

SPONSORED BY: MAYOR NOVAK, COUNCIL MEMBERS GARNER, MILLER & PARSONS

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1613
Series of 2007

1481
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A BILL FOR AN ORDINANCE ADOPTING A NEW ARTICLE 11 OF CHAPTER 2 OF THE CITY OF NORTHGLENN MUNICIPAL CODE BY ADOPTING A CODE OF ETHICS FOR ALL GOVERNMENT OFFICERS AND EMPLOYEES

WHEREAS, on November 7, 2006, the voters approved Amendment 41 on the statewide general election ballot; and

WHEREAS, Amendment 41 adopts a new Article XXIX of the Colorado Constitution entitled "Ethics in Government," which article deals in detail with receipt of gifts and things of value by, and lobbying and ethical principles applicable to public officials; and

WHEREAS, by its terms, Amendment 41 applies to local government officials and employees, including those of the City; and

WHEREAS, Section 7 of Amendment 41 provides that home rule municipalities may act by charter, ordinance, or resolution to adopt regulations on the subjects covered by Amendment 41, which regulations may be more or less stringent than those contained in Amendment 41; and

WHEREAS, the City's Home Rule Charter at Section 4.7 presently addresses conflicts of interest related to voting procedure by the City Council; and

WHEREAS, the City Council wishes to act by ordinance, as permitted by Amendment 41, to adopt comprehensive regulations addressing the matters covered by Amendment 41; and

WHEREAS, the City Council finds that it is in the best interests of the public officers and employees of the City that such requirements be confirmed as applicable within the City rather than the requirements contained in Amendment 41, all as permitted by Amendment 41 itself.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. A new Article 11 of Chapter 2 of the Northglenn Municipal Code is hereby adopted to read as follows:

ARTICLE 11. CODE OF ETHICS

Section 2-11-1. Legislative Intent.

It is the intent of the City Council to ensure that all of the City's council members, board members, and employees adhere to high ethical conduct so that the public will have confidence that the City's government operates in a fair, ethical, and accountable manner. All officers, officials, and employees of the City shall adhere to the letter and spirit of the Code of Ethics and strive to avoid situations which create impropriety or the appearance thereof.

Section 2-11-2. Definitions.

(a) **"Board Member"** means any person appointed to a City board or commission by the City Council or the Mayor under the authority of the City Charter, ordinance, or State law.

(b) **"City Official"** means any Board Member or member of the City Council.

(c) **"Confidential information"** means matters required by state or federal law or regulation to be kept confidential, attorney-client communications, and other matters which may be discussed in executive session.

(d) **"Councilmember"** means a member of the City Council.

(e) **"Employee"** means any person in the employ of the City or of any of its agencies or departments, except independent contractors.

(f) **"Immediate Family Member"** means husband, wife, son, daughter, mother, father, step-son, step-daughter, step-mother, step-father, grandmother, grandfather, grandchildren, brother, or sister.

(g) **"Official Action"** means any action which involves:

(1) Negotiating, approving, disapproving, administering, enforcing, or recommending for or against a contract, purchase order, lease, concession, franchise, grant, or other similar instrument in which the City is a party. With regard to "recommending," official action occurs only if the person making the recommendation is in the formal line of decision making;

(2) Enforcing laws or regulations or issuing, enforcing, or regulation permits;

(3) Selecting or recommending vendors, concessionaires, or other types of entities to do business with the City;

(4) Appointing and terminating employees, temporary workers, and independent contractors;

(5) Doing research for, representing, or scheduling appointments for a city official or employee, provided that these activities are provided in connection with that city official's or employee's performance of (1) through (4) above.

Section 2-11-3. Gifts to City Officials and Employees.

(a) Except when acceptance is permitted by paragraph (b) below, it shall be a violation of this Article for any city official, employee, or any immediate family member of a city official or employee, to solicit or to accept any of the following items if the city official or employee is in the position to take an official action with regard to the donor, or if the City has an existing, ongoing, or pending contract, business, or regulatory relationship with the donor:

(1) A gift that would tend to improperly influence that city official or employee to depart from the faithful and impartial discharge of his or her public duties; or

(2) A gift that is solicited or given for the primary purpose of rewarding the city official or employee for an official action he or she has taken.

(b) City officials, employees, and members of their immediate family may accept the following even if the city official is in a position to take official action with regard to the donor or if the city official or employee has an existing, ongoing, or pending contract, business, or regulatory relationship with the donor:

(1) Gifts from other council members, board members, or employees and their family members on appropriate occasions;

(2) Campaign contributions as permitted by law;

(3) Nonpecuniary awards that are publicly presented by an organization in recognition of public service if the award is not extraordinary when viewed in light of the position held by the recipient;

(4) Educational scholarships and grants available to members of the general public who are similarly situated;

(5) Grants and services provided for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;

(6) An occasional, unsolicited gift having a fair market value of fifty dollars (\$ 50.00) or less;

(7) Unsolicited informational material, publications, or subscriptions related to the city official's or employee's performance of his or her official duties;

(8) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, or tickets to sporting, recreational educational or cultural events, except that any such items with a value in excess of \$100 shall be disclosed by the recipient at a regular City Council meeting within thirty (30) days of receipt;

(9) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or other similar item;

(10) Payment of, or reimbursement for, actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar, or other meeting at which the city official is scheduled to participate as a representative of the City or to attend as part of his or her official duties except that any such payment or reimbursement in excess of \$100 shall be disclosed by the recipient at a regular City Council meeting within thirty (30) days of receipt;

(11) An occasional unsolicited opportunity to participate in a business meeting or social function where a meal is served and/or entertainment is provided if the city official's attendance would not be considered extraordinary when viewed in light of the position held by the city official, except that any such opportunities with a value in excess of \$100 shall be disclosed by the recipient at a regular City Council meeting within thirty (30) days of receipt; and

(12) Gifts received by a city official arising from his or her employment that is unrelated to his or her official duties.

