

**CODE OF ETHICS FOR APPOINTED AND ELECTED OFFICIALS
OF DURHAM COUNTY**

Section 1. Declaration of Policy

- (a) The Proper Operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made publicly; that public offices not be used for personal gain; and that the public maintain confidence in the integrity of its government.
- (b) In recognition of these goals, a code of ethics for Durham County officials is hereby adopted. The purpose of this policy statement is to set forth guidelines for ethical standards of conduct for all such officials by setting forth acts or actions that are incompatible with the best interests of Durham County.

Section 2. Definitions

As used in this article, the following terms shall have the meaning indicated:

Business Entity means any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust or corporations which is organized for financial gain or profit.

County Official means the County Commissioners, County Manager, County Attorney, Deputy County Managers, Assistant County Managers, officials appointed by the County Commissioners to other county boards and commissions, department heads, and any employees involved in purchasing or acquiring goods and services for the county.

Immediate Family means the County Official, his/her spouse, and minor children (including stepchildren and foster children).

Interest means direct or indirect pecuniary or material benefit, as a result of an official act, a contract, or transaction with Durham County, accruing to:

- (i) A County Official;
- (ii) Any person in his/her Immediate Family;
- (iii) Any business entity in which the County Official, member of his/her Immediate Family, or is about to be, an officer or director;
- (iv) Any business entity in which an excess of ten (10) percent of the stock, or legal or beneficial ownership of, is controlled or owned directly or indirectly by the County Official, or his/her Immediate Family member.

For the purposes of the above paragraphs, 2, 3, and 4, a County Official is presumed to have knowledge of the financial affairs of his/her Immediate Family members. For the purpose of this policy, the County Official only has an Interest in the affairs of other Immediate Family members if the County Official has knowledge of or should have known of the Interest of the family member.

Official Act or Action means any legislative, administrative, appointive, or discretionary act of any County Official.

Confidential Information means any information or knowledge which has not been made public through the regular affairs of government. Information that has become public knowledge, whether or not through the regular affairs of government, is not considered confidential information.

Section 3. Standards of Conduct

The stability and proper operation of democratic representative government depends upon the continuing consent of the governed, upon the public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people. Government decisions and policy must be made and implemented through proper channels and processes of the governmental structure. The purpose of this section is to establish additional guidelines for ethical standards of conduct for county commissioners. It should not be considered a substitute for the law or a county commissioner's best judgment.

County commissioners must be able to act in a manner to maintain their integrity and independence, yet must be responsible to the interests and needs of those they represent. County commissioners serve in an important advocacy capacity in meeting the needs of their citizens and should recognize the legitimacy of this role as well as the intrinsic importance of this function to the proper functioning of representative government. At the same time, county commissioners must, at times, act in an adjudicatory or administrative capacity and must, when doing so, act in a fair and impartial manner. County commissioners must know how to distinguish these roles and when each role is appropriate, and they must act accordingly. County commissioners must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each county commissioner must find within his or her own conscience the touchstone on which to determine appropriate conduct.

- (a) A County Commissioner Shall Obey the Law. County commissioners shall support the Constitution of the United States, the Constitution of North Carolina and the laws enacted by the Congress of the United States and the General Assembly pursuant thereto.
- (b) A County Commissioner Shall Uphold the Integrity and Independence of His or Her Office. County commissioners shall demonstrate the highest standards of personal integrity, truthfulness honesty and fortitude in all their public activities in order to inspire public confidence and trust in county government. County commissioners shall participate in establishing, maintaining, and enforcing, and shall themselves observe, high standards of conduct so that the integrity and independence of their office may be preserved. The provisions of this Code should be construed and applied to further these objectives.

(c) A County Commissioner Shall Avoid Impropriety and the Appearance of Impropriety in All His or Her Activities.

- (i) It is essential that county government attract those citizens best qualified and willing to serve. County commissioners have legitimate interests - economic, professional and vocational - of a private nature. County commissioners shall not be denied, and shall not deny to other county commissioners or citizens, the opportunity to acquire, retain and pursue private interests, economic or otherwise, except when conflicts with their responsibility to the public cannot be avoided. County commissioners must exercise their best judgment to determine when this is the case.
- (ii) County commissioners shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity of the office of county commissioner and of county government.
- (iii) County commissioners shall not allow family, social, or other relationships to unduly influence their conduct or judgment and shall not lend the prestige of the office of county commissioner to advance the private interests of others; nor shall they convey or permit others to convey the impression that they are in a special position to influence them.

