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ORDINANCE NO. 125

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ADOPTING A CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES; PROVIDING FOR INVESTIGATION BY THE HEARINGS EXAMINER, AND ESTABLISHING PENALTIES

WHEREAS, a code of ethics and a fair means of enforcement are in the public interest, and

WHEREAS, this ordinance is intended to supplement the provisions of RCW 42.23, Code of Ethics for Municipal Officers, NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Declaration of Policy. High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. Public officials and public employees are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires that public officials and employees be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest.

Section 2. Code of Ethics. The purpose of the code of ethics is to assist City officials and employees to establish guidelines to govern their own conduct as it relates to official City business. The code is also intended to help develop traditions of responsible public service. This code shall apply to all members of the City Council, Planning Commission, and other City Boards and Commissions as well as all City employees. An official or employee shall be deemed to have violated this code if he or she:

1. Receives or has any financial interest in any sale to or by the City of any service or property when such financial interest was received with the prior knowledge that the City intended to purchase such property or obtain such service;

2. Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City;

3. Accepts any gift or favor from any person, firm or corporation having any dealings with the City if he or she knows or has reason to know that it was intended

to obtain special consideration; provided, however that this prohibition shall not apply to gifts of minimal value under $10 and symbolic gifts not intended to financially benefit the recipient;

4. Influences the selection of or the conduct of business with a corporation, person or firm having business with the City if he or she personally or through household relatives has financial interest in or with the corporation, person or firm;

5. Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the City, unless he or she has disclosed such relationship as provided by this ordinance; provided, that nothing herein shall be deemed to apply to consultants who render professional advice to corporations, firms or persons on matters unrelated to the business with the City. This provision shall not apply if the official or employee disqualifies himself or herself from all participation in the City business with the corporation, firm or person;

6. Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his or her official duties, would impair his or her independence of judgment or action in the performance of his or her official duties, or would require or induce him or her to disclose confidential information acquired by reason of his or her official position;

7. Appears in behalf of a private interest before any regulatory governmental agency against the interest of the City, or represents a private interest in any action or proceeding against the interest of the City in any litigation to which the City is a party, unless he or she has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A City Councilmember may appear before regulatory governmental agencies on behalf of constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations; however, no official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency;

8. Directly or indirectly possess a substantial or controlling interest in any business entity which conduct business or contracts with the City, or in the sale of real estate, materials, supplies or services to the City, without disclosing such interest as provided by this ordinance. An interest is not a substantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern; or the financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his or her household relatives;

9. As a City Councilmember, has a financial or other private interest in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the City Council. This provision shall not apply if the City Councilmember disqualifies himself or herself from voting by stating the nature and extent of such interest. Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to

the City Council and fails to disclose on the records of the City Council the nature and extent of such interest is in violation of this ordinance;

10. Violates any ordinance or resolution of the City;

11. Discloses confidential information gained by reason of his or her official position or otherwise uses such information for his or her personal gain or benefit;

12. Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation;

13. Request or permit the use of City owned vehicles, equipment, materials or property for personal convenience, improper purposes, or profit, except when such services are available to the public generally or are provided as City policy for the use of such official or employee in the conduct of official business;

14. Grants any special consideration, treatment or advantage beyond that which is available to every other citizen in similar circumstances.

Section 3. Disclosure. Disclosure as required by this ordinance shall be in writing and filed with the City Clerk. Disclosure shall be made as soon as the person becomes aware of the facts giving rise to the disclosure requirements.

Section 4. Civil Penalties.

1. Any person willfully violating this ordinance is guilty of a misdemeanor and is subject to the civil penalties provided herein for the negligent violation of this ordinance.

2. An employee of the City found guilty of a violation of this ordinance is subject to civil penalties up to and including termination from employment and/or loss of pay not to exceed one month's salary.

3. Any member of a City Board or Commission found guilty of a violation of this ordinance, may be suspended or removed from office by action of the City Council.

4. In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this ordinance, any person or organization which willfully attempts to secure preferential treatment in its dealing with the City by offering any valuable gifts, whether in the form of services, loan, thing or promise, or any other form to any City official or employee, shall have its current contract with the City canceled and shall not be able to bid on any other City contracts for a period of two years.

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Section 5. Responsibilities of Hearings Examiner.

1. There is hereby delegated to the Hearings Examiner, the responsibility set forth in Section 6 relating to enforcement procedures, except as to employees of the City of Woodinville. Once such allegation or complaint has been file with the office of the City Clerk and notice of such filing has been transmitted to the Hearings Examiner which notice shall not set forth any names or details concerning the complaint, then the Hearings Examiner shall conduct an investigation; PROVIDED, that in the event said complaint shall involve in some manner the office of the Hearings Examiner, the said matter shall be referred to the City Attorney for investigation, all in accordance with the procedures outlined herein.

2. The Hearings Examiner is also authorized to issue advisory opinions upon request of City officials and employees concerning the applicability of this ordinance to specific factual situations.

