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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 12, TULSA REVISED ORDINANCES, INTERNAL POLICIES, CHAPTER SIX (6) ENTITLED "CODE OF ETHICS"; REPEALING CHAPTER SIX (6) ENACTING A NEW TITLE 12 TULSA REVISED ORDINANCES, CHAPTER SIX (6) ENTITLED "CODE OF ETHICS"; PROVIDING A STATEMENT OF PURPOSE; ESTABLISHING SCOPE AND CERTAIN DEFINITIONS TO BE USED IN CHAPTER SIX (6); DECLARING CERTAIN PROHIBITIONS TO BE HONORED BY CITY OFFICIALS; ESTABLISHING CONFLICTS OF INTEREST; CREATING THE TULSA ETHICS COMMISSION AND OUTLINING ITS DUTIES AND PROCEDURES; PROVIDING FOR RECEIPT AND DETERMINATIONS OF ETHICS COMPLAINTS; DISTINGUISHING ETHICS COMPLAINTS FILED FOR POLITICAL PURPOSES; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; AND DECLARING AN EMERGENCY.

WHEREAS, the duly elected governing authority of the City of Tulsa, Oklahoma is authorized to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the governing authority deems it essential to the proper operation of democratic government that governmental decisions and policies be made in an ethical manner through the proper channels of the governmental structure; and that public office not be used for personal gain; and

WHEREAS, such measures are necessary to provide the public with confidence in the integrity of its government.

NOW THEREFORE it is the policy of the City that its officials, employees, appointees, and volunteers conducting official City business:

- Serve others and not themselves;
- Be independent, impartial, ethical, honest and responsible;
- Use resources with efficiency and economy;
- Treat all people fairly;
- Use the power of their position for the well-being of their constituents and the public good; and
- Create an environment of honesty, openness and integrity.

BE IT ORDAINED BY THE CITY OF TULSA:

Section 1. That Title 12, Tulsa Revised Ordinances, Chapter 6, be and the same is hereby amended to read as follows:

“CODE OF ETHICS

- Section 600. Purpose.
- Section 601. Scope.
- Section 602. Definitions.
- Section 603. Prohibitions.
- Section 604. Conflict of Interest.
- Section 605. Tulsa Ethics Commission.
- Section 606. Receipt and Determination of Ethics Complaints.
- Section 607. Ethics Complaints Filed for Political Purposes.

SECTION 600. PURPOSE

The purpose of this Code of Ethics is to:

- A. Establish high ethical standards for official conduct by City Officials;
- B. Set forth those acts or actions that are incompatible with the interest of the City;
- C. Require disclosure by such Officials of private financial or other interest in matters affecting the City;
- D. Establish the Tulsa Ethics Commission and provide for its members, procedures and authority;
- E. Establish procedures for the initiation, submission, investigation and determination of Complaints under this Code of Ethics;
- F. Serve as a basis for disciplining those who refuse to abide by the terms of this Code of Ethics; and
- G. Promote public confidence in the integrity of the City Officials.

SECTION 601. SCOPE

The provisions of this Code of Ethics shall be applicable to all elected, appointed or employed City Officials. Intentional acts or omissions which violate the provisions of this Code of Ethics are prohibited and are subject to investigation and final order by the Tulsa Ethics Commission.

Notwithstanding anything herein to the contrary, state law and the charter of the City shall be controlling in the event of an actual conflict with the provisions of this Code of Ethics. This ordinance shall be interpreted to supplement, and not replace, said provisions of state law and the City charter.

SECTION 602. DEFINITIONS

Solely for the purpose of this Code of Ethics:

City of Tulsa or **City** means the municipal corporation established under and by the authority of Section 3 of Article XVIII of the Constitution of the State of Oklahoma, pursuant to the laws of the state, and the 1989 Amended Charter approved by the citizens.

City Official or **Official** means every City of Tulsa currently elected official, officer, or Employee, member of a City of Tulsa board, authority, commission, committee, public trust with the City of Tulsa as a beneficiary, or recommending body established by the City of Tulsa. For purposes of this Code of Ethics, **City Official** or **Official** does not include any member of the judiciary, who is subject to a separate Code of Judicial Conduct under Oklahoma law.

Complaint means a document asserting an intentional act or omission that constitutes a violation of this Code of Ethics by a City Official, filed with the City Clerk in writing and signed under oath, legibly drawn and clearly addressing matters within the scope of this Code of Ethics.

Decision means a conclusion or resolution reached or pronounced related to City business by a City Official or a City board, authority, commission, committee, public trust with the City of Tulsa as a beneficiary; or recommending body official.

