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GENERAL CITY GOVERNMENTAL INFORMATION

The City Council is the governing body of the City of Boerne. The Mayor and City Council are elected directly by the citizens and are held accountable to the people for their actions. City Council members are not full-time city officials. They retain their position in private industry, business, other professions, or personal enterprise. The City Council meets regularly on the second and fourth Tuesdays of each month, at the City Hall, 402 E. Blanco Road, at 6:00 P.M.

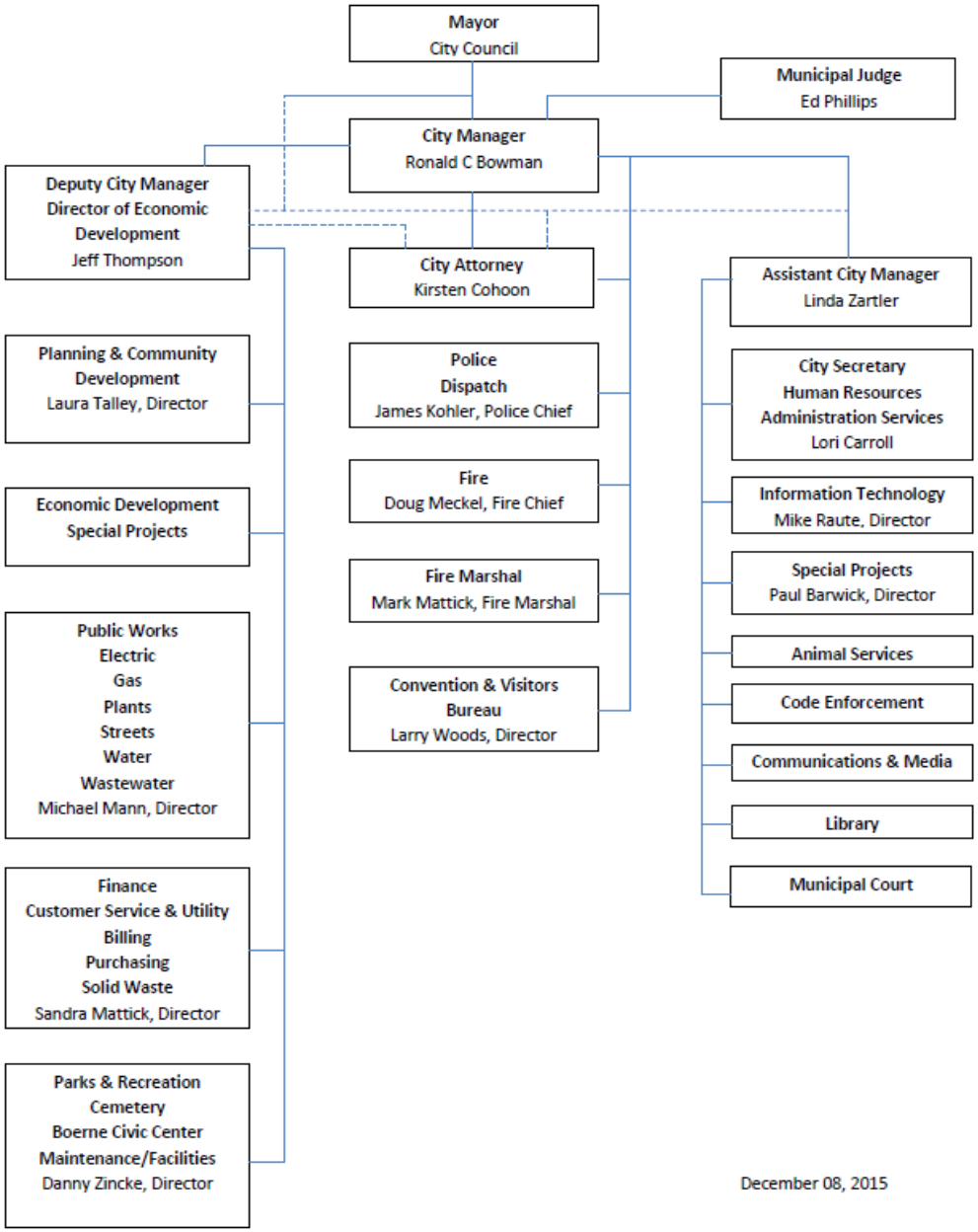
The City Council is collectively responsible for establishing city policy and for the oversight of the government's administration. Policy is established through the passage of ordinances and resolutions, and by other Council directives. The Council is also the final authority for the annual budget, which is the essential work and spending plan for city government on a yearly basis. The Council approves contracts and agreements, major purchases and expenditures, and zoning and subdivision regulations, and makes appointments to citizen Boards and Commissions. From time to time new boards and commissions are created. This document is not all inclusive of all appointments.

The City Charter was adopted by a vote of the people at a special municipal election held November 7, 1995. This provides full power for local self-government. Generally, a Home Rule city may exercise any power not prohibited by the Constitution or laws of the State of Texas.

The Council-Manager form of city government was adopted when the Charter was approved. Under this system, the Council appoints a City Manager to be responsible for carrying out the policies of the City Council and to manage the City's departments and program activities. The Council-Manager form of government has attained recognition as the best combination of full-time professional services in city administration with the finest talents the community has to offer in its locally elected officials. The City Manager is the City's chief executive and is responsible to the City Council for the proper and efficient management of all municipal activities. The Manager advises the Council on the City's planning and financial needs, as well as other municipal matters, enforces all laws and ordinances, manages city facilities, prepares and manages the budget, carries out the City's business and administers the policies of the Council. The Manager directs and coordinates the various departments and municipal services through appointment of department directors who directly supervise and administer the various staff and operational elements of the City.

The organization chart on the next page outlines the relationship of elected officials and city departments.

ORGANIZATIONAL CHART FY 2015-2016



December 08, 2015

ROLES OF MEMBERS OF CITIZEN BOARDS, COMMITTEES AND COMMISSIONS IN CITY GOVERNMENT

Texas is fortunate that its citizens are interested and concerned about their government. These citizens willingly give of their time and effort to support their local governmental programs. One of the most effective ways to permit citizens to become involved directly in the affairs of government is through the use of citizen boards, commissions and advisory committees. This brings more citizens into the operations, brings in specialized expertise, frees the elected officials for overall concerns, and introduces different and fresh viewpoints into the picture.

The role that citizens play in these boards and commissions depends upon many factors. The first and most important feature to keep in mind is that boards, commissions or committees are not legislative bodies. All legislative power remains with the governing body and the elected officials. The citizen boards advise, interpret, research, and in special instances grant exceptions. The extent of their authority and power depends upon state statutes and/or local ordinances or resolutions which create the specific agency.

CATEGORIES OF BOARDS, COMMISSIONS, AND COMMITTEES

State statutes authorize the creation of advisory or appeals boards such as planning and zoning commissions, and zoning boards of adjustment. These are established by local ordinances and given powers as authorized by the enabling statutes and as provided in the creating ordinances.

Cities also use advisory committees for counsel, advice, and different representation to address specific problems. Some examples include library boards, beautification committees, etc. These may be created by ordinance or by resolution, with their membership and makeup determined by the elected officials. They may be temporary or permanent, and provide advice and recommendations to the extent authorized in their creating instruments.

A third category of citizen boards is that of an operating or administering board, which is empowered to hire its own employees, set its own budgets, and develop its own policies and procedures. Examples include housing authorities, some municipal utility boards, etc. Generally, these are established by city charters, bond indentures, etc., and are somewhat insulated from periodic changes in committee structure as changes occur in the City's government body. Currently, the City of Boerne does not have any citizen boards of this nature.

GENERAL ROLES AND FEATURES APPLICABLE TO ALL BOARDS, COMMISSIONS, ETC.

As indicated earlier, city boards, commissions and committees are all established by specific action for specific purposes. While one must look to the creating instrument and to the state enabling legislation, if any, to find the specific roles of each body, there are some general features that can be applied to all.

BOARDS AND COMMISSIONS SERVE SPECIFIC PURPOSES

The jurisdiction, authorization, and charge to all boards and commissions is spelled out in the state statutes and/or ordinance or resolution creating the board, and that body may not go beyond that which is stated.

