CITY OF FRISCO, TEXAS **ORDINANCE NO. 09-10-62**

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, REPEALING ORDINANCE NO. 00-01-11; AMENDING ORDINANCE NO. 09-04-25 (CODE OF ETHICS); PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Frisco, Texas ("Frisco") desires for all of its citizens to have confidence in the integrity, independence, and impartiality of those who act on their behalf in government; and

WHEREAS, the City Council of Frisco ("City Council") previously adopted Ordinance No. 00-01-11 to establish a Code of Ethics to provide citizens with confidence in those who act on their behalf in government; and

WHEREAS, the City Council amended Ordinance No. 00-01-11 in its entirety when it adopted Ordinance No. 09-04-25; and

WHEREAS, the City Council has investigated and determined that Ordinance No. 09-04-25 stands alone as the Frisco Code of Ethics and Ordinance No. 00-01-11 is no longer needed; and

WHEREAS, when the City Council enacted Ordinance No. 09-04-25 they investigated and determined that it was unnecessary for a member of the City Council or Frisco Boards or Commissions to remove themselves from the room where action was being taken on a matter in which the member had a conflict; and

WHEREAS, it has come to the attention of the City Council that Part B, Section 2 (b) (4) of the Code Ethics still includes the requirement that a member of the City Council, Board or Commission leave the room; and

WHEREAS, the City Council seeks to repeal Ordinance No. 00-01-11 and amend Part B, Section 2 (b) (4) in the Code of Ethics so that it is consistent with the remainder of the Code of Ethics.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Ordinance No. 00-01-11 Repealed. Frisco Ordinance No. 00-01-11 is hereby repealed in its entirety and replaced by Ordinance No. 09-04-25, as amended. The effective date of the repeal of Ordinance No. 00-01-11 discussed in this Section is immediate.

Such repeal shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Ordinance No. 00-01-11, occurring before the effective date of this Ordinance.

SECTION 3: Amendment to Section 2 (b) (4) of Part B of the Frisco Code of Ethics. Section 2 (b) (4) of Part B of the Frisco Code of Ethics is hereby amended to read as follows:

"SECTION 2: UNFAIR ADVANCEMENT OF PRIVATE INTERESTS

...

(b) Special Rules. The following special rules apply in addition to the general rule:

...

(4) In any land Matter which comes Before the City Council, Planning and Zoning Commission, or Board of Adjustments and in which any member of the City Council or aforementioned Boards and Commissions has a financial interest in any property within two hundred feet (200') of the Matter before it, such member shall disclose the existence of the interest by filing a statement with the record keeper. The member of the City Council, Planning and Zoning Commission, or Board of Adjustments may speak on the item and, thereafter, remove himself from the dais or area in which the other members of the City Council, Planning and Zoning Commission or Board of Adjustments who are voting on the land Matter are seated. In addition, any state law provision regarding a conflict of interest shall also be followed.

..."

SECTION 4: Severability Clause. Should any article, section, subsection, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City of Frisco hereby declares that it would have adopted this Ordinance, and each article, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one of or more article, section, subsection, sentence, clause or phrase be declared unconstitutional or invalid.

SECTION 5: Repealing/Savings Clauses. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6: Effective Date. This Ordinance shall become effective from and after its adoption as required by the City Charter and by law.

PASSED AND APPROVED by the City of Frisco, Texas, on this the 20th day of OCTOBER, 2009.

By: _____
Maher Maso, Mayor

ATTEST:

By: _____
Jenny Page, City Secretary

APPROVED AS TO FORM:

_____
Abernathy Roeder Boyd & Joplin P.C.
Courtney A. Kuykendall, City Attorney

CITY OF FRISCO, TEXAS ORDINANCE NO. 09-04-25

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING ORDINANCE NO. 00-01-11 THAT ESTABLISHED A CODE OF ETHICS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

Whereas, Frisco desires for all of its citizens to have confidence in the integrity, independence, and impartiality of those who act on their behalf in government; and

Whereas, the City Council of Frisco adopted a Code of Ethics in 2000 when it enacted Ordinance No. 00-01-11; and

Whereas, the Ethics Subcommittee of the City Council was appointed in October 2008 to review and recommend changes to Ordinance No. 00-01-11; and

Whereas, the City Council has reviewed the Ethics Subcommittee's report and approves of changes to Ordinance No. 00-01-11.