Employee means any person who is a full-time or part-time employee of the City of Tulsa.

Entity means any for-profit corporation, partnership, limited liability company (LLC), sole proprietorship, joint venture, unincorporated association or firm, trust, receivership or other for-profit organization recognized by law.

Immediate Family means the City Official's spouse, children, parents or spouse's parents and any other family members within two degrees of affinity or consanguinity (by blood or marriage).

Incidental interest means an interest in a person, Entity or property which is not a Substantial Interest as defined herein but is greater than a Remote Interest as defined herein.

Remote interest means an interest of a person or Entity, including a City Official, which would be affected in the same way as the general public. For example, the interest of an Official in the property tax rate, general City fees, City utility charges, a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the Official would be affected in common with the general public.

Substantial Interest means a direct personal, financial or property interest of the City Official or his or her Immediate Family or an interest directly or through a member of the Immediate Family, in another person or Entity, where:

1. The interest is ownership of five percent or more of the voting stock, shares or equity of the Entity or ownership of \$5,000.00 or more of the equity or market value of the Entity; or
2. The funds received by the Official or person from the other person or Entity during the previous 12 months equal or exceed (a) \$5,000.00 in salary, bonuses, commissions professional fees, stock, retirement pay, pensions, dividends, payment for goods, products or services, or other payment, excluding reimbursement for out-of-pocket

expenses, or (b) ten percent of the recipient's gross income during that period, whichever is less; or

3. The Official or Immediate Family member serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a City of Tulsa board, authority, commission, committee, public trust with the City of Tulsa as a beneficiary, or recommending body established by the City of Tulsa; or
4. The person or Entity is a creditor, debtor, or guarantor of the other person or Entity in an amount of \$5,000.00 or more.

SECTION 603. PROHIBITIONS

- A. No City Official shall use his or her position to secure special privileges, exemptions, confidential information or any other thing of value for himself, herself or others.
- B. No City Official or his or her Immediate Family shall directly or indirectly receive, or agree to receive, any compensation, money, prize, gift, reward, gratuity, loan, promise of future benefits or any other privilege, exemption or thing of value in return for the performance or nonperformance of any act or duty pertaining to the City Official's office, except as may be provided by law. This provision does not preclude a City Official from accepting a gift when the gift will not influence a Decision related to City business, such as when the party offering the gift does not do any business with the City; the business of the party offering the gift is outside the decision-making authority of the City Official; there are no pending or reasonably foreseeable matters with the party offering the gift; or the gift offered has a value less than \$50 or a collective value of \$250 in a calendar year to a City Official from all such parties.
- C. No City Official shall enter into any contract with, or have any interest in, either directly or indirectly, the City except as authorized by state law. This prohibition shall not be applicable to an otherwise valid employment contract between the City and a City Official who is not elected.
- D. Any City Official who has a Substantial Interest in an Entity doing business with the City shall make that interest known in writing to the City Clerk.
- E. No City Official shall dispose of public property except in accordance with the law.
- F. No City Official shall seek or accept other employment to be performed, or compensation to be received, while still a City Official if the employment or compensation could reasonably be expected to impair such Official's judgment, impartiality or performance of City duties.
- G. If a City Official accepts or is seeking a promise of future employment from any person or Entity who has a Substantial Interest in a person, Entity or property which would be affected by any Decision upon which the Official might reasonably be expected to act, investigate, advise, or make a recommendation, the Official shall disclose the fact to the City Council or City Clerk, as appropriate, and shall recuse himself or herself and leave the

room during any Decision or vote related thereto and take no further action on matters regarding the potential future employer.

- H. No City Official shall use City facilities, personnel, equipment, resources, property, or supplies for private or personal purposes, except to the same extent such are lawfully available to the public or otherwise allowed by official City policy or law.
- I. No City Official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
- J. No City Official shall directly or indirectly disclose, make use of, or knowingly permit others to make use of, official information or confidential information not made available to the general public for the purpose of furthering a private or personal interest.
- K. No City Official shall use his or her position in any way to coerce another person to provide any financial benefit to such Official or persons within the Official's Immediate Family, or those with whom the Official has business or financial ties.
- L. No City Official shall order any goods and services for the City without prior authority or prior official authorization for such expenditure. No City Official shall attempt to obligate the City nor give the impression of obligating the City without proper prior authorization or authority.
- M. City Officials shall have a general duty to report any violations of this Code of Ethics of which they have actual knowledge.