BOARDS AND COMMISSIONS ARE NOT LEGISLATIVE BODIES

Boards and commissions, including those that administer programs, may interpret law or, in special cases, grant waivers or variance to the law, but they cannot make law.

OPEN MEETINGS ACT

Except in very special occasions, all city boards and commissions will be subject to the Open Meetings Act. The Act provides that all meetings, with four specific exceptions, will be open to the public and that no action can be taken on any item that has not been on an agenda which has been posted for at least 72 hours prior to the meeting. Additional information regarding the Act is available at the City Secretary's office.

CONFLICT OF INTEREST STATUTES

Members of boards and commissions are subject to the conflict of interest statutes prohibiting a member from doing business with firms in which the member or close family members has a prohibited interest. There are provisions for a member to declare that interest and refrain from participation in any action in which there is an interest. A conflict of interest affidavit is provided under the section "Samples." All boards and commission members must sign the Conflict of Interest Affidavit.

PROHIBITED ACTS BY PUBLIC SERVANTS

The Texas Penal Code prohibits several kinds of conduct based on the intent of an individual to obtain a benefit for him/herself or to harm another. These laws are very specific, and while the burden of proof may lie on the accuser, even the appearance of receiving a benefit may render ineffective the service of the individual. The penalties could be quite severe if one were found guilty by the courts.

ATTENDANCE

All board, committee, or commission members are requested to contact their respective chairperson prior to a meeting if they are unable to attend. A quorum must be present to legally meet. Excessive absences inhibit the actions of the members.

PERSONAL LIABILITY

While quasi-judicial officers, as well as many board and commission members, cannot be held personally liable for erroneous acts while honestly exercising the functions of their offices, there are exceptions to the general rule. The lawyers are filing more and more complaints against cities for their actions and the actions of their agents. If a person can prove harm caused by an improperly performed act, damages may be assessed against not only the City, but also against the board members themselves. The City and board members should be aware of the possibility and take precautions against the eventuality of claims having to be paid. Keep in mind that even though a complaint may not hold up in court, there may be considerable legal expenses just responding to a complaint. Please consult with the City Manager regarding safeguards.

OBJECTIVES OF BOARDS, COMMISSIONS, AND COMMITTEES

As noted earlier, boards and commissions are generally created for very specific purposes. Be sure that you listen for and hear the directions, instructions, and/or questions from the governing body. Be sure that the goals, objectives, and directions are clearly stated and plainly written. These should be distributed to all committee members, and also recorded in the records of the committee.

SELECTION OF CHAIRPERSON

Often the committee chairperson will be designated by the governing body. If the board or commission selects its own chairperson, it must take great care in selecting the right person for this very important position. Being selected by your peers as chairperson of a board or commission is a great honor, but the position carries a great responsibility. This person must provide leadership to the board, oversee the preparation of reports, preside over meetings, and represent the views of the entire board, committee, commission, etc. This is a working position and is not one just to be passed around for the honor.

ADOPTION OF RULES OF PROCEDURE

In addition to carefully noting and adopting the charges, directives and responsibilities of the committee, board, etc., the body should review and carefully follow some standard meeting procedures such as Robert's Rules of Order. All meetings must be conducted professionally and in an orderly fashion. Minutes must be kept which indicate attendance, reports received, and actions taken. A simplified guide is provided under the "Sample" section.

LONG AND SHORT-RANGE PLANNING

Always plan ahead. Anticipate both the positive and negative impact of all actions. Look at the big picture, but don't overlook the little details. Keep in mind that in some cases, the outcome from some actions may be somewhat different from that which was anticipated by the originator of the action.

DON'T LET NEEDS OF INDIVIDUALS FALL THROUGH THE CRACKS

Seek out opinions and advice from the public, but be keenly aware of the needs and concerns of those not in the mainstream of activity and who may be reluctant to voice an opinion.

USE THE CITY STAFF

The staff's duty is to implement tasks and obtain results from actions taken. Be sure that you listen to the staff. You don't have to accept their every word, but you should be sure that you have considered their recommendations and concerns. It will not be necessary for you to learn technical terms or jargon. The staff will present proposals and/or recommendations in plain understandable English, and in a timely fashion for your review.

RECOMMENDATIONS ON PROGRAMS, OPERATIONS, AND STAFF

Be objective and candid in preparing recommendations for the governing body. Remember that the governing body has charged your board or committee with certain responsibilities and is depending on your group to provide suggestions, actions or recommendations.

MAKING THE DECISIONS

The governing body has selected you for this position to take advantage of your individual skills, knowledge and/or expertise. Don't be afraid of facing those hard decisions and expressing your opinions.

LIMIT ROLE AS AN ADVOCATE

Don't fall into the trap of becoming an advocate for the department or program that you are reviewing. This does not say that you cannot support that department, but do not let yourself become its spokesperson.

REPRESENTATION AS A CITIZEN

Constantly work to retain the "citizen" viewpoint and not the views of a "city hall insider." At the same time always remember that the governing body selected you for this position, and if you consistently take positions that are not supported by the governing body, the governing body may begin to question your effectiveness and the validity of your recommendations. We are not saying to be a "yes" person for the governing body; we just want each board, commission, or committee member to present candid and honest advice, information, or recommendations, representation, etc., to the governing body.

UNDERSTAND THE POLITICAL SYSTEM

Respect the governing body's right to make policy decisions and recognize that the governing body may select alternatives different from those recommended by the committee from time to time.

NEGOTIATE DIFFERENCES BETWEEN GOVERNING BODY AND BOARDS

In the event that the governing body regularly has difficulty in accepting the advice or recommendation of any of its committees, the governing body and the committee should meet together to review the differences and to seek a mutual understanding. Always keep in mind that your assigned role is important in the total picture of the City. Take your role seriously, and seek to find the best solutions and answers to the questions before you. Seek to solve problems, not merely address the results. Your service and the board or committee on which you have the privilege of working can make a difference in your community, but it will take effort, imagination, courage, innovation, and patience on your behalf and that of the board.

BOARD MEETINGS

A POSTSCRIPT TO THE PRESIDING OFFICER:

The rules of parliamentary procedure are meant to help, not hinder. Applied with common sense, they should not frustrate the meeting or entangle in red tape.. Retain control at all times, give clear explanations, and keep things as simple as possible. Good advice from the chair as to the working of motions and the best way to proceed will avoid needless complications. When in doubt, your rule should be: respect the wishes of the majority, protect the minority, and do what seems fair and equitable.

RESPONSIBILITIES OF THE CHAIR

1. Recognize Board Members entitled to speak or propose motions. Note: some motions may be made while another member has the floor. Speaker must state the purpose of the interruption so the Chair can rule on its validity.

2. Restate motions after they have been seconded, then open discussion.

3. Close discussion and put motion to vote. Votes on un-debatable motions should be called immediately. If any member objects to closing discussion on a debatable motion, a 2/3rd vote is required in order to close a debate. Restate the motion exactly as it was made or amended before calling for a vote.

4. Announce the result of a vote immediately. A tie vote defeats a motion requiring a majority of those voting. The Chair may vote to break a tie.

5. Avoid entering into any controversy or interfering with legitimate motions.

6. Maintain order and proper procedure, making necessary rulings promptly and clearly.

7. Expedite Board business in every way compatible with the rights of Board Members. You can allow brief remarks on un-debatable motions, advise Board Members how to take action (proper motion or form of motion), or order proposed routine action without a formal vote ("If there is not objection, the minutes will stand approved as read. Hearing no objection so ordered".)

8. Protect the Board from frivolous motions whose purpose is to obstruct the Board's business. You can refuse to entertain such motions. Never adopt such a course, however, merely to expedite business.

9. Guard the Board's time by having them vote to adopt an agenda at the beginning of the meeting. Follow the agenda faithfully. Do not permit unauthorized interruptions by spectators.

PRINCIPLES OF PARLIAMENTARY LAW

1. Parliamentary procedure requires that all Board Members have equal rights; mutual respect among Board Members; and the rights of the minority to indicate motions, debate, and have their votes counted, be protected, while at the same time the will of the majority governs.

2. Only one item may be under consideration at a time.

3. The majority vote decides the questions.

4. Any question which limits Board Members' rights of discussion or changes the agreed order of business requires a 2/3rd vote of the members present.

5. Any matter once decided cannot be brought up again at the same meeting, except by a motion to reconsider (see Section 2 for procedure).

