

Integrity in Public Service: Laws & Codes of Conduct





Appearance of Impropriety

*“If we’re being elected to look good,
I’d rather not be there.”*

- former San Antonio Councilman

Golden & Silver

Ethic of Reciprocity

■ Golden Rule:

One should treat others as one would like others to treat oneself

■ Silver Rule:

One should *not* treat others in ways that one would *not* like to be treated

Biblical

10 Commandments:

1. Thou shalt have no other gods before Me.
2. Thou shalt not make idols.
3. Thou shalt not take the name of the LORD your God in vain.
4. Thou shalt remember the Sabbath day, to keep it holy.
5. Thou shalt honor your father and your mother.
6. Thou shalt not murder.
7. Thou shalt not commit adultery.
8. Thou shalt not steal.
9. Thou shalt not bear false witness against your neighbor.
10. Thou shalt not covet (thy neighbor's wife, house, animals, other).



Scouting

The Girl Scout Law

- I will do my best to be
- honest and fair
- friendly and helpful
- considerate and caring
- courageous and strong
- responsible for what I say and do
- respect myself and others
- respect authority
- use resources wisely
- make the world a better place
- be a sister to every Girl Scout.



Honor Codes

New Mexico Military Institute:

“A cadet will not lie, cheat,
steal or tolerate those who do.”



Professional Associations-National

ASPA Code of Ethics:

- 1. Advance the Public Interest.**
- 2. Uphold the Constitution and the Law.**
- 3. Promote democratic participation.**
- 4. Strengthen social equity.**
- 5. Fully Inform and Advise.**
- 6. Demonstrate personal integrity.**
- 7. Promote Ethical Organizations.**
- 8. Advance Professional Excellence.**



Professional Associations- State

TCMA Code of Ethics (Tenets 3 & 5):

Tenet 3. Be dedicated to the **highest ideals of honor and integrity** in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public

Tenet 5. Submit **policy proposals** to elected officials; provide them with **facts** and **advice** on matters of policy as a basis for making decisions and setting community goals, and uphold and implement local government policies adopted by elected officials.



Professional Associations- State

TCMA Code of Ethics (Tenets 6 & 7):

Tenet 6. Recognize that **elected representatives** of the people are entitled to the **credit** for the establishment of local government policies; responsibility for policy execution rests with the members.

Tenet 7. Refrain from all **political activities** which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.



Professional Associations- State

AICP Code of Ethics & Professional Conduct

■ Aspire to:

- Be conscious of the rights of others
- Have concern for long-range consequences
- Provide timely, adequate clear info to all
- Give opportunities for meaningful impact on plans
- Seek social justice
- Promote excellence
- Deal fairly in the planning process

Professional Associations- State

AICP Code (continued)

■ We Shall:

- Exercise Professional Judgment
- Accept Decisions of our Employer
- Avoid Conflicts of Interest (and Appearance)
- Protect & Enhance Integrity of our Profession
- Enhance our Professional Education & Training
- Systematically Analyze Ethical Issues in Planning

Professional Associations- State

AICP Code (more)

- We Shall Not :
 - Advocate a Position Clearly Adverse to Prior
 - As Salaried Employee Moonlight without Permission
 - Accept pay from other related our public job
 - Work on project for Employer that benefits Family member
 - Use info to personal advantage
 - Deliberately or recklessly misrepresent the qualifications or opinions of other professionals
 - Influence Peddle (implying ability to influence decisions)

Municipal Codes of Conduct

- Home-Rule Charters
- Ethics Ordinances
 - Board of Ethics
 - Process & Criteria
 - Reprimands, Punishment
 - Representation of Others
 - Moonlighting
 - Revolving Door
 - Purchasing Rules
 - Vendor Disclosures
 - Lobbying



Resign to Run

- Texas Constitution art. 3, §19
- By *Accepting* 2nd Office, *Resign* from 1st
- If currently hold seat that has more than 1 yr remaining on a term of 3 or 4 years
- Run for more than one office at a time
- Run for Legislature when hold paid office
- Many exceptions



Dual Office Holding

- Texas Constitution art. 16 §40
- Prohibits Holding More Than One:
 - Civil Office (Sovereign Functions)
 - Of Emolument (\$)
- Applies to all branches of government
- Merely declining to accept pay is insufficient
- Exceptions (e.g., school teachers, municipal judges, reserve police officers, fire fighters)

