



EL PASO · DISTRICT 1

PLATFORM NO. 10 · AUGUST 2026

CITY OF EL PASO – GOVERNMENT ETHICS POLICY PLAN

On Paper

El Paso's Ethics Code Has Teeth on Paper. It Has Never Used Them.

Leadership that is not afraid
to fight for its people.

PRINCIPLED. EXPERIENCED. PROVEN.

It's time to elect leadership that will make the city work for its people again.



MJK26

MATTHEW JAMES KOZIK · DISTRICT 1

EXECUTIVE SUMMARY

“When an El Paso official misuses public money, we find out from an auditor or a reporter — and the strongest thing that happens is a letter. This plan is about making the consequences match the Charter we already wrote.”

El Paso's ethics system looks complete on paper. The City Charter directs Council to establish an independent Ethics Review Commission and, to the extent Texas law permits, to empower it to investigate, adjudicate, and assess civil fines. In practice, four gaps separate that promise from what residents actually get: in the two most-scrutinized recent cases, both of which found ordinance violations, the sanction was a letter of reprimand; the nine-member Commission that reviews Council's conduct is appointed entirely by Council; the ordinance still names no penalty for a confirmed frivolous complaint; and a 2024 City audit found six of seven sampled Chapter 380 incentive files missing the financial-stability documentation the City's own policy requires.

The pattern is the point. In both fuel-card matters the misconduct was surfaced by the Internal Auditor and by the press — not by the ethics process. El Paso's detection machinery works; its consequence machinery is what stalls. This plan pairs Commission reform with the Chief Internal Auditor function voters added to the Charter in 2023, and it sequences the reliable half first: disclosures the law already requires, published online the day they are filed; lobbyist reports indexed to the agenda items they concern; an annual Commission report. The sanctions half is harder, and the plan says so — whether a Texas city can fine a sitting elected official is genuinely unsettled, and the plan asks that question honestly before it promises an answer.

86% · 6 of 7 files

14%

Missing required financial-stability documentation

Complete

1 THE PROBLEM

El Paso's ethics system looks complete on paper. The City Charter (Article III) directs Council to establish an independent Ethics Review Commission (ERC) and, “to the extent permitted by Texas law,” to authorize it to investigate, take testimony, adjudicate complaints, and “enter a decision by assessing civil fines and other sanctions as authorized by ordinance.”

In practice, four gaps separate that promise from what residents actually get. None require new state authority to close — though one, as Section 4.2 explains honestly, requires a legal answer the City has not yet put on the record.

- **Enforcement gap.** In the ERC's two most-scrutinized recent cases — the 2023 fuel-card matters involving Rep. Cassandra Hernandez and former Rep. Claudia Rodriguez, both of which found ordinance violations — the sanction was a letter of reprimand. No civil fine appears in the public record of either. Section 4 explains why that is a structural result, not a discretionary one.
- **Independence gap.** The Charter calls for an “independent” commission. The City's own boards listing describes the ERC as “an advisory body to the Mayor and City Council.” Its 9 members are appointed one per Council district plus one by the Mayor — so the body reviewing a Council member's conduct is composed entirely of that Council's own appointees.
- **Complaint-process gap.** In 2021, proposed amendments would have limited ethics complaints to city residents only and barred anyone found to have filed a “frivolous” complaint from filing again for up to four years — opposed at the time by then-Rep. Alexsandra Annello and by former ERC chair Stuart Schwartz on legal and First Amendment grounds. Meanwhile the ordinance still does not specify what sanction, if any, attaches to a confirmed frivolous complaint.
- **Contracting-integrity gap.** A 2024 audit requested by the City's own Financial Oversight and Audit Committee (FOAC) found that 6 of 7 sampled Chapter 380 incentive files — about 86% — lacked the financial-stability documentation the City's own incentive policy requires.

One pattern connects all four: in both fuel-card matters, the misconduct was surfaced by the Internal Auditor and by press scrutiny — not by the ethics process. El Paso's detection machinery works. Its consequence machinery is what stalls. That is why this plan pairs ERC reform with the Chief Internal Auditor function voters added to the Charter in 2023 (Proposition J), rather than treating ethics as a standalone silo.

