

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

TO: THE ETHICS REVIEW COMMISSION
OF THE CITY OF HUTTO, TEXAS:

Date/ Time Stamp

COMES NOW _____, (*complainant*), and makes this complaint, upon his/her personal knowledge and under oath against _____,
(*name of person complained against*)

and would show the Commission that: on or about the _____ day of _____, 20____,
(*insert date of the action, or omission, complained of*)

_____ a/an _____
(*name of person complained against*) (city official, candidate, Board of Commission member)

of the City of Hutto, Texas violated the following provisions(s) of Chapter 1, Sec. 1.900, Code of Ordinances, City of Hutto, Texas, to wit: (*specify by Section, Subsection and Paragraph number the provision(s) alleged violated.*) by committing the following act, or omission, to wit:

(*Describe above, the action, or omission, alleged to violate each Code provision cited. You may attach additional pages if more space is required.*)

THE STATE OF TEXAS
COUNTY OF WILLIAMSON

Before me, the undersigned authority, on this day personally appeared _____, whose name is subscribed to this instrument and, being by me first duly sworn, upon oath declared that the statements and capacity acted in are true and correct.

Signature

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

Print Name

Notary

Date: _____

Seal

- (1) A sworn complaint based on personal knowledge alleging a violation(s) of this section shall specify the provisions(s) of this section alleged to have been violated, and shall name the City official, candidate, or appointee being charged.
- (2) Upon the aforesaid sworn complaint of any person being filed with the City Secretary's office, or on its own initiative, the Commission shall consider possible violations of this section by city officials, candidates and appointees. A complaint shall not be deemed to be filed on the initiative of the Commission save and except the complaint be signed and sworn to by two (2) members of the Commission, one of which is the Chairman of the Commission, after consultation with the legal counsel of the Commission. A complaint filed by an individual member of the Commission shall be deemed to have been filed in the Commission member's capacity as a private citizen and, in such event, the member of the Commission filing the complaint shall not thereafter participate in a Commission meeting at which such complaint is considered save and except that the Commissioner filing the complaint may participate as a complainant at such meeting.
- (3) A complaint alleging a violation of this section must be filed with the City Secretary within two (2) years from the Commission of the action alleged as a violation, and not afterward.
- (4) **Not later than three (3) working days after the City Secretary receives a sworn complaint, the City Secretary shall acknowledge the receipt of the complaint to the complainant, and provide a copy of the complaint to the City Attorney, the independent counsel, the Commission and the person complained against. Not later than ten (10) working days after receipt of a complaint, the commission shall notify in writing the person who made the complaint and the person complained against of a date for a preliminary hearing. If the Commission does not hold a preliminary hearing within twenty (20) working days of receipt of the complaint, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give him the appropriate notification.**
- (5) The Commission may consider possible violations of this section on its own initiative. **Within seven (7) days of the Commission's decision to consider a possible violation of this section, the Commission shall draft a written complaint specifying the provision (s) of this section alleged to have been violated and shall file a copy with the City Secretary, and provide a copy to the City Attorney, the independent counsel, and the person complained against. Not later than fifteen (15) days after the drafting of the complaint, the Commission shall notify in writing the person complained against of the date for the preliminary hearing.**
- (6) After a complaint has been filed and during the pendency of a complaint before the Commission, a **member of the Commission may not 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 Commission; provided that a member may consult with the attorney or the staff liaison for the Commission as to process, procedure and legal issues.
- (7) As soon as reasonably possible, but in **no event more than sixty (60) days after receiving a complaint, the Commission shall conduct a preliminary hearing.**
 - (a) The issue at a preliminary hearing shall be the existence of reasonable grounds to believe that a violation of this section has occurred. The person filing a complaint, or the independent counsel in cases considered upon the Commission's own initiative, shall state the alleged violation and shall describe in narrative form the testimony and other evidence which would be presented to prove the alleged violation as stated in the written complaint. Statements at a preliminary hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. Members of the Commission may question the complainant, the independent counsel for the Commission, or the City official or appointee named in the complaint.
 - (b) The City official or appointee named in the complaint shall have the opportunity to respond, but is not required to attend or make any statement. The official or appointee may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the official or appointee agrees that a violation has occurred, he may so state and the Commission may consider the appropriate sanction

- (c) The complainant and the City official or appointee named in the complaint shall have the right of representation by counsel.
- (d) At the conclusion of the preliminary hearing, the Commission shall decide whether a final hearing should be held; provided the Commission may proceed to determine the appropriate sanction if the charged City official or appointee does not object and admits the charged violation, and the Commission determines that there are no fact issues to be resolved. If the Commission determines that there are reasonable grounds to believe that a violation of this section has occurred, it shall schedule a final hearing. If the Commission does not determine that there are reasonable grounds to believe that a violation of this section has occurred, the complaint shall be automatically dismissed. A decision to conduct a final hearing is not a finding that a violation has occurred.
- (e) The Commission, at any time during the preliminary hearing, may also dismiss a complaint if the complaint does not allege conduct which would be a violation of this section. Before a complaint is dismissed for failure to allege a violation, the complainant shall be permitted one opportunity, within ten (10) days of such preliminary hearing, to revise and resubmit the complaint.
- (f) The complainant, the independent counsel, and the City official or appointee named in the complaint may ask the Commission at a preliminary hearing to request certain persons and evidence for a final hearing, if one is scheduled.

(8) Final Hearing

- (a) The final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this section has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant two (2) postponements, not to exceed fifteen (15) days each, upon the request of the City official or appointee named in the complaint.
- (b) The issue at a final hearing shall be whether a violation of this section has occurred. The Commission shall make its determination based on clear and convincing evidence in the record. All witnesses shall make their statements under oath. If the Commission determines that a violation has occurred, it shall state its findings in writing, shall identify the particular provision(s) of this section which have been violated, and within five (5) working days shall deliver a copy of the findings to the complainant, if any, the person named in the complaint and the City Secretary.
- (c) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its duties and powers of investigation.

(9) Sanctions

- (a) If the Commission determines that a violation of this section has occurred, it shall proceed directly to determination of the appropriate sanction(s). **A violation of this section shall not be subject to criminal penalties under the City Code.** The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so. If the City official or appointee named in the complaint acted in reliance upon a written opinion of the City Attorney, the Commission shall consider that fact.

- (b) If the Commission determines that a violation has occurred, it **may impose or recommend the following sanctions:**
- (i) A letter of notification shall be the appropriate sanction when the violation is clearly unintentional, or when the official or appointee's conduct complained of was made in reliance on a written opinion of the City Attorney. A letter of notification shall advise the official or appointee to whom it is directed of any steps to be taken to avoid future violations. The Commission may direct a letter of notification to any official or appointee covered by this section.
 - (ii) A letter of admonition shall be the appropriate sanction in those cases in which the Commission finds that the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification. The Commission may admonish any official or appointee covered by this section.
 - (iii) A reprimand shall be the appropriate sanction when the Commission finds that a violation has been committed intentionally or through disregard of this section. The Commission may reprimand any official or appointee covered by this section. A reprimand directed to a City official or board or commission member shall also be sent to the City Council. A letter of reprimand directed to a City official or appointee shall be transmitted to the City Secretary and published in the official newspaper of the City, and shall be sent to the City Council.
 - (iv) A letter of censure shall be the appropriate sanction when the Commission finds that a serious or repeated violation(s) of this section has been committed intentionally or through culpable disregard of this section by a City official or appointee. A letter of censure directed to an elected City official shall be transmitted to the City Secretary, published in the official newspaper of the City and shall be sent to the City Council.