6. The simplest, clearest and most expeditious way is considered proper, as long as it does not violate the rights of Board Members.

CITY OF BOERNE PUBLIC LIBRARY ADVISORY BOARD

DUTIES

This Board is established by the City of Boerne. The Board shall have the following responsibilities:

A. To advise the City Council through recommendations concerning the funding, program development, operations, and capital development of the library.

B. To advise the Librarian through recommendations concerning the ongoing operations of the library.

C. To serve as library advocates, encouraging other organizations and the general public to use and support the library.

D. To support the Boerne Public Library Foundation and the Friends of the Boerne Public Library in their organizational efforts.

TERM

The Mayor appoints two (2) members to the board each year. The Board consists of eight (8) members. The term of each member shall be four (4) years. Additional terms may be served after a one (1) year interval. The term of office begins on June 1st of the year of appointment. The officers of the board shall be the Chairman, Vice Chairman and Secretary. Officers of the Board are elected by the Board. Eligible members must reside within the City limits or within Kendall County, Texas. Members are not subject to the City of Boerne's Ethics Ordinance.

MEETINGS:

Regular and consistent attendance at the monthly Library Advisory Board meetings and at any special meetings called. Meetings are held every **second Thursday of the month at 6:00 PM,** or at any such date as designated by the board. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal.

CITY OF BOERNE HISTORIC LANDMARK COMMISSION

DUTIES

The Commission is established by ordinance by the City of Boerne. The Commission is responsible to:

A. Make investigations and studies of matters relating to the protection, enhancement, perpetuation or use of historic landmarks, historic districts and included structures, and to the restoration of historic landmarks as the Commission may from time to time deem necessary or appropriate;

B. Review applications for historic landmark designation;

C. Review permits for the construction, reconstruction, alteration, restoration, relocation, demolition, or razing of an included structure in a designated historic district or affecting a designated historic landmark;

D. Review applications for historic preservation tax exemption;

E. Make recommendations to the Planning and Zoning Commission pertaining to the amendment of any Historic District;

TERMS

The term of office shall be for four (4) years**.** The Commission consists of nine (9) members appointed by the Mayor. The Mayor shall appoint the Chairman and Vice Chairman. The term of office begins at the first meeting in June following the appointment**.** Eligible members must live within the City limits. Commission members are subject to the City of Boerne's Ethics Ordinance. Any vacancy occurring shall be filled by Mayoral appointment only for the unexpired portion of the term. The Commission shall comply with the Texas Open Meetings Act. Any member may be removed by the City Council for cause after a public hearing before the City Council and with reasonable notice of the charges. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal.

MEETINGS

The Historic Landmark Commission shall meet on a monthly basis, the **first Tuesday of each month at 5:30 PM, as necessary** and at any special meetings as called.

A. ***Regular Meetings.*** Regular meetings shall be held at the call of the Chair or at the request of any five Landmark Commission members. All Landmark Commission members shall have seven working days prior notice of the meeting.

B. ***Special Meetings.*** The Chair shall call a special meeting within five working days of receiving notice from the City Manager to consider the issuance of a certificate of appropriateness.

CITY OF BOERNE CONVENTION AND VISITOR'S BUREAU ADVISORY BOARD

DUTIES

The Advisory Board is established by the City Council. The objective of the Board is to advise and recommend marketing and tourism programs and activities that enhance and promote tourism and the hotel/motel industry for the City of Boerne and the surrounding area.

The Board will also:

A. Establish criteria for the disbursement of Hotel/Motel tax dollars;

B. Receive and review the applications for funding of Hotel/Motel dollars;

C. Prepare recommendations for funding of the Hotel/Motel dollars to the City Council for approval;

D. Review post-event reports to ensure funds provided are spent according to the approved funding request and evaluate the event or project for future funding.

TERM

The Board consists of eleven (11) members, with one (1) staff liaison. The Chairman and Vice Chairman are appointed by the Mayor. The term of office is two (2) years. Appointments are made at the first City Council meeting in January, to allow for the distribution of Hotel/Motel funds for the budget year. Eligible members must reside within the City limits, within Kendall County, and/or own, operate, manage or control any hotel within the City limits. Members are subject to the City of Boerne's Ethics Ordinance. This Board shall comply with the Texas Open Meetings Act.

MEETINGS

The Convention and Visitor's Bureau Advisory Board shall meet, **once a quarter at 5:30 PM**, in the City Council Chambers. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal.

CITY OF BOERNE PLANNING AND ZONING COMMISSION

DUTIES

This Commission is established by ordinance by the City of Boerne. The Commission is vested with the following powers:

A. Prepare and recommend to the City Council for adoption a comprehensive plan for the City.

B. Prepare and recommend to the City Council for adoption subdivision regulations;

C. To approve or disapprove subdivision plats;

D. Prepare and recommend to City Council for adoption zoning regulations and to recommend zoning district boundaries, including the power to hold public hearings, enforce the regulations; and recommend changes in the regulations and district boundaries;

E. Prepare and recommend adoption of urban conservation, rehabilitation and redevelopment programs allowed by state law;

F. Report on planning and zoning problems that are referred for review by the City Manager or the City Council;

G. Prepare such surveys, reports and studies as are required for the above and other authorized purposes.

TERM

The term of office of Commission members shall be three (3) years. Each term shall begin on June 1 following the appointment and expire May 31. Eligible members must reside within the City limits or within the extraterritorial jurisdiction of the City of Boerne. Members are subject to the City of Boerne's Ethics Ordinance. The commission shall comply with the Texas Open Meetings Act. Each of the nine positions on the Commission shall be assigned a numbered place.

A. The members of the Planning and Zoning Commission shall be identified by place numbers one through nine.

B. Places one, four and five existing appointments shall run through 5/31/2010, places two, six and eight existing appointments shall run through 5/31/2011, and places three, seven and nine existing appointments shall run through 5/31/12. After these initial terms expire, all terms shall be for three years.

MEETINGS

Regular meetings shall be held in the City Hall, except as otherwise provided herein, when called by the Chair; provided, however, that the Commission shall have at least one meeting each quarter. Special meetings may be called by the Chair provided that written notice thereof is mailed to each member 72 hours prior to the time of the meeting. Regular and consistent attendance at monthly Planning and Zoning meetings, the **first Monday of each month at 6:00 PM,** and any special meetings that may be called. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal.

CITY OF BOERNE ZONING BOARD OF ADJUSTMENT

DUTIES

This Board is established by ordinance by the City of Boerne. The Zoning Board of Adjustment is responsible:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in enforcement of the Zoning Ordinance.

B. To hear and decide special exceptions to the term of the Zoning Ordinance in those specific instances, if any, where allowed by the Ordinance.

C. To authorize upon appeal in specific cases, such variances from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the sprint of the Ordinance shall be observed and substantial justice done. In exercising the above mentioned powers of the Board may, in conformity with the provisions of the Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination, appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

D. To hear variance requests to the City of Boerne Building Codes.

TERM:

All members of the Board, both regular (5 members) and alternate (4 members), shall be appointed by the Mayor and serve for a term of two (2) years. The term of office begins at the first meeting in June following the appointment. They shall be removable for cause by the City Council upon written charges and after a public hearing before the City Council following reasonable notice of the charges. Eligible members must reside within the City limits. Members are subject to the City of Boerne's Ethics Ordinance. The Board shall comply with the Texas Open Meetings Act.

MEETINGS

The Board may meet monthly on the third Wednesday at 5:30 p.m. or at the call of the Chair, or in the Chair's absence the Acting Chair, or at such other times as the Board may determine necessary based upon receiving a variance request. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average, are subject to removal. All Board meetings shall be open to the public.

CITY OF BOERNE ETHICS REVIEW COMMISSION

DUTIES

The Board is established by ordinance by the City of Boerne, The Ethics Review Commission is responsible:

A. To review complaints regarding possible ethics violations;

B. To conduct investigations and hearings regarding possible ethics violations;

C. To report findings and make recommendations regarding sanctions to the City Council regarding ethics violations.

TERM

The commission consists of five (5) regular members and two (2) alternates. All members shall be appointed to serve three year terms. No person shall serve more than six years or be appointed for more than two terms. The term of office begins on the first called meeting of the Commission in June of each year following the appointment. Eligible members must reside within the City limits. Members of the Ethics Review Commission are subject to the Ethics Ordinance.