SECTION 604. CONFLICT OF INTEREST

- A. City Officials shall verbally disclose on the record any Substantial Interest they may have prior to any discussion, Decision or vote related to such matter. While City Officials may participate in discussion, they shall not vote or make a Decision on such matter. The City Official shall recuse himself or herself and leave the room during any Decision or vote relating to such matter.
- B. A City Official shall verbally disclose on the record his or her interest in a not-for-profit organization, other than a City of Tulsa board, authority, commission, committee, public trust with the City of Tulsa as a beneficiary, or recommending body established by the City of Tulsa, prior to any discussion, Decision or vote relating thereto. The City Official may participate in any discussion relating to the not-for-profit organization. The City Official shall recuse himself or herself and leave the room during any such Decision or vote relating to the not-for-profit organization under the following circumstances:
 - 1. The City Official or a member of his/her Immediate Family receives or may receive a financial benefit from the not-for-profit organization of \$5,000 or more within a 12 month period, or
 - 2. The City Official or a member of his/her Immediate Family serves as an officer or member of the board of directors or other governing body of a not-for-profit

organization and such not-for-profit organization (a) may receive a benefit or funding valued in an amount of \$5,000 or more from the City of Tulsa, (b) is giving something of value to the City of Tulsa in an amount of \$5,000 or more, (c) will receive relief from the matter under consideration, such as a zoning change or specific legislation, or (d) is pursuing or defending interests clearly adverse to the City or is in litigation against the City.

- C. Other than as set forth in Section 604(b), where the interest of a City Official in the subject matter of a discussion, Decision or vote is Remote or Incidental, the City Official may participate in the discussion, Decision or vote and need not disclose the interest.
- D. No City Official shall engage in any political campaign activity while on duty for the City, with the use of City funds, supplies, vehicles or facilities, or during any period of time during which he or she is expected to perform services for the City. Nothing herein shall preclude a City Official from accepting or raising lawful political campaign contributions regulated in accordance with federal, state and/or local law or ordinances.
- E. No provision of this Code of Ethics shall be construed to prohibit or restrict any City Employee from negotiating or enforcing a collective bargaining agreement between the City and a labor union to which the Employee belongs pursuant to state or federal law. No City Employee shall be deemed to have a conflict of interest due to any lawful action taken pursuant to a collective bargaining agreement.
- F. No City Official shall be deemed to have a conflict of interest by virtue of sharing in the benefit of a lawful City action when the benefit to the City Official is substantially the same as the benefit to the public at large.

SECTION 605. TULSA ETHICS COMMISSION.

- A. Upon the adoption of this Code of Ethics, the Tulsa Ethics Advisory Committee shall be dissolved and the Tulsa Ethics Commission shall be created. The Tulsa Ethics Commission shall act as an investigating, reporting, advisory and quasi-judicial body to the City of Tulsa on ethical issues relating to the Code of Ethics.
- B. The Tulsa Ethics Commission shall consist of seven (7) individuals, appointed by the Mayor and confirmed by the City Council. The initial members of the Tulsa Ethics Commission shall be the duly appointed and acting members of the Tulsa Ethics Advisory Committee, which shall be dissolved and replaced by the Tulsa Ethics Commission for the remainder of each member's term. A Tulsa Ethics Commission member shall not otherwise be a City Official, nor a member of the Immediate Family of a City Official. Every Commission member shall be a resident of the City of Tulsa. Terms of office shall be for three (3) years; provided, however, that, subject to resignation or removal, a member shall hold office until the Mayor appoints and the City Council confirms a successor, or the City Council appoints a successor, as allowed by City ordinance. All members shall serve without compensation. Members shall not hold elected public office with the City of Tulsa nor be candidates for elected public office with the City of Tulsa during their tenure as members of the Tulsa Ethics Commission. A member who has served two (2) successive terms shall not be eligible for reappointment for a period of two (2) years.

