

ORDINANCE NO. 4769

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 2, ARTICLE IV OF THE MESQUITE CITY CODE, AS AMENDED, BY ADDING A NEW DIVISION 4 ENTITLED "SUBSEQUENT REPRESENTATION" PROVIDING RESTRICTIONS FOR REPRESENTATION BY FORMER CITY OFFICIALS BEFORE THE CITY; PROVIDING REPEALER, CONFLICTS RESOLUTION, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR A PENALTY NOT TO EXCEED \$500.00 FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

**WHEREAS**, the City of Mesquite, Texas ("**City**"), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to the Texas Constitution, Article 11, Section 5 and the Texas Local Government Code Chapter 9; and

**WHEREAS**, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

**WHEREAS**, a home-rule municipality has general enforcement authority and may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 54.001, as amended, and pursuant to Mesquite City Code, Chapter 1, Section 1-6; and

**WHEREAS**, a home-rule municipality may enforce ordinances necessary to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 54.004, as amended; and

**WHEREAS**, the City shall have the power to enact and enforce ordinances necessary to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Mesquite City Charter, Article III, Section 2; and

**WHEREAS**, it is the desire of the City Council of the City of Mesquite, Texas ("**City Council**"), to sustain, foster and inspire confidence and trust in local government by the citizens of the City and all those that interact with the City; and

**WHEREAS**, it is the desire of the City Council that matters over which the City exercises regulatory authority be determined upon the merits of the matters and without undue influence by former City officials; and

**WHEREAS**, it is the desire and intent of the City Council to prohibit undue influence, and the appearance of undue influence, that may be exercised over City activities and functions by former City Councilmembers, former Board and Commission Members, and former City employees for the benefit of others; and

**WHEREAS**, upon the review and consideration of all matters attendant and related hereto, the City Council is of the opinion that this ordinance should be approved and adopted.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:**

**SECTION 1.** The findings contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

**SECTION 2.** Article IV of Chapter 2 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by adding a new Division 4 to establish restrictions on subsequent representation by City Officials before the City. Such amendments are attached hereto as Exhibit "A," incorporated herein by reference and hereby made a part thereof, and in all other respects said Code and Chapter to remain in full force and effect.

**SECTION 3.** All ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

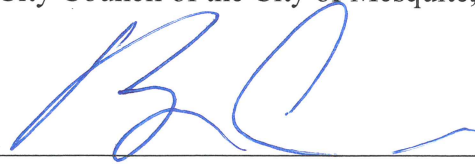
**SECTION 4.** In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 5.** Should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

**SECTION 6.** Any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed \$500.00 for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

**SECTION 7.** This ordinance shall take effect and be in force from and after five days after publication.

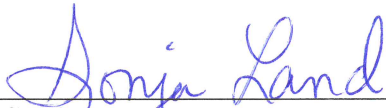
**DULY PASSED AND APPROVED** by the City Council of the City of Mesquite, Texas,  
on the 16th day of March 2020.



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**Bruce Archer**  
Mayor

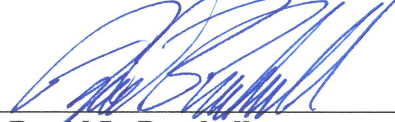
**ATTEST:**



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**Sonja Land**  
City Secretary

**APPROVED AS TO LEGAL FORM:**



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**David L. Paschall**  
City Attorney

**Mesquite City Code**

**Chapter 2 – ADMINISTRATION**

**ARTICLE IV. – OFFICIALS AND EMPLOYEES GENERALLY**

**DIVISION 4. – SUBSEQUENT REPRESENTATION**

Sec. 2-155. – Definitions.

Sec. 2-156. – Restricted activities.

Sec. 2-157. – Violation.

Secs. 2-158 – 2-165. – Reserved.

**Mesquite City Code**

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**Chapter 2 – ADMINISTRATION**

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**ARTICLE IV. – OFFICIALS AND EMPLOYEES GENERALLY**

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**DIVISION 4. – SUBSEQUENT REPRESENTATION**

**Sec. 2-155. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Before the City* means representation before any of the following:

- (1) the City Council;
- (2) a Board or Commission; or
- (3) a City Official.

*Board or Commission* means a Board, Commission or other City body or entity set up by City ordinance, resolution or charter, or by state law.

*Board or Commission Member* means a City appointive member of a Board or Commission.

*City* means the City of Mesquite, Texas.

*City Official* means any City Councilmember, Board or Commission Member or employee.

*City Council* means the City Council of the City.

*City Councilmember* means a member of the City Council, including the Mayor.

*Compensation* means money or any other thing of value that is received, or is to be received, in return for or in connection with representation.

**EXHIBIT A TO ORDINANCE NO. 4769**  
**Chapter 2, Article IV, Division 4 – Subsequent Representation**  
**March 16, 2020**

*Domestic partner* means an individual who, on a continuous basis, lives in the same household and shares the common resources of life in a close, personal, intimate, committed relationship with a City Official or former City Official. A domestic partner may be of the same or opposite gender as the City Official and is not married to or related by blood to the City Official.

