

AN ORDINANCE OF THE TOWN OF COPPER CANYON

ORDINANCE NO. 21-007



AN ORDINANCE OF THE TOWN OF COPPER CANYON, TEXAS, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE 1.07 ‘ETHICS’, SECTIONS 1.07.001 THROUGH 1.07.006 TO CHAPTER 1 ‘GENERAL PROVISIONS’; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council does hereby find and determine that amending Chapter 1 ‘General Provisions’ of the Code of Ordinances, is in the best interest of the public and general welfare of the Town.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF COPPER CANYON, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the Town of Copper Canyon, Texas is hereby amended by adding new Article 1.07 ‘Ethics’ Sections 1.07.001 through 1.07.006 to Chapter 1, ‘General Provision’ to hereinafter read as follows:

“CHAPTER 1 – GENERAL PROVISION

ARTICLE 1.01

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ARTICLE 1.07 **ETHICS**

DIVISION 1. - GENERALLY

Sec. 1.07.001 **Policy.**

It is hereby declared to be the policy of the town that the proper operation of democratic and transparent government requires that councilmembers and officers be independent, impartial and responsible only to the people of the town; that no officer shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of his/her duties in the public interest; that public office will not be used for personal gain; and that the town council at all times shall be maintained as a nonpartisan body.

To implement such a policy, the town council deems it advisable to enact a code of ethics for all officers, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the town's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that officers of the town shall at all times strive to avoid even the appearance of impropriety.

Sec. 1.07.002 Definitions.

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

Councilmember means any member of the town council and Mayor of the town.

Officer or public official, hereinafter referred to as "officer", means any member of the town council and any appointed member the planning and zoning, board of adjustment, commission, committee or other office as defined by state or by ordinance, state law or otherwise, appointed by the town council.

Relative means any person related to an officer within the second degree by consanguinity or affinity.

Substantial interest means (i) the ownership of ten percent or more of the voting stock or shares of a business entity; (ii) the ownership of ten percent or more, or \$15,000.00 or more of the fair market value of a business entity; or (iii) funds received from the business entity exceed ten percent of the person's gross income for the previous year, and action on the matter involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than \$15,000.00 does not constitute a substantial interest. Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of \$2,500.00 or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership, or any equitable or beneficial interest as a beneficiary of a trust.) An officer is considered to have a substantial interest under this code of ethics if a relative has a substantial interest under this code of ethics.

Town council means the legislative and governing body of the town consisting of the mayor and councilmembers.

Sec. 1.07.003 Adoption of state statute.

Section 171.001 et. seq., of the Local Government Code of the State of Texas, as amended, being the statute which regulates conflicts of interest of officers of municipalities in the state, is hereby adopted and made a part of this code of ethics for all purposes with the proviso that in the case of conflict between the provisions of this code of ethics and the state statute, then in that event the more restrictive provision shall govern.

DIVISION 2. - CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICERS

Sec. 1.07.004 Standards of conduct.

(a) No town councilmember shall represent or appear in behalf of private interests of others before any agency of the city or any town board, commission or committee, nor shall he/she represent any private interest of others in any action or proceeding involving the town, nor voluntarily participate on behalf of others in any litigation or municipal court proceeding to which the town might be party.

(b) No officer of the town shall:

- (1) Have a financial interest, direct or indirect, in any contract with the town, nor shall be financially interested, directly or indirectly, in the sale to the town of any land, or rights or interest in any land, material, supplies, or service, except on behalf of the town as an officer; financial interest of a relative shall constitute an interest of the officer;

The "financial interest" contemplated under this paragraph requires that the officer receive an actual financial benefit from the transaction with the town. An actual financial benefit from the transaction shall not include:

- a. An ownership in the entity transacting business with the town where the ownership interest is less than one percent; or
 - b. Compensation as an employee, officer or director of the entity transacting business with the town where such compensation is not affected by the entity's transaction with the town.
- (2) Participate in the deliberation, decision or vote on any matter in which the councilmember or officer has a substantial interest.

- (3) Represent or appear in behalf of the private interests of others before the board, commission or committee of which he/she is a member, or before the town council or other board on an appeal from such board, commission or committee concerning such matter.

