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**ORDINANCE NO. 05-04-07-10**

**CODE OF ETHICS**

AN ORDINANCE OF THE CITY OF CORINTH, TEXAS ADOPTING A CODE OF ETHICS APPLICABLE TO OFFICERS AND ADVISORY BOARD MEMBERS WITHIN THE CITY; PROVIDING STANDARDS OF CONDUCT FOR SUCH OFFICERS, AND ADVISORY BOARD MEMBERS; REQUIRING THE DISCLOSURE OF CONFLICTS OF INTEREST; PROVIDING FOR THE RENDERING OF ADVISORY OPINIONS BY THE CITY ATTORNEY; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS HEREOF; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Corinth, Texas, 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 Local Government Code; and

WHEREAS, the City Council of the City of Corinth deems it necessary and advisable to adopt a Code of Ethics applicable to the conduct of officers and advisory board members while acting in their official capacities in representing the City of Corinth.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS:

**SECTION 1**

**DECLARATION OF POLICY**

It is hereby declared to be the policy of the City of Corinth that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city; that governmental decisions and policy should be made in the proper channels of the governmental structure; that no officer or member of any advisory board, commission or committee should have any interest, financial or otherwise, 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 or her duties in the public interest; that the public office and public employment are positions of public trust imposing the duty of a fiduciary upon all officeholders, who are not to use their public position for personal gain, 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 code of ethics for all officers and advisory board members, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms. This code of ethics is cumulative of other ordinances, city charter provisions and state statutes defining and prohibiting conflicts of interest.

**SECTION 2**

**DEFINITIONS**

For the purposes of this code of ethics the following words and phrases shall have the meanings ascribed to them by this section.

***Advisory board*** shall mean an advisory board, commission or committee of the city.

55 **Business Entity** shall mean a sole proprietorship, partnership, firm, corporation, association,  
56 holding company, jointstock company, receivership, trust, or any other entity recognized by law.  
57

58 **Knowingly.** A person acts knowingly, or with knowledge, with respect to the nature of his or her  
59 conduct or to circumstances surrounding his or her conduct when he is aware of the nature of his or her  
60 conduct or that the circumstances exist. A person acts knowing, or with knowledge, with respect to a  
61 result of his or her conduct when he is aware that his or her conduct is reasonably certain to cause the  
62 result.  
63

64 **Officer** shall mean any member of the city council and any member of an advisory board,  
65 commission or committee established by ordinance, charter or state law; provided, no member of an  
66 advisory board shall be deemed an officer of the city.  
67

68 **Substantial interest.**

- 69
- 70 A. A person has a substantial interest in a business entity if:
- 71 1. The interest is ownership of ten (10) percent or more of the voting stock or shares  
72 of the business entity or ownership of either ten (10) percent or more or fifteen  
73 thousand dollars (\$15,000.00) or more of the fair market value of the business  
74 entity (see Section 171.002, Texas Local Government Code); or  
75 2. Funds received by the person from the business entity exceed ten (10) percent of  
76 the person's gross income for the previous year (see Section 171.002, Texas  
77 Local Government Code); or  
78 3. The person holds a position of member of the board of directors or other governing  
79 board of the business entity; or  
80 4. The person serves as an elected officer of the business entity; or  
81 5. The person is an employee of the business entity; or  
82 6. The person is a creditor, debtor or guarantor of the business entity in the amount  
83 of five thousand dollars (\$5,000.00) or more; or  
84 7. Property of the person has been pledged to the business entity or is subject to a  
85 lien in favor of the business entity in the amount of five thousand dollars  
86 (\$5,000.00) or more.  
87
- 88 B. A person does not have a substantial interest in a business entity if:
- 89 1. The person holds a position as a member of the board of directors or other  
90 governing board of a business entity; and  
91 2. The person has been designated by the city council to serve on such advisory  
92 board; and  
93 3. The person receives no remuneration, either directly or indirectly, for his or her  
94 service on such board; and  
95 4. The primary nature of the business entity is either charitable, nonprofit or  
96 governmental.  
97
- 98 C. A person has a substantial interest in real property if the interest is an equitable or legal  
99 ownership interest with a fair market value of two thousand five hundred dollars  
00 ((\$2,500.00) or more (see Section 171.002, Texas Local Government Code).  
01
- 02 D. A person has a substantial interest under this ordinance if the person's spouse or a  
03 person related to the person in the first degree by consanguinity or affinity has a  
04 substantial interest under this ordinance (see Section 171.002, Texas Local Government  
05 Code). A person is related in the first degree by consanguinity to his or her father,  
06 mother, brother, sister, son or daughter. A person is related in the first degree by affinity

