

## **ORDINANCE NO. 593**

### **AN ORDINANCE ESTABLISHING POLICIES AND PROCEDURES GOVERNING PROFESSIONAL ETHICS AND CONFLICTS OF INTEREST OF GRAND COUNTY OFFICERS AND EMPLOYEES AND REPEALING AND REPLACING ORDINANCE NO. 462**

WHEREAS, Grand County policy and Utah law, including the Utah County Officers and Employees Disclosure Act, Utah Code §17-16a-1 *et seq.*, the Utah Public Officers and Employees, Utah Code §§ 67-16-1 *et seq.*, and the Utah Election Code, Utah Code §§ 20A-11-101 *et seq.*, requires honest and ethical conduct by its officers, employees and volunteers;

WHEREAS, the effective operation of County government requires officers, employees and volunteers to be independent, impartial, and responsible to County government and its citizens;

WHEREAS, it is the intent of Grand County Government to promote confidence in County government and ensure that citizens of the community are represented in a fair and impartial manner by County officers and employees;

WHEREAS, the County desires to establish standards of conduct for County officers, employees and volunteers where there are actual or potential conflicts of interest between their public duties and their private interests, and to promote honest and ethical conduct; and

WHEREAS, the County Council adopted Ordinance 462 on November 20, 1997, which is hereby repealed and replaced.

NOW THEREFORE, the Grand County Council ordains:

#### **1. DEFINITIONS.**

- 1.0 **CONFLICT OF INTEREST:** A Restricted Conflict of Interest or Non-Restricted Conflict of Interest or any other interest that creates a potential or actual conflict between the interest and the public duties of the County officer, employee, or volunteer.
- 1.1 **DISCLOSURE STATEMENT:** The Disclosure Statement, as required by the "County Officers and Employees Disclosure Act", Utah Code, Title 17, Chapter 16a, and the "Utah Public Officers' and Employees' Ethics Act", Utah Code, Title 67, Chapter 16, and the Utah Election Code, Utah Code, Title 20A, Chapter 16, is a written and sworn public document which discloses Financial Interests, Non-Restricted Conflicts of Interest, and Restricted Conflicts of Interest filed with the County Council .
- 1.2 **FINANCIAL INTEREST:** An interest that could result in direct or indirect pecuniary gain or loss to the officer, employee, or volunteer, or a member of their household, as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any person.
- 1.3 **GIFTS:** Anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.
- 1.4 **HONORARIA:** The offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.

- 1.5 **HOUSEHOLD:** All persons who occupy a residence or dwelling with the officer, employee or volunteer for an entire year including family members (spouse, child, ward, parents, siblings, mother-in-law, father-in-law, grandparent, legal guardian, grandchild, adult designee, dependent child of an adult designee and step-relatives of the same order), relatives (uncle, aunt, nephew, niece, first cousin, brother-in-law, sister-in-law, son-in-law, daughter-in-law) and any unrelated persons.
- 1.6 **NON-RESTRICTED CONFLICT OF INTEREST:** A Financial Interest in a business entity generally regulated by the County; a personal (political, family, fraternal, social) interest that may create the appearance or the actuality of a Conflict of Interest with county responsibilities; or any campaign contribution made to an elected official or to any member of their household totaling more than five hundred dollars during the prior calendar year.
- 1.7 **PURCHASING OFFICIAL:** Any officer or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods, services or real property, or any specific contract related to a procurement of goods or services or disposal of property.
- 1.8 **RESTRICTED CONFLICT OF INTEREST:** A Financial Interest in a business entity doing business with the County or a Financial Interest involving a person doing business with the County. Outside public sector employment does not constitute a Restricted Conflict of Interest. As used herein, "doing business with the County" includes, without limitation, the process of contracting with the County to provide services, supplies, materials, or equipment or the act of requesting from the County a land use approval specific to real property owned by the business entity or person.

## 2.0 PROCEDURE

- 2.1 **Conflicts of Interest - County Officers, Employees and Volunteers shall not:**
  - 2.1.1 Accept employment or engage in any business or professional activity which may be reasonably expected to require or induce improper disclosure of controlled, private or protected information gained through affiliation with the County.
  - 2.1.2 Disclose or improperly use controlled, private or protected information acquired through affiliation with the County for the private gain or benefit of self or others.
  - 2.1.3 Use or attempt to use their official position to secure special privileges or exemptions for self or others.
  - 2.1.4 Engage in any outside activity, employment or financial investment which impairs their judgment regarding the faithful performance of county responsibilities.
  - 2.1.5 Knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or economic benefit tantamount to a gift such as a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and compensation received for private services rendered at a pay rate substantially exceeding the fair market value of the services, if:
    - 2.1.5.1 It may be reasonably expected to improperly influence an officer, employee or volunteer to depart from the faithful and impartial discharge of their County duties;

