

**THE
CHAPEL HILL
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

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CHAPTER 6

CODE OF ETHICS

SECTION

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1-601. Applicability and interpretation. (1) This chapter establishes the code of ethics for the town and applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation or other instrumentality appointed or created by the town. The words "city," "town" and "municipal" are interchangeable and shall include these separate entities. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel provisions. In any situation in which a personal interest is also a conflict of interest under state law, the more restrictive provision shall apply.

(2) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics. (2005 Code, § 1-601)

1-602. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) "Censure" means an expression of severe criticism or reproach.
- (2) "Credible," for the purposes of complaints alleging that any official or employee has violated any provision of this chapter, means that the complaint is not:
 - (a) Submitted anonymously.
 - (b) Clearly unbelievable.
 - (c) From a source not considered to be trustworthy under the circumstances.
- (3) "Employment interest" includes a situation in which an official or employee or a designated family member is employed with or negotiating

possible employment with a person or organization that is the subject of a vote or that is to be regulated or supervised.

(4) "Gift" means the transfer of anything of economic value, regardless of form, without reasonable consideration. "Gift" may include a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. "Gift" does not include political campaign contributions which are solicited or accepted in accordance with applicable laws and regulations.

(5) "Official" means the members of the board of mayor and aldermen, as well as members appointed thereby to town boards, commissions, committees, authorities, corporations or instrumentalities established by law or by this code. "Official" also includes the town judge.

(6) "Personal interest" means:

(a) Any financial, ownership or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;

(b) Any financial, ownership or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership or employment interest of the official's or employee's immediate family. For the purposes of this chapter, "immediate family" includes spouse, children (including natural, step and adoptive), parents (including natural, step and adoptive), siblings, parents-in-law, siblings-in-law, grandparents and grandchildren, and any other individual residing within the employee's household who is a legal dependent of the employee for income tax purposes. (2005 Code, § 1-602)

1-603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (2005 Code, § 1-603)

1-604. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose the interest, before the exercise of the discretion when possible, on a form provided by and filed with the town recorder. Copies of such forms filed with the town recorder shall be provided to the town administrator and, in the case of an employee, filed in the employee's personnel file. In addition, the official or employee may, to the extent allowed by law, charter,

ordinance, or policy, recuse himself from the exercise of discretion in the matter. (2005 Code, § 1-604)

1-605. Acceptance of gifts, gratuities, etc. (1) An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the town:

(a) For the performance of an act, or refraining from performance of an act, that the individual would be expected to perform, or refrain from performing, in the regular course of the individual's duties; or

(b) That might reasonably be interpreted as an attempt to influence the individual's action, or reward the individual for past action, in executing municipal business.

(2) Unless impartiality and independent judgment of an official or employee would be compromised, this section shall not apply to meals provided to officials or employees or gifts of food, candy or other consumable items. (2005 Code, § 1-605)

1-606. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment and not available to the general public with the intent to result in financial gain for himself or any other person or entity. (2005 Code, § 1-606)

1-607. Use of municipal time, facilities, etc. An official or employee may not use or authorize the use of municipal time, facilities, equipment, supplies or other resources for private gain or advantage to himself or to any private person or entity, except as authorized by legitimate contract or lease that is determined by the board of mayor and aldermen to be in the best interests of the town. This prohibition shall not apply when the board of mayor and aldermen or other appropriate board, commission or committee has authorized the use of such resources and established policies governing such use. (2005 Code, § 1-607)

1-608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the town; provided, however, that this section shall not apply to reasonable amounts paid for:

(a) Food, transportation, lodging and other travel expenses incurred in accordance with the town's adopted travel policy.

(b) Dues, registrations, meals and similar expenses incurred in conjunction with membership or participation in a professional or

community organization to which the official or employee belongs in his official capacity.

(c) Meals purchased in the course of an official business meeting conducted on the town's behalf.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized in this chapter or by the charter, general law, or ordinance or policy of the town.