(d) A County Commissioner Shall Perform the Duties of the Office Diligently. County Commissioners shall, while performing the duties of the office as prescribed by law, give precedence to these duties over other activities. In the performance of these duties, the following standards shall apply:

(i) Legislative Responsibilities.

- (1) County commissioners shall actively pursue policy goals they believe to be in the best interests of their constituents within the parameters of orderly decision-making, rules of the Board of County Commissioners and open government.
- (2) County commissioners shall respect the legitimacy of the goals and interests of other county commissioners and shall respect the rights of others to pursue goals and policies different from their own.

(ii) Adjudicative Responsibilities.

- (1) County commissioners shall be faithful to the general and local laws pertaining to the office and strive for professional competence in them. They shall be unswayed by partisan interests, public clamor, or fear of criticism.
- (2) County commissioners shall demand and contribute to the maintenance of order and decorum in proceedings before the board of county commissioners.
- (3) County commissioners shall be honest, patient, dignified and courteous to those with whom they deal in their official capacity, and shall require similar conduct of their staff and others subject to their direction and control.

- (4) County commissioners shall accord to every person who is legally interested in a proceeding before the commission full right to be heard according to law.
- (5) County commissioners shall dispose promptly of the business of the county for which they are responsible.

(iii) Administrative Responsibilities.

- (1) County commissioners shall clearly distinguish legislative, adjudicatory and administrative responsibilities and shall refrain from inappropriate interference in the impartial administration of county affairs by county employees. Commissioners shall diligently discharge those administrative responsibilities that are appropriate, shall maintain professional competence in the administration of these duties and shall facilitate the diligent discharge of the administrative responsibilities of fellow commissioners and other county officials.
 - (2) County commissioners shall conserve the resources of the county in their charge. They shall employ county equipment, property, funds and personnel only in legally permissible pursuits and in a manner that exemplifies excellent stewardship.
 - (3) County commissioners shall require county employees subject to their direction and control to observe the standards of fidelity and diligence that apply to commissioners as well as those appropriate for employees.
 - (4) County commissioners shall take or initiate appropriate disciplinary measures against an employee appointed by the Board for improper conduct of which the commissioners may become aware. (Revised 12/13/10)
 - (5) County commissioners shall not employ or recommend the appointment of unnecessary employees and shall exercise the power of employment only on the basis of merit, avoid favoritism and refrain from illegal discrimination and nepotism. They shall not approve compensation of employees beyond the fair value of services rendered.
- (e) A County Commissioner Shall Conduct the Affairs of the Board in an Open and Public Manner. County commissioners must be aware of the letter and intent of the State's Open Meetings Law, and conduct the affairs of the Board of County Commissioners consistent with the letter and spirit of that law and consistent with the need to inspire and maintain public confidence in the integrity and fairness of county government and the office of county commissioner. Consistent with this goal of preserving public trust, county commissioners shall be aware of the need for discretion in deliberations when the fact of discretion would pose a threat to the resources of the county, to the reputation of current or potential county employees, to orderly and responsible decision making, to the integrity of other governmental processes or to other legitimate interests of the county.
- (f) A County Commissioner Shall Regulate His or Her Extra-Governmental Activities to Minimize the Risk of Conflict With His or Her Official Duties.

- (i) County commissioners shall inform themselves concerning campaign finance, conflict of interest and other appropriate state and federal laws and shall scrupulously comply with the provisions of such laws.
 - (ii) County commissioners shall refrain from financial and business dealings that tend to reflect adversely on the Board or on county government or to interfere with the proper performance of official duties.
 - (iii) County commissioners shall manage their personal financial interests to minimize the number of cases in which they must ask to be excused from voting on matters coming before the Board.
 - (iv) Information acquired by county commissioners in their official capacity shall not be used or disclosed in financial dealings or for any other purpose not related to official duties.
- (g) A County Commissioner Shall Refrain from Political Activity Inappropriate to His or Her Office.
- (i) County commissioners have a civic responsibility to support good government by every available means, to continue to inform and educate the citizenry about the affairs and processes of county government, and to make themselves available to citizens of the county so that they may ascertain and respond to the needs of the community. In doing so, county commissioners may and should join or affiliate with civic organizations whether partisan or non-partisan, may and should attend political meetings, may and should advocate and support the principles or policies of civic or political organizations consistent with the Constitution and laws of the United States and North Carolina.
 - (ii) Candidates for the office of county commissioner, including incumbents:
 - (1) Shall inform themselves concerning the laws of this state with regard to campaigns and relevant disclosure requirements and shall scrupulously comply with the provisions of such laws;
 - (2) Shall maintain the dignity appropriate to the office, and should encourage members of their families to adhere to the same standards of political conduct that apply to commissioners;
 - (3) Shall not make pledges or promises of conduct in office that they will not or cannot perform or would be illegal if it were performed;
 - (4) Shall not misrepresent their identity, qualifications, present position, or other fact; and
 - (5) Shall avoid pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office.

