

**CODE OF ETHICS FOR THE BOARD OF COMMISSIONERS OF  
DAVIE COUNTY, NORTH CAROLINA**

**PREAMBLE**

**WHEREAS**, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty,” 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 boards to adopt a code of ethics, and

**WHEREAS**, as elected local government officials, it our duty to uphold the trust of the citizens of Davie County and to obey all relevant laws.

**NOW THEREFORE, BE IT RESOLVED**, in recognition of our blessings and obligations as citizens of the State of North Carolina and as elected local government officials representing the citizens of Davie County, and acting pursuant to the provisions of Section 160A-86 of the North Carolina General Statutes, we, the Davie County Board of Commissioners, do hereby adopt the following general principles and code of ethics to guide the Davie County Board of Commissioners in its lawful decision making.

**GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS**

The stability and proper operation of democratic representative government depends upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

Board 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.

Board members must always remain aware that at various times they play different roles:

As advocates, who strive to advance the legitimate needs of their citizens.

As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders and resolutions.

As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determination.

Board members must know how to distinguish among these roles, to determine when each role is appropriate and to act accordingly.

Board members must be aware of their obligations 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.

## **CODE OF ETHICS**

### **Purpose**

The purpose of the Code of Ethics is to establish guidelines for ethical standards of conduct for the Davie County Board of Commissioners and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's individual judgment.

### **Section I**

Board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the Letter of the law in whatever they do.

At the same time, board members should be free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's ethical behavior) is unfair, dishonest, irresponsible and itself unethical.

Board members should endeavor to keep up-to-date, through the board's attorney and other sources, of the most pertinent constitutional, statutory and other legal requirements with which they must be familiar in order to meet their legal responsibilities in their official positions. This educational function is in addition to the day to day legal advice the Board may receive concerning specific situations that arise. A list of applicable laws and regulations are included in this Code as "RELEVANT LEGAL PROVISIONS".

Board members shall comply with general Statute §160A-87 in receiving two clock hours of ethics education within twelve (12) months of that member's initial appointment or election to office and again with twelve (12) months of each subsequent election or appointment to office. Board members may additionally receive two clock hours of ethics annually, but failure to receive such annual ethics education is not a violation of this Code of Ethics.

## Section II

Board 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.

Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright and consistent manner.

Behaving consistently and with respect toward everyone with whom they interact.

Exhibiting trustworthiness.

Living as if they are on duty as elected officials 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 and 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 proceedings themselves.

Treating other board members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions.

Not reaching conclusions on issues until all sides are 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 board members are not generally allowed to act on behalf of the Board but may only do so if the board specifically authorizes it and that board must take official action as one body.

Not represent to any third parties, entities or other groups that a commissioner is speaking on the behalf of the entire Board of Commissioners unless the Board has voted on a position and has

specifically requested a Commissioner to communicate such action with the third party, entity or group.

Not speak in a negative way to any third parties, entities or other groups about what the other Commissioners position is on any subject which may come before the Board of Commissioners at a later date.

All Commissioners shall educate themselves and abide by the various policies which have been adopted by the County in all their dealings.

### **Section III**

Board 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 appropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

If a board member concludes that his or her actions, while legal and ethical, may be misunderstood, the member may seek the advice of the board's attorney. The Board member may also state on the record the facts of the situation and the steps taken to resolve it.

### **Section IV**

Board members should be faithful in the performance of the duties of their offices. They should act as the 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. Board 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 Board has authority.

Board members should be willing to bear their fair share of the board's workload. To the extent appropriate; they should be willing to put the board's interest ahead of their own.

### **Section V**

Board members should conduct the affairs of the Board 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.

In order to insure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Board are

lawfully conducted and that such sessions do not stray from the purposes for which they are called.

## **CENSURE PROCEDURES**

If the majority of the Board has reasonable cause to believe that one of its members has violated a provision of the 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 states. If upon investigation the Board concludes that a violation of a criminal law may have occurred, it shall refer the matter to the local district attorney.

Should the Board determine that it wishes to proceed further with censure proceedings, it shall, by majority vote, call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the required public hearing stating its time, place and purpose shall be given once per week for two successive calendar weeks in a newspaper having general circulation in the jurisdiction. The notice shall be published the first time not less than 10 days and not more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the day of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the Clerk to the Board.

The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.

The accused board member shall have the right to have counsel present, to present and cross-examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other board member or the presiding officer. An audio or video and audio tape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recorded in the board's minutes.

Once the hearing is concluded, it shall be closed by a vote of the Board. The presiding officer shall next entertain a motion to adopt a nonbinding resolution censuring the member based on specified violations of the Code of Ethics. Any motion made must be an affirmative one in favor of adopting a nonbinding resolution of censure. If the motion does not state particular grounds for censure under the Code of Ethics, the presiding officer shall rule it out of order.