Conflict of Interest

- Tex. Loc. Gov't Code §171
- Related to Finances and Real Estate
- Substantial Interest:
 - 10% Stock
 - \$15,000 in fmv
 - 10% Income
 - \$2,500 Real Property
- Must **Abstain** (Talking & Voting)
- Must **Declare** (Through Affidavit)



Conflict of Interest- Plats

- Tex. Loc. Gov't Code §212
- Substantial Interest in Subdivided Tract if:
 - Own \$2,500 of land
 - Act as Developer
 - Own 10% Stock of Business
 - 10% of fmv of Business
 - \$5,000 of fmv of Business
 - 10% of Income
- Must File Affidavit & Abstain



Conflict of Interest- Banks

- Tex. Loc. Gov't Code §131
- Bank is not disqualified as Depository unless:
 - One or more officers who have a duty to select the city's depository
 - are officers or directors, or
 - Own 10% of bank's stock



Incompatibility

- Common Law Rule (not Statutory)
- Case-By-Case Determination by Courts
- *Thomas v. Abernathy County Line ISD* (1927)
- Conflict of Loyalties
- Conflict of Duties
- Can't appoint yourself
- Can't be own supervisor
- e.g., Councilmember can't be City Manager, Mayor can't be on School Board



Nepotism

- Tex. Gov't Code §573
- Can't Bestow Patronage on Relatives
- Mayor & Council's family cannot be hired by City if related within:
 - 2nd degree by affinity (marriage)
 - 3rd degree by consanguinity (blood or adoption)
- Full-Time, Part-Time (but not volunteer)
- Ok if Charter gives Hiring Authority to City Manager

Public Disclosures

- Tex. Loc. Gov't Code §176
- Mayors & Council Members must file
- Conflicts Disclosures Statements
 - Business / Employment Relationships (\$2,500+)
 - Family Relationships (1st Degree)
 - Gifts (\$250+ in 12 mos.)
- When related person is seeking city business

Criminal Offenses- Bribery

- Tex. Penal Code §36.02
- Public Servant violates the law if they
 - Offer, Solicit or Accept
 - Any Benefit as Consideration
 - For a Decision, Opinion, Vote, Recommendation, or Action



Criminal Offenses- Coercion

- Tex. Penal Code §36.03
- Coercion is a Threat (to harm, expose, ridicule)
- Coercion of a Public Servant:
 - A Person Attempts to Influence a Public Servant
- Coercion of a Voter



Criminal Offenses- Obstruction

- Tex. Penal Code §36.06
- Obstruction or Retaliation :
 - Harms or Threatens to Harm
 - Public Servant
 - In Retaliation for Service, or
 - To Prevent or Delay Service



Criminal Offenses- Honorarium

- Tex. Penal Code §36.07
- Gifts for Services:
 - Public Servant Solicits or Accepts
 - Honorarium
 - For Services would not have been requested to provide *but for* official duties or position
- Transportation & Lodging OK if related to speaking event
- Gifts, Awards & Mementos OK if < **\$50**

Criminal Offenses- Misuse Info

- Tex. Penal Code §39.06
- A Public Official cannot use
- For Personal Gain or Speculation
- Knowledge acquired by holding public office
- Not available to the general public



Criminal Offenses- Abuse of Office

- Tex. Penal Code §39.02
- Public Servant commits offense if
 - Intends to obtain a **benefit**, or
 - Intends to **harm** or **defraud** another
 - Violates law regarding office held, or
 - Misuses government property, services, personnel, or other



Scenario 1: *Info is Power*

- City Planner learns of City's plans to acquire right-of-way and expand highway.
- Planner later leaves public employment to work for developer firm.
- Firm represents property owners along the highway



Scenario 2: *Gone to School*

- City Planner attends out of town training at city expense.
- She submits request for full *per diem* even though meals were provided at seminar.
- She went to improve her tan in the sand missed most of the sessions.



Scenario 3: *Location, Location*

- City Planner publishes notices and prepares agenda packet for P&Z showing major rezoning.
- Planner's brother purchases a lot in the zone at f.m.v. prior to public notices going out.
- After the rezone the value skyrockets.