MEETINGS

Regular and consistent attendance at any of the special called meeting of the Ethics Review Commission. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal.

PUBLIC HOUSING AUTHORITY

DUTIES

The Public Housing Authority was established by the State of Texas. The Public Housing Authority is responsible:

A. To properly manage federal funds without waste, fraud, or mismanagement;

B. Operate projects and programs for the benefit of lower income families;

C. Assure that the income limits, as established by statute are adhered to;

D. Maintain the accounting books and records in accordance with HUD requirements and submitting required six month/ year end financial statements;

E. Operate projects and programs with maximum efficiency and economy;

F. Submit an annual operating budget and all related supporting documents in accordance with the ACC

G. Adhere to Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1988 (as amended) and Executive Order 1.1063; and

H. Approve and adopt all policies and legal documents of the Public Housing Authority, including the 5 Year and Annual Plan

TERM

The term of all commissioners is two (2) years. All commissioners except resident commissioners filling a "resident commissioner slot" may serve an unlimited number of consecutive terms. Resident commissioners may serve only two (2) consecutive terms. If the Public Housing Authority wants to keep a particular resident commissioner longer, the Maayor may appoint that person to a regular commissioner slot when one becomes vacant. The term of office begins at the first meeting in June following the appointment. Eligible members must reside within the City limits. Members are not subject to the City of Boerne's Ethics Ordinance.

MEETING

The Public Housing Authority shall meet four times annually. Meetings are held on a **Tuesday at 2:00 PM,** as posted at the Public Housing Authority Office and City Hall. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal by the Mayor in accordance with Section 392.041, Texas Local Government Code, as amended.

KENDALL COUNTY ECONOMIC DEVELOPMENT CORPORATION

DUTIES

The City of Boerne through a delegate agency agreement is a partner with the Kendall County Economic Development Board (KCEDC). The Delegate Agency Agreement sites:

The Kendall County EDC will assist the City in the pursuit of the goal to:

D. Diversify the ad valorem tax base;

E. Create new jobs;

F. Encourage capital investment by providing information and assistance to prospective commercial/business enterprises and developers interested in locating and expanding and/or in the retention of existing commercial and business enterprises; and

G. Assisting with negotiations with such projects and the City and other affected entities to craft incentives consistent with applicable laws and/or ordinances

TERM

The City of Boerne has the right to appoint two (2) directors of the Corporation. The term of office is for three (3) years. The officers, other than the President/CEO shall be elected from among the directors of the Corporation at their first meeting following the annual meeting of the members of the Corporation. The term office shall begin at or before the first annual meeting of the members in March. Eligible members must reside within the City limits. Members are not subject to the City of Boerne's Ethics Ordinance.

MEETINGS

Regular and consistent attendance at the monthly meetings which are held the **second Thursday, at 8:00 AM.** Quarterly investor meetings are held four times a year, with the annual meeting held the **third Thursday in March**. Special called meetings are called as necessary. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal.

KENDALL COUNTY APPRAISAL DISTRICT

DUTIES

The City of Boerne is a taxing entity contracting with the Kendall County Appraisal District. Rules governing the appointments and meetings are established by the State of Texas. The appraisal district is a political subdivision of the state.

The local property tax system follows the principle of checks and balances. An appraisal district board of directors hires the chief appraiser, sets the budget and appoints the appraisal review board members.

The directors have no authority to set values or appraisal methods. The chief appraiser carries out the appraisal district's legal duties, hires the staff, makes the appraisals and operates the appraisal office.

TERM

The City of Boerne is entitled to nominate a Board Member to the Kendall County Appraisal District's Board of Directors. The Board members are voted on by all of the taxing entities contracted with Kendall County Appraisal District. By statue, the term of office is for two (2) years, beginning January 1 of even numbered years. A member may become eligible for nomination and votes after a one (1) year interval, with City Council approval. Eligible members must reside within the City limits. Members are not subject to the City of Boerne's Ethics Ordinance.

MEETINGS

The Board must meet quarterly. Meetings are normally held on a **Wednesday, at 10:00 AM**, and as necessary. Special meetings are called as necessary. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal.

KENDALL COUNTY LIBRARY SYSTEM ADVISORY BOARD

DUTIES

The City of Boerne is a member of the Kendall County Library System through contributions provided by Kendall County. The purpose of the Advisory Board shall be:

A. To make recommendations to the Kendall County Commissioners' Court concerning the funding and operation of the Library System;

B. To coordinate the joint activities and products of the component libraries in the Library System; and

C. To advise the County Library Coordinator (the librarian from Boerne) on issues and ideas of mutual concern.

TERM

The term of office shall be for two (2) years. Terms of office commence on January 1. The City of Boerne is entitled to nominate two (2) Board Members to the Kendall County Library System Advisory Board. The Board members are confirmed by the Commissioners' Court of Kendall County. Officers are elected by the Board. Eligible members must reside within the City limits. Members are not subject to the City of Boerne's Ethics Ordinance.

MEETINGS

The Advisory Board shall meet at least **four** times each year, including the January meeting at which officers are elected. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12 month rolling average are subject to removal.

ORDINANCE NO. 2014-25

AN ORDINANCE REPEALING AND REPLACING THE CODE OF ORDINANCE OF THE CITY OF BOERNE, TEXAS, CHAPTER 2, ADMINISTRATION, ARTICLE V. ETHICS; DECLARING AN ETHICS POLICY; DEFINING CERTAIN TERMS; PROVIDING FOR STANDARDS OF CONDUCT; ESTABLISHING AN ETHICS REVIEW COMMISSION, POWERS AND DUTIES; ESTABLISHING THE ROLE OF AN ETHICS ADVISOR; PROVIDING FOR THE COMPLAINT PROCESS; PROVIDING FOR DISPOSITION OF ALLEGED VIOLATIONS AND SANCTIONS; PROVIDING FOR PROOF OF COMPLIANCE; AND PROVIDING AN EFFECTIVE DATE AND SAVINGS CLAUSE; AND RELATED MATTERS.

WHEREAS, the conduct of the public business should be accomplished by City Officials that have no personal financial interest in such business clearly separate from that of the general public; and

WHEREAS, it is important that City Officials be provided with a process and procedure to give notice and to then refrain from participation in any specific business of the City in which such official has a personal financial interest different from that of the general public; and

WHEREAS, some actions of a City Official in the conduct of City business may constitute, or have the appearance of constituting, a conflict of interest because these actions provide undue and inappropriate advantage to another person or organization closely related to the City Official by affinity; and

WHEREAS, a reasonable ethics ordinance with disclosure requirements will provide a basis for continuing public confidence in the conduct of the business and affairs of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BOERNE, TEXAS, THAT THE CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:

Sec. 2.120. Declaration of policy.

A. It is the policy of the City that the proper operation of democratic government requires City Officials to be independent, impartial, and responsible; and that no City Official permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction, or professional activity to conflict with the proper discharge of duties in the public interest; that governmental decisions and policies be made in the proper channels of the governmental

structure; that public office not be used for illegal or improper personal gain; and that City Officials shall at all times strive to avoid even the appearance of impropriety or partisanship. The City Council shall be maintained as a nonpartisan body.

B. This Chapter has four purposes:

1. To establish high ethical standards in official conduct by City Officials;
2. To establish guidelines for ethical standards of conduct for all City Officials;
3. To require disclosure by City Officials of private, financial or other interests in matters affecting the City; and
4. To provide discipline for those who violate this Chapter.

C. The City recognizes that City Officials are also members of society and, therefore, cannot and should not be without any personal and economic interest in the decisions and policies of government; that City Officials retain their rights as citizens in interests of a personal or economic nature and their rights to publicly express their views on matters of general public interest. It is not the intent of this Chapter to diminish the rights of City Officials as citizens of the community.

D. The provisions of this Chapter do not apply to political contributions, loans, expenditures, reports, or regulation of political campaigns or to the conduct of candidates in campaigns.