Section 2-11-4. Conflicts of Interest

(a) City officials shall not disclose or use any confidential or privileged information in furtherance of any personal or pecuniary interest or to further the personal or pecuniary interest of any other person.

(b) City officials shall not vote or render a final decision on an issue that directly affects a business or project in which the city official either has a financial interest or is engaged as counsel, consultant, representative or agent, or on any issue in which the city official has personally appeared before the City Council or board.

(c) City officials shall not assist any person for a fee or other compensation in obtaining any contract, claim, license, permit, permission, approval or other economic benefit from the City.

(d) City officials shall not hold a substantial financial interest in any business or enterprise which is a party to a City contract made by the City Council or board upon which the city official has been appointed or elected.

(e) City officials shall not accept a fee, contingent fee, or any other compensation for

promoting or opposing passage of legislation in their official capacity, except for the city official's authorized compensation as provided by the City Charter, ordinance or contract.

(f) City officials shall not appear on behalf of any private person, business or entity before the City Council or board upon which the city official has been appointed or elected, except that any city official may appear before the City Council or any board on his or her own behalf. Nothing herein shall preclude a city official, in the same manner and under the same circumstances as any other person, from appearing before the City Council or a board on an application for a permit, license, or other approval of the City Council or board, required by law, or on a matter of general interest.

(g) No city official may vote in his capacity as a council member or board member in any matter where the city official has appeared on his own behalf.

Section 2-11-5. Confidential Information.

All written materials and verbal information provided to city officials or employees on matters that are confidential under State law, or the City of Northglenn Home Rule Charter and ordinances adopted thereunder shall be kept in complete confidence. No disclosure or mention of any information in these materials may be made to anyone other than City Council members, the City Attorney, the City Manager, authorized employees, or other authorized individuals.

Section 2-11-6. Enforcement.

(a) The City Council shall appoint an independent hearing officer to enforce the provisions contained in this Article. Any such appointed independent hearing officer shall hear complaints, issue findings, and assess penalties pursuant to this Article.

(b) Any person may file a written complaint with the City Manager's office asking whether a city official has violated this Article.

(c) The independent hearing officer is authorized to dismiss frivolous complaints without conducting a public hearing. Complaints dismissed as frivolous shall be maintained confidential by the independent hearing officer.

(d) The various provisions of this Article are cumulative, and not exclusive, and shall not be construed to limit any administrative, civil, or criminal action or proceeding which may be instituted by the City pursuant to Colorado statutes.

Section 2-11-7. Disclosure of Conflicts of Interests.

(a) Before taking any official action, City officials who have any substantial personal, financial or property interest, or any kind of interest which may conflict or interfere with, influence, or be perceived by the public as influencing the City official's conduct shall disclose the nature of the conflict to the City Council or the applicable Board or Commission.

(b) In the event the City official or the City Council or the applicable Board or Commission believes the conflict of interest is a disqualifying conflict of interest requiring that the City official refrain from voting and attempting to influence others, then the city official shall be barred from voting on the issue and shall refrain from attempting to influence or participating in any manner in the deliberations or decisions of the members of the City Council or Board, or in the actions of any employees related to the matter.

Section 2-11-8. Failure to Disclose Conflicts of Interest.

(a) In the event a complaint is received regarding whether a conflict of interest exists, the independent hearing officer shall determine whether the interest does in fact constitute a disqualifying conflict of interest under this Article. In deciding whether there is a disqualifying conflict of interest, the hearing officer shall consider, among other criteria, the following:

- (1) Whether the conflict of interest impedes independence of judgment;
- (2) The effect of the city official's participation on the public confidence and the integrity of the governing body;
- (3) Whether the city official's participation is likely to have any significant effect on the ultimate disposition of the matter; and
- (4) The city official's fiduciary obligations to the City.

(b) If the independent hearing officer concludes that there is a disqualifying conflict of interest, the city official shall be disqualified from acting or voting on the matter or any related business. In addition, the disqualified city official shall refrain from attempting to influence the decisions of members of the City Council or other Boards, or the actions of other employee related to the matter, and refrain from participating in any manner in the deliberations of the City Council or other Boards.

Section 2-11-9. Hearing.

Upon the sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this Article, the independent hearing officer shall conduct a public hearing in accordance with all of the requirements of due process of law depending on the nature of the complaint, and in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct alleged and shall sanction any improper conduct pursuant to Section 2-11-10.

Section 2-11-10. Sanctions.

Any city official or employee who is found to have violated any of the provisions of this Article shall be subject to any of the following sanctions:

(a) For a member of the City Council, formal censure by the City Council, if the City Council determines a formal censure is warranted based on the recommendation of the independent hearing officer;

(b) A fine of double the amount of the financial equivalent of any benefits obtained by unethical conduct;


(c) Loss of committee or board member assignment;

(d) Formal written warning;

(e) For an employee, referral to the City Manager for action in accordance with the then applicable provisions of the City's employment policies and procedures.

Section 2. Resolution CR-152, dated December 14, 2006, is hereby repealed upon the effective date of this Ordinance.


INTRODUCED, READ AND ORDERED POSTED this 8th day of March, 2007.


KATHLEEN M. NOVAK
Mayor


ATTEST:


DIANA L. LENTZ, CMC
City Clerk


PASSED ON SECOND AND FINAL READING this 22nd day of March, 2007.


KATHLEEN M. NOVAK
Mayor

ATTEST:


DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney