

CODE OF ETHICS

Chapter 15

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**[HISTORY: Adopted by the Mayor and Town Council of the Town of Frisco 5-1-01, Ord. 01-09. This ordinance also repealed former Ch. 15, Code of Ethics, Adopted 4-4-89, Ord. 89-12; 11-20-84, Ord. 84-08. Amendments noted where applicable.]**

**§ 15-1. Purpose. [Amended 11-28-06, Ord. 06-35]**

- A. The purpose of this chapter is to promote public confidence in the town government, to maintain conformity with the provisions and intent of the Town Code and Town Charter and to provide guidance in the event of real or potential conflicts of interest to the town employees and members of the Town Council and to the boards, commissions, committees and other authorities operating on behalf of the Town of Frisco. This chapter is intended to foster public trust by defining the parameters of honest government and by prohibiting the use of public office for private gain.
- B. While it is critical that board members and employees follow both the letter and spirit of this chapter, it is equally important that they strive to avoid situations that may create public perceptions of violations of this chapter. Perceptions of such violations can have the same negative impact on public trust as actual violations.

**§ 15-2. Definitions.**

The following terms and words, for purposes of this chapter, shall have the meanings indicated:

**APPEAR ON BEHALF OF** - To act as a witness, advocate, or expert or otherwise to support the position of another person.

**BOARD** - The Town Council, the Planning Commission, the Board of Appeals and such other boards, commissions, committees or other authorities operating on behalf of the Town of Frisco as the Town Council may from time to time determine.

**BOARD MEMBER** - A member of any board, including regular and alternate members and the mayor and council members, but does not include any full-time or part-time town employee, unless the employee is also a board member.

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**BUSINESS** - Any corporation, limited liability corporation, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

**CONFLICT OF INTEREST** - A personal or financial interest of a board member or employee that interferes with or influences or may interfere with or influence the performance of his or her duties on behalf of the town;

**CONTRACT** - Any arrangement or agreement pursuant to which any land, material, service or other thing of value is to be furnished to the town for a valuable consideration to be paid by the town or sold or transferred by the town. (See Charter Section 2-6.)

**COUNCIL or TOWN COUNCIL** - The Town Council of the Town of Frisco.

**EMPLOYEE** - Any temporary or permanent employee of the Town of Frisco, including the town attorney and the municipal judge, but does not include the mayor or council members.

**FAMILY B** - Any employee's or board member's parents, siblings, spouse or domestic partner and children and the spouse of any of them. "Children" shall include minor children for whom the employee or the employee's spouse or domestic partner provides day-to-day care and financial support. (See Charter Section 2-6c).

**FINANCIAL INTEREST B** - A substantial interest held by an employee or board member that is:

1. An ownership of securities of a corporation, or of any beneficial interest in a partnership or firm, the aggregate amount of which securities or interest owned by the employee or board member and the employee's or board member's family is ten percent (10%) or more of any class of securities of such corporation or ten percent (10%) or greater ownership in such partnership or firm.
2. A creditor interest in an insolvent business;
3. An employment or a prospective employment for which negotiations have begun, or a contractual relationship that directly relates to a matter under consideration;
4. An ownership interest in real or personal property;
5. A loan or any other debtor interest; or
6. A directorship or officership in a business. (See Charter Section 2-6b.)

**OFFICIAL ACTION** - Any vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

**PERSONAL INTEREST** - A direct or indirect interest having value peculiar to a particular employee or board member, whether the value is pecuniary or non-pecuniary, which value may accrue to such employee or board member or result in such employee or board member deriving or potentially deriving a personal benefit as a result of the approval or denial of any

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ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant, and which interest is not shared by the general public.