Section 4. Additional Standards of Conduct

All County Officials as defined in this article shall be subject to and abide by the following standards of conduct.

- (a) Interest in contract or agreement. No County Official shall participate in selection or award of a contract if the contract involves the County Official's own financial interest or the Official is prohibited from voting pursuant to G.S. § 14-234.
- (b) Use of official position. No County Official shall use his/her official position or the county's facilities for his/her private gain, or for the benefit of any individual, which benefit would not be available to any other member of the public in the same or similar circumstance. No County Official shall appear before or represent any private person, group or Interest before any department, committee, or board of the county except in matters of purely civil or public concern. The provisions of this paragraph are not intended to prohibit a County Official from speaking before neighborhood groups and other nonprofit organizations.
- (c) Disclosure of information. No County Official shall use or disclose confidential information gained in the course of or by reason of his/her official position with the county for purposes of advancing:
 - (i) His/her financial or personal interest;
 - (ii) The Interest of a business entity of which the County Official, an Immediate Family member, has an Interest;
 - (iii) The financial or personal interest of a member of his/her Immediate Family; or
 - (iv) The financial or personal interest of any citizen beyond that which is available to every other citizen.
- (d) Incompatible service. No County Official shall engage in, or accept private employment or render service for private interest, when such employment or service for private interest, when such employment or service is incompatible with the proper discharge of his/her official duties with the county or would tend to impair his/her independent judgment or action in the performance of his/her official duties with the county, unless otherwise permitted by law and unless disclosure is made as provided in this policy.
- (e) Gifts. No County Official shall directly or indirectly solicit any gift, or accept or receive any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, the value of which exceeds \$50.00, under circumstances in which a reasonable person would believe that the gift was intended to influence him/her in the performance of his/her official duties, or was intended as a reward for any official action on his/her part. Legitimate political contributions to County Officials shall not be considered as gifts under the provisions of this paragraph. North Carolina General Statute § 133-32 provides additional guidance concerning gifts and favors.

Exempted from the prohibition are reasonable honorariums for participating in meetings, advertising items or souvenirs of nominal value or meals furnished at banquets. Also exempted are customary gifts or favors between County Officials or officers and their friends or relatives. County Officials must report in writing to the Clerk to the Board of County Commissioners all honorariums and gifts and favors from friends and relatives if made by a covered contractor, subcontractor, or supplier.

It shall not be a violation of this policy for any Public Official to solicit donations, contributions or support for any charitable activity which does not result in direct pecuniary benefit to the Public Official, a member of his Immediate Family, or Business Entity with which he is associated.

- (i) County Attorney to Advise. In any case where the value of a gift is in question, or when the circumstances make it unclear as to whether a thing constitutes a “gift” within the meaning of this provision, any individual may consult with the County Attorney for an opinion.
- (f) Special Treatment. No County Official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- (g) Fiscal Responsibility. A County commissioner shall remain current on his/her Durham City/County real and personal property taxes. (Revised 12/13/10)

Section 5. Investigations of Allegations of Conflicts of Interests

- (a) In cases where there is allegation that there has been a violation of this policy by one or more of the County Commissioners, the County Commissioners shall decide the matter in an open meeting of the Board of Commissioners.
- (b) The County Manager shall have the responsibility for investigating any apparent violation of this policy as it applies to any other County Official covered by this ethics policy and to report the findings of the investigation to the Board of County Commissioners.
- (c) The County Attorney shall have the responsibility for investigating any apparent violation of this policy as it applies to the County Manager and to report the findings of the investigation the Board of County Commissioners.
- (d) Any person who believes that a violation of this article has occurred may file a complaint in writing with the County Attorney when a member of the County Commission or the County Manager is the subject of the complaint, or with the County Manager when any other County Official is the subject of the complaint, who may thereafter proceed as provided by paragraphs a, b, and c of this section.

