

ORDINANCE NO. 2020-

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE I, CITY OF NEW BRAUNFELS, TEXAS CODE OF ORDINANCES BY REPEALING SECTION 2-5, AMENDING 2-7(D)-POLITICAL ACTIVITY, AND ADDING (E) SOCIAL MEDIA GUIDELINES FOR CITY COUNCIL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Ethics Commission met on June 30, 2020, and approved the attached recommended amendments that include updating political activity restrictions for council members and employees; and

WHEREAS, the Ethics Commission recommends that employee policies related to outside/future employment and political activities should be removed from the Code and should more aptly remain in the City's Employee Policy Library that is maintained by the Human Resources Department on behalf of the City Manager; and

WHEREAS, the Ethics Commission approved amendments to the standards of conduct applicable to City Councilmembers and their political activities; and

WHEREAS, the City Council has asked for guidance related to acceptable use of social media which led to the development of the attached social media guidelines for City Councilmembers; and

WHEREAS, the City Council accepts the recommendations of the Ethics Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, THAT:

SECTION 1. Findings.

The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2: That the code of Ordinances be amended as indicate below with the use of ~~strikeout~~ font for deletions and underlined font for new language.

[Sec. 2-5. – Reserved.]~~Additional standards of conduct—City employees.~~

~~(a) —Outside employment.~~

- ~~(1) —Policy. This provision does not prevent city employees from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of their public duties, provided that the employee complies with all applicable city requirements.~~

~~(2) — Purpose. The purpose of this provision is to prevent conflicts of interest, conflicts of loyalty, and loss of efficiency at work.~~

~~(3) — General rule. City employees shall not accept any employment nor enter into any contract that results in a conflict of interest with their duties as a public servant of the city. Employees may be self-employed or take occasional or part-time jobs if, in the opinion of the city manager, there is no conflict with working hours, employees' efficiency in their city work, or other interests of the city. City employment shall remain the first priority and if at any time the outside employment interferes with employees' job requirements or performance for the city, employees shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or their city employment.~~

~~(4) — Disclosure. Before engaging in off-duty employment, employees must have the written approval of their department head. The department head shall seek initial approval from the city manager before authorizing the outside employment. All notifications of outside employment shall state the type and place of employment, the hours of work and be placed in the employee's personnel file.~~

~~(b) — Future employment.~~

~~(1) — Representation before city council or city boards and commissions. No former city employee may, for a period of one year, for compensation, appear on behalf of any person other than a governmental entity, or make any appearance before, or negotiate with any city officer or employee in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge relating to any matter that involved the employee's former employment.~~

~~[(2) — Reserved.]~~

~~(c) — Political activity.~~

~~(1) — Policy. The general prohibition contained in this provision is intended to protect the integrity of the municipal election process and applies only to municipal elections that are administered by the city. This provision is not intended to limit the political involvement of a city employee in county, state or national elections.~~

~~(2) — General rule. No employee shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate. The following list of activities are the only activities permitted:~~

~~a. — The placement of campaign signs on premises owned by the city employee.~~

~~b. — The placement of bumper stickers on personal vehicles, except those vehicles supported in whole or in part by a car allowance provided by the city.~~

- ~~c. Attendance at a political rally or function for a city council candidate, so long as the city employee does not actively participate in the rally or function.~~

(Ord. No. 97-6, § 1, 2-10-97)

Sec. 2-7. - Same—City council.

- (a) *Nonprofit board membership.* While membership is encouraged, a councilmember who serves on the board of a public or private nonprofit organization shall have a voice but no vote on any funding request or contract by that organization, unless the organization has a board of directors or trustees appointed in whole or in part by the city council.
- (b) *Appearance by councilmember.* No current members of council shall personally appear on their own financial behalf before the city council, any city board, commission or committee but may designate and be represented by a person of their choice in any such personal business matter. This prohibition does not apply where councilmembers seek reimbursement from the city for authorized expenses relating to councilmembers' official business or where councilmembers appear before the ethics commission in their own behalf.
- (c) *Conflicts of interest.* Members of city council who have a substantial interest in a business entity or in real property that is proposed for city council action shall file an affidavit of disclosure provided by the city secretary prior to the vote and abstain from voting on such matters in accordance with V.T.C.A., Local Government Code ch. 171 and Section 12.02 of the City Charter.
- (d) *Political activity.* The City will not restrain or otherwise regulate councilmembers' political activities so long as such speech is within the boundaries of state law.
- (1) ~~*General rule.* Current members of city council who are seeking reelection may engage in any campaign activity on behalf of their own campaign efforts. However, councilmembers are prohibited from taking part in the management, affairs, or political campaign of any other municipal candidate. The following activities are the only activities that councilmembers may engage in on behalf of a municipal candidate:~~
- ~~a. The placement of campaign signs on premises owned by the councilmember.~~
- ~~b. The placement of bumper stickers on personal vehicles.~~
- ~~c. Attendance at a political rally or function for a city council candidate, so long as the councilmember does not actively participate in the rally or function.~~
- ~~d. The donation of a political contribution that does not exceed the statutory limit for nonreportable contributions.~~
- (e) Social Media.

(1) Policy. This provision is intended to provide guidelines for councilmembers' social media usage (including their official council pages, any election pages and personal sites) rather than to enumerate the use of social media by the City Council as an institution. Social Media is defined as media designed to be disseminated through social interaction, created using highly accessible and scalable publishing techniques. Examples include but are not limited to Facebook, Twitter, LinkedIn, Instagram, Snapchat, Pinterest, Reddit and YouTube.

(2) General Rule. Councilmembers have a right to speak as a private citizen on matters of public concern, so long as the speech does not unduly disrupt the operations or mission of the City.

(3) Restrictions.

(a) Councilmembers shall include a disclaimer on their social media pages stating the account is for the councilmember's personal use and is not sponsored or otherwise managed by the City, nor does it reflect the views or beliefs of the City or City Council as an institution. Councilmembers must take extreme caution not to appear to be representing the City in any manner, including disclaimers in individual posts when necessary to avoid confusion. Councilmembers should not utilize the City of New Braunfels logos on their social media pages.

(b) Councilmembers are prohibited from posting, disclosing, or otherwise discussing confidential information about the City or the inner workings of City Council. Confidential information includes but is not limited to information outlined in section 2-4(c), attorney-client privileged information and information learned in executive session and not yet communicated to the public.

(c) Councilmembers are prohibited from posting harassing, bullying, defaming, or demeaning content on their social media. Councilmembers are further prohibited from making any statements and/or comments that disparage any race, color, religion, sex, age, genetic information, veteran status, disability, national origin, or any other unlawful classification of anyone who works at the City or anyone with whom the councilmember interacts in his or her role as a councilmember. In addition, the City prohibits disparaging commentary about sexual orientation or gender identity.

(4) Violations. Violations of this policy will be subject to review by the Ethics Commission. Any individual who believes that a councilmember has acted in violation of this policy may promptly file a complaint with the Ethic Commission pursuant to section 2-8(i).

(5) Referral to City. If a social media user posts a comment to the councilmember's page that should be addressed to the City, the councilmember may forward the message to the Director of Communications and Community Engagement.

SECTION 3: Savings Clause.

All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

SECTION 4: Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

SECTION 5: Effective Date and Publication.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing by the City Secretary. This ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this ____ day of _____, 2020.

PASSED AND APPROVED: Second reading this ____ day of _____, 2020.

CITY OF NEW BRAUNFELS, TEXAS

RUSTY BROCKMAN, Mayor

ATTEST:

Andrew Lyons, Assistant City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney