

ORDINANCE NO. 03-2

**CODE OF ETHICS FOR
THE CITY OF WOODLOCH, TEXAS**

I. Declaration of Policy.

It is hereby found and determined by the City Council of the City of Woodloch, Texas, that the proper operation of a democratic government requires that public officers and employees be independent, impartial, and responsible to the people; that the government's decisions and policies be made within the proper channels of the governmental structure; that a public office not be used for personal gain; and that the public have confidence in the integrity of its government and its governmental officials. In recognition of these goals, the following Code of Ethics for all City officers and employees is adopted. The purpose of this Code is to enumerate existing state law and City Charter provisions which regulate the conduct and activities of City officers and employees, and to promulgate such additional standards as are deemed necessary and appropriate to assure the faithful and impartial administration of the City's government.

II. Definitions.

For the purposes of this Code the following words, terms, and phrases shall have the meanings ascribed thereto:

2.01 City Employee. Any person employed by the City, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

2.02 City Officer. The Mayor, members of the City Council,, City Secretary, municipal court judge, alternate judges, and substitute judges, department and deputy department heads, and such additional City employees as the City Council shall name, and members and alternate members of any boards, commissions, or committees that the City Council shall appoint.

III. State Laws Governing Conduct.

3.01 Conflicts of Interest.

3.01.01 Pursuant to par. 171.001 *et seq.*, Texas Local Government Code, a local public official having a substantial interest in a business entity or piece of real property must file before any vote or decision is made on any matter affecting the business entity or real property, an affidavit stating the nature and extent of the interest.

The official must file the affidavit with the City Secretary, and is required to abstain from any further participation in the matter if (1) the proposed action would have a special economic effect on the business entity that is distinguishable from the effect on the public, or (2) it is reasonably foreseeable that the action would have a special economic effect on the value of the real property which is distinguishable from its effect on the public. An exception to the abstention rule is provided in cases where a majority of members of the entity are likewise required to and do file affidavits.

3.01.02 A substantial interest in a business entity exists when the official (1) owns ten percent (10%) or more of the voting stock or shares of the business entity, or (2) owns ten percent (10%) or more or \$5,000 or more of the fair market value of the business entity, or (3) has received from the business entity funds which exceed ten percent (10%) of the official's gross income for the prior year.

3.01.03 A substantial interest in real property exists when the official has an equitable or legal interest in such property which has a fair market value of \$2,500 or more.

3.01.04 A local public official means a member of the City Council or official of the City, paid or unpaid, who exercises responsibilities which are more than advisory only. A business entity means any entity recognized by law.

3.01.05 It is an offense for a local public official to act as a surety for a business entity that is contracting with the City, or to act as a surety on any official bond required of an officer of the City. Par. 171.003.

3.01.06 A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity has a substantial interest. Par 171.003

3.01.07 The provisions of Section 171.001 *et seq.*, are in addition to any other municipal charter provisions or municipal ordinances defining and prohibiting conflicts of interest.

3.02 Bribery.

It is unlawful for a City official to accept or agree to accept (1) any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion as a public servant or (2) any benefit as consideration for a decision, vote,

recommendation, or other exercise of official discretion in a judicial or administrative proceeding, or (3) any benefit as consideration for a violation of a duty imposed by law on a public servant. Section 36.02, Penal Code.

3.03 Gifts to Public Servants.

3.03.01. It is unlawful for a City official to solicit, accept, or agree to accept any benefit from a person the official knows is subject to regulation, inspection, or investigation by the official or the City. Section 36.08(a), Penal Code.

3.03.02 In the event of litigation involving the City, it is unlawful for any City official to solicit, accept, or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the official or the City. Section 36.08(c), Penal Code.

3.03.03 It is unlawful for a City official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion. Section 36.08(d), Penal Code.

3.03.04 It is unlawful for a City official who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any matter before the official or tribunal. Section 36.08(e), Penal Code.

