

RESOLUTION NO. 2015-11(R)

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF WYLIE, TEXAS ADOPTING RULES OF
PROCEDURES FOR THE BOARD OF ETHICS**

WHEREAS, the City Council of the City of Wylie 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, this proposed Rules of Procedure for the Board of Ethics sets out the guidelines by which the Board of Ethics will review and act on all inquiries;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS:

SECTION 1: The following rules shall govern the Board of Ethics:

A. Creation and Membership

The Board of Ethics (Board) is created by Wylie Ordinance 2014-19 and serves at the will of the City Council. The Board shall consist of five (5) regular members and two (2) alternates who will serve no more than one (1) term of two (2) years, with the exception of the inception to achieve staggered terms. The members will be resident citizens of the City and may not serve on any other Council appointed Board or Commission during their term. City of Wylie employees may not serve on the Board. The Board members are required to complete Open Meetings Act training and receive Certificate of Completion by the first ninety (90) days of first year appointment.

B. Powers and Duties of the Commission

In response to an inquiry, the Board shall issue advisory opinions and waivers on ethical issues arising under Ordinance 2014-19. In response to a complaint, the Board shall issue findings and recommendations to the City Council regarding alleged violations of Ordinance 2014-19.

C. Officers

The Board shall select from among its members in the first meeting (and at such other times as these offices may become vacant), a Chairperson and Vice-Chairperson to serve for a period of one (1) year. In the absence of both the Chairperson and Vice-Chairperson, the Commission shall elect an Acting Chairperson.

D. Officers Duties

The Chairperson shall preside over all meetings and perform all duties as required by law. The Vice-Chairperson shall assume all duties of the Chairperson in the absence of the Chairperson.

E. Quorum

A quorum shall consist of three (3) members. No matters may be handled without the presence of a quorum and all votes shall be by a majority of members present.

F. Conflict of Interest

Should any member of the Board feel they have a conflict of interest with an agenda item before the Board, they should fill out a conflict of interest form prior to the meeting and openly declare same before discussion proceeds. The member is thereby prohibited from discussing the item or voting on the question.

G. Abstention

Should any member of the Board choose to abstain from voting on any question before the Commission, where no declared conflict of interest exists, their vote shall be recorded as an affirmative vote in the official minutes of the City of Wylie.

H. Agendas

An agenda shall be prepared by the City Manager or his/her designee for each meeting of the Board. The agenda shall be posted as required by law seventy-two (72) hours prior to the meeting.

I. Meetings

The Board shall meet as necessary at 6:00 pm in the Council Chambers of the Wylie Municipal Complex, unless noted otherwise. All meetings shall be open to the public, and the public is encouraged to attend. The unexcused absence of any Board member from three (3) consecutive regularly scheduled meetings, unless excused by the Board for good and sufficient reason as determined by the Board, shall constitute a resignation from the Board.

All meetings shall be held in full compliance with the provision of state law, ordinances of the City and these rules of procedure.

J. Minutes of Meetings

Minutes of all meetings shall be kept by the City Secretary, and are subject to amendment and ratification by the Board at a regular meeting. The minutes of the Board proceedings shall show the overall vote or if absent or failing to vote, shall reflect that fact.

K. Complaint or Inquiry Form

Complaints or inquiries shall be in writing on a form approved by the Board. Complaints or inquiries shall be signed and show the home or business address and telephone number of the person who submitted it. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint or inquiry is true. The complaint or inquiry shall describe the facts that constitute the violation of the code of ethics in sufficient detail so that the Board and the person who is the subject of the complaint or inquiry can reasonably be expected to understand the nature of any offense that is being alleged.

L. Complaint or Inquiry Process

1. The Board or its designee will not accept complaints or inquiries about actions that took place or became known to the complainant more than 6 months prior to the date of the filing of the complaint.

2. The Board or its designee shall notify the person who is the subject of the complaint or inquiry that a complaint or inquiry has been filed in a timely manner, but no more than five (5) days from the day the complaint or inquiry was filed. The notification shall include a copy of the full complaint or inquiry; a copy of any portion of Ordinance 2014-19 that is alleged to have been or that may be violated; and the Board's rules for dealing with complaints or inquiries. The Board or its designee shall provide the subject of the complaint or inquiry with a copy of the complaint or inquiry before it provides copies to any other parties.
3. The distribution to the public of a complaint or inquiry prior to screening by the Board as required could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the complaint or inquiry shall be prohibited until the screening process has been completed.
4. Prior to the review by the Board, the City Attorney shall first determine:
 - a. If the Board has jurisdiction over the alleged violation; and
 - b. If the alleged violation, if true, would or would not constitute a violations of Ordinance 2014-19.