If a motion to adopt a nonbinding resolution of censure stating particular grounds under the Code of Ethics has been made, the Board shall debate the motion. The accused member shall be allowed to participate in the debate and shall not be allowed to vote on the motion to adopt the resolution.

At the conclusion of the debate, the Board shall vote on the resolution. If the motion to adopt the nonbinding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbinding resolution of censure is adopted.

The text of the nonbinding resolution of censure shall be made a part of the minutes of the Board. Any recording of the board's proceedings shall be approved by the Board as a permanent part of the minutes. The proceedings then be considered concluded, the Board having done all it legally can with respect to the matter in question.

### **RELEVANT LEGAL PROVISIONS**

As explained in the prior section and elsewhere in the Code of Ethics, local governing boards have no legal power to bring criminal or other charges against each other, or to otherwise control each other's behavior directly. At the same time, the Board expects that individual board members will probably wish to behave in a manner that is both legal and ethical. For example, board members will want to take care to be familiar with some of the more common ethics-related criminal violations with which they might be charged by the district attorney, and they should take care to avoid these common pitfalls.

The following legal rules that relate to ethical principles are listed to help meet this need. Local governing board members should consider legal restrictions in terms of behavior that they should avoid. While requirements found in the law should be viewed as a minimum standard, board members should always consider whether there are ethical problems with other behavior, even if it does not violate criminal or other statutes dealing with conflicts of interest or other subjects.

Avoid deriving a direct benefit from contracts in which you are involved in making or administering on behalf of a public agency. (G.S. §14-234(a)(1); criminal penalty; note defined terms in the statute; direct benefit; involved in making or administering a contract).

Avoid attempting to influence others who are involved in making or administering a contract on behalf of a public agency, even if you aren't involved, if you will derive a direct benefit from the contract. (G.S. §14-234(a)(2); criminal penalty; note defined terms in the statute; direct benefit; involved in making or administering a contract.)

Avoid soliciting or receiving any gift or reward in exchange for recommending, influencing or attempting to influence the award of a contract by the public agency you serve. (G.S. §14-234(a)(3); criminal penalty.)

Consider the ethical and practical consequences of deriving a direct benefit from a contract that is authorized under any exception to the statute, and weigh these considerations against the

potential advantage to the public agency and to yourself. Follow reporting requirements to ensure transparency. (G.S. §14-0234(b)(d1).)

Avoid participating in deliberations about or voting on a contract in which you have a direct benefit, when the contract is undertaken as allowed under any exception to the statute. (G.S. §14-234(b)(1); criminal penalty.)

Avoid using your knowledge of contemplated action by you or your unit, or information known to you in your official capacity and not made public, to acquire a financial interest in any property, transaction, or enterprise, or to gain any financial benefit that may be affected by the information or contemplated action. Avoid intentionally aiding another to any of these things. (G.S. §14-234.1 criminal penalty).

Avoid receiving any gift or favor from a current, past or potential contractor. (G.S. §14-233-32(a); criminal penalty).

Consider the ethical and practical consequences of accepting a gift or favor under any exception to the statutory prohibition, and follow reporting requirements to ensure transparency. (G.S. §133-32(d).)

Avoid voting on matters involving your own financial interest or official conduct. (G.S. §160A-75; 153A-44). Disclose the existence of the direct financial interest in advance, and when in doubt, obtain an opinion from your local attorney about whether you must vote or may be excused.

Avoid voting on any zoning map or text amendment where the outcome of the vote is reasonably likely to have a direct, substantial and readily identifiable financial impact on you.

Do not participate in or vote on any quasi-judicial matter, including matters that come before the Board when acting as a quasi-judicial capacity under G.S. §§160A-388 and 153A-345, if participation would violate affected person's constitutional right to an impartial decision maker; impermissible conflicts under this standard include having a fixed opinion prior to hearing on the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter (G.S. §381(d), §160A-388(e1), §153A-340(g), §143A-345(e1); violation of constitutional standard by one board member invalidates the entire vote).

Fulfill your statutory obligations to vote on all matters that come before you even when there are appearances of conflict, and only refrain from voting when there is a legal basis for or requirement to be excused from voting.

**BE IT FURTHER RESOLVED** that the Davie County Board of Commissioners approves the form and content of the Code of Ethics for the Board of Commissioners of Davie County dated December 02, 2019 and set forth hereinabove.

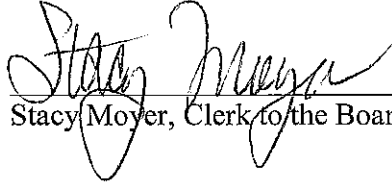
Adopted this 2<sup>nd</sup> day of December, 2019.

Davie County Board of Commissioners

By: 

Chair

Attest to:

  
Stacy Moyer, Clerk to the Board