3. In all instances of complaints or reports of allegations of impropriety involving City employees, the results of the investigation shall be referred to the City Manager for any appropriate disciplinary action consistent with the provisions of the ordinances of the City of Woodinville involving City personnel.

Section 6. Enforcement Procedures.

1. Any person who has knowledge of a violation of this Code of Ethics may make a signed written report of the same to the City Clerk. The fact that a report has been received, the contents of the report, and the identity of the person making the report shall remain confidential until such time as the Hearings Examiner has made an initial threshold determination that probable cause exists to believe that a violation of the Code of Ethics has occurred.

2. Upon receipt of a report, the Hearings Examiner, without benefit of subpoenas or sworn testimony, shall make such preliminary investigation as he or she deems appropriate to determine whether probable cause exists to believe that a violation of the Code of Ethics has occurred. Once the preliminary investigation is complete, the person accused shall be given the name(s) of the accuser(s) and the allegations whether or not the Hearings Examiner finds probable cause. If the Hearings Examiner is satisfied that probable cause does exist, he or she may choose between two courses of action as follows:

A. Refer the matter to the proper authorities for criminal prosecution, provided that, upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the proper authorities may refer the matter back to the Hearings Examiner for proceedings consistent with the civil burden of proof, e.g., a simple preponderance of the evidence, or

B. Retain the matter for his or her own formal investigation with a view toward the ultimate disposition by the City Council or City Manager in the event it is determined an actual violation has occurred.

3. If the Hearings Examiner should determine probable cause does not exist, he or she shall communicate his or her decision in writing to the person who made the initial report. The Hearings Examiner's determination of lack of probable cause shall remain confidential, unless the person who made the initial report chooses to make his or her complaint public. Should this latter event occur, all of the Hearings Examiner's records, files, notes, correspondence, and investigative materials relating to the finding of lack of probable cause shall be made open for public inspection.

4. Should the Hearings Examiner decide to retain the matter for his or her own formal investigation pursuant to Subsection 2(B) above, the Hearings Examiner shall notify, in writing, the person who made the report and the person complained against, of his or her decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred. The person complained against may choose whether the hearing shall be open or closed to the public.

5. Hearings conducted by the Hearings Examiner shall be informal. The person complained against may be represented by legal counsel and may present and cross-examine witnesses and give evidence before the Hearings Examiner. The Hearings Examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence needed. To that end, the proper authorities shall issue subpoenas and subpoenas duces tecum at the request of the Hearings Examiner or the person complained against. All testimony shall be under oath administered by the Hearings Examiner. The Hearings Examiner may adjourn the hearing from time to time in order to allow for the orderly presentation of evidence.

Upon motion made by the person complained against or upon his or her own motion, the Hearings Examiner may temporarily stay or permanently suspend his or her investigation when, in his or her formal discretion, the manifest needs of justice and fairness will be better served thereby.

The Hearings Examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provide that the Hearings Examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

6. Within thirty (30) days after the conclusion of the hearing, the Hearings Examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her determination of a recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be forwarded by registered mail to the person who made the initial report and to the person complained against at addresses as given by both persons to the Hearings Examiner. An additional copy of the findings, conclusions, and recommendations shall be forwarded to the City Council for its formal action, if any.

7. If the charge relates to a Councilmember or any member of a City Board or Commission, upon receipt of the Hearings Examiner's final action, the City Council shall schedule a public hearing. The person complained against shall have not less than

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two (2) weeks' written notice of this hearing. At this hearing the Hearings Examiner, the person complained against, and other interested parties shall be given a reasonable opportunity to be heard, following which the City Council may adopt, reject, amend, or modify the Hearings Examiner's findings, conclusions, and recommendations, or remand the matter for further investigation and consideration by the Hearings Examiner. The Council's decision shall be in writing, setting forth its findings, conclusions, and in appropriate cases, the civil sanction(s) imposed.

8. Any person found, by final written order of the City Council, to be in violation of this Code of Ethics may appeal the Council's decision in the manner and form as provided by Ordinance No. 18, as amended.

9. If the charge relates to a City employee, the Hearings Examiner's report shall be referred to the City Manager.

Section 7. False Charge of Misconduct. Any person who shall file with or report a charge of misconduct on the part of any public official or other person encompassed within the definition of this ordinance, knowing such charge to be false or to have been recklessly made without any reasonable attempt to determine relevant facts and circumstances, shall be guilty of a misdemeanor and shall be punished as provided in-Ordinance No.16.

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication.

Section 10. This ordinance shall be reviewed by th City Council in January, 1996, including any advisory opinions issued by the Hearings Examiner.

PASSED by the City Council of the City of Woodinville this 24th day of July, 1995.

APPROVED:

Lucy DeYoung

Lucy DeYoung, Mayor

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ATTEST/AUTHENTICATED:

By: _____
James Katica, City Clerk/Treasurer

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: Dawn L. Findlay
for Wayne Tanaka, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL: July 24, 1995
PUBLISHED: July 31, 1995
EFFECTIVE DATE: Aug. 5, 1995
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