

**ORDINANCE #970**

**AN ORDINANCE ADOPTING A POLICY PROVIDING STANDARDS OF CONDUCT FOR CITY OFFICIALS AND MEMBERS OF CITY BOARDS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lake Worth is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, a home-rule city may adopt ordinance provisions relating to conflicts of interests involving its officers that are not inconsistent with Local Government Code chapter 171; and

**WHEREAS**, the proper operation of government requires that City officers be independent, neutral and impartial in the performance of their duties and that government decisions and policy be made within the proper channels of the governmental structure to ensure all citizens an equal opportunity to enjoy the benefits provided by the government; and

**WHEREAS**, for the purpose of promoting confidence in the government of the City of Lake Worth and thereby enhancing the City's ability to function effectively, the City desires to adopt a conflict of interest ordinance; and

**WHEREAS**, it is also important for the proper operation of government to ensure that meetings of City Boards including the City Council proceed in a way that allows the business of the City to be effectively and efficiently conducted;

**WHEREAS**, the City Council believes it is important to ensure that meetings of City Boards including the City Council are conducted in a way that is open to all

viewpoints, yet free from abusive, distracting or intimidating behavior.

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

**SECTION 1.  
Declaration of Policy**

It is hereby declared to be the policy of the City that the proper operation of government requires that public officials and employees be independent, impartial and responsible to the people of the City; that governmental decisions and policy should be made in the proper channels of the governmental structure; that no official or member of any board, commission or committee should have any financial or other interest, direct or indirect, or engage in any business transaction or professional activity, or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest; that no city official should render any decisions on behalf of the City and the public based on undue influence or favoritism toward any person, entity or professional organization that the city official may be affiliated with; that public office and public employment are positions of public trust imposing the duty of a fiduciary upon all city officials who are not to use their public position for personal gain or for the benefit of any person, entity or professional organization with whom the city official is affiliated; and that the public should have confidence in the integrity of its government. To implement such a policy the city council deems it advisable to enact this policy for city officials to serve not only as a guide for official conduct of the city officials but also as a basis for discipline for those who refuse to abide by its terms. This policy shall be cumulative of other ordinances, city charter provisions and state statutes defining and prohibiting conflicts of interest.

**SECTION 2.  
Definitions**

As used in this Ordinance, the following words and phrases have the meanings ascribed to them below:

- (a) *City board* means the City Council and any board, commission, committee or other body created by the City Council pursuant to federal or state law or City ordinance, including boards that may be advisory-only in nature.
- (b) *City official* means the following persons:

The Mayor; Members of the City Council; Municipal Court Judges and Magistrates; City Manager; Assistant City Manager; City Secretary; Municipal Court Coordinator; all department heads and assistant department heads;

Internal Auditor and all assistant internal auditors; and Members of City boards, who are appointed by the City Council. Reference to the City Council or Councilmember in this Ordinance shall include the Mayor.

(c) *Entity* means a sole proprietorship, partnership, firm, corporation (including non-profit corporations), holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

### **SECTION 3. CONFLICTS OF INTEREST**

(a) A city official shall disclose the existence of any substantial interest in an entity or real property involved in any decision pending before such official or the body of which he or she is a member. To comply with this paragraph a city official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Chapter 171 of the Texas Local Government Code or if not so required by Chapter 171, shall publicly disclose in the official records of the body or with the city secretary the nature of the interest, and shall abstain from further discussion and voting on the matter. The conflicts disclosure statement shall be filed with the City Secretary prior to the official or body of which he or she is a member considering any matter involving the real property of the entity in which the city official has substantial interest. Nothing in this Ordinance shall be construed to alleviate any duty or action required by a city official under Chapter 171 of the Texas Local Government Code.

(b) For purposes of this Ordinance, a person has a substantial interest in an entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity;

(2) funds received by the person from the entity exceed 10 percent of the person's gross income for the previous year;

(3) the person serves on the board of directors or other governing body of the entity.