Scenario 4: *Ya Gotta Eat!*

- City Planner is routinely taken to lunch or dinner by engineering firm.
- Engineers make it clear they would like to work on City projects.
- Planner is not in charge procurement.



Scenario 5: *Don't Let The Door Hit Ya....*

- City Planner retires after years of service.
- Soon thereafter she accepts a job with a law firm representing developers in town.

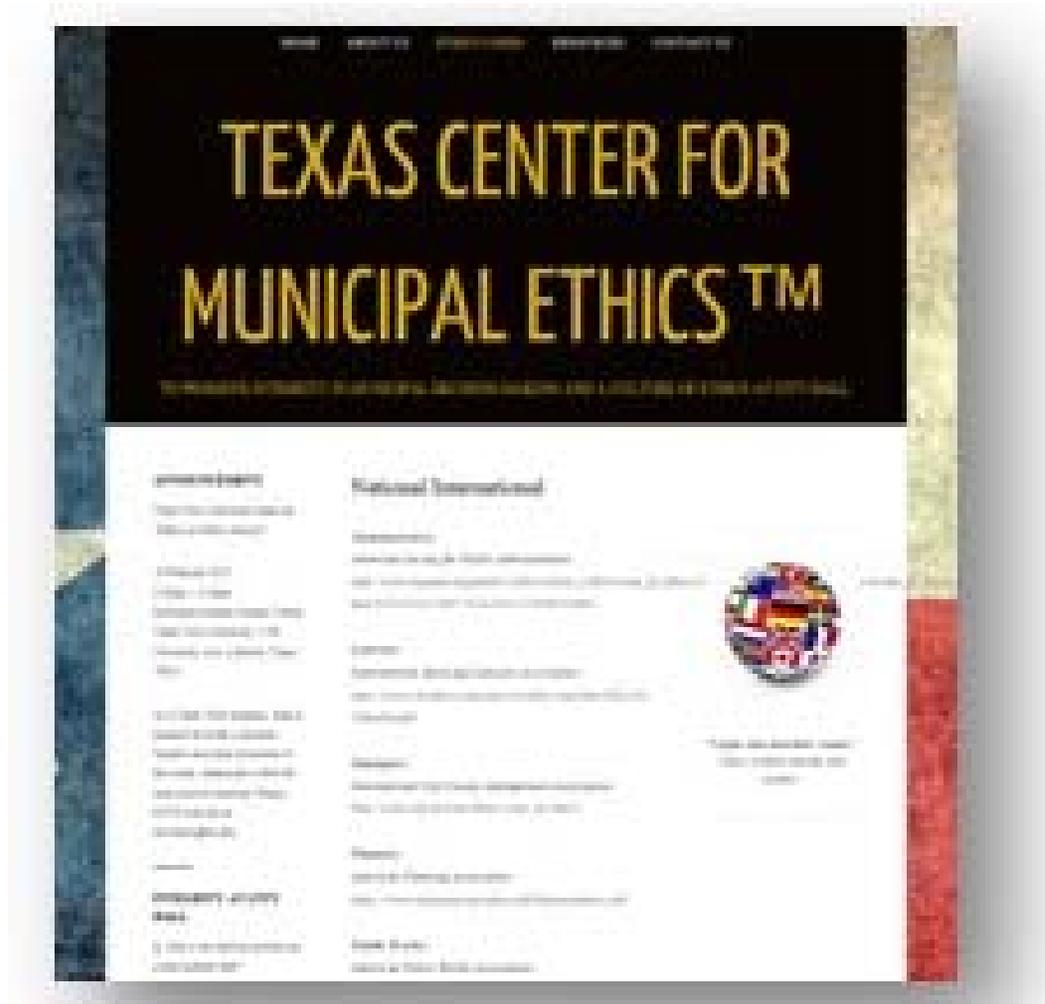


Best Practices

- Be familiar with the Law & Codes
- Network with honorable colleagues
- Remember you are part of a team
- Imagine Your Worst Enemy Learns
- Know your place
- Make Training a Priority
- Engage in a Dialogue
- Put Your Citizens 1st
- Remember Whose Money It Is
- Remember Why You Got Into Public Service



New Website for Cities!



TexasEthics.com