Section 6. Scheduling of Hearing Before the County Commissioners; Rights of Accused at Hearings; Sanctions.

- (a) If the Board of County Commissioners after the receipt of findings of an investigation determines that a violation of this article has occurred, they shall take, or direct the appropriate individuals to take whatever lawful disciplinary action he/she deems appropriate, including but not limited to, reprimand, suspension, demotion, or termination of service.

- (b) If the Board of County Commissioners, after receipt of an investigation from the County Attorney and/or the County Manager, has cause to believe a violation may have occurred, they shall schedule a hearing on this matter. The official who is charged with the violation shall have the right to be represented by counsel, to present evidence, including the testimony of witnesses, and to cross-examine witnesses, including the complainant or complainants, at the hearing. If, after such hearing and review of all the evidence, the Board of County Commissioners, by majority vote of the members of the Commission, finds that a violation has occurred, they shall take, or direct the appropriate individuals to take whatever lawful disciplinary action they deem appropriate.
- (c) The Board of Commissioners by majority vote of the remaining members finds that a violation by a county commissioner has occurred; they may adopt a resolution of censure which shall be placed as a matter of record in the official minutes of the Board meeting.
- (d) The hearing to be held as provided for herein shall be conducted by the Board of County Commissioners in Closed Session for individual County Officials. The hearing to be held as provided for herein shall be conducted by the Board of County Commissioners in open session for officials appointed by the County Commissioners to other boards and commissions. Any determination resulting from said hearing shall be determined in open session of the Board. The Clerk to the Board shall be authorized to swear witnesses before the presentation of their testimony.

Section 7. General Disclosure

- (a) All County Officials, as herein defined including those appointed to the Board of Adjustment, the Board of Equalization and Review, Farmland Protection Advisory Board, Durham Historic Preservation Commission, Durham Open Space & Trails Commission, Durham Planning Commission, and the Board of Health, but not including those citizens appointed to other county boards and commissions, shall file with the Clerk to the Board on the first day of February of each year, a statement containing the following information:
 - (i) The identity by name and address, of any business entity of which the County Official or member of his Immediate Family (as defined in Section 2 of this Chapter), is an owner, official or director. Additionally, the County Official and spouse shall give the name of their employer or, if self-employed, state the nature of their work.
 - (ii) The identity, by location and address, of all real property located in Durham County owned by the County Official or member of his Immediate Family, including an option to purchase or lease.
- (b) The statements required by this section shall be filed on a form prescribed by the County Commissioners and shall be public records available for inspection and copying by any person during normal business hours. The County Manager is authorized to establish and charge reasonable fees for the copying of these statements.

Section 8. Disclosure of Interest in Legislative or Quasi-Judicial Actions.

Any official of Durham County as herein defined who has an interest in any business before the Board of County Commissioners shall publicly disclose on the record of the Board the nature and extent of such interest, and shall withdraw from any discussion, deliberation or decision regarding said matter. It shall be a violation of this policy for a County Official who has an Interest in some business before the County Commission to advocate, whether publicly or privately, that Interest to other County Officials.

To maintain the integrity of those actions of the County Commissioners, the Board of Adjustment, the Board of Equalization and Review, and the Board of Health when they sit as quasi-judicial bodies, circumstances even presenting the appearance of a conflict or possible conflict of interest shall be sufficient to require the County Official to withdraw from the discussion, deliberation or decision of the Board, and the member shall be excused from sitting with the Board during the discussion, deliberation or decision.

Section 9. Advisory Opinions

When any County Official has a doubt as to the applicability of any provision of this policy to a particular situation involving that County Official, or as to the definition of terms used in this article, he/she may apply to the County Attorney for an advisory opinion. The County Official shall have the opportunity to present the County Official's interpretation of the facts at issue and of the applicability of provisions of this policy before such advisory opinion is made.

Upon motion properly made and seconded, revised and adopted by the Board at its meeting on December 13, 2010.

Chair, Board of County Commissioners

ATTESTED:

Clerk to the Board

CODE OF ETHICS FOR DURHAM BOARD OF COUNTY COMMISSIONERS

I, a member of the Durham County Board of Commissioners, acknowledge that I have received and reviewed a copy of the Code of Ethics for the Board of Commissioners in accordance with N.C. General Statute §160A-83.

Signature

Date

Printed Name