Now, Therefore be it ordained by the City Council of the City of Frisco, Texas that this Ordinance be adopted in order to promote confidence in the government of the City of Frisco, and thereby enhance Frisco's ability to function effectively.

PART A: DECLARATION OF POLICY

SECTION 1: STATEMENT OF PURPOSE

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise Official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs. The Frisco City Council adopts this Code of Ethics in order to promote confidence in the government of Frisco, and thereby enhance the City's ability to function effectively. The Code of Ethics establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to City Officials. The Code also covers other individuals whose actions inevitably affect public faith in city government, such as former City Officials, candidates for public office, and persons doing business with the City. By prohibiting conduct incompatible with the City's best interests and minimizing the risk of any appearance of impropriety, this Code of Ethics will further the legitimate interests of democracy.

SECTION 2: DEFINITIONS

As used in this Code of Ethics, the following words and phrases have the meaning ascribed to them in this Section, unless the context requires otherwise or more specific definitions set forth elsewhere in this Code apply:

Affiliated. Business entities are "Affiliated" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent Business Entity.

Affinity. Relationship by "Affinity" is defined in Sections 573.024 and 573.025 of the Texas Government Code or as amended (See Attachments "A" and "B").

Before the City. Representation or appearance "Before the City" means Before the City Council or a Board, commission, or other City entity.

Board. A Board, commission, or committee:

(1) which is established by City Ordinance, City Charter, inter-local contract between the City and another Party, or state law; or

(2) any part of whose membership is appointed by the City Council, but does not include a Board, commission, or committee that is the governing body of a separate political subdivision of the state; or

(3) the Frisco Community Development Corporation and the Frisco Economic Development Corporation are considered Boards for the purposes of this Code.

Business Entity. "Business Entity" means a sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, holding company, joint-stock company, receivership, trust, unincorporated association, or any other business entity recognized by law.

City Council or City Council of Frisco. "City Council" or "City Council of Frisco" means the elected governing body of the City of Frisco, Texas.

Code of Ethics. "Code of Ethics," "Ethics Code," "this Code," or "the Code" means Parts A through G of this Ordinance.

Confidential Government Information. "Confidential Government Information" is all information held by the City that is not available to the public under the Public Information Act, (Chapter 552, Local Government Code, or as amended, "the Act"); any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, (Chapter 551, Local Government Code, or as amended) regardless of whether disclosure violates the Act and/or the Texas Open Meetings Act; and any information deemed confidential by law.

City. "City" or "Frisco" means the City of Frisco, Texas.

Consanguinity. Relationship by "Consanguinity" is defined in Sections 573.022 and 573.023 of the Texas Government Code, or as amended. (See Attachment "B")

Discretionary Contract. "Discretionary Contract" means any contract other than those which by law must be awarded on a qualified bid basis.

Economic Interest. "Economic Interest" is a legal or equitable property interest in land, chattels, and intangibles, and contractual rights having a value of more than fifty thousand dollars ($50,000.00). Service by a City Official as an Officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that City Official an "Economic Interest" in the property of the organization. "Economic Interest" does not include the contract and/or business relationship that the City Manager, City Secretary, City Attorney and/or his law firm, and/or the Municipal Court Judges and Magistrates and/or their respective law firms have with the City.

Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in such securities or other assets, unless the person in question participates in the management of the fund.

Gift. A voluntary transfer of property (including the payment of money) or the conferral of a benefit having monetary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor as quid pro quo.

Indirect Ownership. A person "indirectly owns" an equity interest in a Business Entity where the interest is held through a series of business entities, some of which own interests in other business entities.

Matter. "Matter" is defined as the events or circumstances of a particular situation.

Official. The term "Official" or "City Official" is defined as the following persons:

(1) the Mayor
(2) members of the City Council
(3) Municipal Court Judges and Magistrates
(4) the City Manager
(5) the City Secretary
(6) the City Attorney
(7) members of the temporary or standing, current or future Boards, Commissions, Governing Bodies, and Boards of Directors when those Boards, Commissions, Governing Bodies, and Boards of Directors are appointed in their entirety or partially by the City Council of the City.

Official Action. "Official Action" is defined as:

(1) any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an Official's duties; or
(2) any failure to act, if the Official is under a duty to act and knows that inaction is likely to affect substantially an Economic Interest of the Official or any person or entity listed in Part B, Sections 1(a)(2) through 1(a)(8).

Official Information. "Official Information" is information gathered pursuant to the power or authority of City.