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to his or her father-in-law, mother-in-law, brother's spouse, sister's spouse, son-in-law or daughter-in-law.

**SECTION 3**

**STANDARDS OF CONDUCT**

- A. No city officer, advisory board member or candidate for city council shall knowingly:
  1. Accept or solicit any gift, favor, service or thing that might reasonably tend to influence him in the discharge of his or her official duties. This prohibition shall not apply to:
    - i. An occasional non-pecuniary gift, insignificant in value; or
    - ii. An award publicly presented in recognition of public service; or
    - iii. Any gift which would not have been offered or given to him if he were not a city officer or advisory board member, or their spouses.
  2. Grant in the discharge of his or her official duties any improper favor, service or thing of value to any person, group or business entity;
  3. Accept or solicit any gift, favor, service or thing of value, including a promise of future employment, of sufficient economic value that it might reasonably tend to influence him, in the discharge of his or her official duties, from any person, group or business entity:
    - i. Who is licensed or has a substantial interest in any business entity that is licensed by any city department, agency, commission or advisory board on which the city officer or advisory board member serves; or
    - ii. Who has a financial interest in any proposed ordinance or decision upon which the city officer or advisory board member may or must act or make a recommendation; provided, however, that any city officer or advisory board member and their spouses, may accept travel and related expenses to attend ceremonial functions, provided that such acceptance and attendance have been approved by the city council prior to the occurrence of the ceremonial function.
  4. Knowingly disclose any confidential information gained by reason of the position of the officer or advisory board member concerning the property, operations, policies or affairs of the city, or use of such confidential information to advance any personal interest, financial or otherwise, of such officer or advisory board member, or others. This subparagraph 4 shall not preclude disclosure of such confidential information in connection with any investigation or proceeding regarding whether there has been a violation of the standards of conduct set forth in this code.
  5. Use one's position or office of employment or city facilities, personnel, equipment or supplies to secure special privileges or exemptions for himself or others or for the private gain of the city officer, advisory board member or his or her spouse.
  6. Engage in any exchange, purchase or sale of property, goods or services with the city except:
    - i. Rendering services to the city as an officer or advisory board member;
    - ii. Paying taxes, fines, utility service or filing fees;
    - iii. Executing and performing any developer's agreement or plat in compliance with laws and regulations applicable to any person; provided, however, that if any city ordinance, rule or regulation allows any discretion by the appropriate officers of the city in the interpretation or enforcement of such ordinance, rule or regulation, any such discretion shall be exercised in favor of the city in connection with any such developer's agreement or plat;
    - iv. Advisory board members who are not otherwise officers of the city, may engage in any exchange, purchase or sale of property, goods or services

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with the city, or enter into a contract with the city, provided that the advisory board on which they are a member has no advisory function or cognizance, direct or indirect, present or prospective, with respect to the transaction in which such advisory board member engages or proposes to engage.

7. Hold himself or herself out as representing the city in any capacity other than that for which he/she was appointed or elected.
8. Engage in or accept private employment or render a service when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment in the performance of his or her official duties.
9. Make or permit the unauthorized use of city owned vehicles, equipment, materials or property.
10. Grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
11. After termination of service with the city, appear before any advisory board or commission of the city in relation to any case, proceeding or application in which he or she personally participated or which was under his or her active consideration, during the period of his or her service with the city.
12. Transact any business in his or her official capacity with the city with a business entity in which he or she has a substantial interest.
13. Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
14. Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of city ordinances, rules or regulations or the achievement of official city programs.