2 THE GOAL — FOUR PILLARS

Four separable problems, each fixable on its own, ordered here by subject rather than by sequence — for the recommended order of operations, see Section 9.

- **Pillar A — Enforcement Teeth & Commission Independence.** Establish what the sanction ladder can actually deliver, then rebuild it so it is real; reduce the appointment overlap between the ERC and the officials it judges.
- **Pillar B — Complaint-Process Integrity.** Fix the genuine gap (no defined penalty for a confirmed frivolous complaint) without importing standing restrictions no peer city uses.
- **Pillar C — Gifts, Lobbying & Financial Disclosure.** Benchmark the gift caps, and make disclosures that are already legally required actually findable.
- **Pillar D — Contracting & Incentive-Deal Integrity.** Close the documentation gap the City's own audit already identified, and connect it to the incentive-accountability work already underway in this project.

3 LEGAL FRAMEWORK

- City Charter, Article III — mandates an independent ERC and directs Council, “to the extent permitted by Texas law,” to empower it to investigate, adjudicate, and assess civil fines and other sanctions “as authorized by ordinance.” The italicized qualifier is doing real work; see 4.2.
- City Charter, Proposition J (adopted May 2023) — established the Chief Internal Auditor function, the City's second oversight lever and the one that actually detected the fuel-card misuse.
- City Code Chapter 2.92 (Ethics Code) — officer conduct rules, including the personal-use-of-city-resources provisions cited in the Hernandez determination, and the ERC's sanction structure.
- City Code Chapter 2.94 (Regulation of Lobbying) — lobbyist registration and activity reports, including reportable gifts to officials and employment of officials' immediate family (§ 2.94.070).
- Tex. Loc. Gov't Code Chapter 145 — applies to municipalities of 100,000 or more, which plainly includes El Paso. Requires the mayor, each member of the governing body, the city attorney, and the city manager — plus candidates for those offices — to file an annual financial statement on the Texas Ethics Commission form. § 145.007 requires public accessibility; §§ 145.009–.010 supply criminal and civil penalties for failure to file. Note the ceiling: Chapter 145 does not reach department heads or board and commission members.
- Tex. Gov't Code § 2252.908 / H.B. 1295 (2015, am. 2017) — requires a business entity to file a Certificate of Interested Parties (Form 1295) before the City may enter certain contracts.
- Tex. Loc. Gov't Code Chapter 171 and Chapter 176 — the baseline conflict-of-interest and vendor-disclosure regimes that operate underneath any local ethics code.

4 PILLAR A — ENFORCEMENT TEETH & COMMISSION INDEPENDENCE

4.1 — The sanction ladder has only one working rung

Before recommending a fine schedule, look at what the ladder actually is:

Sanction on the books	What it actually delivers
Letter sanction / letter of reprimand	The only rung the Commission can impose on its own. Issued in both 2023 fuel-card cases.
(nothing in between)	No civil fine has surfaced in the public record of any ERC case, despite the Charter contemplating fines.
Recommend that Council impose removal from office	Not self-executing, and legally doubtful as applied to an elected official (see 4.2). Requires the accused member's own colleagues to act — and in the Hernandez matter, the violations were expressly not referred to Council.

Two further weaknesses compound this. First, the ladder collapses entirely once an officer leaves office: in the Rodriguez matter, a reprimand was reported as the most severe sanction available precisely because she was no longer in office and could not be recommended for removal. Resignation or an expiring term effectively moots enforcement. Second, in neither case did any sanction reach the money — the \$6,700 repayment in the Hernandez matter was voluntary and preceded the hearing.

We must direct the City Attorney's Office to produce the ERC's complete case history since inception — every complaint, its disposition, and whether a civil fine has ever been assessed. Do not draft a fine schedule before that record is on the table.

