

ORDINANCE NO. 762

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SNOQUALMIE,
WASHINGTON, ESTABLISHING A NEW CHAPTER 2.80 IN THE
SNOQUALMIE MUNICIPAL CODE, CODE OF ETHICS**

WHEREAS, elected and appointed public officials and public employees are agents of the people and hold their positions for the benefit of the people; and

WHEREAS, maintaining high ethical standards among elected and appointed public officials and public employees is essential to gain and maintain the confidence of the public, because such confidence is essential to the conduct of a democratic government; now, therefore, be it

ORDAINED by the City Council of the City of Snoqualmie, Washington as follows:

Section 1. There is hereby added a new chapter 2.80 to the Snoqualmie Municipal Code to read as follows:

Chapter 2.80

CODE OF ETHICS

2.80.010 Purpose

A. The proper operation of democratic representative government requires that elected and appointed public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the City, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the City; and to provide effective means for enforcement thereof. This chapter shall not be construed so as to impair the ability of City officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

B. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for City officers and employees.

C. This chapter shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this Code.

2.80.020 Definitions

For the purpose of interpreting and enforcing the Code of Ethics, the following definitions shall apply:

A. Business entity. Any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not organized for profit.

B. City Agency. Every department, office, Ethics Hearing Officer, commission, or committee of the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

C. City Officer or Employee. Any person holding a position by election, appointment, or employment in the service of the City or City agency, whether paid or unpaid, including members of any Ethics Hearing Officer, committee or commission.

D. Compensation. Anything of economic value, however designated, which is paid, loaned, advanced, granted, given or transferred for or in consideration of personal services to any person.

E. Beneficial Interest. Any direct or indirect, pecuniary or material benefit accruing to a City officer or employee as a result of a contract, transaction, zoning decision or other matter which is or may be the subject of an official act or act by or with the City, except for such contracts, transactions, zoning decisions or other matters which by their terms and by the substance or their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. For purposes of this ordinance, a City officer or employee shall be deemed to have an interest in the affairs of:

1. The officer or employee's spouse or dependent children;
 2. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the City officer or employee;
 3. Any business entity in which the City officer or employee is an officer, director, member or employee;
 4. Any business entity in which the public officer or employee controls or owns, directly or indirectly, in excess of five percent (5%) of the total stock, or an interest totaling \$5,000.00 or more in value;
- and

5. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the City officer or employee; provided, however, that a contractual obligation of less than Five Hundred Dollars (\$500.00), or a commercially reasonable lien made in the ordinary course of business, or a contract for a commercial retail sale, shall not be deemed to create an interest in violation of this code.

F. Gift. Anything of economic value in excess of \$20, regardless of the form, without adequate and lawful considerations, provided, it does not include the solicitation, acceptance, or receipt of political campaign contributions regulated in accordance with provisions of federal, state, or local laws governing campaign finances

G. Immediate Family. Any person who is:

1. A spouse or domestic partner.
2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law, child or son-in-law; or
3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the City officer or employee.

H. Official Act or Action. Any legislative, administrative, appointive or discretionary act of any City officer or employee of the City or any Ethics Hearing Officer, committee or commission thereof.

I. Person. Any individual, association, corporation, or other legal entity.

2.08.030 Prohibited Conduct

A. Disqualification from acting on City Business

No City officer or employee, while holding such office or employment, shall:

1. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify him or herself from official action in those instances where the conflict occurs.

2. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any matter upon which the officer or employee is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating.

3. Fail to disqualify himself or herself from acting on any transaction which involves the City and any person who is, or at any time within the preceding twelve (12) month period has been a private client of his or hers, or of his or her firm or partnership.

4. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any contract or transaction to which the City or any City agency may be a party, and fails to disclose such interest to the appropriate City authority prior to the formation of the contract or the time the City or City agency enters into the transaction; provided, that this paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law.

B. Improper Use of Official Position

No City officer or employee, while holding such office or employment, shall:

1. Use his or her official position for a purpose that is, or would be to a reasonable person appear to be primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the City; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person.

2. Use or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any City funds or City property, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose; provided, that nothing shall prevent the private use of City property which is available on equal terms to the public generally (such as the use of library books or tennis courts), the use of City property in accordance with municipal policy for the conduct of official City business (such as the use of a City automobile), if in fact the property is used appropriately; or the use of City property for participation of City or its officials in activities of associations of governments or governmental officials.

