

Chapter X - Conduct of Council Members and Public Officials -Code of Ethics

Sections: X.010 Code of Ethics-Necessity and Purpose.

X.020 Definitions.

X.030 Privileges or Exemptions Prohibited.

X.040 Incompatible Employment, Council Member Ineligibility.

X.050 Conduct of Council Members and Public Officials.

X.060 Remedies.

X.070 Confidential Information-Disclosure Prohibited.

X.080 Restrictions after Leaving the Town.

X.090 Gift Restrictions.

X.100 Ethics Committee.

X.110 Willful Violation--Penalties.

X.120 False Charge—Violation.

X.010 Code of Ethics -Necessity and Purpose.

It is recognized that high moral and ethical standards among Council Members and Public Officials are essential to the conduct of local government; that a code of ethics for the guidance of Council Members and Public Officials is necessary in order to prevent conflicts of interest in public office, improve standards of public service, and promote and strengthen the faith and confidence of the people of the Town in the Town Council and Town management.

X.020 Definitions.

A. “Applicant” means any person or entity, or any principal, officer, owner (including partial ownership) or representative of an entity that makes an application or proposal to the Town or Town Council for a change in any laws pertaining to permissible land uses.

B. “Commitment in a private capacity to the interests of others” means a commitment to a person:

- 1.** Who is a member of the Council Member or Public Official’s Family;
- 2.** Who employs the Council Member or Public Official or his or her Family;
- 3.** With whom the Council Member or Public Official has a substantial and continuing business or professional relationship; or
- 4.** Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (3) of this paragraph.

C. “Conflict of Interest” means any of the following:

- 1.** The Council Member or Public Official or his Family has any pecuniary or proprietary interest, either direct or indirect; or
- 2.** Any matter with respect to which the independence of judgment of a reasonable person in the Council Member or Public Official’s position would be materially affected by:
 - i.** The Council Member or Public Official’s acceptance of a gift or loan; or
 - ii.** The Council Member or Public Official’s commitment in a private capacity to the interests of others.
- 3.** The ordinances of the Town or the statutes of the state of Arizona prohibit the Council Member’s or Public Official’s involvement in the matter.

D. “Council Member” means a person elected or appointed to the Town Council pursuant to law.

E. “Family” means spouse, parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, grandparent or any parent-in-law, son or daughter-in-law or brother or sister-in-law, or any other person related by blood, adoption or marriage within the third degree of consanguinity or affinity.

F. “Public Official” means all appointive members of Town boards, commissions, committees and other multi-member bodies appointed by the Town Council, and all other persons employed by the Town in any capacity.

G. “Special Privileges or Exemptions” mean privileges, exemptions or interests which are peculiar to an individual, as distinct from the rights and interests of the public generally, or identifiable classes of the public.

H. “Town Council” means the governing body of the Town of Tusayan.

X.030 Privileges or Exemptions Prohibited.

No Council Member or Public Official shall use his position to secure special privileges or exemptions for himself, his Family, other persons or employers. Nor shall any Council Member or Public Official accept anything of value that may tend to influence him in the discharge of his duties, or which could have influenced him in the discharge of his past duties.

X.040 Incompatible Employment Prohibited, Council Member Ineligibility.

A. At no time shall a quorum of Council Members be an owner, officer, director, partner, attorney, agent or employee of the same entity. For the purposes of this subsection, the following entities shall be considered part of the same entity:

1. All parent companies and subsidiary companies.
2. All entities engaged in any joint ventures with each other.
3. All entities in which any Family holds, possesses or controls a 25% or more ownership interest.

B. No Public Official shall engage in or accept private employment or render services for private individuals or entities or engage in any business or professional activity when the employment, service or activity is incompatible with the proper discharge of his official duties, or when it would require or induce him to disclose confidential information acquired by him by reason of his official position.

X.050 Conduct of Council Members and Public Officials.

A. Council Members and Public Officials will conduct themselves according to the following rules of conduct as they pertain to work for and on behalf of the Town:

1. Council Members and Public Officials shall maintain decorum and set an example for conduct when representing the Town. Council Members and Public Officials shall conduct themselves so as not to bring disgrace or embarrassment upon the Town.
2. Council Members shall always represent that opinions stated are the Council Member's own and do not necessarily represent those of the Town unless the Town Council has voted and passed an ordinance, resolution or motion that so states the expressed policy.
3. If a Council Member writes to a citizen, the Council Member may use Town stationery. However, the form and language must clearly state that opinions are those of the Council Member unless the Town has taken some official action.
4. Council Members and Public Officials must obtain approval of the Town Council by motion to represent the Town to any organization if the Town financially supports the organization.
5. Council Members and Public Officials must obtain approval of the Town Council by motion to attend any activity for which the Town will pay two

hundred dollars (\$200.00) or more for travel and other expenses.