4.2 — Answer the threshold legal question honestly, and first

The Charter authorizes fines only “to the extent permitted by Texas law.” As a home-rule city, El Paso may do what state law does not prohibit — but two specific questions are unresolved and determine whether Pillar A is worth anything:

- May the City assess a civil fine against a sitting elected official for an ethics violation, or does that require a mechanism the City does not control?
- Is “recommend that Council impose removal from office” enforceable at all against an elected officer? Under Texas law, removing a home-rule mayor or council member generally runs through voter recall under the charter, a quo warranto action brought by a prosecutor under Chapter 66 of the Civil Practice and Remedies Code, or criminal conviction — not a vote of that officer's colleagues.

4.3 — Fix the independence and recusal problem concretely

Recusal is not a hypothetical strain on a 9-member, district-appointed body: the chair recused himself in the Kennedy matter because his brother was chief of staff to a city representative, and two commissioners recused in the Rodriguez matter. Concrete options, in ascending order of difficulty:

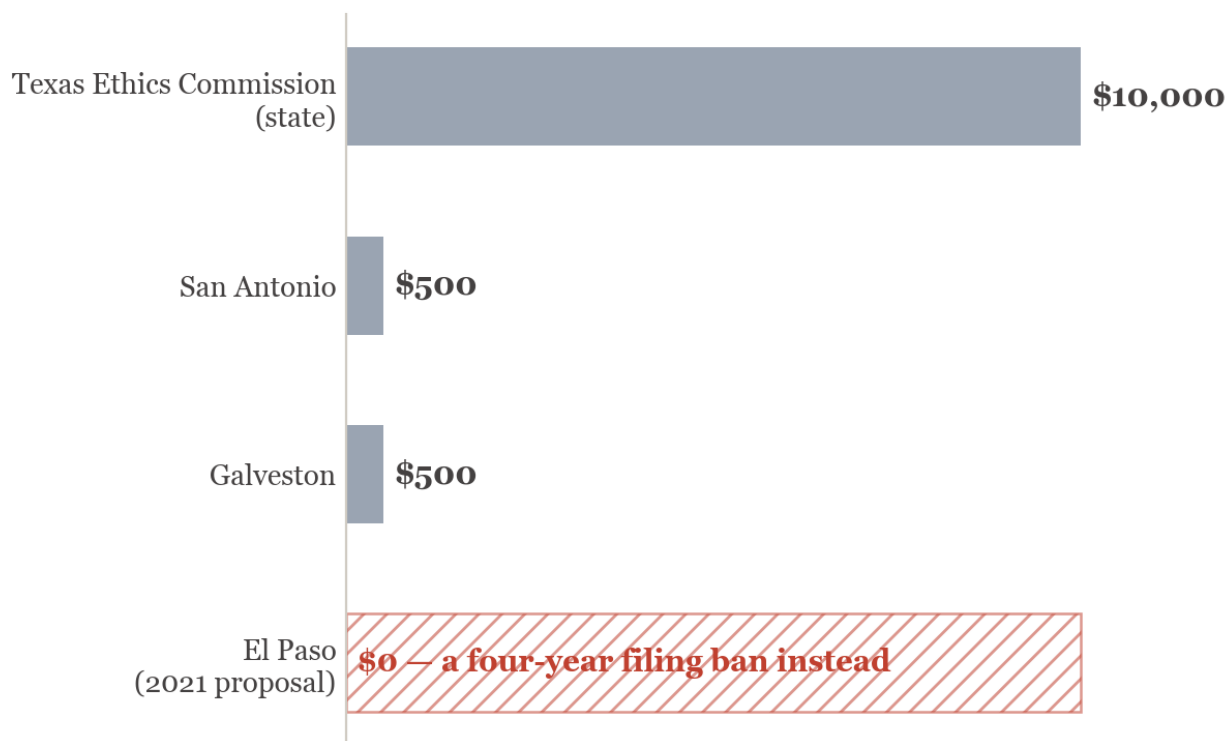
- **Reconcile the language.** The Charter says “independent”; the City's own materials say “advisory.” Amend the ordinance and the published description so they agree — and so the ERC's determinations are not characterized as advisory when the Charter contemplates enforcement.
- **Stagger and lengthen terms** so a majority of the Commission is never seated by the same Council that is subject to its review.
- **Add an independent nominating step** for a subset of seats — for example, nominations from the local bar association, a retired-judiciary pool, or the accounting profession — with Council confirming rather than selecting.
- **Codify a standing recusal and alternate-member rule** so recusals do not defeat a quorum, and pre-authorize outside counsel where the City Attorney's Office has a conflict (as already happened in the Hernandez matter).
- **Address the City Attorney's structural role conflict.** The same office advises Council members on conflicts, screens ethics complaints against them, and supports the Commission adjudicating them. In the Kennedy matter, the City Attorney had advised the member to abstain, and the complaint concerned that same conduct. Separate the advisory and screening functions, or route screening to independent counsel by default.