(3) No official or employee shall provide commercial or advertising endorsements in such a manner as to convey the town's approval of any private for-profit enterprise; provided, however, that an official or employee may respond to inquiries seeking information as to the town's experience with a vendor or other private enterprise. (2005 Code, § 1-608)

1-609. Ethics opinions; complaints; investigations. (1) Ethics officer. The town attorney is designated as the ethics officer of the town. The town attorney, in his discretion, may request the town administrator or board of mayor and aldermen appoint another attorney, individual or entity to act as ethics officer for the purposes of any specific investigation. For complaints considered by the board of mayor and aldermen under the provisions of this section, the board of mayor and aldermen may choose an individual or entity other than the town attorney to act as the ethics officer for the purposes of investigating the complaint.

(2) Ethics opinions. Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics officer may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(3) Ethics complaints and investigations. Allegations that any official or employee has violated any provision of this chapter will be processed and handled as follows:

(a) A complaint will be acted upon only if the complaint is in writing, signed by the person making the complaint and submitted to:

(i) The ethics officer, if the complaint is against any employee other than the town administrator or the ethics officer.

(ii) The town administrator, if the complaint is against the ethics officer or any official.

(iii) The mayor, if the complaint is against the town administrator.

(b) The ethics officer shall investigate any credible written complaint against an employee, other than the town administrator or the ethics officer.

(c) When a complaint is filed against the town administrator, the ethics officer, an appointed official or a member of the board of mayor and aldermen, the complaint shall be referred to the board of mayor and aldermen. For any such complaint, other than a complaint against the

town administrator, the town administrator may gather information and present pertinent facts to assist the board of mayor and aldermen in its determination. The board of mayor and aldermen, by majority vote of its entire membership, shall determine that the complaint is credible and that a violation of this chapter has occurred, that the complaint is not credible or does not have merit, or that the complaint has sufficient merit to warrant further investigation; except that if the complaint is filed against a member of the board of mayor and aldermen, the disposition of the complaint shall be determined by a majority vote of the remaining members of the board of mayor and aldermen. If the board of mayor and aldermen determines that a complaint warrants further investigation, it shall authorize an investigation by the ethics officer, provided that the board of mayor and aldermen may choose an individual or entity other than the town attorney to act as the ethics officer for the purposes of the investigation.

(d) The ethics officer may also undertake an investigation on his own initiative when he acquires information indicating reasonable suspicion of a violation.

(e) Any person who is the subject of an investigation by the ethics officer shall be notified in writing at the beginning of the investigation and allowed the opportunity to respond to all allegations in person and/or in writing during the course of the investigation.

(f) In the course of an investigation, the ethics officer, at his discretion, may hold meetings and conduct interviews in person or by telephone, involving officials and employees of the town, as well as other individuals. The ethics officer may also request any information that he believes may be pertinent to the investigation. An employee's failure to cooperate in any investigation by the ethics officer shall be considered an act of insubordination and treated as such under the town's personnel rules and regulations.

(g) At the conclusion of an investigation, the ethics officer may issue written findings and make recommendations for action to end or seek remedies for any activity that, in the ethics officer's judgment, constitutes a violation of this code of ethics. For an investigation of any employee other than the town administrator, copies of such findings and recommendations shall be provided to the employee, the town administrator and the employee's department head. For an investigation of any other individual, copies of such findings and recommendations shall be provided to the town administrator, the board of mayor and aldermen and the individual who is the subject of the investigation. (2005 Code, § 1-609)

1-610. Violations and penalty. (1) A member of the board of mayor and aldermen who violates any provision of this chapter is subject to

punishment as provided by the town's charter and/or other applicable law, and in addition is subject to censure by the board of mayor and aldermen. Any action taken by the board of mayor and aldermen against a member of the board of mayor and aldermen shall be determined by a majority vote of the remaining members of the board of mayor and aldermen.

(2) An official other than a member of the board of mayor and aldermen who violates any provision of this chapter is subject to punishment as provided by the town's charter and/or other applicable law. In addition, the board of mayor and aldermen may, by majority vote of its entire membership, censure the official or remove the official from office in such manner as may be permitted by law.

(3) In addition to any other remedy provided by law, an employee who violates any provision of this chapter is subject to disciplinary action, in accordance with the town's personnel rules and regulations, including but not limited to dismissal. (2005 Code, § 1-610)