3.03.05 Exceptions to Gifts to Public Servants.

The provisions of Section 36.08, Penal Code, described in 3.03.01 through 3.03.04 above, do not apply to (1) fees prescribed by law to be received by the public official or any other benefit to which the official is lawfully entitled and for which he has given legitimate consideration; (2) gifts or other benefits conferred on account of kinship or personal, professional, or business relationships independent of the official's status with the City; (3) certain honorariums in consideration of legitimate services; (4) benefits consisting of food, lodging, transportation, or entertainment accepted as a guest and reported as required by law; or (5) benefits for which statements must be filed pursuant to Section 251.011 and Section 251.012.. Texas Election Code, if the benefit and source of any benefit exceeding fifty dollars (\$50.00) is reported and the benefit is used solely to defray expenses which accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the City. Section 36.10. Penal Code.

3.04 Tampering with Governmental Records

It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record, or to make, present, or use any record, document, or thing with knowledge of its falsity with the intent that it be taken as a genuine governmental record, or to intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a governmental record. Section 37.10. Penal Code.

3.05 Impersonating Public Servant.

It is unlawful for any person to impersonate a City official with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts. Section 37.11. Penal Code

3.06 Misuse of Official Information.

It is unlawful for a City official, in reliance on information to which he has access as a result of his office and which has not been made public, to acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information or to speculate or aid another in speculating on the basis of the information. Section 39.03. Penal Code

3.07 Disrupting Meeting or Procession.

It is unlawful for any person with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance. Section 42.05. Penal Code

3.08 Official Oppression.

It is unlawful for a City official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment. Section 39.02. Penal, Code.

3.09 Official Misconduct.

It is unlawful for a City official, with intent to obtain a benefit or with intent to harm another, to intentionally or knowingly violate a law relating to his office or employment or to misapply any thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment. Section 39.01. Penal Code.

3.10 Nepotism.

It is unlawful for any City official to appoint, or vote for the appointment, to any office, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of a board or governing body to which the person so voting or appointing may be a member, when the salary, fees, or compensation of such appointee is to be paid out of public funds. An exception is provided for persons who have been continuously employed in such office, employment or duty for the following periods prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree; (1) at least thirty (30) days, if the officer or member is appointed, or (2) at least six (6) months, if the officer or member is elected.

When a person is allowed to continue in an office, position, or duty because of an exception above, the officer who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees. Art. 599a, Tex. Rev. Civ. Stat. Ann.

3.11 Disclosure of Interest in Property.

It is unlawful for a City official, or a person elected, appointed, or employed as a City official but for which office such person has not yet qualified. To fail to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds, provided such official has actual notice of the acquisition or intended acquisition. The public disclosure required is the filing of an affidavit with the county clerks of all counties in which the property is located and wherein the official resides at least ten (10) days prior to the acquisition. Art. 6252-0e, Tex. Rev. Civ. Stat. Ann.

IV. City Provisions Governing Conduct.

4.01 Financial Interest in Contract.

No member of the council or other officer or employee of the city shall have a pecuniary interest in any contract, the expense, price, or consideration of which is paid from the city treasury, or have a pecuniary interest in any matter or item requiring the approval or consent of the city, unless in compliance with applicable laws of the State of Texas governing conflicts of interest. Section 3.01 of Woodloch Code of Ethics.

4.02 Holding Other Office

Except where authorized by law, no mayor or councilmember shall hold any other City office or City employment during his or her term of office.

4.03 Appointments and Removals.

Members of the City Council, individually and collectively, are prohibited from dictating the appointment or removal of any employee whom the Mayor is empowered to appoint.

4.04 Interference with Mayor

Except pursuant to an investigation, members of the City Council, individually or collectively, are prohibited from dealing with City employees who are subject to the direction and supervision of the Mayor, and are prohibited from issuing orders to any such officers or employees, either publicly or privately.

4.05 Discrimination.

City officials are prohibited from discriminating against any person employed by the City or seeking appointment thereto because of race, sex, or political or religious opinions or affiliations.

4.06 Political Contributions to City Campaigns.

Appointive City officers and City employees are prohibited from making any contribution to the campaign fund of any person seeking election to a City office or to any political party supporting a candidate to a City office.

4.07 Gift in Favor of Appointment.

Persons seeking appointment to or promotion in the administrative service of the City are prohibited from directly or indirectly giving, rendering, or paying any money, service, or other valuable thing to another for or on account of or in connection with his appointment or promotion, or any examination conducted therefor.