3. Except in the course of official duties, assist any person in any City transaction where such City officer or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer or employee's position with the City; provided that this subsection shall not apply to any officer or employee appearing on his or her own behalf or representing himself or herself as to any matter in which her or she has a proprietary interest, if not otherwise prohibited by this chapter or any other applicable ordinance, regulation or statute.

4. Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in a business entity doing or seeking to do business with the City, and influence or attempt to influence the selection of, or the conduct of business with, such business entity by the City.

C. Acceptance of Gifts or Loans

No City officer or employee, while holding such office or employment, and for a period of one year after leaving City employment, shall solicit or receive any retainer, gift, loan, entertainment, favor or proprietary reward, or other thing of monetary value from any person or

entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value had been solicited, or received or given or, to a reasonable person, would appear to have been solicited received or given with intent to give or obtain special consideration of influence as to any action by such officer or employee in his or her official capacity; provided, that nothing shall prohibit contributions for election campaigns which are solicited or received and reported in accordance with applicable law.

D. Disclosure of Confidential or Privileged Information

No City officer or employee, while holding such office or employment, or at any time after leaving office or employment, shall disclose or use any confidential or privileged information gained by reason of his or her official position for a purpose which is for other than a City purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

E. Financial or Beneficial Interest in City Transactions

No City officer or employee, while holding such office or employment, shall:

1. Regardless of prior disclosure thereof hold or acquire a beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is, or which may be, made by, through, or under the supervision of such officer or employee or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein, in violation of Chapter 42.23 RCW

2. Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, in any contract or transaction which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract or transaction from any other person beneficially interested therein, in violation of Chapter 42.23 RCW. This subsection shall not apply to the furnishing of water, other utility services, or other services of the City at the same rates and on the same terms as are available to the public generally, or to any other transaction specifically exempted by Chapter 42.23 RCW.

F. Quasi Judicial Proceedings, Reporting of Violations, False Statements.

No City appointed officer or employee, while holding such office or employment, shall:

1. Participate in or influence any pending quasi judicial proceeding if the City official or employee has a financial or personal interest in the matter.

2. Intimidate, harass, discipline or otherwise take any improper action against a member of the public, a City officer or employee solely because he or she in good faith has reported a violation of this Code of Ethics, or any other written City code or policy.

3. Induce or direct any City officer or employee to make any false statement or representation of any public record or document in willful disregard of the truth of such statement or representation.

G. Prohibited Conduct After Leaving City Office or Employment.

1. No former officer or employee shall, for a period of one year after leaving City office or employment:

a. Assist any person in proceedings involving the agency of the City with which he was previously employed, or on a matter in which he or she was officially involved, participated or acted in the course of duty.

b. Represent any person as an advocate in any matter in which the former officer or employee was officially involved while a City officer or employee.

c. Participate as a competitor in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used.

2. A City officer, who contracts with a former City officer or employee for expert or consultant services within one(1) year of the latter's leaving City office or employment, shall promptly inform the City Administrator about the agreement.

3. The prohibition of subsection G.(1) shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the City.

2.80.040 Disclosure of Interest in Legislative Action

A. Any member of Council who has a financial interest or personal interest in any proposed legislation before the Council shall disclose on the record the nature and extent of such interest. If the member of Council would be especially benefited by such legislation, the member of Council shall not participate in the discussion or vote upon such matter.

B. Any other City officer or employee who has a financial or personal interest in any proposed legislative action of the Council and who participates in the discussion with or gives an official opinion or recommendation to the Council shall disclose on the record the nature and extent of such interest.

2.80.050 Ethics Hearing Officer--Position Created

There is hereby created the office of Ethics Hearing Officer, who shall be appointed by the Mayor and confirmed by the City Council. The Ethics Hearing Officer shall be an attorney not holding any other elective or appointive office with the city. The Ethics Hearing Officer may be

removed from office with or without cause by the Mayor with the concurrence of the City Council. The compensation of the Ethics Hearing Officer, and other terms and conditions of the engagement, shall be set forth in a written contract.