- (4) No councilmember or officer shall accept directly or indirectly, any gift, favor, privilege or employment from any person that might reasonable tend to influence him in the discharge of his official duties or grant in the discharge of his official duties any improper favor, service or thing of value. Voting on professional, employment, and purchasing contracts is included but not limited to being deemed the discharge of official duties. The prohibition against gifts shall not apply to:
 - a. A lawful campaign contribution;
 - b. An honorarium in consideration for services unless the officer would not have been asked to provide the services but for the officer's position;
 - c. Meals, lodging, and transportation in connection with services rendered by the officer at a conference, seminar or similar event that is more than merely perfunctory;
 - d. Complimentary copies of trade publications and other related materials;
 - e. Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
 - f. Any gift which would have been offered or given to the person if such person was not an officer of the town;
 - g. An occasional item with a value less than \$50.00;
 - h. T-shirts, caps and other similar promotional material;
 - i. Meals, lodging, and transportation in connection with a seminar or conference at which the officer is providing services;
 - j. Gifts on account of kinship or a personal, professional, or business relationship independent of the officer's status;
 - k. Complimentary attendance at political or charitable fund-raising events;
 - l. Meals, lodging, transportation and entertainment furnished in connection with public events, appearances or ceremonies related to official town business, if furnished by the sponsor of such public events;
 - m. Loan(s) made in accordance with the ordinary course of the lender's business; and

- n. An occasional meal, breakfast, lunch, or dinner, where public business is discussed.
- (5) Use his/her official position to secure special privileges, benefits, or exemptions for himself/herself or others.
- (6) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group. This shall not prevent the granting of fringe benefits to town employees as a part of their contract of employment or as an added incentive to the securing or retaining of employees.
- (7) Directly or indirectly use any information, or disclose confidential information, gained solely by reason of his/her official position for his/her own personal gain or benefit or for the private interest of others.
- (8) Engage in any outside activities which will conflict with or will be incompatible with his/her position as an officer of the town.
- (9) Accept employment incompatible with the full and proper discharge of his duties and responsibilities with the town, or which might impair his independent judgment in the performance of his public duty.
- (10) Receive any fee or compensation for his/her services as an officer of the town from any source other than the town, except as may otherwise be provided by law. This shall not prohibit his/her performing the same or other services for a private organization that he/she performs for the town if there is no conflict with his/her duties and responsibilities.
- (11) Be prohibited from participating in any political process solely in his or her individual capacity as a private citizen.
- (12) Knowingly perform or refuse to perform any act to deliberately thwart the execution of the town ordinances, rules or regulations, or the achievement of official town programs.
- (13) Use town supplies, equipment, personnel, property or facilities for any purpose other than the conduct of official town business, unless otherwise provided for by law, ordinance or town policy.
- (14) Engage in any conduct damaging to the town.

Sec. 1.07.005 Additional standards of conduct.

(a) No member of the town council, planning and zoning commission, or board of adjustments shall participate in, or vote on, any land use matter (e.g. zoning, variances, plats, permits) in which such officer has a substantial interest in any real property within 200 feet of the real property, the subject of the land use matter.

(b) In the event that any matter comes before the town council involving directly or indirectly the interest of a present business client/customer of any town councilmember or the interest of a person or entity who has been a business client/customer of any councilmember within the prior 12 months and funds received by the councilmember, or the entity for which he/she is employed, from the past/present business client/customer amount to the sum of \$10,000.00 or more in gross income during such 12-month period and such fact is known to the councilmember, then that councilmember shall disclose the existence of such interest to the other councilmembers and thereafter abstain from deliberating or voting in the matter and refrain from attempting to influence the vote of any other councilmember.

(c) No councilmember shall meet with any employee, employees, or group of employees of the town except the town secretary or town attorney without the permission of the town administrator or town councilmembers.

(d) No councilmember shall disclose to anyone other than another member of the town council the substance, contents or subject discussed or deliberated upon during a closed or executive session of the town council.

Sec. 1.07.006 Disclosure of interest.

Any officer, whether elected or appointed, who has a substantial interest in any matter pending before the town, shall disclose such interest to the other members of the town council, committee, commission or board, of which he/she is a member, and shall refrain from further discussion of the matter, shall not be physically present when the subject is discussed in executive session, and shall not vote on or participate further herein in any manner.

Sec. 1.07.007 Violations—Officers.

The town council may take any one or more of the following actions in an open meeting concerning a complaint:

- (1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.
 - (2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations.
 - (3) Issue a letter of admonition when the violation is minor or may have been unintentional but calls for a more substantial response than a letter of notification.
 - (4) Issue a reprimand when a violation has been committed knowingly or intentionally.
 - (5) Pass a resolution of censure when the town council finds that a serious or repeated violation of this code of ethics has been committed.
 - (6) Seek to remove from office an officer, other than a councilmember, for a serious or repeated violation of this code of ethics as an act of misfeasance, malfeasance or gross misconduct.
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SECTION 2. That all provisions of the Code of Ordinances of the Town of Copper Canyon, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any word, phrase, paragraph, section or phrase of this ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED by the Town Council of the Town of Copper Canyon, Texas, this the _____ day of _____, 2021.

TOWN OF COPPER CANYON, TEXAS

Ron Robertson, Mayor

ATTEST:

Sheila B. Morales, TRMC
Town Secretary

APPROVED AS TO FORM:

Robert Hager, Town Attorney

