

Ordinance amending Sections 2-330 and 2-334 of the City Code to amend the City's Code of Ethics regarding the complaint form and procedures; and providing for publication.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That City Code of Ordinances, Chapter 2, Article V, regarding the Code of Ethics, Division 2, Ethics Commission, Section 2-330, Complaints, and Section 2-334 Sanctions, are revised. The deleted text is shown in strike-through text, with the new text shown in underlined text.

Sec. 2-330. Complaints.

(a) A sworn complaint alleging violation of the code of ethics shall specify the provisions of the ~~r~~Rules of ~~e~~Conduct (Section 2-311) alleged to have been violated and facts alleged to constitute the violation. In lieu of a complaint sworn to under oath, the complainant may subscribe to the complaint using an unsworn declaration prepared in compliance with the Texas Unsworn Declaration Act, Texas Civil Practice and Remedies Code, Chapter 132, as amended.

(b) Upon the complaint of any one (1) person filed with the city secretary's office, the commission shall consider possible violations of the code of ethics by city officials and board members and former city officials and board members other than members of this commission. In addition, the commission shall consider such possible violations when referred to it as a complaint by majority vote of all council members holding office and qualified to vote thereon. The council may direct the city attorney to draft such referred complaint, which shall be reviewed as other complaints hereunder. The council members voting for the complaint shall sign the complaint.

(c) A complaint alleging a violation must be filed with the city secretary within six (6) months from the date the complainants knew or should have known of the action alleged as a violation, and not afterward.

~~(d) Not later than three (3) working days after the city secretary receives a sworn complaint, he or she shall acknowledge receipt to the complainants, and provide a copy to the city attorney, the commission and the person complained against. Not later than thirty (30) days after receipt of a complaint by the city secretary, the commission shall notify in writing the persons who made the complaint and the person complained against whether it intends to schedule a hearing or take other action concerning the complaint. The person complained against shall have ten (10) days to submit a written response to the complaint prior to the commission deciding whether to hold a hearing. The complainants shall have one~~

~~opportunity within fifteen (15) days of any denial of their original complaint by the commission to amend their complaint and refile the same with the commission.~~

(1) The city secretary, after receiving a complaint submitted in accordance with subsection (a) above, shall, within three working days, acknowledge receipt to the complainant and provide a copy to the city attorney, the commission, and the person complained against.

(2) The person complained against shall have ten calendar days, from receipt of the complaint, to submit a written response to the complaint to the city secretary.

(3) The commission shall, not earlier than the time allotted in (d)(2) and not later than thirty calendar days after receipt of a complaint by the city secretary, notify in writing the person who made the complaint and the person complained against whether it intends to schedule a hearing or take other action concerning the complaint.

(4) The complainant shall have one opportunity within fifteen calendar days of any denial of their original complaint by the commission to amend their complaint and refile the same with the commission.

(e) If the commission determines such party's complaint or defense was groundless, legal fees incurred by the complainants, the commission, and the party complained against, in an amount determined reasonable by the commission may be awarded against the unsuccessful party. "Groundless" means (1) without basis or fact, or (2) not warranted by law or reasonably arguable interpretation thereof. The complainants shall not be liable for such fees if the commission has determined grounds exist for a hearing.

Sec. 2-334. Sanctions.

(a) If the commission determines that a violation occurred, it shall proceed directly to determine its recommendation of appropriate sanctions. The affirmative vote of a majority of ~~the members holding office and qualified to vote~~ members present at the meeting shall be required for the determination that a violation has occurred and the recommendation any sanction under this code of ethics. The commission may receive additional testimony or statements before considering sanctions, but is not required to do so.

(b) If the commission determines that a violation has occurred, ~~it may recommend the following:~~

(1) Against a council member or against a board member or city official appointed or confirmed by the council, it may recommend to the full city council a reprimand, temporary suspension, removal or any other sanction or corrective action within the power of the city council, or recall by the citizens.

(2) Against a city official other than those in (1), it may recommend to the city manager that appropriate action be taken, as deemed necessary by the city manager.

(c) In determining its recommendation, the commission shall consider the seriousness of the violation, the importance of deterrence, the impact on public confidence in government, the violations' repeated or isolated nature, the mental state with which the violation was committed, and the prior record of the person complained against. The recommendation shall be reduced to writing and transmitted to the supervisory authority and to the person complained against.

(d) If the commission finds that conduct occurred which, if willful, would violate the rules of conduct, but the commission cannot determine that the conduct was a willful violation because of ambiguity as to the meaning of the standard of conduct involved, the commission will recommend no sanction, but will issue a clarifying interpretation to guide future cases.

(e) Nothing in the code of ethics shall change or affect the civil service, at will, or other status of any employee, city official, or board member as established by the City Charter and ordinances.

(f) The city council or supervisory authority shall consider the recommendation of the commission, but will exercise its own judgment and discretion in determining what action, if any, to take.

(g) If the commission determines that a violation of any criminal law has occurred, it shall deliver a copy of its findings to the complainants, the person complained against, and the city attorney, recommending whether prosecution should be initiated or setting forth requirements to be complied with in order that voluntary compliance requirements may be had. Said findings shall also be delivered to the county attorney or district attorney, if a violation may be within their jurisdiction.

(Ord. No. 20781, § 1, 9-19-1989)

SECTION 2. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

SECTION 3. Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi. This ordinance shall take effect upon final City Council approval.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, 2015, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, 2015, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

PASSED AND APPROVED, this the _____ day of _____, 2015.

ATTEST:

Rebecca Huerta
City Secretary

Nelda Martinez
Mayor