- C. Members of the Tulsa Ethics Commission who take an active part in any campaign for election of Officials of the City of Tulsa, except to vote and privately state a personal opinion, shall recuse from discussion, Decisions and votes on matters directly related to that campaign or the candidates' conduct.
- D. Any elected Official; Charter division or department head; or member of a City of Tulsa board, authority, committee, commission, public trust with the City of Tulsa as a beneficiary, or recommending body established by the City of Tulsa may, in writing, request an opinion from the Tulsa Ethics Commission on an ethical issue arising under this Code of Ethics.
- E. The Tulsa Ethics Commission may provide ethics opinions or recommendations for ethics policies, procedures or guidelines.
- F. The Tulsa Ethics Commission shall have the authority to investigate and decide sworn Complaints or questions concerning alleged intentional violations of:
 - 1. The City of Tulsa Code of Ethics; or
 - 2. Administrative regulations governing ethical obligations of applicable City Officials.
- G. The Tulsa Ethics Commission shall not investigate or decide any inquiries or Complaints alleging violation of campaign finance laws or other matters subject to provisions of the Oklahoma Ethics Commission Act (Okla. Stat. Tit. 74, Ch. 62).
- H. The Office of City Auditor shall act as the investigatory arm of the Tulsa Ethics Commission and will investigate all ethics inquiries or Complaints, except for inquiries or Complaints on members of the Tulsa Ethics Commission, the City Auditor or the City Auditor's Office. Inquiries or Complaints on members of the Tulsa Ethics Commission shall be investigated by the City Auditor, and the City Council shall make the final order on such inquiry or Complaint. The City Council shall investigate and make the final order on inquiries or Complaints on the City Auditor or the City Auditor's Office.
- I. The Tulsa Ethics Commission shall not commence any investigation or other action to consider any alleged violation that occurred more than two years prior to the date of the Complaint, regardless of when the alleged violation was discovered. The Tulsa Ethics Commission shall not commence or complete any investigation or other action with regard to anyone other than a current City Official. In these instances, the Complaint shall be summarily dismissed.
- J. In addition to all other specific grants of authority, the Tulsa Ethics Commission has the power:
 - 1. To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances pertaining to the Code of Ethics;
 - 2. To make notifications, extend deadlines, conduct investigations, and render final orders on Complaints;

3. To compel the production of sworn testimony, witnesses, documents, electronic data and information and evidence;
 4. To recommend cases for consideration of prosecution or other action by appropriate authorities and agencies;
 5. To request the City Attorney to act as counsel to advise and represent the Tulsa Ethics Commission;
 6. To provide assistance in the training and education of City Officials with respect to their ethical responsibilities;
 7. To recommend to the City Council needed or desirable changes in ethics-related ordinances under its jurisdiction; and
 8. To exercise such other powers and duties as may be established by ordinance.
- K. The Tulsa Ethics Commission shall provide a written report to the Mayor and City Council by February 15 of every year on its activities for the preceding twelve (12) months and anticipated activities for the next twelve (12) months.
- L. The Tulsa Ethics Commission shall provide the Mayor and City Council with its budgetary recommendation by February 15 for the next fiscal year.
- M. The Tulsa Ethics Commission shall meet no less than once per calendar quarter.
- N. The Tulsa Ethics Commission shall be considered an Agency acting on behalf of the City of Tulsa and entitled to all of the immunities, exemptions, privileges, defenses and protections of the Governmental Tort Claims Act at Okla. Stat. Tit. 51, §151, et. seq., including specifically without limitation all exemptions from liability. Investigations, deliberations and final orders on Complaints by the Tulsa Ethics Commission are specifically defined and determined herein to be judicial or quasi-judicial functions exempt from liability under Okla. Stat. Tit 51, §155.

SECTION 606. RECEIPT AND DETERMINATION OF ETHICS COMPLAINTS

A. Initiation

1. A sworn Complaint asserting an intentional violation of this Code of Ethics against a City Official shall be filed with the City Clerk. All Complaints shall be submitted in writing and signed under oath, and shall be legibly drawn. Such Complaint shall describe in detail the act or acts complained of and the specific sections of this Code of Ethics alleged to have been violated. A general Complaint lacking detail or lacking in these requirements herein shall not be sufficient to invoke an investigation under this Code of Ethics and is subject to dismissal.
2. The City Clerk shall promptly forward the Complaint to the Tulsa Ethics Commission.

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3. Upon receipt of a sworn Complaint from the City Clerk, the Tulsa Ethics Commission shall initially review it to determine whether the Complaint is unjustified, frivolous, patently unfounded or fails to meet the requirements herein or to state facts sufficient to invoke an investigation or to constitute an intentional violation of this Code of Ethics. The Tulsa Ethics Commission is empowered to and has sole discretion to dismiss Complaints that it determines are unjustified, frivolous, patently unfounded or fail to meet the requirements herein or to state facts sufficient to invoke an investigation or to constitute an intentional violation of this Code of Ethics; provided, however, that a dismissal of such Complaint by the Tulsa Ethics Commission shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the City Official who is the subject of the Complaint.
4. The Tulsa Ethics Commission shall forward all sworn Complaints that are sufficient to invoke an investigation to the City Auditor for investigation, to the City Official who is alleged to have committed the ethical violation and to the appropriate City Official, charter division or department head, chairman of the appropriate board, authority, commission, public trust or recommending body established by the City of Tulsa as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, sworn Complaint.