M. Action of the Board

The Board shall meet within thirty-one (31) days of receiving a complaint or inquiry to screen the complaint or inquiry. The Board shall schedule the hearing at a time that is reasonably convenient to both the person who submitted the complaint or inquiry and the subject of the complaint or inquiry. The Board may alter the time line upon the request of the subject of a complaint or inquiry for more time to prepare.

1. The Board may immediately dismiss a complaint or inquiry if:
 - a. The alleged violation is a minor or de minimis violation;
 - b. The complaint or inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment;
 - c. The matter has become moot because the person who is the subject of the complaint or inquiry is no longer an elected officials or board/commissions member;
 - d. The person who is the subject of the complaint or inquiry had obtained a waiver or an advisory opinion under Paragraph F of Section 7 of Ordinance 2014-19 permitting the conduct.
 - e. The person committed the violation due to oversight and comes into voluntary compliance;
 - f. The person who submitted the complaint or inquiry does not appear at hearing and if, in the opinion of the board, it would be unfair to the subject of the complaint or inquiry not to have the opportunity to examine the person.
2. If the Board dismisses a complaint or inquiry, the reason for dismissal shall be in writing, submitted to the person who submitted the complaint or inquiry, and made available to the public.

N. Hearings

The board shall have hearings at meetings, which are open to the public, on complaints or inquiries which have not been dismissed pursuant to paragraph G of Section 7 or resolved under paragraph F of Section 7 of the Ordinance 2014-19. The Board shall allow any person who is the subject of a complaint or inquiry to designate a representative if he or she wishes to be represented by someone else, to present evidence, and to cross-examine witnesses. The Board shall give the person who submitted the complaint or inquiry and the individual who is subject of the complaint or inquiry sufficient time to examine and respond to any evidence not presented to them in advance of the hearing.

Hearings will be conducted following the general guidelines listed below:

1. Introduction of agenda item by the Chairperson;
2. Report by the City Manager, City Attorney or designee;
3. Presentation by complainant;
4. Presentation by the individual, or their representative, who is subject to the complaint;
5. Questioning by the Board of the complainant; the individual, or their representative, who is subject to the complaint; witnesses with information relevant to the complaint;
6. Commission query of Staff;
7. Commission discussion and action pertaining to the issue of the hearing.

O. Evidence

Only relevant evidence and testimony will be received. Information and other physical evidence should be submitted to the Chairman of the Board or designee prior to the meeting. Any Board member having new factual information regarding agenda items shall make that information known to all Board members.

P. Deliberations and Findings

Deliberations on complaints or inquiries are to be conducted in open session. Board members who have not been present for the hearing shall not participate in formulating a finding or recommendation.

In determining their findings or recommendations, the Board shall:

1. Base a finding of a violation upon clear and convincing evidence.
2. Take into consideration the severity of the offense; the presence or absence of any intention to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern.
3. Have the option to issue an advisory opinion in response to a complaint or inquiry, in lieu of making findings and recommendations, where deemed appropriate.

If the Board finds that a violation of Ordinance 2014-19 Section 5 or Section 6 has occurred, it shall make one of the following recommendations to Council:

1. If the Board finds that the accused has committed a minor violation, the violation was unintentional, and the accused fully cooperated with the investigation, the Board may issue a notice titled "Notice of Minor Violation" and shall state the findings of the Board.
2. If the Board finds that the accused has committed a major violation, acted intentionally, or failed to cooperate with the investigations, the Board may issue a notice titled "Notice of Public Censure", and shall state the findings of the Board.
3. If the Board feels that corrective action may be necessary, it must make its recommendations to Council in writing.

All findings shall be in the form of a motion. A motion to approve any matter before the Board or to recommend any action shall require a majority favorable vote of the members present. Failure of the Board to secure a majority concurring vote to approve or recommend action shall be recorded in the minutes as a failed motion.

SECTION 2: This Resolution shall take effect immediately upon its passage.

RESOLVED this the 14th day of April, 2015.

ERIC HOGUE, Mayor

ATTEST TO:

CAROLE EHRLICH, City Secretary