*Employee* means any person employed by the City whether under civil service or not, including those individuals employed on a part-time basis, but shall not be extended to apply to any independent contractor.

*Former Board or Commission Member* means a person who has left service as a Board or Commission Member.

*Former City Councilmember* means a person who has left service as a City Councilmember.

*Former employee* means a person who has left service as an employee.

*Former City Official* means a person who has left service as a City Official.

*Lobby or lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City Official, made directly or indirectly by any person, in an effort to influence or persuade a City Official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term lobby or lobbying does not include a communication:

- (1) merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City Official;
- (2) made by a public official or employee (including, but not limited to, a City Official) acting in his or her official capacity;
- (3) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;
- (4) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
- (5) made at a meeting open to the public under the Open Meetings Act;
- (6) made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

**EXHIBIT A TO ORDINANCE NO. 4769**  
**Chapter 2, Article IV, Division 4 – Subsequent Representation**  
**March 16, 2020**

- (7) made in writing as a petition for official action and required to be a public record pursuant to established City procedures;
- (8) made in writing to provide information in response to an oral or written request by a City Official for specific information;
- (9) the content of which is compelled by law;
- (10) made in response to a public notice soliciting communications from the public and directed to the City Official specifically designated in the notice to receive such communications;
- (11) made on behalf of an individual with regard to that individual's employment or benefits;
- (12) made by a fact witness or expert witness at an official proceeding; or
- (13) made by a person solely on behalf of that individual, their spouse or domestic partner, or their minor children.

*Municipal question* means a public policy issue of a discretionary nature pending or impending before City Council or any Board or Commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The phrase "municipal question" does not include the day-to-day application, administration, or execution of existing City programs, policies, ordinances, resolutions, or practices, including matters that may be approved administratively without consideration by a Board or Commission, or the City Council.

*Person* means an association, corporation, firm, partnership, business trust, individual trust, estate, and body politic and corporate as well as an individual.

*Personally participated.* The requirement of having "personally participated" in a matter is met only if the person in fact exercised discretion relating to the matter. The fact that the person had responsibility for a matter does not by itself establish that the person "personally participated" in the matter.

*Represent, Representing or Representation* encompasses every form of communication or personal appearance in which a person, not acting in performance of official duties, formally or informally serves as an advocate for private interests. Lobbying and service as an expert witness, even on an informal basis, are forms of representation. Appearing as a fact witness in litigation or other official proceedings is not a form of representation.

**EXHIBIT A TO ORDINANCE NO. 4769**  
**Chapter 2, Article IV, Division 4 – Subsequent Representation**  
**March 16, 2020**

*Substantially related to a matter* means a matter on which the former City Official could have acquired confidential information concerning the City that could be used either to the City's disadvantage or for the advantage of any person other than the City.

**Sec. 2-156. – Restricted activities.**

- (a) *Prohibited statement or implication of inappropriate influence.* A person representing, with or without compensation, any person, group or entity, or any other person acting on behalf of such person, shall not represent or imply, either directly or indirectly, orally or in writing, that the person is able to influence the vote or action of any City Official on any basis other than the merits of the matter.
- (b) *Representation before the City; former City Councilmember.* A former City Councilmember shall not represent, with or without compensation, any person, group or entity (other than themselves, or their spouse or domestic partner, or their minor children) before the City for a period of five (5) years after termination of their official duties.
- (c) *Representation before the City; former Board or Commission Member.* A former Board or Commission Member, except a member of the Building Standards Board and the Mesquite Landmark Commission, shall not, for a period of five (5) years after termination of their official duties and with or without compensation, represent any person, group or entity (other than themselves, or their spouse or domestic partner, or their minor children) before the following:
  - (1) the City Council;
  - (2) the Board or Commission on which the former Board or Commission Member served;
  - (3) City staff having responsibility for making recommendations to, or taking any action on behalf of, the City Council or the Board or Commission on which the former Board or Commission Member served; or
  - (4) any Board or Commission or other City body having appellate jurisdiction over the Board or Commission on which the former Board or Commission Member served if the matter relates to the duties of the former Board or Commission Member.
- (d) *Representation before the City; former City employee.* A former City employee shall not represent, for compensation, any person, group or entity (other than themselves, or their spouse or domestic partner, or their minor children) before the City for a period of one (1) year after termination of their official duties.
- (e) *Representation in litigation adverse to the City.* A former City Official shall not represent any person, group or entity (other than themselves, or their spouse or domestic partner, or their minor children) in any litigation to which the City is a party, if:



**EXHIBIT A TO ORDINANCE NO. 4769**  
**Chapter 2, Article IV, Division 4 – Subsequent Representation**  
**March 16, 2020**

- (1) the interests of that person, group or entity are adverse to the interests of the City and the matter is one in which the former City Official personally participated prior to termination of their official duties; or
- (2) the interests of that person, group or entity are adverse to the interests of the City and the matter is substantially related to a matter in which the former City Official personally participated prior to termination of their official duties.

**Sec. 2-157. – Violation.**

Any failure to comply with any applicable provision of this division shall be an offense punishable as provided in section 1-6 of this Code.