B. Procedure

1. The City Auditor shall investigate all sworn ethics Complaints forwarded for investigation by the Tulsa Ethics Commission. The accused City Official shall have an opportunity to submit a timely written answer or response to the Complaint within twenty (20) calendar days of receipt, to provide documents and written statements to the City Auditor during the investigation and to otherwise challenge the sufficiency of the Complaint. The accused City Official may be represented by legal counsel of his or her choice, retained by the City Official.
2. The City Auditor shall conduct any necessary investigations, gather evidence, conduct witness interviews, conduct informal hearings or conduct any other aspect of an investigation. Such investigation shall include, without limitation, reasonable attempts to interview the accused City Official and receipt and consideration of any answer or response, documents or other evidence submitted by that City Official.
3. The City Auditor shall provide to the Tulsa Ethics Commission at its regularly scheduled meetings a status report on all pending or open investigations of Complaints. Such meetings may be held in executive session according to the Open Meeting Act (Okla. Stat. Tit. 25 §301, et. seq.) to protect the confidential or privileged nature of the proceedings.
4. Upon completion of the investigation, the City Auditor shall submit a final report and recommendation to the Tulsa Ethics Commission.
5. After receipt and during consideration of the City Auditor's final report and recommendation, the Tulsa Ethics Commission shall meet in executive session according to the Open Meeting Act (Okla. Stat. Tit. 25 §301, et. seq.) to protect the confidential or privileged nature of the proceedings, otherwise it shall meet in in

accordance with its usual rules. The Commission shall then issue its decision and final order of whether there is clear and convincing evidence that an intentional ethics violation has occurred or it may remand the final report and recommendation to the City Auditor for further investigation. The Tulsa Ethics Commission shall not be bound to adhere to formal or statutory Rules of Evidence, but shall be fundamentally fair in its administration of evidence. A finding of an intentional violation of this Code of Ethics requires the affirmative vote of four members of the Tulsa Ethics Commission.

6. The Tulsa Ethics Commission shall place a statement of its final order on file with the City Clerk who shall attach such final order to the sworn Complaint. The final order shall also be sent contemporaneously by the Tulsa Ethics Commission to the appropriate City Officials and the appropriate supervisors of involved Employees, if applicable. The Tulsa Ethics Commission may, but is not required to, also forward the Complaint and final order to law enforcement where warranted. The Tulsa Ethics Commission shall not directly impose any discipline, punishment, reprimand, sanction or penalty for any such violation by the City Official.
 7. When a City Official acts in reliance on advice given by the City Attorney's Office with regard to application of the Code of Ethics, the Tulsa Ethics Commission shall strongly consider such reliance as a mitigating factor in any Decision or final order regarding the City Official's act if a Complaint is later filed against the City Official.
- C. Upon completion of its investigation of a Complaint, the Tulsa Ethics Commission is empowered to and has sole discretion to dismiss in writing those Complaints which it determines are not proven or established by clear and convincing evidence, or are unjustified, frivolous, patently unfounded or which fail to meet the requirements herein or to state facts sufficient to invoke an investigation under this Code of Ethics; provided, however, that a dismissal of such Complaint by the Tulsa Ethics Commission shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the City Official.
- D. The Tulsa Ethics Commission is empowered to adopt forms for formal Complaints, notices, dismissals and any other necessary or desirable documents within its authority.
- E. Any appeal of a final order made by the Tulsa Ethics Commission shall be pursuant to Okla. Stat. Tit. 12 §951.

SECTION 607. ETHICS COMPLAINTS FILED FOR POLITICAL PURPOSES

To discourage the filing of ethics Complaints solely for political purposes, ethics Complaints against a person seeking election, whether currently serving as a City Official or not, which are filed between the date of filing for municipal office and the date of certification of the election results shall be processed by the Tulsa Ethics Commission as follows:

1. The Tulsa Ethics Commission shall review the Complaint to determine whether it may be dismissed under Section 606 (a) (3).

2. Any Complaint not dismissed shall be held and will not be investigated until the election results have been certified.”

Section 2. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

Section 3. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.

Section 4. EMERGENCY CLAUSE. That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this ordinance shall take effect immediately from and after its passage, approval and publication.

ADOPTED by the Council: _____
Date

Chair of the Council

ADOPTED as an emergency measure: _____
Date

Chair of the Council

OFFICE OF THE MAYOR

Received by the Mayor: _____, at _____.

Date

Time

Dewey F. Bartlett, Jr., Mayor

By _____
Secretary

Approved by the Mayor of the City of Tulsa, Oklahoma: _____
Mayor

(Seal)
ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Attorney *rvc*