

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 2 (ADMINISTRATION), ARTICLE VII (CODE OF ETHICS), DIVISION 2 (ETHICS REVIEW COMMISSION) OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY REVISING THE COMPOSITION AND MANNER OF APPOINTMENT OF MEMBERS OF THE ETHICS REVIEW COMMISSION; MAKING VARIOUS OTHER RELATED CHANGES; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on December 18, 2012 the City Council adopted Ordinance No. 20548-12-2012, amending and restating the City's Code of Ethics (the "**Ethics Code**"); and

**WHEREAS**, the Ethics Code establishes an Ethics Review Commission (the "**ERC**") to hear and dispose of ethics complaints filed in accordance with the Ethics Code and to exercise certain other enumerated powers; and

**WHEREAS**, the Ethics Code specifies that the ERC is to be composed of five (5) persons appointed by majority vote of City Council for terms of two (2) years, not to exceed three (3) consecutive full terms; and

**WHEREAS**, the terms of all current members of the ERC are in holdover status and it has been difficult to find persons willing to serve on the ERC; and

**WHEREAS**, in order to eliminate concerns about term limits and to provide efficiency in filling the positions on the Ethics Review Commission, the City Council wishes to amend the Ethics Code to revise the composition of the ERC and the manner in which persons are appointed to the ERC and to make other, non-substantive changes consistent with that revision; and

**WHEREAS**, it is proposed that one (1) person serving on the ERC continue to be an attorney licensed in the State of Texas who is appointed by the City Council; and

**WHEREAS**, it is proposed that the other four (4) persons serving on the ERC at any given time be selected randomly from among those persons actively serving on the Zoning Commission, the Plan Commission, and the Boards of Adjustment, rather than being appointed individually by the City Council; and

**WHEREAS**, members of the Zoning Commission, the Plan Commission, and the Boards of Adjustment are appointed from each of the City Council districts, thereby representing the economic, religious, cultural, ethnic and racial diversity of the City as a whole;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:**

**SECTION 1.**

Chapter 2 (Administration), Article VII (Code of Ethics), Division 2 (Ethics Review Commission), Section 2-240 (Creation and Organization) of the Code of the City of Fort Worth, Texas (2015), as amended (the “Code”), is hereby amended to read as follows:

**DIVISION 2. ETHICS REVIEW COMMISSION**

**Sec. 2-240. Creation and organization.**

(a) *Creation.* There is hereby created an Ethics Review Commission (“ERC”). The ERC shall be composed of five (5) persons, one of whom shall be an attorney appointed in accordance with subsection (b). The remaining four (4) persons shall be selected by random draw method from certain existing City boards and commissions in accordance with subsection (c).

(b) *Attorney Appointee to the ERC.* The City Council shall appoint by majority vote an attorney who is in good standing with the State Bar of Texas and has been licensed to practice law in the State of Texas for at least five (5) consecutive years. The attorney shall not be appointed for a definite fixed time and may be removed by the City Council at any time and for any reason by majority vote. The attorney appointed pursuant to this subsection (b) may not be a member of another City board, commission or committee if the ERC has jurisdiction under this Article to review the conduct of that person as a member of such other board, commission or committee. This provision does not prohibit other persons selected pursuant to subsection (c) and who are also licensed attorneys from serving on the ERC.

(c) *Other Appointees to the ERC.*

(1) The remaining four (4) persons shall be selected to serve on the ERC in accordance with the process outlined in this subsection (c) in the following circumstances:

(a) A sworn complaint is filed with the City Secretary’s Office alleging that a violation of Division I of this Article has occurred, and the City Secretary acknowledges in accordance with Section 2-247(c) that the complaint substantially complies with the requirements of Section 2-247; or

(b) The City Council by majority vote or the City Manager of his or her own volition requests the City Secretary to convene the ERC for purposes of exercising any other of its delegated powers under Section 2-241.