(c) For purposes of this Ordinance, a person does not have a substantial interest in an entity if all of the following conditions are met:

(1) The person holds a position as a member of the board of directors or other governing board of an entity; and

(2) The person has been appointed by the city council to serve on such board; and

(3) The person receives no remuneration, either directly or indirectly, for his or

her service on such board; and

- (4) The primary nature of the business entity is governmental.

(d) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(e) A city official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

(f) Any person who has information that indicates a City official may have violated the provisions of this Section may provide that information to any member of the City Council or the City Manager in writing. Upon receiving a written complaint, the City Council, at its next regularly scheduled meeting, shall consider whether the individual against whom a complaint has been made has violated this Section. The City Council may hear testimony and consider evidence on the matter. The City Council shall make a finding by majority vote whether the City official has violated this Section; provided that the member accused of the violation shall not vote on any matter involving that member. If no violation is found to have occurred, the City Council may issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith.

(g) Except where otherwise provided by state law, it is not the intent for violations of this Section to be subject to criminal penalties. If the City Council determines that a city official had violated this Section, the City Council may take one of the following actions:

- 1) **Admonition.** An admonition shall be a verbal non-public statement made by the Mayor to the city official. An admonition is appropriate when the violation is minor or may have been unintentional.
- 2) **Reprimand.** A reprimand shall be administered to the city official by letter. The letter shall be prepared by the Mayor, unless the Mayor is accused of the violation in which case, the Mayor Pro Tem shall prepare the letter. A reprimand is appropriate when a violation has been made knowingly and intentionally.
- 3) **Censure.** A censure shall be a written statement administered personally to the city official at the next regularly scheduled meeting of the City Council. The censure shall be administered by the Mayor, unless the Mayor is accused of the violation in which case, the Mayor Pro Tem shall administer the censure. The censure shall be given publicly and the city official shall not make any statement in support of or in opposition thereto. A censure shall be administered at the next regularly scheduled meeting of the City Council, regardless of whether the city official appears as

required.

- 4) **Other Sanctions.** Any sanction imposed under this Section is in addition to and not in lieu of any other penalty, sanction, or remedy which may be imposed or sought, under state law or charter provisions.

#### **SECTION 4. STANDARDS OF CONDUCT**

- a) City officials shall at all times treat each other and staff with respect and dignity.
- b) The Mayor shall preserve order and decorum of City Council meetings. The presiding officer shall preserve order and decorum of meetings of all other city boards.
- c) City officials shall listen courteously and attentively to all public discussions before the city board. City officials shall refrain from interrupting other speakers; making personal comments not germane to the public business before them and posted on the agenda, or otherwise interfere with the orderly conduct of meetings.
- d) During meetings of a city board, all city officials shall refrain from abusive conduct, shouting, argumentative/aggressive behavior, or verbal attacks upon other board members, Council members, City staff members, or members of the general public.
- e) If any provision of this section is violated during a meeting of a city board, including a City Council meeting, the Mayor or the presiding officer shall first request that the City official who is breaching the standards of conduct cease the disruptive conduct.

If, after receiving a warning from the Mayor or the presiding officer, the city official persists in disturbing any city board meeting, the Mayor or the presiding officer shall order the person to leave the meeting. If such person does not remove himself, the Mayor or the presiding officer shall order any law enforcement officer who is on duty to remove that person from the meeting room.

#### **SECTION 5.**

This ordinance shall be cumulative of all provisions of ordinances and of the Revised Code of Ordinances of the City of Lake Worth, Texas (2004), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such

ordinances and such Code are hereby repealed.

#### **SECTION 6.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 7.**

All rights and remedies of the City of Lake Worth are expressly saved as to any and all violations of the Lake Worth Code of Ordinances, as amended, or any other ordinances affecting conflicts of interest which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 8.**


This ordinance shall be in full force and effect from and after its passage and it is so ordained.

**PASSED AND APPROVED** this 9<sup>th</sup> day of August, 2011.


Approved:

  
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Walter Bowen, Mayor

Attest:

  
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Linda Rhodes, TRMC/CMC  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

  
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Jenny Gravley, Assistant City Attorney