4.08 Sanctions for Violations of the Code of Ethics.

4.08.01 Mayor and Councilmembers.

The mayor or any councilmember who violates any express prohibition contained in 4.01 – 4.08 forfeits the office held.

4.08.02 City Officials.

Any City official or employee, either individually or in concert with others, willfully violating any provision contained in the Code of Ethics shall be ineligible for appointment or election to any position in the City for a period of four (4) years, and shall immediately forfeit the office or position then held.

V. Additional Standards of Conduct.

In order to more fully effectuate the policy declared in the Declaration of Policy, to assure that all City officials act and conduct themselves both inside and outside the City's service so as to give no occasion for distrust of their integrity, and to avoid even the appearance of impropriety by any City official, the following additional standards of conduct are adopted.

5.01 Gifts

No city official shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official knows or should know has been offered with the intent to influence or reward official conduct.

5.02 Appearances on Behalf of Private Interests.

No City official shall represent or appear in behalf of private interests of others before any agency of the City, or any City board, commission or committee, concerning any case, project, or matter over which the official has exercised discretionary authority, nor shall he represent any private interest of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is a party.

5.03 Appearances by Past Officials.

No City official, holding a position which involves significant decision-making, advisory, or supervisory responsibility, shall, within twelve (12) months following the termination of his service with the City, represent or appear on behalf of private interests of others before the City or any agency thereof concerning any case, project, or matter over which the official has exercised discretionary authority.

5.04 Securing Special Privileges.

No City official shall use his official position to secure special privilege or exemption for himself or others.

5.05 Grant of Special Consideration.

No City official shall 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 special considerations granted for the purpose of creating incentives necessary to secure or retain employees.

5.06 Disclosure or Use of Confidential Information.

No City official shall disclose any confidential information gained by reason of his office or employment with the City, concerning any property, operation, policy, or affair of the City, or use such confidential information to advance any personal interest, financial or otherwise, of such official or others.

5.06a Pertaining to Executive Sessions.

The personal recording of information of a confidential nature shall be limited to handwritten notes and such may be used for personal review purposes only, and shall not be shared with individuals who did not participate in that executive session. No duplicates, copies, transcripts, notes, or other disclosure shall be made of the City's official record of executive session, except by the order of a court. In addition, copies of notes and other memoranda are not permitted and shall not be made, except to provide them to the city's attorney in connection with litigation, or by the order of a court requiring the disclosure of such information.

5.07 Incompatible Outside Activities.

No City official shall engage in any outside activity which will conflict with, or be incompatible with, his City office or employment.

5.08 Incompatible Employment.

No City official shall accept outside employment which is incompatible with the full and proper discharge of his duties and responsibility with the City, or which might impair his independent judgment in the performance of his public duty.

5.09 Use of City Property for Personal Use.

No City official shall use City supplies, equipment, vehicles, or facilities for any purpose other than the conduct of official City business, unless otherwise specifically provided for by law, ordinance, or City policy.

VI. Violations.

6.01 Penalties for violations of conduct described in Article III hereof are as set forth in the applicable statutory provisions.

6.02 Penalties for violations of conduct described in Article IV hereof are as set forth in Section 4 hereof.

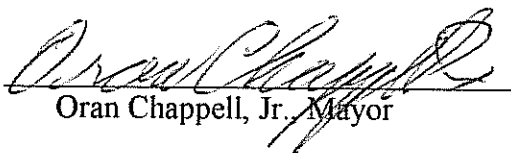
6.03 Any person violating any standard contained in Article V hereof shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be fined in an amount not to exceed \$500. Each day of violation shall constitute a separate offense.

VII. Applicability


In the event any clause phrase, provision, sentence, or part of this Code of Ethics or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate the Code as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Woodloch, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED THIS THE 14TH DAY OF January


TOWN OF WOODLOCH, TEXAS

By 
Oran Chappell, Jr. Mayor

ATTEST:


Ellen A. Norman, Town Secretary

APPROVED:


Michael Beller, Town Attorney