B. No member of the city council shall knowingly represent, directly or indirectly, any person, group or business entity:

1. Before the city council or any department, agency, advisory board or commission of the city;
2. In any action or proceeding against the interests of the city or in any litigation in which the city or any department, agency, advisory board or commission thereof is a party; or
3. In any action or proceeding in the municipal courts of the city which was instituted by a city officer or employee in the course of his or her official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.

C. No member of a city advisory board or commission shall knowingly represent, directly or indirectly, any person, group or business entity:

1. Before the city council or the advisory board or commission of which he or she is a member;
2. Before a advisory board or commission which has appellate jurisdiction over the advisory board or commission of which he or she is a member;
3. In any action or proceeding against the interests of the city or in any litigation in which the city or in any litigation in which the city or any department, agency, advisory board or commission thereof is a party; or
4. In any action or proceeding in the municipal courts of the city which was instituted by a city officer or employee in the course of his or her official duties, or a criminal proceeding in which any city officer or employee is a material witness for the prosecution.

D. The restrictions in this section do not prohibit a member of a city advisory board or commission (other than city council), or his or her spouse, appearing before the city council or a city department, agency, advisory board or commission to represent himself or herself in a matter affecting his or her property; provided, however, that no such

13 person, or his or her spouse, shall appear before the advisory board or commission of  
14 which he or she is a member.

15 E. The restrictions in this section do not apply to business associates of officers or advisory  
16 board members, but only personally to the officers and advisory board members  
17 themselves.

18 F. Election Period:

19 1. All candidates for city office are encouraged to voluntarily comply with the Fair  
20 Campaign Practices Act, Chapter 258 of the Texas Election Code. The city will  
21 provide appropriate forms to each candidate.

22 2. A candidate for city election will not use the city logo or the city letterhead in any of  
23 their campaign material, advertising, or solicitations. The council may authorize  
24 the city attorney to take civil action against the violator for using copyrighted logos  
25 belonging to the city and may seek damages therein, and a current elected official  
26 in the City of Corinth, running for office, is subject to sanctions up to and including  
27 public censure by the council.

28 3. A citizen running for office who uses copyrighted materials belonging to the city  
29 during an election may also be pursued, via civil action upon council authorization,  
30 by the city attorney and may be subject to civil damages.

31  
32 **SECTION 4**

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34 **DISCLOSURE OF INTEREST**

35  
36 A. If any city officer or advisory board member has a substantial interest in a business entity  
37 or real property involved in any decision pending before such officer or advisory board  
38 member, or the body of which he or she is a member, such officer or advisory board  
39 member shall disclose such interest as provided in paragraph C below and shall not,  
40 except as provided in paragraph B below, discuss the substance of the matter at any time  
41 with any other member of the advisory board of which he is a member or any other body  
42 which will vote on or otherwise participate in the consideration of the matter.

43 B. If any of the following interests are involved in any decision pending before any city officer  
44 or advisory board member, or the body of which he is a member, such officer or advisory  
45 board member must disclose such interest as provided in paragraph C below, but he shall  
46 be permitted to vote on and participate in the consideration of such matter:

47 1. A decision concerning a bank or other financial institution from which the officer or  
48 advisory board member has a home mortgage, automobile loan, or other  
49 installment loan, if the loan is not currently in default, was originally for a term of  
50 more than 2 years and cannot be accelerated except for failure to make payments  
51 according to the terms thereof;

52 2. A decision concerning a bank or other financial institution in which the officer or  
53 advisory board member holds a savings account, checking account or certificate of  
54 deposit and which is fully insured by the U.S. government or an agency thereof;

55 3. A decision concerning a business entity with which the officer, employee, or  
56 advisory board member has a retail or credit card account;

57 4. A decision concerning the approval of substitution of collateral by a city depository  
58 bank;

59 5. A decision concerning real property in which the officer or advisory board member  
60 has a substantial interest if it is not reasonably foreseeable that such decision  
61 would have a special economic effect on the value of the property, distinguishable  
62 from the effect on the public (see Section 171.004, Texas Local Government  
63 Code).