E. This Chapter defines two types of conflicts of interest and treats them differently. A "Substantial Interest" is defined in Section 171.002 of the Texas Local Government Code, and the provisions applicable to local Public Officials who have a "Substantial Interest" are set forth in Chapter 171 of the Texas Local Government Code. This Chapter is intended to go beyond the requirements of Chapter 171 of the Texas Local Government Code by addressing "Economic Interests." An Economic Interest is more comprehensive than a "Substantial Interest" and covers various kinds of Economic Benefits that might accrue to a City Official that are not included in the Texas statute.

Sec. 2.121. Definitions.

For the purposes of this Chapter the following definitions apply.

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

"City Official" means the Mayor, every member of the City Council, and all members of the Board of Adjustment, the Planning and Zoning, the Historic Landmark Commission, the Convention and Visitors Bureau Advisory Board, and the Ethics Review Commission.

“Client” means a business relationship of a highly personalized nature, but not ordinary business-customer relationships.

“Complainant” means a person filing a sworn complaint alleging a violation of this Chapter against a City Official.

"Confidential Information" means any information that a City Official would be privy to because of the official's position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov. Code ch. 552).

"Day" means a calendar day. If a deadline falls on a Saturday, Sunday or legal holiday, the due date is the following business day.

"Economic Benefit" means any money, real or personal Property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

"Economic Interest" means a legal or equitable interest in real or personal Property or a fiduciary obligation to such Property or contractual right in such Property that is more than minimal or insignificant and would be recognized by reasonable persons to have an effect in deciding a case or an issue. This occurs if the following criteria are met:

(1) The action is likely to have an effect on that interest, either positive or negative, that is distinguishable from its effect on members of the public in general or a substantial segment of the public; and
(2) The effect of the action on that interest is direct, and not secondary or indirect.

An Economic Interest does not exist when a City Official, or Family Member, serves as an officer or director with decision or policy making authority in an educational, religious, charitable, fraternal, or civic organization (the “Organization”).

(1) An Economic Interest does exist when a City Official, or Family Member, serves as an officer, board member or director with decision or policy making authority in the Organization when such Organization is entering into a contract with the City of Boerne.

An Economic Interest does not exist when a City Official has an ownership interest in a mutual or common investment fund that holds securities or other assets unless the City Official participates in the management of the fund.

“Ethics Advisor” means the duly appointed City Attorney of the City of Boerne, or Special Counsel utilized by the Ethics Review Commission when appropriate and necessary.

“Ethics Review Commission” means the Commission of citizens of the City of Boerne created by this Ordinance, and its members.

"Family Member" means the City Official's spouse, children, parents or spouse's parents and any other Family Member within two degrees of affinity or consanguinity. See Exhibit “A.”

"Gift" means a favor, hospitality, or Economic Benefit other than compensation but which does not include campaign contributions reported as required by state law, Gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an inter vivos or testamentary trust.

"Income" means Economic Benefit received.

“Just Cause” means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this ordinance.

“Preponderance of the Evidence” means the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact to decide in favor of one side or the other.

"Property" means real estate, personal items, equipment, goods, crops, livestock, or an equitable right to Income from real estate, personal items, equipment, goods, crops, or livestock.

“Respondent” means a City Official against whom a sworn complaint has been filed which alleges a violation of this Ordinance.

"Second Degree of Consanguinity or Affinity" is defined in Exhibit A, which is attached hereto and incorporated herein for all purposes.

"Source of Income" means any Business Entity, employment, investment, or activity which earned or produced Income, including interest, dividends, royalties, or rents, which has been paid to or for the credit of a City Official, candidate, or Family Member or which would be taxable to said City Official, candidate, or Family Member under the United States Internal Revenue Code, as amended, even though not actually paid or credited.

"Substantial Interest" means an interest in a Business Entity if a City Official and/or a Family Member:

(a) Owns ten percent or more of voting stock or shares of the Business Entity;

(b) Owns ten percent or more or $15,000.00 or more of the fair market value of the Business Entity; or

(c) If funds received from the Business Entity exceeds ten percent or more of the person's gross Income for the previous year.

A City Official and/or Family Member has a Substantial Interest in real Property if he, his parent, or child or, if married, his spouse or his spouse's parent, controls or has an interest in the Property and the interest has a market value of $2,500.00 or more.

Sec. 2.122. Standards of Conduct.

A. General Provisions.

1. No City Official may disclose any Confidential Information gained through the City Official's position concerning Property, operations, policies, or affairs of the City, for gain or advantage in an Economic Interest of the City Official or Family Member.

2. No City Official may use the official's position or City-owned resources not generally available to the public such as staff time, facilities, equipment, or supplies for personal gain, political campaign of the Official or Family Member.

3. Except as specifically authorized by City Ordinance, no City Official may appear before the body of which the official is a member to represent the City Official or Family Member. The City Official may designate and be represented by a person of the official's choice in any such matter, other than a Family Member.

4. No City Official may act as surety for any person or Business Entity that has a contract with the City or as a surety on any bond required by the City for a City Official.

5. These General Provisions do not prohibit a City Official from representing the City Official's interest in the City Official's owner-occupied homestead before any City body, except the body of which the official is a member.

6. City Officials shall respect and adhere to the Council-Manager structure of the City of Boerne government as provided in State law and the City Charter.

7. City Officials shall not attend internal staff meetings or meetings between city staff and third parties unless invited by City staff or directed by the City Council.

8. City Officials shall refrain from abusive conduct, actions and language and shall not knowingly make a false statement of material fact relating to the character or motives of other members of the City Council, boards, commissions, committees, City staff or the public.

9. City Officials shall make all reasonable efforts to attend all properly noticed public meetings where their attendance is required by State law or the City Charter.

10. Non-elected City Officials addressing the City Council or any other City board or commission as members of the general public during the public comments section, public hearing section or any other time during which public comments are taken during any Open Meeting shall identify themselves by name and disclose their position with the City.

11. A person related to the Mayor or a member of the City Council within the first degree of consanguinity or affinity shall not be eligible for appointment to nor service upon any City Board, Committee or Commission.

B. Gifts.

1. No City Official may solicit or accept any contribution, Gift, or Economic Benefit that is offered or given with the intention of influencing the judgment or discretion of such official; or given in consideration of the favorable exercise of the official's judgment or discretion in the past.

C. Conflict of Interest.

1. City Officials shall familiarize themselves and adhere to the following conflicts of interest and disclosure statutes and principles:

a. Chapter 171, Texas Local Government Code – requires City Council and City Officials to file an affidavit disclosing a Substantial Interest in a business or property that would be beneficially affected by a decision of the Council or Board and thereafter abstaining from participation in discussion and a vote.
b. Chapter 176, Texas Local Government Code – requires City Council to file a conflicts disclosure statement disclosing any business relationship with a person or business doing business with the City or being considered by the City for a business relationship.
c. Section 176.003(a)(2)(B), Texas Local Government Code – requires the disclosure of gifts of an aggregate value of more than $250.00 in a twelve month period, other than gifts of food, lodging, transportation or entertainment and accepted as a gift.
d. Sections 553.001-553.003, Texas Government Code – requires the filing of an affidavit before the date the City will acquire a property in which the public City Official has an interest.
e. Section 36.02, Texas Penal Code – prohibiting bribes.
f. Section 36.08(d), Texas Penal Code – prohibiting illegal benefits.
g. Section 36.09, Texas Penal Code – prohibiting receipt of certain gifts.
h. Section 39.02, Texas Penal Code – concerning abuse of official capacity.
i. Section 39.06(a), Texas Penal Code – concerning misuse of official information.

2. Substantial Interest. No City Official may vote on or participate in any decision-making process on a matter concerning a Client, Property or Business Entity if the City Official or pertinent Family Member has a Substantial Interest in same.

3. Economic Interest.

a. No City Official shall vote on or participate in any decision-making process on a matter if the City Official has an Economic Interest in the outcome of the matter under consideration.

b. To avoid the appearance and risk of impropriety, a City Official shall not vote on or participate in any decision-making process that the City Official knows is likely to affect the Economic Interests of:

i. A Family Member; or
ii. A Business Entity (profit or non-profit) for which the City Official serves as an officer or director in any policy or decision making position.

D. <u>Disclosure of Interest and Recusal.</u>

1. A City Official who has a Substantial or Economic Interest in the outcome of the matter under consideration shall disclose that the official has such an Interest and shall recuse himself/herself from voting on or participating in any decision-making process.