Partner. "Partner" is defined as partners in general partnerships, limited partnerships, limited liability partnerships, joint ventures, and any other partnership allowed by law.

Personally and Substantially Participated. The requirement of having "personally and substantially participated" in a Matter is met only if the individual in fact exercised discretion relating to the Matter. The fact that the person had responsibility for a Matter does not by itself establish that the person "personally and substantially participated" in the Matter.

Representation. "Representation" is defined as all forms of communication and personal appearances in which a person, not acting in performance of Official duties, formally or informally, serves as an advocate for private interests, regardless of whether the Representation is compensated. Lobbying, even on an informal basis, is a form of Representation. Representation does not include appearance as a fact witness or uncompensated expert witness in litigation or other Official proceedings.

Solicitation. "Solicitation" of subsequent employment or business opportunities is defined as all forms of proposals and negotiations relating thereto.

SECTION 3: WORDING INTERPRETATION

The gender of the wording throughout this Ordinance shall always be interpreted to mean either sex. All singular words shall include the plural, and all plural words shall include the singular. All references to the laws of the State of Texas or the Home Rule Charter, Ordinances, or Resolutions of the City of Frisco Texas shall mean "as presently enacted or hereafter amended".

PART B: PRESENT CITY OFFICIALS

SECTION 1: IMPROPER ECONOMIC BENEFIT

(a) General Rule. A City Official shall not take any Official Action that benefits the Economic Interests of:

(1) the Official;

(2) his parent, child, stepchild, spouse, or other family member within the second degree of Consanguinity or Affinity;

(3) his outside Client and/or Customer with any transaction outstanding;

(A) Client - A Client is someone with whom the Official has a contractual relationship; a commitment to provide goods and/or professional services from the Official to the Client over a period of time. The contract could be either short-term or long-term in nature. The person receiving the services or goods would be considered a Client of the Official only during the period covered in the contract.

(B) Customer - A Customer is someone who simply purchases a product/service from an Official's business. Customer relationships are transactional; they rarely require a contract to complete the sale and the actual business transaction is completed within minutes. For example, the sale of an automobile is an example where a contract is signed but the purchaser would be considered a Customer.

(4) the outside employer of the Official;

(5) a Business Entity in which the Official knows, or should know, that he or his parent, child, stepchild, spouse, or other family member within the second degree of Consanguinity or Affinity holds an Economic Interest;

(6) a Business Entity which the Official knows, or should know, is an Affiliated business or Partner of a Business Entity in which he or his parent, child, stepchild, spouse, or other family member within the second degree of Consanguinity or Affinity holds an Economic Interest;

(7) a Business Entity or nonprofit entity for which the City Official serves as an Officer or director or in any other policy making position; or

(8) a person or Business Entity from whom the Official, directly or indirectly:

(A) has received and not rejected an unsolicited offer of employment or business opportunities; or

(B) has accepted and received and not rejected an unsolicited offer of employment.

(b) Recusal and Disclosure. A City Official whose conduct would otherwise violate Subsection (a) must recuse himself. From the time that the conflict is, or should have been recognized, he shall:

(1) disclose the conflict and immediately refrain from further participation in the Matter, including discussions with any persons likely to consider the Matter; and

(2) remove himself from the dais or area in which the other City Officials who are voting on the measure are seated; and

(3) promptly file with the City Secretary the appropriate form for disclosing the nature and extent of the prohibited conduct.

SECTION 2: UNFAIR ADVANCEMENT OF PRIVATE INTERESTS

(a) General Rule. A City Official may not use his Official position to grant or secure, or attempt to grant or secure, for any person (including himself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. This rule does not apply to actions taken by a City Official in the legislative process.

(b) Special Rules. The following special rules apply in addition to the general rule:

(1) Acquisition of Interest in Impending Matters. A City Official shall not acquire an interest in, or be affected by, any contract, transaction, zoning decision, or other Matter (the "interest"), if the Official knows, or has reason to know, that the interest will be directly or indirectly affected by impending Official Action by the City.

(2) Reciprocal Favors. A City Official may not enter into an agreement or understanding with any other person that Official Action by the Official will be rewarded or reciprocated by the other person, directly or indirectly.

(3) Appointment of Relatives. A City Official shall not nominate, appoint or vote to nominate or appoint any relative within the third degree of Consanguinity or Affinity to any position of the City.