(2) Upon the occurrence of one of the qualifying events set forth in subsection (c)(1), the City Secretary shall compile the names of all then-current members of the Zoning Commission, the Plan Commission, and the Boards of Adjustment and then use a random draw method to select four (4) persons on those boards to serve as members of the ERC. Each of the four (4) persons selected must be Residents of different City Council Districts. If the City Secretary draws the name of a person who resides in the same City Council District as a person whose name already has been drawn, the City Secretary shall discard that name and proceed to draw another name until four (4) persons who are Residents of different City Council Districts have been selected. The City Secretary promptly shall notify in writing the four (4) persons selected to serve on the ERC for that complaint and shall also provide written notice of those selections to the City Council, the City Manager, and the City Attorney.

(3) If the ERC is being convened to hear an ethics complaint, the four (4) persons selected to serve on the ERC pursuant to this subsection (c) shall serve until that complaint has been fully adjudicated by the ERC pursuant to and in accordance with Section 2-251 and, if applicable, Section 2-252. If the ERC is being convened to exercise any other of its delegated powers under Section 2-241, the four (4) persons selected to serve on the ERC pursuant to this subsection (c) shall serve until the ERC has fulfilled the stated purpose for its assembly. There is no limit to the number of times a person may serve on the ERC pursuant to the selection process outlined in this subsection (c).

(4) If the ERC is being convened to hear an ethics complaint, and the person who filed the complaint or the person complained against is a member of the Zoning Commission, the Plan Commission, or the Boards of Adjustment, the persons selected to serve on the ERC pursuant to this subsection (c) may not be members of those boards.

(5) If the ERC is being convened to hear an ethics complaint, and the person who filed the complaint or the person complained against is a member of the City Council, the persons selected to serve on the ERC pursuant to this subsection (c) may not be Residents of the City Council District represented by the City Council member who is involved in the complaint.

(6) If a person selected to serve on the ERC pursuant to this subsection (c) cannot fulfill his or her duties as a member of the ERC due to illness, travel, or another bona fide reason, or otherwise refuses to serve on the ERC, that person shall be requested to confirm that fact with the City Secretary in writing within fifteen (15) calendar days of receipt of the service notification. In this event, the City Secretary shall repeat the process outlined in subsection (c)(2) until a substitute has been selected.

(d) *Qualifications.* All members shall be Residents of the City who are at least eighteen (18) years of age.

Additionally, no member of the ERC may be:

- (1) A member of the City Council or the spouse or Domestic Partner of a member of the City Council;
- (2) An Employee or the spouse or Domestic Partner of an Employee;
- (3) An elected public official; or
- (4) A candidate for elected public office.

(e) *Chairperson; quorum; number of members necessary to act.* Once the ERC is convened, it shall at its first meeting thereafter elect a chairperson and a vice-chairperson to serve in that capacity until the ERC has concluded its business. The vice-chairperson shall act as chairperson in the absence of the chairperson. Three (3) or more members of the ERC shall constitute a quorum. No action of the ERC shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of the members.

## **SECTION 2.**

The introductory sentence of Section 2-241(b) (Powers [of the Ethics Review Commission]) of the Code is hereby amended to read as follows:

**Sec. 2-241. Jurisdiction and powers; meetings.**

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(b) *Powers.* Once the ERC is convened in accordance with and subject to the purposes set forth in Section 2-240(c), the ERC shall have the following powers:

**SECTION 3.**

Section 2-251(a) (Scheduling [of Hearings]) of the Code is hereby amended to read as follows:

**Sec. 2-251. Hearings.**

(a) *Scheduling.* Not later than fifteen (15) business days after both acceptance of a complaint and assembly of the ERC selected to hear the complaint, the City Secretary shall notify in writing the ERC, the complainant and the person complained against of the date, time and location of a hearing on the complaint. Such written notice shall be sent to the complainant and the person complained against by certified mail, return receipt requested. If the hearing is not held within forty-five (45) business days after receipt of the complaint, the City Secretary shall notify both the complainant and the person complained against of the reasons for the delay.

**SECTION 4.**

This Ordinance shall be cumulative of all ordinances of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinances, in which case the conflicting provisions of such other ordinances are hereby repealed.

**SECTION 5.**

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

**SECTION 6.**

This Ordinance shall be in full force and effect following its adoption and publication as specified herein.

**AND IT IS SO ORDAINED.**

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_

Sarah J. Fullenwider  
City Attorney