3. The City Official shall promptly file an affidavit with the City Secretary disclosing the nature and extent of the conflict, and the affidavit shall be included in the official minutes of the body, in accordance with state law. A copy of the required affidavit is located at Exhibit "B" at the end of this Ordinance.

4. Upon recusal, a City Official who has disclosed having either an Economic Interest or a Substantial Interest in the outcome of a matter under consideration shall leave the dais, but may remain at the open meeting.

Sec. 2.123. Ethics Review Commission

A. Created; purpose.

There is created an Advisory Commission which shall assist and advice the City Council and the City Manager on matters pertaining to the City's Ethics Ordinance as amended. The Commission shall be known as the Ethics Review Commission (hereinafter referred to as the "Ethics Review Commission" or the "Commission") and shall have no rule-making or judicial authority, but shall be solely advisory in nature and not subject to the Texas Open Meetings Act. The City Council delegates its investigatory authority to the Ethics Review Commission in order to administer oaths and affirmations and to take evidence and issue subpoenas in fulfillment of the duties expressed in this Ordinance.

B. Composition; term.

1. The Ethics Review Commission shall consist of five members and two alternates who are citizens of the City of Boerne and who shall be appointed by the Mayor, subject to review and approval by the City Council and shall serve without compensation.

2. The terms of the persons appointed as members and alternates of the Ethics Review Commission shall be as follows:

a. All members shall be appointed to serve three-year terms. Subsequent terms of the members shall be for three year terms.

b. The two alternates shall be appointed to serve three year terms.

c. An alternate shall be appointed by the Mayor to fill any vacancy and shall serve for the unexpired term of the position to which the appointment is made.

d. Appointments to the vacancy of any alternate position shall be for the unexpired term of the alternate position to which the appointment is made.

e. Members shall serve until their successors have been appointed and qualified.

f. No person shall serve for more than six years or be appointed for more than two terms.

C. Officers of the Commission

The Ethics Review Commission shall elect a Chair, Vice-Chair and Secretary at its first meeting each year. The City Secretary shall serve as staff liaison and shall be responsible for taking the minutes of the meetings.

D. Legal Consultation

The Ethics Advisor shall furnish the Ethics Review Commission legal assistance necessary in carrying out its function.

E. Rules of Procedure

1. The Commission shall establish its own parliamentary procedure, provided that such is not in conflict with the specific provisions of State law, City Charter or City Ordinance.

2. Three members of the Commission shall constitute a quorum. The Chairperson shall be entitled to vote upon any question and shall have no veto power.

3. Written notice of the date, hour, place and subject of each meeting of the Commission shall be properly posted at least seventy-two hours in advance.

4. Any meeting of the Commission shall be open to the public.

5. The Chairperson of the Commission may administer oaths and compel the attendance of witnesses.

6. The Commission shall keep minutes of its proceedings, which shall be filed in the office of the City Secretary. All records of the Commission shall be maintained in accordance with the provisions of the Texas Public Information Act (Tex. Gov. Code Ch. 552).

F. Powers and Duties

The Ethics Review Commission shall have only those powers and duties provided in this ordinance as now or hereafter amended.

Sec. 2.124. Role of the City Ethics Advisor.

A. The City Attorney serves as Ethics Advisor to the City Council as well as to the Ethics Review Commission. When complaints are filed relating to the Mayor or City Council members, Special Counsel may be utilized to advise the City Council and take part in its proceedings.

B. The Ethics Advisor is available to respond confidentially to inquiries relating to the Ethics Ordinance (this Chapter) and may render advisory opinions on potential conflicts of interest or violation of this Ordinance at the request of a City Official. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this Ordinance unless material facts were omitted or misstated by the person requesting the opinion.

C. The Ethics Advisor shall have the responsibility to render legal advice to the Ethics Review Commission regarding the investigation and determination of any advisory finding by the Ethics Review Commission concerning an alleged violation of this Ordinance. The Ethics Advisor shall not represent or render legal advice to the Complainant or Respondent throughout the process.

D. The Ethics Advisor shall have the responsibility to render legal advice to the City Council regarding the investigation and determination of any advisory finding by the Ethics Review Commission concerning an alleged violation of this Ordinance.

Sec. 2.125. Complaint process.

A. Filing.

1. Any person who believes that there has been a violation of this Chapter may file a sworn complaint. A complaint alleging a violation of this Chapter must meet the requirements of Section 2.125.A.2 and must be filed with the City Secretary. A complaint alleging a violation of this Chapter by the City Attorney must also be filed with the persons named in Section 2.124.E. Complaints shall be filed in the manner described herein within forty-five (45) days of the date

of the alleged acts forming the basis of the complaint. Complaints filed more than forty-five (45) days after the date of the alleged acts forming the basis of the complaint shall be dismissed as untimely.

2. Required Contents of a Complaint. An ethics complaint must be in writing, under oath and must set forth in simple, concise, and direct statements the following:

a. The name of the Complainant;
b. The street or mailing address and the telephone number of the Complainant;
c. The name of the person who allegedly committed the violation;
d. The position or title of the person who allegedly committed the violation;
e. The nature of the alleged violation, including, if possible, the specific rule or provision of this Chapter alleged to have been violated;
f. A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred, including the following:
    i. Documents or other material available to the Complainant relevant to the allegation;
    ii. A list of all documents or other material relevant to the allegation and available to the Complainant, but that are not in the possession of the Complainant, including the location of the documents, if known; and
    iii. A list of all documents or other material relevant to the allegation, but unavailable to the Complainant, including the location of the documents, if known.
g. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.

3. The complaint must be accompanied by an affidavit stating that the information contained in the complaint is both true and correct or that the Complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Chapter.

4. Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.

5. The City Secretary shall determine if the complaint meets the requirements of Section 2.125.A within five (5) days of receipt from the Complainant. If the City Secretary determines that the complaint does not meet the requirements of this Section 2.125.A, the City Secretary shall return the complaint and notify the Complainant, in writing, of the deficiencies. Such written return will be forwarded to the Complainant by the City Secretary via electronic mail and/or

facsimile (with confirmation of successful delivery), if available. If such means are unavailable, the City Secretary shall forward via by certified mail, return receipt requested or overnight delivery.

B. Notification.

1. If the City Secretary determines that the complaint meets the requirements of Section 2.125.A then, within five (5) days of the City Secretary's receipt of the complaint, the City Secretary shall forward the sworn complaint to the Mayor, City Manager and Ethics Advisor. If the complaint alleges a violation by the Mayor, the Mayor Pro Tem shall receive all notifications in place of the Mayor where this Ordinance requires the Mayor to receive such notification.

2. Upon receipt of the sworn complaint from the City Secretary, the Ethics Advisor has five (5) days to submit a written preliminary review detailing whether the sworn complaint states a valid claim under this Ethics Ordinance to the City Secretary. The written preliminary review of the complaint does not advise on the merits of the complaint only whether the complaint states a valid claim under the Ethics Ordinance.

a. If the Ethics Advisor determines that the complaint does not state a valid claim under the Ethics Ordinance, the Ethics Advisor will forward the written preliminary review dismissing the complaint to the City Secretary who will immediately, but in no event longer than (3) days, forward to the Mayor, the City Manager and the Complainant.

i. If the written preliminary review dismisses the complaint, the Complainant has seven (7) days of receipt to appeal the decision, in writing, to the City Secretary.

ii. The City Secretary shall immediately, but in no event longer than three (3) days, forward such appeal to the Ethics Review Commission.

iii. The Ethics Review Commission will meet no later than fourteen (14) days of receipt of the appeal to consider the Complainant's appeal.

iv. If the Ethics Review Commission concurs with the written preliminary review, the complaint and the written preliminary review will be forwarded to City Council for final determination at the next regularly scheduled City Council meeting.

v. If the Ethics Review Commission determines that the complaint is sufficient to proceed, the Ethics Advisor will draft a new written preliminary review consistent with the Ethics Review Commission's findings and will proceed as required by Section 2.125(B)(2)(b).

b. If the Ethics Advisor determines that the complaint does state a valid claim under the Ethics Ordinance, the Ethics Advisor will forward the written preliminary review to the City Secretary who will immediately, but in no event longer than (3) days, forward to the Mayor, City Manager, the Chair of the Ethics Review Commission, Complainant and the Respondent. Information shall be forwarded by the City Secretary to the Respondent by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).