(4) In any land Matter which comes Before the City Council, Planning and Zoning Commission, or Board of Adjustments and in which any member of the City Council or aforementioned Boards and commissions has a financial interest in any property within two hundred feet (200') of the Matter before it, such member shall disclose the existence of the interest by filing a statement with the record keeper. The member of the City Council, Planning and Zoning Commission, or Board of adjustments may speak on the item and, thereafter, leave the room. In addition, any state law provision regarding a conflict of interest shall also be followed.

It is the intention of this provision that the term "land matter" shall be interpreted broadly to include zoning, permit requests, variances, etc.

(5) No City Councilmember who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the City Council.

(c) Recusal and Disclosure. A City Official whose conduct would otherwise violate Part B, Section 2(b)(3) shall adhere to the recusal and disclosure provisions stated in the Recusal and Disclosure provision in Part B, Section 1(b).

SECTION 3: GIFTS

(a) General Rule. A City Official shall not solicit, accept, or agree to accept any Gift or benefit:

(b) Special Applications. Subsection (a) does not include:

(1) a Gift to a City Official relating to a special occasion, such as a wedding; anniversary, graduation, birth, illness, death, or holiday, provided that the value of the Gift is fairly commensurate with the occasion and the relationship between the donor and recipient;

(2) reimbursement of reasonable expenses for travel authorized in accordance with City policies;

(3) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;

(4) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;

(5) a scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;

(6) admission to an event in which the City Official is participating in connection with Official duties;

(7) lawful campaign contributions;

(8) attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City;

(9) exchanging Gifts with his family and relatives;

(10) exchanging Gifts at church functions or City parties or functions where only City Officials and their employees are invited or attend;

(11) exchanging Gifts or receiving a bonus from their place of full-time employment.

(c) Gifts to Closely Related Persons. A City Official shall take reasonable steps to persuade a parent, spouse, child, stepchild, or other relative within the second degree of Consanguinity or Affinity (see Attachment "B") not to solicit, accept, or agree to accept any Gift or benefit which would violate Subsection (a) if the Official solicited, accepted, or agreed to accept it.

SECTION 4: CONFIDENTIAL INFORMATION

(a) Improper Access. A City Official shall not use his position to secure Official Information about any person or entity for any purpose other than the performance of Official responsibilities.

(b) Improper Disclosure or Use. A City Official shall not disclose Confidential Government Information or use such information to further or impede anyone's personal interests.

This rule does not prohibit:

(1) any disclosure or use that is authorized or required by law;

(2) the confidential reporting of illegal or unethical conduct to authorities designated by law.

SECTION 5: REPRESENTATION OF PRIVATE INTERESTS

(a) Representation by a Member of the Board. A City Official who is a member of a City Board shall not serve as a representative before that Board or body any person, group, or entity.

(b) Representation Before the City. A City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, before the City.

(c) Representation in Litigation Adverse to the City.

(1) Salaried Officials. A salaried City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City.

(2) Non-Salaried Officials. A non-salaried Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to interests of the City and the Matter is substantially related to the non-salaried Official's duties to the City.

SECTION 6: PUBLIC PROPERTY AND RESOURCES

A City Official shall not use, request, or permit the use of City facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

(a) pursuant to duly adopted City policies, or

(b) to the extent and according to the terms that those resources are lawfully available to the public.

SECTION 7: POLITICAL ACTIVITY

Limitations on the political activities of City Officials are imposed by state law, the City Charter, and City personnel rules. In addition, the following ethical restrictions apply:

(a) Influencing Subordinates. A City Official shall not, directly or indirectly, induce or attempt to induce any subordinate of the Official:

(1) to participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue; or

(2) to refrain from engaging in any lawful political activity, except as prohibited by the City Charter.

(b) Paid Campaigning. A City Official shall not accept any thing of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he participated in, or provided advice relating to, the exercise of discretionary authority by the City Council or a Board that contributed to the development of the ballot item.

(c) Official Vehicles. A City Official shall not display or fail to remove campaign materials on any City vehicle under his control.

Limitations on the use of public property and resources for political purposes are imposed by Part B, Section 6.

A general statement merely encouraging another person to vote does not violate this rule.

SECTION 8: ACTIONS OF OTHERS

(a) Violations by Other City Officials. A City Official shall not knowingly assist or induce, or attempt to assist or induce, another City Official to violate any provision in this Code of Ethics.

(b) Using Others to Engage in Forbidden Conduct. A City Official shall not violate the provisions of this Code of Ethics through the acts of another.

