

## ORDINANCE NO. 2019-6

**AN ORDINANCE OF THE CITY OF CANTON, TEXAS, ESTABLISHING A CODE OF ETHICS FOR ALL PUBLIC OFFICERS AND OFFICIALS OF THE CITY; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the City Council has determined that it was in the best interest of the City to require all public officials and officers of the City, and all members of City-appointed boards, commissions and committees, to be independent, impartial and responsible only to the people of the City; and

**WHEREAS**, the City Council has determined that no City official or officer, including all members of boards, commissions and committees, should have any interest, direct or indirect, nor engage in any business transaction or professional activity, nor incur any obligation of any nature, which is in conflict with the proper discharge of his or her duties in the public interest; and

**WHEREAS**, the City Council has determined that it is in the best interest and welfare of the City to preserve the integrity and nonpartisan nature of City government by adopting a Code of Ethics; and

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

### **SECTION I.**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

### **SECTION II. POLICY AND PURPOSE**

- A. It is hereby declared to be the policy of the City that the proper operation of democratic government requires that:
1. City officers or officials, including all members of City-appointed boards, commissions and committees, be independent, impartial and responsible only to the people of the City;
  2. Governmental decisions and policies be made using the proper procedures of the governmental structure;
  3. No City official or officer, including all members of City-appointed boards, commissions and committees, have any interest nor engage in any business transaction or professional activity nor incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest;
  4. Public office not be used for personal gain; and

5. City officers and officials fully comply with any federal and state statutes, laws and regulations, as amended, concerning conflicts of interest.

B. In furtherance of this policy, the City Council has hereby determined that it is advisable to enact this Code of Ethics for all City officers and officials, whether elected or appointed, advisory or administrative, including all members of City-appointed boards, commissions and committees, to serve not only as a guide for official conduct of the City's elected and appointed public servants, but also as a basis for discipline for those who refuse to abide by its terms and provisions.

C. **Definitions**

For the purposes of this Article, the following words and phrases, when used in this Article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

1. *Compensation.* Any economic benefit received in return for services, property or investment.
2. *Discretionary authority.* The power to exercise any judgment in a decision or action.
3. *Economic benefit.* Economic benefit refers to any money, real or personal property, purchase, sale, lease, contract, option, credit, loan, discount, service or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.
4. *Entity.* A sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.
5. *Gift.* Gift means a favor, hospitality or economic benefit, other than compensation.
6. *Non-City board, committee or commission.* A board, committee, commission or other governing or advisory body or panel of an organization, business entity or governmental entity that is not a City-appointed board, committee or commission. Examples include, but are not limited to, serving on the board of directors (or similarly-situated governing or advisory body or panel) of a water district, municipal management district, hospital district, regional council of government organization or appraisal district.
7. *Officer or official.* Any member of the City Council and any City-appointive member of a board, commission, authority or committee set up by ordinance, state law, or otherwise on a temporary or permanent basis, including all members of a board, commission, authority or committee which functions only in an advisory or study capacity and which has no discretionary, governmental, quasi-judicial or administrative authority.

8. *Relative.* A relative means any person related to an officer or official within the first degree by consanguinity or affinity and shall include a spouse, father, mother, son, daughter, brother or sister.
9. *Substantial interest.* An interest in another person or an entity if:
  - a. The interest is ownership of ten percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity;
  - b. Funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000.00 in salary, bonuses, commissions or professional fees or \$20,000.00 in payment for goods, products or non-professional services, or ten percent of the person's gross income during that period, whichever is less;
  - c. The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity, other than a corporate entity owned or created by the City council; or
  - d. The person is a creditor, debtor or guarantor of the other person or entity in an amount of \$5,000.00 or more.
10. *Substantial interest in partnerships, professional corporations and other business entities.* If a City officer or official is a member of a partnership or professional corporation, or conducts business through another entity, a substantial interest of the partnership, professional corporation or business entity shall be deemed to be a substantial interest of the City officer or official if:
  - a. The partnership or professional corporation has fewer than 20 partners or shareholders;
  - b. Regardless of the number of partners or shareholders, the officer or official has an equity interest, share of draw equal to or greater than five percent of the capital or revenues of the partnership, professional corporation or other entity; or
  - c. With regard to the partnership, professional corporation or other entity's substantial interest in a particular client, the officer or official has personally acted within the preceding 24 months in a professional or fiduciary capacity for that client.
11. *Substantial interest in real property.* An interest in real property which is an equitable or legal ownership with a fair market value of \$2,500.00 or more.