4.4 — Publish an annual ERC report

Cases filed, screened out, dismissed, heard, and sanctioned, with outcomes — the same transparency-by-default standard this project applies to infrastructure spending. This is also the record that would show, year over year, whether any of the above changed anything.

5 PILLAR B — COMPLAINT-PROCESS INTEGRITY

Every peer city that addresses frivolous complaints at all uses a proportionate financial penalty. None restricts who may file:



City	How frivolous complaints are handled
Austin / Fort Worth	Not addressed in the ethics ordinance at all.
Dallas	Has a review process, but specifies no sanction.
San Antonio	Civil penalty up to \$500 or the respondent's attorney's fees; may refer for perjury investigation.
Galveston	Misdemeanor; fine capped at \$500.
Texas Ethics Commission (state)	Civil penalty up to \$10,000 for a complaint that is “groundless and brought in bad faith.”
El Paso (2021 proposal)	No civil penalty — instead a 4-year ban on filing any future complaint, plus residents-only standing. No peer city surveyed restricts standing or bans future filings.

- **5.1 — Define a proportionate frivolous-complaint penalty** on the state's own “groundless and brought in bad faith” standard, with a capped civil penalty — not a filing ban.
- **5.2 — Leave the residents-only standing restriction out.** It was never adopted, drew First Amendment objections from the ERC's own former chair, and has no peer-city analogue. A city employee, a vendor, or a journalist living across the county line may be exactly the person who knows about a violation.

- **5.3 — Confirm the referral-timeline fix.** In 2023 the Mayor flagged that a respondent's response clock began before the City Attorney had referred the complaint to the ERC. Confirm this was corrected; if not, correct it.
- **5.4 — Set and publish decision deadlines.** The Commission convened in early 2023 for the first time in two years. Standing timelines — screening, hearing, determination — keep dormancy from becoming a de facto dismissal.

6 PILLAR C — GIFTS, LOBBYING & FINANCIAL DISCLOSURE

- **6.1 — Benchmark the gift caps.** The thresholds — \$75 for a general gift, \$10 from a registered lobbyist — should be compared against peer Texas cities and against inflation since they were last set, and re-based with an automatic adjustment so they do not silently erode again. Confirm the adoption date before asserting they are outdated.
- **6.2 — Publish lobbyist filings in a searchable index tied to agenda items.** Chapter 2.94 already requires lobbyists to report gifts to officials and employment of officials' family members. That information is only useful if a resident can connect it to the vote it concerns.
- **6.3 — Put Chapter 145 filings online the day they are filed.** State law already requires these annually and already requires the City to keep them publicly accessible. Publishing them online changes the format, not the duty — and removes the requester-log friction that currently attaches to inspecting them in person.
- **6.4 — Close the Chapter 145 coverage gap locally.** The statute reaches only the mayor, council members, city attorney, and city manager. Department heads who shape procurement, and board and commission members who vote on land use and incentives, are outside it. A local filing requirement for those roles is squarely within the City's authority.

7 PILLAR D — CONTRACTING & INCENTIVE-DEAL INTEGRITY

- **7.1 — Order a remediation check on the FOAC audit.** Confirm whether the 2024 finding — 86% of sampled Chapter 380 files missing required financial-stability documentation — has been remediated across all active agreements, not just the seven sampled. Make it a recurring FOAC item rather than a one-time audit response.
- **7.2 — Verify Form 1295 compliance and cross-check it.** Confirm a Certificate of Interested Parties is on file for every active Chapter 380/381 agreement, and cross-reference those filings against officials' Chapter 145 disclosures. A conflict found before a vote is a recusal; found afterward, it is a complaint.