### **§ 15-3. Rules of Conduct for Board Members and Employees.**

A. The following shall apply to all board members and employees:

1. If any board member other than a member of the Town Council, or any employee, shall have any direct or indirect financial interest in any contract with the town, then the following procedure must be followed:
  - a. Such contract must be approved by the Town Council, with the affirmative vote of at least five (5) members of the Town Council.
  - b. The subject matter of the contract must be unrelated to the board member's or employee's official duties.
  - c. The financial interest must be disclosed in the contract.
  - d. The Town Council must find that, notwithstanding the disclosed financial interest, it is in the best interest of the town to enter into such contract.
  - e. For purposes of this subsection (1) only, "financial interest" means ownership of securities of a corporation, or of any beneficial interest in a partnership or firm, with which a contract is made, the aggregate amount of which securities or interest owned by the employee or board member and the employee's or board member's family is ten (10%) percent or more of any class of securities of such corporation or ten (10%) percent or greater ownership in such partnership or firm.
  - f. For purposes of this subsection (1) only, "related subject matter" means any contract that requires the direct review and approval of the interested board member or employee.
  - g. Any such contract entered into in violation of the prohibition of this section shall be void.
  - h. The prohibitions of this section shall not apply to any contract determined by the Council to be an incidental transaction. Transactions of two thousand five hundred dollars (\$2,500) or less shall be considered to be of an incidental nature. Transactions of greater value shall be handled on a case-by-case basis as they occur. (See Charter Section 2-6f.)
2. No board member or employee may use any information obtained by virtue of his or her public position in furtherance of any personal or financial interest or the personal or financial interest of any other person. Confidential or privileged information shall not be disclosed unless required by law.

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3. No board member or employee, in his or her official capacity, may solicit or accept from any one donor a present or future gift, favor, loan, service or thing of value, whose cumulative value is more than four hundred dollars (\$400.00) per annum, or under circumstances that would lead a reasonably prudent person to believe that such gift, favor, loan, service or thing of value was made or given primarily for the purpose of influencing or attempting to influence such board member or employee in connection with an official act, or as a reward of official action he or she has previously taken. This prohibition shall not apply to:
  - a. Acceptance of food and refreshment at conferences, seminars, training sessions, luncheon and dinner meetings, special occasions and other instances in conjunction with city business.
  - b. Campaign contributions reported under the Fair Campaign Practices Act.
4. No board member or employee shall engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties.
5. No board member or employee shall perform an official act that directly and substantially affects to its economic benefit a business or other undertaking in which such board member or employee has a substantial personal or financial interest or that directly and substantially affects to its economic detriment any business or other undertaking when such board member or employee has a substantial personal or financial interest in a competing business or undertaking.
6. No board member or employee shall perform any official act under circumstances that give rise to an appearance of impropriety on the part of the board member or employee.
7. No board member or employee, during his or her term with the Town, may appear before any board, except under the following circumstances:
  - a. An employee or board member may appear on his or her own behalf, or on behalf of any other person, before any board of which he or she is not a member. A board member, other than a member of Town Council, may appear on his or her own behalf, or on behalf of any other person, before the body of which he or she is a member, if the board member follows the procedure prescribed by section 15-4 below.
  - b. Nothing in this subsection (7) is intended to prohibit any employee or board member to be affiliated with a firm appearing before any board; provided, however, that such employee or board member, if a member of the board before which the matter is being heard, shall follow the procedure prescribed by section 15-4 below.
8. No board member or employee appointed or elected after the effective date of this ordinance shall, at any time within six (6) months after termination from the Town of Frisco, appear on behalf of another person before any board in relation to any matter concerning which the board member or employee performed an official act.

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9. During his or her term of office, no member of the Council, including the mayor, shall be a salaried employee of the town.
- B. The mayor and all council members shall regularly attend meetings of the Town Council. Neither the mayor nor any councilmember shall be absent for three (3) consecutive regularly scheduled meetings of the Council or twenty-five (25%) percent of such meetings in any fiscal year of the town, unless such absences shall be excused by the Council and the reason therefore entered in the proceedings of the Council at the time of such absence.
- C. If a newly elected or appointed member of the Council, including the mayor, finds himself or herself in violation of any portion of this Code, he or she shall have forty-five (45) days after his or her election or appointment to either divest himself or herself from the personal or financial conflict or to resign from the Council.