SECTION 9: INTERACTION WITH CITY STAFF

(a) City Councilmembers' and Board Members' interaction with the City Manager or City staff must recognize the lack of authority in any individual City Councilmember, Board Member or group of City Councilmembers or Board Members except when explicitly authorized by the City Council or Board.

(b) City Councilmembers and Board Members will not make public individual judgments of the performance of the City Manager, his staff, the City Attorney, the City Secretary, or the Municipal Judge except as authorized by City policy, ordinance, or the City Charter.

(c) City Councilmembers and Board Members may not attempt to coerce or intimidate City Employees, interfere with City Employees' duties, or otherwise circumvent the authority of the City Manager.

SECTION 10: CITY COUNCIL INTERACTION WITH GENERAL PUBLIC

City Councilmembers and Board Members who interact with the public, press or other entities must recognize the same limitation as expressed in Section 9 and the inability of any City Councilmember or Board Member or group of City Councilmembers or Board Members to speak for the City Council or Board except when explicitly authorized by the Council, Board, or City Charter.

PART C: FORMER CITY OFFICIALS

SECTION 1: CONTINUING CONFIDENTIALITY

A former City Official shall not use or disclose Confidential Government Information acquired during service as a City Official. This rule does not prohibit:

(a) any disclosure or use that is authorized or required by law; or

(b) the confidential reporting of illegal or unethical conduct to authorities designated by law.

SECTION 2: SUBSEQUENT REPRESENTATION

(a) Representation by a Former Board Member. A person who was a member of a Board shall not represent before that Board any person, group, or entity for a period of one (1) year after the termination of his Official duties.

(b) Representation Before the City. A former City Official shall not represent any person, group, or entity, other than himself, or his spouse or minor children, Before the City for a period of one (1) year after termination of his Official duties, unless hired by the City under the authority granted within the Charter.

(c) Representation in Litigation Adverse to the City. A former City Official shall not, absent consent from the City, represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City and the Matter is one in which the former City Official "Personally and Substantially Participated" prior to termination of his Official duties.

SECTION 3: DISCRETIONARY CONTRACTS

(a) Within one (1) year of the termination of Official Duties, a former City Official may not be an employee of the City nor shall the former City Official have a Financial Interest, direct or indirect, in any contract or sales made with the City that are not awarded based upon a competitive bid.

(b) A former City Official may enter into a consulting contract with the City to provide personal services.

(c) In this section, "Financial Interest" means a contract with the City or a sale to the City of land, materials, supplies or services made on a discretionary basis and that are not awarded based upon a competitive bid if any of the following individuals or entities is a party to the contract or sale:

(1) the former Official;

(2) his parent, child, stepchild, or spouse;

(3) a Business Entity in which the former Official directly or indirectly owns:

(A) ten (10) percent or more of the voting stock or shares of the Business Entity, or
(B) ten (10) percent or more of the fair market value of the Business Entity; or

(4) a Business Entity of which any individual or entity listed in Part C, Section 3(c)(1) or 3(c)(3) is:
(A) a subcontractor on a City contract; or
(B) an Affiliated business or Partner.

(d) Definitions. For purposes of Part C, Section 3(a) of this rule:

A "former City Official" is any person who, immediately prior to termination of Official duties, was:

(A) the Mayor or a member of City Council;
(B) a Municipal Judge or Magistrate; or
(C) a member of a Board which is more than advisory in function. The term "former City Official" does not include a former member of the Board of another governmental entity even if some or all of its members were appointed by the City Council.

PART D: MEMBERS OF THE PUBLIC AND OTHERS

Part D applies to current and former City Officials, persons doing business with the City, and lobbyists, as well as to members of the public and any other person (including business entities and nonprofit entities).

SECTION 1: FORMS OF RESPONSIBILITY

No person shall induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct violative of the obligations imposed by this Code of Ethics.

PART E: ETHICS REVIEW PROCESS

SECTION 1: DEFINITIONS

As used in Part E, the term "ethics laws" is defined as this Code of Ethics, Article 14 of the City Charter, and Sections 171 and 176 of the Texas Local Government Code. The term "ethical violation" is defined as violations of any of these enactments.

SECTION 2: CITY ATTORNEY OPINIONS

The City Attorney is authorized to issue to any City Official, upon reasonable request, formal written opinions regarding the applicability of the provisions of the ethics laws to an action the City Official is considering taking in the future.