3. Along with the written preliminary review, the Respondent shall be provided with a copy of the Ethics Ordinance (this Chapter) and the complaint and informed that:

a. Within ten (10) days of receipt of the complaint, the person charged shall have the opportunity to file a sworn response, with such other information deemed to be relevant to the proceedings, with the City Secretary. An extension of time to file a sworn response may be granted, in writing, by the City Secretary.
b. Failure to file a response does not preclude the Ethics Advisor from processing the complaint.
c. A copy of any response to a complaint must be provided immediately, but in no event longer than three (3) days, by the City Secretary to the Complainant. Information shall be forwarded by the City Secretary to the Complainant by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).
d. The Complainant may, within five(5) days of receipt, respond by sworn writing filed with the City Secretary.
e. The City Secretary shall immediately, but in no event longer than (3) days, provide a copy of the sworn writing to the Respondent. Information shall be forwarded by the City Secretary to the Respondent by certified mail, return receipt requested, overnight delivery and/or facsimile (with confirmation of successful delivery).

4. The City Secretary shall forward a copy of all information received to all members of the Ethics Review Commission; including, the complaint, the Respondent's response, if any, and the Complainant's reply, if any. The City Secretary shall immediately, but in no event longer than (3) days, forward any additional information as it is received.

5. City Officials have a duty to cooperate with the Ethics Advisor pursuant to this Chapter.

6. The Respondent will only be found in violation of the Ethics Ordinance if the Respondent receives notice of the violation as set forth in Section 2.125.B.

Sec. 2.125.1.Review of a Complaint.

A. The Chair will convene, no sooner than twenty (20) days but no later than forty-five (45) days from receipt of the written preliminary review, the Ethics Review Commission to review the complaint and to determine whether the complaint constitutes a claim under the ordinance and is supported by Just Cause. The Ethics Review Commission, upon a majority vote, may grant an extension of time to meet if such circumstances exist.

B. If Just Cause is not found to exist by the Ethics Review Commission, the Ethics Advisor shall prepare a written decision recommending the complaint be dismissed within ten (10) days. Such written recommendation shall be forwarded by the Ethics Advisor to the City Council, City Secretary and City Manager for review at the next regularly scheduled City Council meeting. If, at that time, Just Cause is not found to exist by the City Council then the complaint shall be dismissed. The Ethics Advisor shall contact the Complainant and the Respondent, in writing, identifying the reason for dismissal within ten (10) days of City Council's determination.

C. After review of a no Just Cause written recommendation from the Ethics Review Commission, the City Council, by majority vote, determines the existence of Just Cause, the complaint shall be referred back to the Ethics Review Commission to conduct an investigation and a hearing as set forth below in Section 2.125.1(D).

D. If Just Cause is found, an affirmative vote of a majority of the Commission members (three (3) affirmative votes) is required for the Commission to proceed to investigation and hearing. The Commission shall proceed to investigation and hearing. The Commission will notify the Complainant, the Respondent, the City Secretary, City Manager, the Mayor and the members of the City Council, and the Ethics Advisor within seven (7) days of the Just Cause determination.

E. If a complaint concerns a member of the Ethics Review Commission or City Council, such member shall have no involvement in the processing and review of the complaint and must immediately recuse him or herself from the complaint process.

F. The Respondent will only be found in violation of the Ethics Ordinance if the Ethics Review Commission meets as set forth in Section 2.125.1.

Sec. 2.125.2. Investigation and Hearing of Complaints.

A. If a complaint proceeds to a hearing, the Commission shall call or convene a hearing no less than thirty (30) days after a Just Cause determination.

1. If the Respondent and Complainant agree, the Ethics Review Commission may proceed to hearing in less than thirty (30) days.

B. The City Secretary shall provide immediate notice of the hearing to the Complainant and the Respondent but not less than twenty (20) days prior to the date of the hearing. Such notice must be by certified mail return receipt requested, facsimile (with confirmation of successful delivery), or personal delivery. The notice must state the specific provision or

provisions of the ordinance alleged in the complaint to have been violated, as determined by the preliminary review. The Complainant and the Respondent may ask the Commission to request certain persons and written evidence for the investigation or hearing not less than fourteen (14) days prior to the hearing.

C. During an official convened meeting, the Commission shall hold a hearing on the case and shall hear such testimony as is presented by the Complainant, any witnesses and the Respondent. All witnesses must be sworn, and members of the Commission or its Ethics Advisor shall conduct the questioning of the witnesses.

D. The Commission is not bound by the rules of evidence.

E. The Respondent shall have the right to attend the hearing, the right to make a statement, the right to present and cross-examine witnesses and the right to be represented by legal counsel.

F. The Complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel. The legal representative may advise the Complainant during the proceedings, but may not speak on behalf of the Complainant, except to represent the Complainant while the Complainant is testifying. The Complainant may not present or cross-examine witnesses except with permission of the Commission.

G. The hearing shall be commenced and completed on the same calendar day unless extraordinary circumstances prevent such completion.

H. The Respondent will only be found in violation of the Ethics Ordinance if the Investigation and Hearing of Complaints proceeds as set forth in Section 2.125.2.

I. <u>Confidentiality and Ex Parte Communications.</u>

1. No City Official may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.

2. All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).

3. After a complaint has been filed, and during the consideration of a complaint by the Ethics Review Commission, neither a member of the Ethics Review Commission or the City Council may communicate directly or

indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the Ethics Review Commission.

4. After a complaint has been referred by the Ethics Review Commission to the City Council for review, neither a member of the Ethics Review Commission nor the City Council may communicate directly or indirectly with an party or person about any issue of fact or law regarding the complaint, except at a meeting of the City Council, until after a final determination has been made on the complaint.

5. Nothing herein shall be construed to prevent or prohibit any member of the Ethics Review Commission or City Council from consulting with the Ethics Advisor regarding procedural and legal issues.

6. Nothing herein shall be construed to prevent or prohibit any member of any Board, Commission or City Council, if the complaint concerns such member, from preparing a defense to such complaint.

Sec. 2.125.3. Conclusions of Complaint Process.

A. The Commission will determine whether a violation of the ordinance has occurred within seventy-two (72) hours of conclusion of the hearing. The Commission may deliberate in closed session to review the evidence that was presented in open session pursuant to Section 2.123.E.4. Any recommendations and/or findings by the Commission will be made by the Chairman in open session pursuant to Section 2.123.E.4. The Ethics Advisor will be available to the Commission during any private session to advise the Commission concerning any procedural questions.

B. The Commission shall make its determination based on the Preponderance of the Evidence. The affirmative vote of a majority of the Commission members (three (3) affirmative votes) is required for any action of determination by the Commission.

C. The Commission shall direct the Ethics Advisor to prepare a written decision and recommendation, subject to final approval by the Commission, and shall make all reasonable efforts to issue the final written decision and recommendation within ten (10) days after the conclusion of the hearing. The Commission shall state its findings in the written decision and recommendation. The written decision and recommendation must either: 1) dismiss the complaint, with the grounds for dismissal set forth in the decision; or 2) find that there has been a violation of this Ethics Ordinance and identify in the decision the particular provision or provisions violated and the conduct forming the basis of the violation. If the Commission determines that a violation of the Ethics Ordinance has occurred, the Commission may, in its written decision and recommendation, recommend one of the following sanctions:

1. A letter of notification is an appropriate sanction when the violation is clearly unintentional. The letter of notification shall advice the official of any steps to be taken to avoid future violations.
2. A letter of admonition is the appropriate sanction when the Commission finds the violation is minor.
3. A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed.
4. A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred or more than one serious violation or repeated serious violations of this ordinance have been committed.

D. The Commission shall deliver the written decision and recommendation within ten (10) days of the decision to City Secretary, City Manager, the Mayor, City Council and the Ethics Advisor.

E. The Respondent will only be found in violation of the Ethics Ordinance if the Conclusion of the Complaint process proceeds as set forth in Section 2.125.3.

Sec. 2.126. Sanction and Violations

A. After the City Council has received the written decision and recommendation from the Ethics Review Commission, the City Council shall review and take appropriate action with respect to the referral at the next available Regular Meeting or at a Special Called Meeting of the City Council, which, in no event, should be held any later than thirty (30) days from the date of receipt of the written decision and recommendation.