2.80.060 Ethics Hearing Officer--Powers and Duties

The Ethics Hearing Officer shall have the following powers and duties:

- A. The Ethics Hearing Officer shall be a quasi judicial fact finder.
- B. The Ethics Hearing Officer shall perform the following duties:
 1. Upon request of a City officer or employee, the Ethics Hearing Officer shall render advisory opinions, in writing, to any officer or employee having doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein. Officers and employees may rely upon such written opinions, which shall be binding upon the City until amended or revoked, unless material facts were misstated or omitted in the request for the advisory opinion. Advisory opinions shall be filed with the City Clerk and shall be public records, except to the extent necessary to preserve protected privacy interests under RCW 42.17.310, and further provided, the opinion shall be stated in general issue and opinion format, without disclosure of the identity of the person requesting it.
 2. Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is alleged to be in violation, the Ethics Hearing Officer shall investigate said complaint and, upon making a determination that the complaint is legally sufficient and that it is supported by probable cause, conduct a hearing and issue findings and recommendation as provided below.
 3. Determinations of legal sufficiency and probable cause shall be made within thirty days after receipt of any complaint.
 4. Proceedings before the Ethics Hearing Officer shall be recorded, and proper minutes of all meetings and actions shall be kept.

2.80.070 Hearings.

The Ethics Hearing Officer shall make no findings and recommendation without first conducting a hearing, which shall be held within thirty days after the determination of legal sufficiency and probable cause, provided, any matter which the Ethics Hearing Officer determines would be deemed minor or inadvertent even if the allegations were proven may be summarily dismissed without further proceedings, with the findings of legal sufficiency and probable cause noted in the minutes of the proceedings, if the officer or employee stipulates in writing to appropriate corrective measures to ensure such conduct will not continue or reoccur. All hearings shall be closed to the public unless the officer or

employee whose conduct is the subject of the hearing requests that it be a public hearing. All testimony before the Ethics Hearing Officer shall be sworn on oath or affirmation, subject to the laws of perjury of the State of Washington. Any party or witness in a proceeding before the Ethics Hearing Officer shall have the right to be represented by counsel. Within twenty days after the conclusion of a hearing, the Ethics Hearing Officer shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the hearing, complainant, the Mayor, and the City Council. •

2.80.080 Recommendations of the Ethics Hearing Officer.

A. If the Ethics Hearing Officer determines that a City employee has violated the provisions of this code, the Ethics Hearing Officer may recommend to the Mayor that the employee be subject to disciplinary action. In addition to any other penalty otherwise provided by law, a violation shall be cause for suspension, discharge or removal from office, or such other disciplinary action as may, by the appropriate City authority, be deemed necessary and proper, and consistent with the City personnel manual, and/or state law. A written report of the disciplinary action taken as a result of the Ethics Hearing Officer's recommendation shall be made by the appropriate City authority to the Ethics Hearing Officer within fourteen days after receipt of the Ethics Hearing Officer's recommendation.

B. This section shall not derogate from employee rights under any collective bargaining agreement or City personnel manual or rules promulgated thereunder.

C. If the Ethics Hearing Officer determines the Mayor or a Council member has violated a provision of the Code of Ethics, then he shall issue a "Letter of Censure."

D. If the Ethics Hearing Officer determines any person has willfully and knowingly violated the provisions of this chapter, he may refer the matter to the Prosecuting Authority for action under section 2.80.100.

2.80.090 Criminal Violations – Prosecuting Authority -- Penalties

A. Any officer or employee who knowingly and willfully violates the provisions of this chapter shall be guilty of a misdemeanor.

B. The Prosecuting Authority for violations of this chapter shall be appointed by the Mayor and confirmed by the City Council. The Prosecuting Attorney shall not be the City Attorney or City Prosecuting Attorney. If the Ethics Hearing Officer recommends criminal prosecution of any elected officer, and Prosecuting Authority has not previously been appointed and confirmed, then the Prosecuting Authority shall be appointed by the King County Prosecuting Attorney. The Prosecuting

Authority shall not have authority to prosecute any matters except those referred by the Ethics Hearing Officer pursuant to section 2.90.090(D).

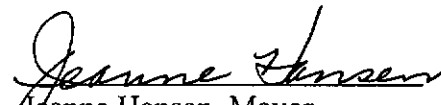
C. Any person convicted of a violation of this chapter shall be punished by imprisonment for not more than ninety days, or a fine of not more than \$1,000, or by both such imprisonment and fine.

Section 2. The City Clerk shall cause a copy of chapter 2.80 SMC, Code of Ethics, to be distributed to every elected and appointed officer and employee of the City within thirty days after its adoption. Each officer and employee elected, appointed or employed thereafter shall be furnished a copy before entering upon the duties of such office or employment.

Section 3. If any provision of this ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or the application of this ordinance which can be given effect without the invalid or unconstitutional provision.

Section 4. This ordinance shall be in full force and effect from and after its adoption and the expiration of five days after publication as required by law.

PASSED, by the City Council of the City of Snoqualmie this 25 day of March 1996.


Jeanne Hansen, Mayor

Attest:


Jill C. Long, City Clerk