SECTION 3: COMPLAINTS

(a) Filing. Any person who believes that there has been a violation of the ethics laws may file a sworn Complaint with the City Secretary. The "Complaint" shall:

(1) identify the person or persons who allegedly committed the violation;

(2) provide a statement of the facts on which the Complaint is based;

(3) to the extent possible, identify the rule or rules allegedly violated; and

(4) be sworn to in the form of an affidavit and be based on personal knowledge of the affiant and be subject to the laws of perjury.

The complainant may also recommend other sources of evidence that the City Attorney should consider and may request a hearing.

(b) Confidentiality. No City Official shall reveal information relating to the filing or processing of a Complaint except as required for the performance of Official duties. All papers relating to a pending Complaint are confidential.

(c) Notification. A copy of a Complaint meeting Part E, Section 3(a) shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the Complaint. The person charged in the Complaint shall also be provided with a copy of the ethics rules and shall be informed that:

(1) within fourteen (14) days of receipt of the Complaint, he may file a sworn response with the City Secretary;

(2) failure to file a response does not preclude the City Attorney from processing the Complaint;

(3) a copy of any response filed by the person charged in the Complaint will be provided by the City Secretary to the complainant, who may within seven (7) days reply to said sworn response by sworn writing filed with the City Secretary, a copy of which shall be provided by the City Secretary to the person charged in the Complaint;

(4) the person charged in the Complaint may request a hearing; and

(5) City Officials have a duty to cooperate with the City Attorney, pursuant to Part E, Section 3 of this Code.

(d) Assistance. The City Secretary shall provide information to persons who inquire about the process for filing a Complaint.

SECTION 4: PROCEDURE FOR COMPLAINTS AGAINST CITY OFFICIALS

(a) Review by City Attorney.

(1) Within seven (7) business days after the City Attorney receives the Complaint, the City Attorney (or a person designated by the City Council if the Complaint is made against the City Attorney) shall make an initial assessment of the Complaint. The City Attorney (or person designated by the City Council if the Complaint is made against the City Attorney) shall assume that all facts alleged in the Complaint are true and determine if the facts alleged constitute a violation of the ethics laws.

(2) After the initial assessment of the Complaint is completed, the City Attorney (or person designated by the City Council if the Complaint is made against the City Attorney) shall meet with the City Council at its next regularly scheduled meeting to present a written report describing in detail the nature of the Complaint and the assessment of the City Attorney (or person designated by the City Council if the Complaint is made against the City Attorney) whether the facts as alleged constitute a violation of the ethics laws. This report will be made in executive session if allowed by law.

(3) In an open session of a City Council meeting, a majority of those City Councilmembers not implicated by the Complaint may:

(i) Dismiss the complaint based on any of the following grounds: (1) the complaint does not allege facts sufficient to constitute a violation of the ethics laws; or (2) the failure of the complainant to cooperate in the review and consideration of the Complaint; or (3) the Complaint does not comply with the requirements of filing a Complaint; or (4) the City Attorney (or person designated by the City Council if the Complaint is made against the City Attorney) concludes that the conduct of the City Official referred to in the Complaint was made in good faith reliance on a written opinion by the City Attorney that concluded the conduct was not a violation of the ethics laws; or

(ii) Determine that the Complaint on its face does not state a violation of the ethics laws; or

(iii) Determine that the Complaint alleges facts that, if true, are sufficient to constitute a violation of the ethics laws and refer it for investigation as described in Section 4(b) below.

(b) Investigation of the Complaint.

(1) If a majority of the City Council not implicated by the allegations in the Complaint vote that the Complaint alleges facts sufficient to constitute a violation of the ethics laws:

(i) the City Attorney (or person designated by the City Council if the Complaint is made against the City Attorney) will, within five (5) business days of such vote by the City Council, appoint an attorney from a list of five (5) attorneys previously selected by the City Council for these purposes, to investigate the allegations in the Complaint;

(ii) the investigating attorney will have all of the powers of investigation given to the City Council in Section 3.17 of the City Charter; and

(iii) the investigating attorney will have thirty (30) business days (or longer, if extended by a majority vote of the City Council) to conduct the investigation and report back to the City Council.

(2) After investigating the allegations in the Complaint, the investigating attorney will submit to the City Council and the City Official accused of the alleged violation of the ethics laws a comprehensive report detailing the investigating attorney's opinion as to whether a violation of the ethics laws has occurred and the basis for the opinion.

(c) Hearing.