64 C. A city officer or advisory board member shall disclose the existence of any substantial  
65 interest in a business entity or real property involved in any decision pending before such

66 officer or advisory board member, or the body of which he is a member. To comply with  
67 this paragraph, a city officer or advisory board member shall, prior to any discussion or  
68 determination of the matter, either file an affidavit of disclosure as required by Section  
69 171.004 of the Texas Local Government Code or, if not so required, shall publicly disclose  
70 in the official records of the body or of the city secretary the nature of the interest.

- 71 D. An officer or advisory board member is not required to file an affidavit and abstain from  
72 participation in a matter if a majority of the members of the body of which he or she is a  
73 member is composed of persons who are likewise required to file affidavits of similar  
74 interests on the same official action (See Section 171.004(c), Texas Local Government  
75 Code)  
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77 **SECTION 5**

78 **ENFORCEMENT**

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81 A. The city council shall have the primary responsibility for the enforcement of this code.  
82 1. The city council may direct the City Manager's Office to receive any complaints  
83 that arise from violations of this code.  
84 2. The City Manager will be responsible for notifying the City Council within 72 hours  
85 after any complaint is received.  
86 3. The city council may direct the city attorney to investigate or prosecute any  
87 apparent violation of the code or it may employ or appoint any qualified attorney to  
88 investigate or prosecute any violation or series of violations of this code by one or  
89 more persons. At the direction of the city council, the city attorney shall have the  
90 power to investigate any complaint, to initiate any suit, and to prosecute any action  
91 on behalf of the city where such action is appropriate.  
92 4. The City Council may also direct that the complaint be reviewed by the City of  
93 Corinth Ethics Commission.  
94 D. Any person who believes that a violation of any portion of the code has occurred may file  
95 a complaint with the City Managers Office who may then proceed as provided in  
96 paragraph "A" above. Should the complaint involve the City Manager, then the complaint  
97 will be presented to the city council. However, nothing in this code shall be construed to  
98 prevent any complainant from instituting direct legal action through the appropriate judicial  
99 authority.  
100 E. The Corinth Ethics Commission will be an appointed advisory board and will serve as  
101 follows:  
102 1. The advisory board will consist of Five Members;  
103 2. Will be appointed by the City Council for a term of Two Years and will have  
104 staggered terms;  
105 3. Candidates for the advisory board will be named by the Mayor and will be  
106 approved by majority vote of the city council;  
107 4. Members of this advisory board may not hold an elected municipal office within the  
108 City of Corinth and may not serve on any other advisory board or commission  
109 within the City of Corinth;  
110 5. The advisory board will establish a Standard Operating Procedure for reviewing  
111 complaints, which will be approved by a majority vote of the city council;  
112 6. The City of Corinth Ethics Commission will be accountable to the Mayor and City  
113 Council.  
114

**SECTION 6**

**ADVISORY OPINIONS**

- A. Where any officer or advisory board member has a doubt as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, he may apply to the city attorney for an advisory opinion. The officer or advisory board member shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of the code before such advisory opinion is made.
- B. Until amended or revoked, any advisory opinion shall be binding on the city, the city council, and the city attorney in any subsequent actions concerning the public officer, or advisory board member who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

**SECTION 7**

**SANCTIONS OR PENALTIES**

- A. Criminal violations of this policy will be submitted to the District Attorney's Office, after a review by the City Attorney, which will have sole responsibility to determine the appropriate penalties.
- B. Complaints against council members or advisory board members that are deemed to be valid, non-criminal in nature, and a violation of this policy will have a recommended action by the Ethics Commission; the council, in open session, will affirm that action by majority vote OR take the action that it deems appropriate by majority vote. The following are recommended administrative sanctions:
  - 1. No action, based on the circumstances and/or a first violation
  - 2. Verbal censure in open session
  - 3. Written censure in open session
- C. Complaints against advisory board members appointed by council may have the additional sanction of being removed from that advisory board by a majority vote of the council.
- D. Any contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this code, or which involved the violation of a provision of this code, shall be voidable at the option of the City Council.
- E. Violation of this policy by any candidate for office shall be punishable by a fine in accordance with the general penalty provision found in Section 10.99 of the City code. Each day that a violation is permitted to exist shall constitute a separate offence punishable by the above enumerated fine.