- **7.3 — Require affirmative disclosure of personal or family financial ties** to any pending or active incentive applicant, from every Council member and relevant staff, on the record before the vote.
- **7.4 — Apply prospectively, alongside the jobs-per-dollar accountability rules already proposed for future 380/312 deals.** This reopens no signed agreement — the same posture as this project's companion Meta 380 Leverage Plan. Disclosure integrity and jobs accountability are two halves of one contracting problem; the next agreement Council considers should carry both.

8 SUGGESTED TIMELINE

Note the sequencing: the measures requiring no legal opinion move first, so the plan delivers something real even if the fine question comes back unfavorably.

Phase	Time frame	Action
1	Month 1	Request from the City Attorney's Office: the ERC's complete case and sanctions history since inception, whether a civil fine has ever been assessed, and the current status of the 2021 residency / frivolous-complaint amendments.
2	Month 1–2	Request a City Attorney legal opinion on the two threshold questions in 4.2 — whether the City may assess a civil fine against a sitting elected official, and whether the “recommend removal” sanction is enforceable against one.
3	Month 2–3	Adopt the measures that need no legal opinion first: online publication of Chapter 145 filings and lobbyist reports, and the annual ERC report.
4	Month 3–5	Draft ordinance amendments: proportionate frivolous-complaint penalty; sanction ladder revised to match what is actually enforceable; independence and recusal fixes.
5	Month 4–6	Council review and adoption. Align effective dates so new contracting-disclosure duties attach to the next Chapter 380/381 agreement Council considers, not retroactively.
6	Ongoing	Annual public ERC report; annual Chapter 380 documentation audit as a standing FOAC item; joint annual review with the Chief Internal Auditor.

10 THE RECORD — WHEN COUNCIL LAST REVIEWED ANY OF THIS

Every recommendation above asks Council to revisit rules it has largely left alone. Before making that ask, it is worth putting the actual record on the table — because the record is itself the argument.

10.1 — Timeline of Council action on ethics, campaign finance, and related rules

Date	Action	What it touched
Dec. 2018	The City Manager's employment-contract recommendation is leaked to a local station days before a Council vote. The City Attorney and the Ethics Review Commission begin preparing ethics ordinance amendments in response.	Origin of the last comprehensive review
Feb. 2020	Council is briefed on the draft amendments. Rep. Alessandra Anello raises concerns at the time.	Chapter 2.92
May 2020	Council votes 5–3 to direct the City Attorney to bring recommendations for updating the ethics ordinance, including guidance on confidential information. Reps. Svarzbein, Anello and Hernandez opposed.	Chapter 2.92
Jan.–Feb. 2021	The draft amendments surface publicly: residents-only complaint standing, and a four-year ban on future filings for anyone found to have filed a frivolous complaint. Opposed by Rep. Anello and by former ERC chair Stuart Schwartz. Set for a Council vote; final disposition not established in public reporting.	Chapter 2.92 — see Section 5
Ord. 019139	Chapter 2.92 rewritten in its entirety and reorganized into three articles: Code of Ethics, Standards of Conduct, and Ethics Review Commission. Still the version the City Attorney's Office publishes as the latest ethics ordinance.	Last comprehensive rewrite
Jan. 2022	Council appoints a nine-member Ad Hoc Charter Advisory Committee to review potential charter amendments. First meeting Feb. 24, 2022.	Charter
Sept. 27, 2022	First reading of three citizen-petition ordinances submitted with roughly 14,000 signatures: a \$1,000 per-donor campaign contribution limit with donor-employer disclosure and enforcement provisions; voluntary public campaign financing; and ranked-choice voting.	Campaign finance
Oct. 11, 2022	Council denies all three propositions 4–2. In place of adoption, Council creates a Financing of Election Campaigns Cross-Functional Team and directs it to return recommendations at the first December 2022 meeting. Whether it delivered public recommendations is not established.	Campaign finance — the last study
May 6, 2023	Charter election. Eleven propositions, ten from the Advisory Committee. Proposition J (Chief Internal Auditor reports directly to Council) passed. Proposition F (removing the second-petition requirement for citizen initiatives) failed. No proposition addressed the Ethics Review Commission.	Charter
July 2023	Mayor Leeser places an item directing that the ethics complaint review process be amended so a respondent's response clock does not begin before the City Attorney refers the complaint to the ERC.	Chapter 2.92 — see 5.3

