

**A RESOLUTION ADOPTING A CODE OF ETHICS FOR THE CHAPEL HILL TOWN COUNCIL (2010-11-22 /R-7)**

WHEREAS, the North Carolina General Assembly enacted Session Law 2009-403, requiring local elected boards to consider and adopt a code of ethics by January 1, 2011; and,

WHEREAS, the Council has received information on a model code of ethics, prepared by the School of Government at the University of North Carolina at Chapel Hill, and a draft code of ethics; and,

WHEREAS, the Council has reviewed the proposed code and provided an opportunity for public input on the proposed code of ethics;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves and adopts the attached as its Code of Ethics in accordance with North Carolina Session Law 2009-403.

This the 22<sup>th</sup> day of November, 2010.

# **Code of Ethics for the Town Council of the Town of Chapel Hill, North Carolina**

## **Preamble**

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles” is necessary to preserve our liberties, and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem,” and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing Councils to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of the Town of Chapel Hill, and with obeying the law, and

WHEREAS, we have each taken the oath of office required by the Constitution of North Carolina and have pledged that we will “support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith” and further that we will “faithfully discharge the duties of our office”.

NOW THEREFORE, in recognition of our obligations as citizens of the State of North Carolina and as public officials representing the citizens of the Town of Chapel Hill and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Town Council of the Town of Chapel Hill do hereby adopt the following General Principles and Code of Ethics to guide the Town Council in its lawful decision-making.

## **Section 1. General Principles Underlying the Code of Ethics.**

The following general principles underlie this Code of Ethics:

- a. The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- b. Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- c. Council members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- d. Council members must always remain aware that at various times they play different roles:
  - i. As advocates, who strive to advance the legitimate needs of their citizens
  - ii. As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
  - iii. As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- e. Council members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- f. Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

### **Section 2. Purpose.**

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the members of the Chapel Hill Town Council and to help determine what conduct is appropriate in particular cases. This Code should not be considered a substitute for the law or for a Council member's best judgment.

### **Section 3. Following the Law.**

Council members should obey all laws and Town ordinances applicable to their official actions as members of the Council. (The more frequently referenced such laws and ordinances are listed and linked in Exhibit A to this Code and are incorporated herein by reference.) Council members should maintain communications with the town attorney and other sources such as the UNC School of Government and the N.C. League of Municipalities in order to keep up to date about new or on-going legal or ethical issues they may face in their official positions and should consult these resources when they deem it appropriate on ethical issues as they arise.

Council members should be guided by the spirit as well as the letter of the law in whatever they do. At the same time, Council members should feel free to assert policy positions and opinions without fear of reprisal from fellow Council members or citizens. To declare that a Council member is behaving unethically because one disagrees with that Council member on a question of policy (and not because of the Council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

### **Section 4. Acting with Integrity and Independence.**

Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness
- Living as if they are on duty as Council members regardless of where they are or what they are doing
- Using their best independent judgment to pursue the common good as they see it
- Presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves

- Treating other Council members and the public with respect and honoring the opinions of others even when the Council members disagree with those opinions
- Not reaching conclusions on issues until all sides have been heard
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual Council members are not generally allowed to act on behalf of the Council but may only do so if the Council specifically authorizes it, and that the Council must take official action as a body.

### **Section 5. Avoidance of Impropriety.**

Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, the Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

### **Section 6. Seeking Advice and Considering Disclosure.**

If a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the town attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

### **Section 7. Faithful Performance of Duties of Office.**

Council members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Council members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the Council has authority. Council members should be willing to bear their fair share of the Council's workload. To the extent appropriate, they should be willing to put the Council's interests ahead of their own.

### **Section 8. Conducting the Work of the Council in an Open and Public Manner.**

Council members should conduct the affairs of the Council in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Council members or their employees.

Council members should make clear that an environment of transparency and candor is to be maintained in the governmental unit. They should prohibit unjustified delays in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

**Section 9. Review by Council of Apparent Violations of this Code.**

If a majority of the Council has reason to believe that one of its members has violated a provision of this Code of Ethics, it may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying pursuant to the North Carolina public records statutes.

If upon investigation the Council concludes that a violation of a criminal law may have occurred, it shall refer the matter to an appropriate law enforcement agency. Should the Council determine that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose and shall provide appropriate notice to the public of said proceeding.

Adopted this the \_\_\_\_ day of \_\_\_\_\_, 2010.

**Exhibit A to Chapel Hill Town Council Code of Ethics:  
List of Applicable Laws and Ordinances**

1. N.C. General Statute (N.C.G.S.)Sec. 14-230. Willfully failing to discharge duties.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-230.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-230.html)
2. N.C. G.S. 14-234. Public officers or employees benefitig from public contracts; exceptions.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-234.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.html)
3. N.C. G.S. Sec. 14-234.1 Misuse of confidential information.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-234.1.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-234.1.html)
4. N.C.G.S. Sec. 132-9 Access to (public) records.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-9.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-9.html)
5. N.C.G.S. Sec. 133-32. Gifts and favors regulated.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_133/GS\\_133-32.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_133/GS_133-32.html)
6. N.C.G.S. Chapter 143, Article 33C. Meetings of Public Bodies  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_143/Article\\_33C.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_33C.html)
7. N.C. G.S. Sec.160A-75. Voting.  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-75.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-75.html)
8. N.C.G.S. Sec. 160A-86. Local governing boards' code of ethics  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-86.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-86.html)
9. N.C.G.S. Sec. 160A-381(a) and (d) Grant of (zoning) power  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-381.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-381.html)
10. N.C.G.S. Sec. 160A-388(e1)Board of adjustment (voting by board or other board on quasi-judicial matters; impermissible conflicts)  
[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-388.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-388.html)
11. Chapel Hill Town Code Chapter 2, Article III. Disclosure of Property and Business Interests [http://library.municode.com/HTML/19952/level3/CODE\\_C2\\_AIII.html](http://library.municode.com/HTML/19952/level3/CODE_C2_AIII.html)
12. Chapel Hill Town Code Chapter 14, Section 14-55. Acceptance of gifts and favors.  
[http://library.municode.com/HTML/19952/level3/CODE\\_C14\\_AVI.html#CODE\\_C14\\_AVI\\_s14-55](http://library.municode.com/HTML/19952/level3/CODE_C14_AVI.html#CODE_C14_AVI_s14-55)