### **§ 15-4. Voting Prohibited in Certain Instances.**

- A. No board member may vote on any matter before the board if the board member has a conflict of interest as defined above. On such a question, the member shall disclose the nature of the conflict of interest to the board prior to abstaining from voting. If the member fails to disclose a conflict of interest or requests the remaining members to determine whether the member has a conflict of interest, the remaining members shall determine, by motion adopted by the affirmative vote of a majority of the remaining members, whether a conflict of interest exists. Such motion shall state the basis of the determination and shall be conclusive of the question of whether a conflict of interest exists. (See Charter Section 3-6c.)
- B. When a board member declares a conflict of interest or a board by majority vote determines that a board member has a conflict of interest, then the board member shall physically remove himself or herself from the board and shall refrain from attempting to influence the decisions of the other members of the board of which the person is a member. After the board has completed consideration of the matter, the board member may return and resume his or her duties as a member of the board.
- C. No board member shall vote on any question concerning the member's own conduct.

### **§ 15-5. Voting Required.**

Except as provided in the Town of Frisco Home Rule Charter, each board member who is present at a meeting shall vote when the question is called. Any board member who refuses to vote, except when required to abstain, shall be deemed derelict in the board member's duties, and an affirmative vote shall be cast and recorded in the board member's name. (See Charter Section 3-6d.)

### **§ 15-6. Duties of the Town Attorney.**

- A. Any employee or board member may request the town attorney for an advisory opinion whenever a question arises as to the applicability of this chapter to a particular situation.

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- B. Any person alleging that a board member has violated any provision of this chapter may file a written complaint of such alleged violation with the town attorney. The town attorney shall make appropriate investigation and shall, within a reasonable time after receiving a written complaint, make a written finding as to whether there is probable cause to believe that this chapter has been violated. The town attorney shall provide a copy thereof to the Council, the complainant, and the board member in question. If the town attorney determines that probable cause exists, then the matter shall be referred to the Council or town manager, as appropriate, for further proceedings. Nothing in this subsection B shall limit the authority of the town manager to investigate the conduct of and discipline employees.
- C. Should the town attorney at any time determine that he or she has a conflict of interest in carrying out the duties of this section, the town attorney may, in his or her sole discretion, appoint special counsel to undertake such duties, and such appointment is hereby deemed to comply with ' 6-1(d) of the Charter, otherwise requiring approval of the Council for the appointment of special legal counsel.

### **§ 15-7. Exemptions.**

Nothing in this chapter shall be deemed to apply to an employee or board member, other than a member of Town Council, who appears before a board to urge action on a policy or issue of a general civic nature.

### **§ 15-8. Nepotism.**

- A. No member of a board member's or employee's family shall be denied employment with the town, provided such person is deemed to be, in the town manager's sole discretion, the best qualified applicant for the position and no current town employee shall be denied a promotion, demotion or transfer because a member of such employee's family is a board member or employee, except in those instances as described in the following:
  - 1. A board member or employee directly or indirectly exercises supervisory, appointment, disciplinary or dismissal authority over a member of that board member's or employee's family;
  - 2. A board member or employee audits, verifies, receives or is trusted with moneys received or handled by a member of that board member's or employee's family;
  - 3. A board member or employee has access to the town's confidential information, including payroll and personnel records relating to a member of that board member's or employee's family.
- B. If, in the event two (2) employees are in positions of direct or indirect supervision through any departmental chain of command and establish a relationship by marriage, other operation of law, or through life style accommodations being the substantial equivalent of a family relationship, then the town manager may transfer one of the employees to a position removed from the supervisory control of the other if the town manager determines in his or her sole discretion that such action will serve the town's best interest. If a transfer is not

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available, one of the employees may be required to resign from his or her employment with the town.

### **§ 15-9. Violations and Penalties.**

Any board member or employee who violates any provisions of this chapter shall be subject to the following:

- A. If a violation by any member of Town Council is established to the satisfaction of a majority of the Town Council, the violation shall be grounds for an official reprimand by the Town Council.
- B. If a violation by any board member other than a Town Council member is established to the satisfaction of five (5) members of the Town Council, the violation shall be grounds for removal of the board member from the board of which he is a member. If the Town Council votes to remove a board member from a board, the Town Council may appoint another person to fulfill the term of the removed board member.
- C. If a violation by any employee is established by the town manager, the violation shall be grounds for discipline up to and including termination.