independent legal counsel was appointed to represent the commission as provided in this section, the independent legal counsel shall appear at the hearing on the matter before the city council and shall draft and mail any letter of sanction. A copy of the letter of sanction shall also be placed on file at the office of the city clerk. The final authority to carry out a recommendation for removal from office shall be with the city council and shall take place in conformity with any other law or requirements for such removal. The city clerk shall, within 14 days of the date of any city council action taken on a complaint, forward a copy of such action to the chair of the ethics review commission.

Section 11. That Section 2.92.090 of the El Paso Municipal Code is created as follows:

Section 2.92.090 Penalty

- A. The failure of any officer or employee to comply with this article or the violation of one or more of the standards of conduct set forth in this article, which apply to him or her, shall constitute grounds for expulsion, reprimand, removal from office or discharge. In the case of an employee of the city, disciplinary action and appeals therefrom shall be in conformance with procedures established by the city charter and personnel rules and regulations. In the case of a council member, the matter shall be decided by a vote of the city council in accordance with the charter. In the case of board members, the matters shall be decided by the city council. The decision of these bodies shall be final.
- B. Any person violating Section 2.92.050 F or Section 2.92.060 of this chapter shall be deemed guilty of a misdemeanor as set forth in Section 1.08.010 of the city code.

Section 12. Except has herein amended, Title 2 (Administration and Personnel) shall remain in full force and effect.

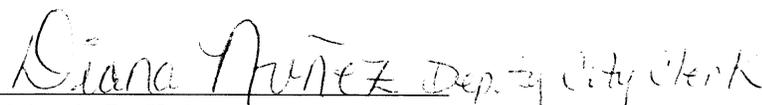
PASSED AND APPROVED this 18th day of November, 2002.

CITY OF EL PASO



Raymond C. Caballero, Mayor

ATTEST:

for 
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Elaine S. Hengen
Assistant City Attorney