6. A Council Member or Public Official who has a Conflict of Interest in any ordinance, resolution, or other action or matter pending before the Town or the Town Council shall disqualify himself from participating in any manner including in discussing or voting on the matter and shall disclose in the records of the Town the nature and extent of the interest, and the interest as disclosed shall be retained in the official Town records by the Town Clerk. The disclosure shall include the following:

A. The name of any private business corporation, firm, or enterprise affected by the Town or Town Council action, of which the Council Member or Public Official or his or her spouse is or has been during the preceding twelve (12) months an employee, shareholder, bondholder, secured creditor, partner, joint entrepreneur, or sole proprietor.

B. The name of any such private business or corporation, firm, or enterprise of which the Council Member or Public Official or his or her spouse is or has been during the preceding twelve (12) months an officer, director, partner, attorney, agent or employee who, for services rendered during the preceding twelve (12)-month period or to be rendered in any such capacity has received or been promised compensation of any kind or amount.

C. All other information relevant to the Conflict of Interest.

7. A Council Member or Public Official shall not use his office or employment for personal or financial gain.

8. A Council Member or Public Official shall not make false statements on which the Town Council, Public Officials or other agencies rely to establish policy or make important decisions. A Council Member or Public Official violates this rule if he knows it is untrue, or if the person has knowledge that would lead a reasonable person of ordinary prudence to conclude that the statement is untrue.

9. A Council Member shall not vote on any application or proposal submitted by an Applicant that has previously provided compensation directly or indirectly to that Council Member or their Family through a campaign committee on which the Applicant served as an officer for or contributed more than \$100 to.

10. If a Council Member is convicted of any criminal offense, that Council Member's seat on the Town Council shall be deemed legally vacant and the Town Council shall fill the seat as prescribed by Arizona Revised Statute Section 9-235. The Town Council shall not reappoint the former Council Member to the vacated seat.

X.060 Remedies.

A. In addition to any other remedies provided by law, any contract entered into or any other action taken by the Town Council or any Public Official in violation of this enactment is void.

B. Any person may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this enactment. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

X.070 Confidential Information-Disclosure Prohibited.

A. No Council Member or Public Official shall, except as allowed by law or required in the performance of his duties, or in the course of any conduct reasonably believed to be in the performance of his duties, disclose confidential information, gained by reason of his official position, nor shall he otherwise use the information for his personal interest. Confidential information shall include:

- 1.** Personnel information applications, and any files maintained for Council Members or Public Officials;
- 2.** Information required of any taxpayer or Town license holder in connection with the assessment or collection of any tax or license fee if the disclosure of the information to other persons would tend to violate the taxpayer or licensee's right to privacy or may result in unfair competitive disadvantage to such taxpayer or licensee;
- 3.** Specific intelligence information and specific investigative files compiled by investigative law enforcement and penology agencies and those state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;
- 4.** Information revealing the identity of persons who file complaints with investigative law enforcement or penology agencies; except as the complainant may authorize;
- 5.** Test questions, scoring keys and other examination data used to administer license, employment or civil service examination;
- 6.** The contents of any real estate appraisals made for or by any agency, including the Town relative to the acquisition of property by the Town until the project is

abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three (3) years after the date of the appraisal;

7. Valuable formula, designs, drawings and research data obtained or produced by the Town or its Public Officials within five (5) years of any request for disclosure thereof, when disclosure would produce private gain and public loss;

8. Preliminary drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action;

9. Records which are relevant to a controversy to which the Town or any of its Public Officials is a party and would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts;

10. Any other information as is declared confidential by other specific statutes;

B. The confidential areas hereinabove listed shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought.

X.080 Restrictions after Leaving the Town.

A. For one year after leaving the Town, a Council Member or Public Official may not hold or acquire a financial or remote interest directly or indirectly personally or through their family in any contract approved by Town Council or made by through or under their supervision or accept directly or indirectly any compensation, gratuity, or reward from any person interested in such a contract or transaction.

B. For one year after leaving the Town, a Public Official may not, for compensation, assist anyone in proceedings involving the Town concerning any matter with which the Public Official was directly concerned and in which the Public Officer personally participated during the Public Officer's employment or service by a substantial and material exercise of administrative discretion.

C. For one year leaving the Town, a Public Official or Council Member may not compete for a Town contract when they were involved in determining the scope of work or the selection process.

D. For one year after leaving the Town Council, a Council Member may not, for compensation, attempt to influence the passage or defeat of any pending or proposed matter by directly communicating with any Council Member, and may not, for compensation, assist anyone in proceedings involving the Town.