**SECTION 8**

**INVESTIGATIVE RESPONSIBILITIES**

- A. All complaints made against a councilmember(s) or advisory board member(s) with a potential violation of criminal statutes should be referred to the city attorney for review. If warranted, the city attorney should be given responsibility to refer such criminal complaints to the District Attorney for possible action. The city attorney shall advise the city manager and the council in writing of his action. Should the city attorney find no criminal aspects in the complaint, he will refer the complaint as noted below in paragraph B.
- B. Complaints of a non-criminal nature made against a councilmember(s) or advisory board member(s) that violate this policy should be reviewed by the City of Corinth Ethics

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Commission. The Ethics Commission shall advise the city manager and the city council in writing of its findings and recommendations. This review should be completed within a specified and reasonable time limit.

**SECTION 9**

**TEXAS STATUTES**

Elected officials and appointed officials, advisory boards and commissions must adhere to the following Texas statutes:

**Civil Statutes**

- Open Meetings Act (Tex. Gov't. Code, Ann. Ch. 551)
- Public Information Act/Open Records Act (Tex. Gov't Code. Ann. Ch. 552)
- Conflicts of Interest (Tex. Loc. Gov't Code, Ch. 171)
- Official Misconduct (Tex. Penal Code, Ch. 36, Ch. 39)
- Nepotism (Tex. Rev. Civ. Stat. Ann., arts. 5996a & 5996b)
- Whistleblower Protection (Tex. Rev. Civ. Stat. Ann., art. 6552-16a)
- Competitive Bidding and Procurement (Tex Loc. Gov't. Code, Ch 252)

**State Penal Laws**

- Bribery (Tex. Penal Code, 36.02)
- Coercion of Public Servant or Voter (Tex. Penal Code, §36.03)
- Improper Influence (Tex. Penal Code §36.04)
- Tampering with a Witness (Tex. Penal Code §36.05)
- Retaliation (Tex. Penal Code §36.06)
- Gifts to Public Officials (Tex. Penal Code §36.08)
- Offering Gift to Public Servant (Tex. Penal Code §36.09)
- Abuse of Office (Tex. Penal Code, Chapter 39)
- Official Misconduct (Tex. Penal Code §36.02)
- Official Oppression (Tex. Penal Code §39.03)
- Misuse of Official Information (Tex. Penal Code §39.06)

**SECTION 10**

The city secretary shall cause a copy of this code of ethics to be distributed to every officer and advisory board member of the city within thirty (30) days after enactment of this code. Each officer and advisory board member thereafter elected or appointed shall be furnished a copy before entering upon the duties of his or her office. A copy of this code of ethics will be provided to each candidate running for municipal office.

**SECTION 11**

This ordinance shall be cumulative of all provisions of ordinances of the City of Corinth, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which even the conflicting provisions of such ordinances are hereby repealed.

**SECTION 12**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and selections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared

22 unconstitutional by the valid judgment or decree of any court of competent jurisdiction,  
23 such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences,  
24 paragraphs and sections of this ordinance, since the same would have been enacted by  
25 the city council without the incorporation in this ordinance of any such unconstitutional  
26 phrase, clause, sentence, paragraph or section.

27 **SECTION 13**

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29 The City Secretary of the City of Corinth is hereby authorized to publish this  
30 ordinance in book or pamphlet form for general distribution among the public, and the  
31 operative provisions of this ordinance as so published shall be admissible in evidence in  
32 all courts without further proof than the production thereof.

33 **SECTION 14**

34  
35 This ordinance shall be in full force and effect from and after its passage and  
36 publication as required by law, and it is so ordained.

37  
38 PASSED AND APPROVED ON THIS 7<sup>th</sup> DAY OF April, 2005

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42 Victor Burgess  
43 MAYOR



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45 ATTEST:  
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47 Kimberly Pence  
48 CITY SECRETARY

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56 APPROVED AS TO FORM AND LEGALITY:  
57 [Signature]  
58 CITY ATTORNEY  
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60 DATE: \_\_\_\_\_  
61 ADOPTED: \_\_\_\_\_  
62 EFFECTIVE: \_\_\_\_\_  
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