- 2.1.5.2 The officer, employee or volunteer knows, or a reasonable person in that position should know under the circumstances, it is primarily for the purpose of rewarding the officer, employee or volunteer for an official action already taken.
- 2.1.5.3 The officer, employee or volunteer is now or in the near future may be involved in any governmental action directly affecting the donor or lender unless disclosures have been made as required under Section 5.0.
- 2.1.6 Participate in vendor / customer incentive programs which place the officer, employee or volunteer at risk of being viewed as either misappropriating county property or using their position to secure a privilege by virtue of the county position or employment held by the purchaser.
- 2.1.7 Accept an incentive from any retailer or vendor.
  - 2.1.7.1 If the officer, employee or volunteer were to come into possession of such property, the property must be turned over to the county as soon as practicable and a record made of the fact it was turned over to the county.
- 2.1.8 Accept honoraria in regard to activities related to their county duties or purpose except as allowed in Section 2.1.14.
  - 2.1.8.1 Consultation, Speeches and Presentations: The County may grant the requests of schools, universities, civic organizations, governmental entities or private businesses to have employees give speeches or other presentations, teach or provide consultation services. Such services by employees must be authorized by the employee's Supervisor and the County Council Administrator and shall be compensated as for other regularly assigned duties.
- 2.1.9 Knowingly accept or solicit any gift for themselves, a relative, a household member or organizations of the officer, employee, volunteer or others, except as allowed in Section 2.1.14.
- 2.1.10 Participate in an official capacity or receive compensation in respect to any transaction between the County and any business entity in which the officer, employee, volunteer or a member of their household is also an officer, director, employee or owns a substantial interest, as defined under financial interest, in the company without first filing a conflict of interest disclosure statement as outlined in Section 5.0.
- 2.1.11 Receive or agree to receive compensation for assisting any person or business entity in any transaction involving the County without first filing a conflict of interest disclosure statement as outlined in Section 5.0.
- 2.1.12 No county officer or employee shall employ, appoint or attempt to influence the appointment or hiring of a relative or household member to any county position or employment paid out of county funds, except for temporary or seasonal employment or positions lasting twelve weeks or less.
- 2.1.13 No county officer or employee shall directly supervise or evaluate for purposes of pay, benefits, promotion or discipline a relative or household member in any county position or employment paid out of county funds.
- 2.1.14 Exceptions - The following are exceptions to the gifts and honoraria requirements:
  - 2.1.14.1 The gift is a political contribution authorized by law and reported as part of the campaign disclosure requirements of the county or any other governmental entity;

- 2.1.14.2 Token items of nominal value (\$50 or less) including, but not limited to educational materials, t-shirts, coffee mugs, parking validations or other commemorative or similar souvenir items;
- 2.1.14.3 Snacks, beverages, educational or informational materials provided at meetings or other functions;
- 2.1.14.4 Transportation to and attendance at conventions, seminars or events of a primarily educational nature, including meals and entertainment that are part of the required registration, and any associated educational or informational materials directly related to the official duties of the officer, employee or volunteer;
- 2.1.14.5 Gifts not related to the activities of the officer, employee or volunteer with the county;
- 2.1.14.6 Awards publicly made for public service;
- 2.1.14.7 Food or a beverage given at a widely attended reception, meal or meeting by an organization before whom the recipient appears to represent the County, make a speech, answer questions or participate in part of a program;
- 2.1.14.8 Attendance at political events that are primarily sponsored by a political party or political candidate;
- 2.1.14.9 Flowers, plants, balloons or similar tokens which are given to express condolences, congratulations or sympathy for ill health or to commemorate holiday or special occasions;
- 2.1.14.10 County-sponsored programs, activities, or work;
- 2.1.14.11 Gifts for the County that become the property of the County;
- 2.1.14.12 Gifts to county officers, employees, volunteers or agencies from other county officers, employees, volunteers or agencies;
- 2.1.14.13 Death transfers including bequests and inheritances; and
- 2.1.14.14 Gifts to blind trusts related to legal defense funds for imminent or pending litigation against officers or employees related to their official duties.

### **3.0 GIFTS AND PROCUREMENT.**

- 3.1 Without exception, it is unlawful and punishable as provided by law for any Purchasing Official, in the course of their public duties and during negotiation or transaction for a specific procurement, disposal, contract, or subcontract, to receive or solicit any gift or a request for employment from any person including a vendor or service provider.
  - 3.1.1 It is unlawful and punishable as provided by law for any payment, gift or offer of employment to be made by any person to a County officer, employee, volunteer, contractor or any household member of the County officer, employee or contractor of the county to obtain a specific procurement, disposal, contract or subcontract.