(1) Within five (5) calendar days after receipt of the report by the investigating attorney, the person accused of the alleged violation of the ethics laws will give written notice to the investigating attorney if he wants a hearing before the City Council.

(2) If the City Official accused of the alleged violation does not timely request a hearing, the City Council will consider and act upon the investigating attorney's report in open session at a City Council meeting.

(3) If the City Official accused of the alleged violation wants a hearing before the City Council, the hearing will be heard before the City Council within twenty (20) business days of the date the City Official accused of the alleged violation of the ethics laws. At the hearing each side (a) may be represented by legal counsel; (b) may present documentary evidence relevant to the matter being heard; and (c) may solicit testimony from witnesses and cross examine witnesses presented. To the extent permitted by law, the hearing will be held in open session. The City Council will prescribe the rules of the conduct of the hearing.

(4) The investigating attorney will represent the City against the person accused of the alleged violation of the ethics laws and has the burden of proof by a preponderance of the evidence at the hearing.

(5) After presentation of the evidence, the City Council may retire into executive session to deliberate its decision. The decision of the City Council will be made in open session and the decision is final.

(d) Punishment.

(1) In the event the City Council determines that a City Official or Former City Official has violated the Code of Ethics, the City Council may impose the remedies available under Part F: Enforcement Mechanisms, Section 1.

(2) The City Council may not assess a civil fine for an alleged violation of the Code of Ethics or assess punishment for perjury under the laws of the State of Texas.

PART F: ENFORCEMENT MECHANISMS

In addition to other remedies provided by law, the following remedies are available with respect to violations of this Code of Ethics:

SECTION 1: DISCIPLINARY ACTION

City Officials who engage in conduct that violates this Code may be notified, warned, reprimanded, suspended, or removed from office or employment by the City Council. Disciplinary action under Part F, Section 1 may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law.

SECTION 2: CIVIL FINE

Any City Official or former City Official violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Five Hundred Dollars ($500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. This Section shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 3: PROSECUTION FOR PERJURY

Any person who files a false sworn Complaint under Part E, Section 3(a) of this Code is subject to criminal prosecution for perjury under the laws of the State of Texas.

SECTION 4: VOIDING OR RATIFICATION OF CONTRACT

If an Ethics Review finds that there has been a violation of any provision in Sections 1 through 10 of Part B; Sections 1 through 3 of Part C; or Part D that is related to the awarding of a contract, the City Council must vote on whether to ratify or void the contract. Such action shall not affect the imposition of any penalty or remedy contained in this Code of Ethics or any other law.

PART G: ADMINISTRATIVE PROVISIONS

SECTION 1: OTHER OBLIGATIONS

This Code of Ethics is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this code shall not excuse or relieve any person from any obligation imposed by state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

Even if a City Official is not prohibited from taking Official Action by this Code of Ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

SECTION 2: EFFECTIVE DATE

This Code of Ethics shall take effect on _____ of _____.

SECTION 3: REVIEW OF ETHICS CODE

The City Council of Frisco shall appoint an Ethics Subcommittee every five (5) years to review the Code of Ethics, who shall report its findings and present its recommendations to the City Council.

SECTION 4: DISTRIBUTION AND TRAINING

(a) At the time of application for a position of City Official, every applicant shall be furnished with a copy of this Code of Ethics. No application shall be considered complete without a signed acknowledgement of receipt and understanding of this Code by the applicant.

(b) The City Attorney or Ethics Compliance Officer as designated by the City Council shall develop educational materials and conduct educational programs for the City Officials on the provisions of this Code of Ethics, Article 14 of the City Charter, and Sections 171 and 176 of the Texas Local Government Code. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.

SECTION 5: SEVERABILITY

If any provision of this Code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision or application.

READ, CONSIDERED, PASSED AND APPROVED by the City of Frisco, Texas, on this the 21st day of April, 2009.

BY: _____
Maher Maso, Mayor

ATTEST:

By: _____
City Secretary

APPROVED AS TO FORM

_____
City Attorney
Abernathy, Roeder, Boyd & Joplin, P.C.

READ, CONSIDERED, PASSED AND APPROVED by the City of Frisco, Texas, on this the 21st day of April, 2009.

BY: Maher Maso
Maher Maso, Mayor

ATTEST:

By: Jenny Page
City Secretary

APPROVED AS TO FORM

City Attorney
Abernathy, Roeder, Boyd & Joplin, P.C.