**D. Unethical Activity**

No officer or official of the City, including all members of City-appointed boards, commissions and committees, shall:

1. Accept any gift or economic benefit of more than \$50.00 in value from any person or entity which gift or economic benefit might reasonably tend to influence such officer or official in the discharge of official duties, or grant in the discharge of official duties any improper gift, economic benefit, service or thing of value; however, the provisions of this subsection shall not apply to any political contribution made pursuant to the Texas Election Code;
2. Use his or her official position to solicit or secure special privileges or exemptions for himself/herself or others;
3. Directly or indirectly disclose or use any information gained solely by reason of his or her official position for his or her own personal gain or economic benefit or for the private interest of others;
4. Transact any business on behalf of the City in his or her official capacity with any business entity of which he or she is an officer, agent or member or in which he or she owns a substantial interest. If such a circumstance should arise, he or she shall make known such interest and abstain from voting on the matter;
5. Engage in any outside activities which will conflict with his or her assigned duties in the City;
6. Engage in outside activities incompatible with the full and proper discharge of his or her duties and responsibilities with the City, or which might impair his or her independent judgment in the performance of his or her public duties;
7. Receive any fee or compensation for his or her services as an officer or official of the City from any source other than the City, except as may otherwise be provided by law. This shall not prohibit an officer or official from performing the same or other services that he or she performs for the City for a private organization if there is no conflict with his or her City duties and responsibilities;
8. Represent, directly or indirectly, or appear on behalf of the private interests of others before any agency, board, commission, authority or committee of the City, or accept any retainer or compensation that is contingent upon a specific action being taken by the City or any of its agencies, boards, commissions, authorities or committees, unless such officer or official of the City has made full disclosure of such representation, retainer or compensation. For purposes of this section, the term "full disclosure" shall mean:
  - a. The filing of an affidavit with the City Secretary describing such representation, retainer or compensation;
  - b. Disclosure, either orally or in writing, to the other members of the City agency, board, commission, authority or committee;
  - c. Refraining from any other discussion of the matter with other members of the City agency, board, commission, authority or committee; and
  - d. Refraining from voting on or participating in the consideration of such matter by the City agency, board, commission, authority or committee.

9. Knowingly perform or refuse to perform any act in order to deliberately hinder the execution and implementation of any City ordinances, rules or regulations;
10. Have a substantial interest in any contract with the City or a substantial interest in the sale of the City of any land, rights or interest in any land, materials, supplies or service;
11. Participate in a vote or decision on any matter in which the officer or official has a substantial interest or in which a relative of the officer or official has a substantial interest;
12. Grant any special consideration, treatment or advantage to any individual, business organization or group beyond that which is normally available to every other individual, business organization or group.
13. Knowingly disclose information deemed confidential by law; or
14. Participate in any vote or decision relative to any amendment to the City's comprehensive plan or any change in the zoning classification of property if the officer or official or a relative of the officer or official has any interest in any property within 200 feet of the property which is the subject of the amendment to the City's comprehensive plan or on which the change in zoning classification is proposed. Further, any officer or official who has any such interest in property shall be legally disqualified from participating in any vote or decision relative to the comprehensive plan amendment or change in zoning classification.

**E. Disclosure of Interest**

Any officer or official of the City, including all members of City-appointed boards, commissions and committees, who has a prohibited or substantial interest in any matter pending before the City shall disclose such interest to other members of the City council, committee, commission or board of which he or she is a member, and shall refrain from further discussion of the matter; shall not be physically present when the subject is discussed in open or executive session; and shall not vote on or participate further in any such matter.

**F. Employment with City**

Any City Councilmember who wishes to seek employment with the City of Canton must resign from the Council prior to submitting an application.

**G. Service on Non-City Board, Committee or Commission Allowed**

Any officer or official of the City, including all members of City-appointed boards, commissions and committees, may serve on a non-City board, committee or commission, unless otherwise prohibited by law, and such service shall not be considered a violation of this Code of Ethics.

#### H. **Penalty**

1. Any City officer or official, including all members of City-appointed boards, commissions and committees, knowingly violating any provision of this code of ethics shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1.01.009 of the Code of Ordinances.
2. The penalty prescribed herein shall not limit the power of the City Council to discipline its members pursuant to applicable provisions of this Article, State statutes or other laws defining and prohibiting conflicts of interest.

#### I. **Adoption of State Statute**

Chapter 171 of the Texas Local Government Code, as amended, relative to conflicts of interest of officers of municipalities in the State of Texas, is hereby adopted and made a part of this Code of Ethics for all purposes, with the proviso that in case of a conflict between the provisions of this Code of Ethics and Chapter 171 of the Texas Local Government Code, the more restrictive provision shall govern.

#### J. **Cumulative Legal Effect**

In its legal effect, this Article is cumulative of all provisions of the State Law, the Code of Ordinances or federal and state statutes, laws or regulations defining and prohibiting conflicts of interest.

### **SECTION 3**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

### **SECTION 4**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City of Canton 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, and phrases be declared unconstitutional.

### **SECTION 5**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 6**

This Ordinance shall become effective after its passage and publication, as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, ON THIS 15TH DAY OF JANUARY, 2019.**



*Lou Ann Everett*  
Lou Ann Everett, Mayor

ATTEST:

*Debra Johnson*  
Debra Johnson, City Secretary