**4.0 CONFLICTS OF INTEREST – DISCLOSURE AND RECUSAL.**

- 4.1 Disclosure Required:** All County officers, employees, and volunteers shall disclose all Restricted and Non-Restricted Conflicts of Interest relating to: a) an interest in a business entity or person regulated by the County or doing business with the County, b) compensation for assistance in transactions involving the County, and c) any other Conflict of Interest which creates a potential or actual conflict with their County duties, as follows:
  - 4.1.1 Written Disclosure:** By Disclosure Statement as provided in Section 5.0.
  - 4.1.2 Oral Disclosure:** By oral disclosure prior to each and every discussion or deliberation related to the matters specified in this Section 4.1. Such disclosure shall be entered in the minutes of the meeting.
- 4.2 Recusal Required:** After first making the necessary disclosure, all County officers, employees, and volunteers with a Restricted Conflict of Interest shall recuse themselves from all discussions, deliberations, decision-making, or voting relating to: a) an interest in a business entity or person regulated by the County or doing business with the County, and b) any other Conflict of Interest which creates an actual conflict with their County duties. Such recusal shall be entered into the minutes of the meeting.

**5.0 DISCLOSURE STATEMENT.**

- 5.1 Filing, generally:** County officers, employees and volunteers are responsible for filing and updating their Disclosure Statement(s) with the HR Director.
- 5.2 Statement Form:** The Disclosure Statement shall provide the name and position of the County officer, employee, or volunteer; the nature of the Conflict of Interest; the relationship between the Conflict of Interest and the business of the County; the name and address of the person or business entity involved; and the nature and value of a Financial Interest.
- 5.3 Time for Filing:** The Disclosure Statement shall be filed:
  - 5.3.1** Within thirty (30) days of being sworn into office, new employment, or providing volunteer services, and on or before January 31 of each year thereafter during which a person continues to be a County officer, employee, or volunteer.
  - 5.3.2** At least ten (10) days prior to the date of any agreement to provide assistance or receive compensation.
  - 5.3.3** Prior to a meeting at which a transaction involving a Conflict of Interest, as more particularly defined in Section 4.0, is included on an Agenda of a relevant County board, commission, or agenda.
- 5.4 Audit Committee:** The HR Director shall maintain scans of all Disclosure Statements and shall provide copies of the same to the Grand County Audit Committee on or before the last day of February each year for consideration and to potentially eliminate or mitigate conflicts of interest within the County.
- 5.5** On an annual basis, the HR Director shall coordinate with the County Council Administrator to place the list of Disclosure Statements received by County officers, employees, and volunteers in the preceding year on the County Council's Consent Agenda.

6.0 PROFESSIONAL CODE OF ETHICS.

- 6.1 County employees and volunteers who work in occupations having professional codes of ethics or standards of professional responsibility shall adhere to those requirements in the performance of their County duties. Failure to abide by professional codes of ethics may adversely affect the employees' ability to perform their duties and may, in appropriate cases, result in disciplinary action or termination of County employment.
- 6.2 Failure by a County employee or volunteer to meet the requirements of their professional or occupational licensing authority, resulting in loss of the license required to practice in such profession/occupation and the inability to continue to work in the County position may be a basis for immediate termination of employment.
- 6.3 County employees and volunteers shall have an ongoing obligation to report to their supervisor any actions taken by the licensing authority, including the facts giving rise to such action, which affects their right to continue to practice in that profession to report as required may be a basis for immediate termination of employment.
- 6.4 County employees, officers and volunteers are expected to comply with applicable County policies, ordinances and laws in their position with the County.

7.0 SUSPENSION. Any provisions of this Ordinance that are more restrictive than state law may be suspended by the County Council, Planning Commission, or any board, commission, or committee of the County if the body hears the nature of the Conflict of Interest and a 2/3rds majority of the remaining body as assembled agree by affirmative vote that said Conflict of Interest should not prohibit the conflicted County officer, employee or volunteer from participating, commenting, and voting during the meeting.

8.0 SAVINGS CLAUSE. Ordinance No. 462 is hereby repealed and replaced by this Ordinance; provided, however, that Ordinance No. 462 shall remain in full force to authorize the discipline of a person who violated Ordinance No. 462 prior to the effective date of this Ordinance.

9.0 ENFORCEMENT.

- 9.1 In consultation with the County Attorney, it shall be the responsibility of the HR Director to advise elected officials of the requirements and prohibitions of this Ordinance; the County Council Administrator to advise department heads of the same; and each elected official and department head to advise employees and volunteers in their office or department of the same.
- 9.2 Each elected official or department head may adopt more restrictive internal policies regarding outside employment only applicable to their office or department as allowed by law and approved by the County Council.
- 9.3 In addition to any penalty contained in any other County policy or provision of Utah law, any County officer, employee, or volunteer who knowingly and intentionally violates this Ordinance is guilty of a class A misdemeanor and shall be dismissed from employment or removed from office.

**PASSED, ADOPTED, AND APPROVED** by the Grand County Council in open session this 16th day of July 2019 by the following vote:


Those voting aye: Halliday, Wells, Morse, Paxman, Clapper

Those voting nay: \_\_\_\_\_

Absent: McGann, Hawks

This Ordinance shall take effect after publication in the *Times Independent*.

GRAND COUNTY:

  
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Evan Clapper, Chair *Terry Morse, vice-chair*  
Grand County Council

ATTEST:

  
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Chris Baird, Clerk/Auditor