X.090 Gift Restrictions.

In addition to the restrictions in Section X.030, A Council Member or Public Official may not accept gifts with a total value of \$20 or more during any calendar year from any person or entity, or principal, officer, owner (including partial ownership) or representative of any entity with any matters decided by or pending before the Town Council.

X.100 Ethics Committee.

There is created an Ethics Committee (herein the “Committee”). The purpose of this Committee is to issue opinions on the provisions of this Code of Ethics and to investigate any alleged violations of this Code of Ethics, and take disciplinary action or recommend disciplinary action where appropriate. The Committee shall be composed of five (5) members and one (1) alternate member none of which shall be a Council Member or Public Official. The Committee members shall be appointed by the Town Council and the term of each Committee member shall be six (6) years. The Chair of the Committee shall be elected by majority vote of the five Committee members with the alternate member breaking any ties. In the event a Committee member must recuse himself or otherwise be unavailable to conduct Committee business, the alternate member shall serve in his place. If a second alternate member is required the Committee shall select such alternate member from a pool consisting of prior Committee members or from members of the public if none are available.

A. A majority of the Ethics Committee shall constitute a quorum. The Committee shall meet as frequently as it deems necessary and in accordance with the provisions of this Code of Ethics. The Committee shall adopt procedures consistent with the provisions of this Code of Ethics governing the conduct of its meetings, investigations, hearings and the issuance of rulings, recommendations and opinions.

B. Any person may submit a written complaint to the Committee Chairman alleging one or more violations of this Code of Ethics by a Council Member or Public Official. The allegation must set forth specific facts with precision and detail. In addition the complaint must set forth the specific sections and subsections of this Code of Ethics that the facts violate and the reasons why.

C. The Committee shall conduct an investigation of all written complaints and shall set forth in writing its findings of fact and conclusions as to whether or not the individual against whom the complaint was filed has violated the Code of Ethics. In the case of a violation of the Code of Ethics, the Committee shall take disciplinary action as provided in subsection F, or recommend disciplinary action to the Town Council, as appropriate.

D. The Committee may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation by the Committee or in connection with any hearing conducted by the Committee. In the event any person disobeys a subpoena the Committee may invoke the aid of any Superior Court of the State. Such court may issue an order requiring such person to appear before the Committee to produce documentary evidence and/or to provide testimony, and any failure to obey such order may be punished by that court as contempt.

E. No rulings, recommendations or opinions may be issued by the Committee unless a person or entity complained against has had an opportunity to present information on his her or its behalf at a hearing before the Committee. A copy of the written ruling, recommendation or opinion shall be delivered to the Town Council and the complaining party within seven calendar days of conclusion of the hearing.

F. In the event the Committee finds that the individual against whom the complaint has been filed has violated the Code of Ethics, the Committee may take any of the following actions or recommend that the Town Council take any of the following actions:

1. Admonition. An admonition shall be a verbal public statement made by the Town Council to the individual.

2. Reprimand. A reprimand shall be administered to the individual by letter. The letter shall be prepared by the Town Council and shall be signed by the Mayor.

3. Censure. A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the Town Council to receive the censure. Public notice shall be given at least twenty (20) days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual.

4. Removal. Removal shall be removal of the individual from such Town Council position or terminating the services of any Public Official.

G. The Ethics Committee may also render written opinions concerning the applicability of the Code of Ethics to hypothetical circumstances or situations upon the request of any person. The Town shall release copies of any written advisory opinions or opinions resulting from an investigation of a complaint and any written censures or reprimands issued by the Town Council in response to public records requests.

H. The Town Manager shall provide staff as he or she deems appropriate to assist the Ethics Committee and Committee members shall be reimbursed by the Town

for reasonable expenses incurred in its exercise of the official business of the Committee consistent with the expense reimbursement policies of the Town.

X.0110 Willful Violation—Penalties.

A. Any Council Member or Public Official who knowingly and willfully violates any provision of this Code of Ethics shall be guilty of a misdemeanor. In addition to the penalties herein provided, violation may constitute cause for the penalties prescribed in Section X.100(G), and may include restitution or judicial action for recovery of any loss to the Town that resulted from violation of this chapter.

B. The element of willfulness is satisfied if an individual acts knowingly with respect to the material elements constituting a violation of this chapter.

X.120 False Charge-Violation.

Any person who files a false charge of misconduct on the part of any Council Member or Public Official when the person knows it is false shall be guilty of a misdemeanor. In addition to the penalties herein provided any person convicted of a violation of this section shall also pay the costs and expenses of the Ethics Committee's investigation.

Section 2.

Severability.

If a provision of this enactment or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this enactment that can be given effect without the invalid provision or application and, to this end, the provisions of this enactment are severable.