B. Upon receipt of the written decision and recommendation from the Ethics Review Commission, the City Council may take appropriate action. The City Council may request additional statements or testimony before taking action on the Commission's written decision and recommendation.

C. The City Council may accept the Ethics Review Commission's recommendation or it may impose one of the following sanctions:

1. A letter of notification is an appropriate sanction when the violation is clearly unintentional. The letter of notification shall advice the official of any steps to be taken to avoid future violations.
2. A letter of admonition is the appropriate sanction when the Commission finds the violation is minor.
3. A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed.

4. A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred or more than one serious violation or repeated serious violations of this ordinance have been committed.

D. The City Council may determine that no violation of this Ordinance has occurred. If the City Council makes such a determination, it may dismiss the complaint without imposing any sanctions.

E. Copies of all sanction letters issued by the City Council under Section 2.126 shall be filed of record with the City Secretary.

F. In addition, when the seriousness of the violation warrants, the City Council may suspend or remove from office any official serving in a Council-appointed position.

G. The City Council shall deliver, within ten (10) days, its final written determination to the Complainant and the Respondent.

H. The Respondent will only be found in violation of the Ethics Ordinance if the Investigation and Hearing of Complaints proceeds as set forth in Section 2.125.6.

Sec. 2.127. Distribution and Proof of Compliance.

A. The City Secretary shall make available to each new City Official designated in this ordinance a copy of the following: the text of this Ordinance; Chapter 171 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex. Gov. Code Chapter 551; and the Texas Public Information Act (Tex Gov. Code Chapter 552) (collectively referred to as the “Ethics Statutes”).

B. The City Attorney shall conduct one or more annual seminars devoted to educating City Officials and the Ethics Review Commission on the meaning and legal significance of the Ethics Statutes.

C. Each year each City Official shall file with the City Secretary a signed and dated affidavit in which the City Official acknowledges that he or she has read and understands this ordinance.

D. The affidavit required to be filed by Section 2.127 shall be filed with the City Secretary before the next regularly scheduled regular meeting of the City Council following the effective date of this Ordinance, or within ten (10) business days of the date new City Officials take office, as applicable.

PASSED and APPROVED on first reading this the 12th day of August, 2014.

PASSED, APPROVED and ADOPTED on second reading this the 26th day of August, 2014.

APPROVED:

s/s Michael D. Schultz
Mayor

ATTEST:

s/s Lori A. Carroll
City Secretary

APPROVED AS TO FORM:

Kirsten B. Cohoon
City Attorney

Consanguinity and Affinity Chart – Exhibit “A”
Relationships within the Second Degree of Consanguinity or Affinity*

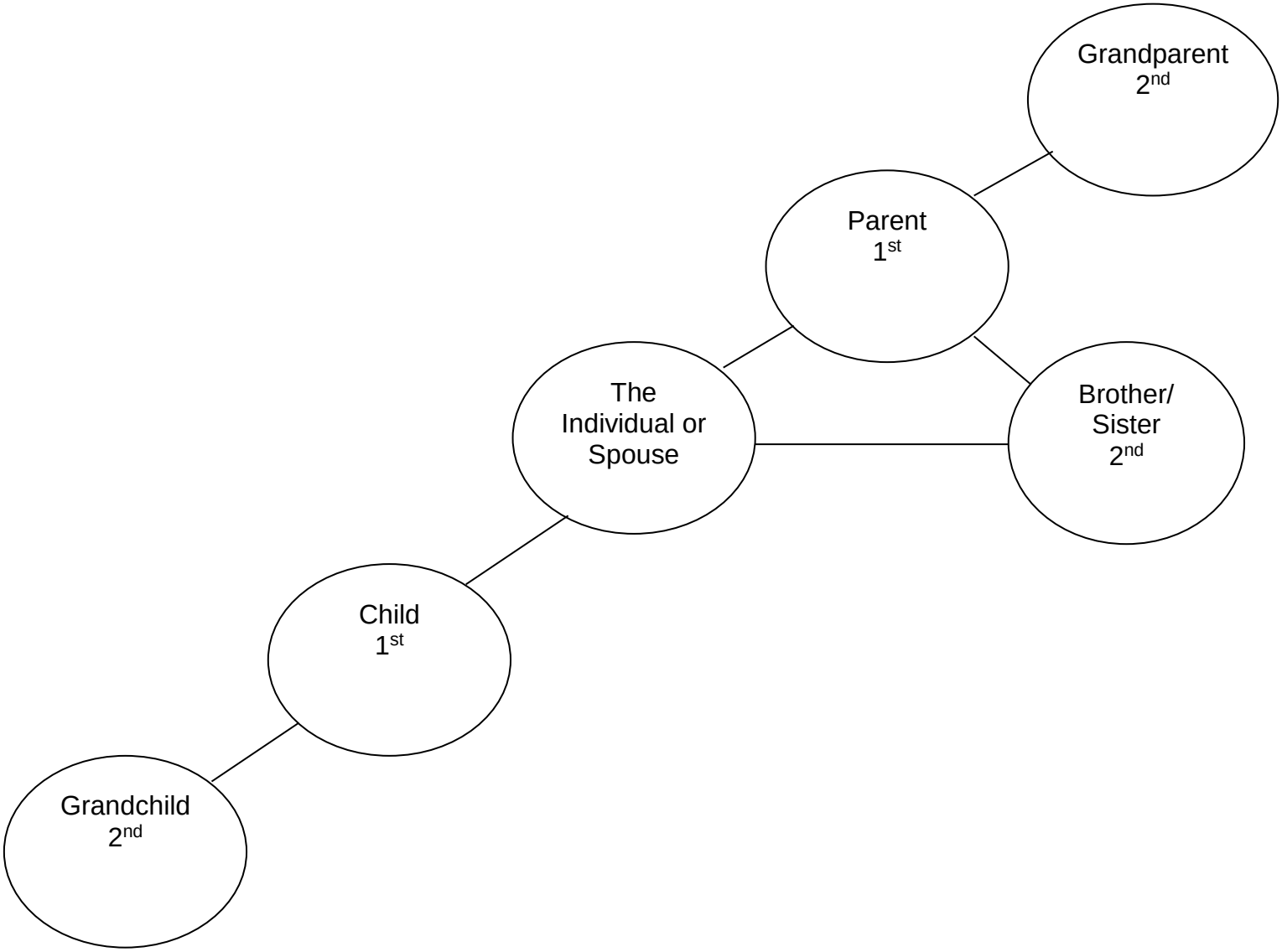


Exhibit "B"

AFFIDAVIT OF SUBSTANTIALOR ECONOMIC INTEREST

THE STATE OF TEXAS '

COUNTY OF KENDALL '

I, [insert name], as a member of [insert the name of the Board or Commission or City Council] of the City of Boerne make this affidavit and hereby on oath state the following: I, and/or a person or persons related to me, have a substantial interest in a business entity that would be particularly affected by a vote or decision concerning [identify the matter generally]as those terms are defined in Section 171.002 of the Local Government Code.

Reference: [identify the matter specifically].

I, [insert name], have a substantial economic interest for the following reasons:

___ Ownership of 10% or more of the voting or shares of the business entity by myself or a pertinent family member.

___ Ownership of $2,500 or more of the fair market value of the business entityby myself or a pertinent family member.

___ Funds received from the business entity exceed 10% of my income for the previous year or the income of a pertinent family member.

___ Real Property is involved that I own or pertinent family member owns with a fair market value of at least $2,500.

___ I have an economic interest in the matter.

A pertinent family member has an economic interest in the matter.

I serve as an officer or director with policy or decision making position with thisentity.

A pertinent family member serves as an officer or director with policy or decision making position with thisentity.

Upon the filing of this affidavit with the City Secretary for the City of Boerne, I affirm that I will abstain from voting on any decision involving this business entity and from any further participation on this matter whatsoever.

Signed this _____ day of _____, 20___.

_____
Signature of Official

_____
Title

BEFORE ME, the undersigned authority, this day personally appeared _____ and on oath stated that the facts hereinabove stated are true to the best of [his/her] knowledge or belief.

Sworn to and subscribed before me on this _____ day of _____, 20__.

_____
Notary Public in and for the State of Texas

My Commission expires: _____.