Date	Action	What it touched
Dec. 12, 2023	Ordinance 019581 requires City Council members to give notice of campaign contributions of \$500 or more for notation on the Council consent agenda.	Campaign finance
Apr. 23, 2024	Ordinance 019620 amends Section 2.92.080(E) to extend the same \$500 notation requirement to candidates for city office.	The last substantive change
2025 – Aug. 2026	No comprehensive ethics review, ethics study, or campaign finance ordinance work surfaced in this review of public records and reporting.	—

10.2 — What the record shows

The last substantive change to the ethics code was April 23, 2024 — roughly two years and four months ago. It was a notation requirement for campaign contributions, not a review. Nothing since has touched the sanction ladder, the Commission’s independence, the gift caps, or the disclosure regime this plan addresses.

The last time Council commissioned anything resembling a campaign finance study was October 2022 — and it was created as the alternative to adopting what roughly 14,000 residents had petitioned for. The Cross-Functional Team was directed to report back within two months.

The last comprehensive rewrite of Chapter 2.92 began as a response to a leak, not to misconduct. The 2019–2021 amendment process traces to the December 2018 disclosure of the City Manager’s contract recommendation. That origin shows in what emerged: draft amendments narrowing who may file complaints and penalizing those who file them. The direction of the last review was inward — toward insulating the process from the public. This plan runs the other way, and the contrast is worth naming plainly rather than leaving implicit.

The city’s one structured governance review in recent memory skipped the ERC entirely. The Ad Hoc Charter Advisory Committee ran from January 2022 through the May 2023 ballot: nine members, months of meetings, eleven propositions. It produced Proposition J, which gave Council direct oversight of the Chief Internal Auditor — the very lever that later detected the fuel-card misuse. It produced nothing on the Ethics Review Commission. The Charter’s civil fine authority sat unexamined through the entire process. That is the cleanest illustration of this plan’s core claim: El Paso keeps strengthening detection and leaving consequence alone.

The charter window is a live opportunity, but Pillar A should not wait for it. Council’s practice has been to consider charter amendments roughly every two years; the 2020 cycle was scrapped for the pandemic and the 2022–23 cycle produced the May 2023 ballot. Everything in Pillar A can be done by ordinance. But the independence fix in 4.3 — separating the Commission from the

officials it judges — is far more durable at charter level, and the next advisory committee is where to raise it.

10.3 — The argument this record supports

The strongest version of this plan's case is not that anyone did something wrong. It is that El Paso has not systematically examined its own ethics rules since a review that began as a response to a leak and ended with proposals to narrow who could complain; has not examined campaign finance since it declined roughly 14,000 residents' petition and referred the question to a team whose recommendations never surfaced publicly; and has, on the available record, never once used the civil fine authority its own Charter grants. The last comprehensive look began six years ago, and the system has since produced two confirmed violations and a letter apiece. The ask here is a review, not an accusation — and the record is what makes the ask reasonable.

11 MEASURING SUCCESS

- Whether a complete ERC case-and-sanctions history exists and is published — the baseline that does not currently appear to exist publicly.
- Median days from complaint filed to final determination, published annually.
- Share of ERC seats filled through an independent nominating step; number of hearings delayed or defeated by recusal.
- Percentage of Chapter 145 filings and lobbyist reports posted online within one business day of filing.
- Percentage of active Chapter 380/381 agreements with complete required documentation and a current Form 1295 — measured against the 2024 audit's 14% baseline.
- Number of conflicts disclosed before a vote rather than surfaced afterward by audit or press.



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