

RESOLUTION NO. (2024) 2605

**RESOLUTION ADOPTING AN AMENDED CODE OF CONDUCT AND ETHICS
FOR THE GARNER TOWN COUNCIL**

WHEREAS, governing boards of cities, including the Garner Town Council, are required by State law to adopt a resolution or policy containing a code of ethics to guide actions by the Mayor and Town Council in the performance of their official duties as elected officials; and

WHEREAS, pursuant to North Carolina General Statutes (NCGS) §160A-86, the resolution or policy must address all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as an elected official.
- (2) The need to uphold the integrity and independence of the elected official's office.
- (3) The need to avoid impropriety in the exercise of official duties.
- (4) The need to faithfully perform the duties of the elected office.
- (5) The need to conduct the affairs of the Town Council in an open and public manner, including complying with all applicable laws governing open meetings and public records; and

WHEREAS, Garner Town Council adopted Resolution No. (2010) 2080 on November 16, 2010, and established the following findings and goals:

- (1) The proper operation of democratic government requires that public officials be independent, impartial and responsible to the people.
- (2) Government decisions and policy must be made in proper channels of the governmental structure.
- (3) The public office must not be used for personal gain.
- (4) The public must have confidence in the integrity of its government; and

WHEREAS, in recognition of changing times and growing incivility and discord in many levels of government, Garner Town Council wishes to adopt an amended Code of Conduct and Ethics.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Garner, North Carolina that the following is adopted:

**CODE OF CONDUCT AND ETHICS
FOR THE GARNER MAYOR AND TOWN COUNCIL**

The stability and proper operation of democratic representative government depends upon the continued 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 code is to establish guidelines for ethical standards of conduct for the Mayor and Town Council and all references herein to the Town Council shall be understood to include the Mayor. It should not be considered a substitute for the law or a Town Council member's best judgment.

Town Council Members must be able to act in a manner to maintain their integrity and independence yet must be responsive to the interests and needs of those they represent. Town Council Members 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, Town Council Members must, at times, act in an adjudicatory or administrative capacity and must, when doing so, act in a fair and impartial manner. Town Council Members must know how to distinguish these roles and when each role is appropriate, and they must act accordingly. Town Council Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents and Town employees. Each Town Council member must find within his or her own conscience the touchstone on which to determine appropriate conduct.

**Section One
Council Members Shall Obey the Law**

Town Council Members 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. Members specifically acknowledge and agree to comply with the requirements of NCGS §14-234 entitled "Public officers or employees benefiting from public contracts; exceptions" and NCGS § 14-234.1 entitled "Misuse of confidential information" and NCGS § 14-234.2 entitled "Public officers or employees financially benefiting from public position" and NCGS § 14-234.3 entitled "Local public officials participating in contracts benefiting nonprofits with which associated." In addition to the two-hour ethics training mandated by State law (NCGS § 160A-87) within 12 months after each election or appointment, Town Council Members commit to attending additional training each year as recommended by the Town Manager or Town Attorney.

**Section Two
Council Members Should Uphold the Integrity and Independence of the Office**

Town Council Members should 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 town government. Town Council Members should participate in establishing,

maintaining, and enforcing, and should 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.

Section Three
Council Members Should Avoid Impropriety and the
Appearance of Impropriety in All Activities

It is essential that town government attract those citizens best qualified and willing to serve. Town Council Members have legitimate interests – economic, professional and vocational – of a private nature. Town Council Members should not be denied and should not deny to other Town Council Members 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. Town Council Members must exercise their best judgment to determine when this is the case.

Town Council Members should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence and trust in the integrity of the office of Town Council and of town government.

Town Council Members should not allow family, social, or other relationships to unduly influence their conduct or judgment and should not lend the prestige of the office of Town Council to advance the private interests of others; nor should they convey or permit others to convey the impression that they are in a special position to influence them. Town Council Members shall not grant any special consideration, treatment or advantage to any resident beyond that which is available to every other resident.

The Mayor or any member of the Town Council who has an interest in any official act or action before the Council shall publicly disclose on the record of the Council the nature and extent of such interest and shall withdraw from any consideration of the matter if excused by the Council pursuant to NCGS §160A-75 or §160D-109.

Section Four
Council Members Should Perform the Duties of the Office Diligently

Town Council Members should, 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 should apply:

1. Legislative Responsibilities
 - a. Town Council Members should 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 Town Council and open government.
 - b. Town Council Members should respect the legitimacy of the goals and interests of other Town Council Members and should respect the rights of others to pursue goals and policies different from their own.

2. Adjudicative Responsibilities

- a. Town Council Members should be faithful to the general and local laws pertaining to the office and strive for professional competence in them. They should not be swayed by partisan interests, public clamor, or fear of criticism.
- b. Town Council Members should demand and contribute to the maintenance of order and decorum in all proceedings before the Town Council.
- c. Town Council Members should be honest, patient, dignified and courteous to those with whom they deal in their official capacity, and should require similar conduct of their staff and others subject to their direction and control.
- d. Town Council Members should accord to every person who is legally interested in a proceeding before the Council full right to be heard according to law.
- e. Town Council Members should dispose promptly of the business of the town for which they are responsible.

3. Administrative Responsibilities

- a. Town Council Members should clearly distinguish legislative, adjudicatory and administrative responsibilities and should refrain from inappropriate interference in the impartial administration of town affairs by town employees. Town Council Members should diligently discharge those administrative responsibilities to the Town Manager as appropriate, should maintain professional competence in the administration of these duties and should facilitate the diligent discharge of the administrative responsibilities of fellow Town Council Members and other town officials.
- b. Town Council Members should conserve the resources of the town in their charge. They should employ town equipment, property, funds and personnel only in legally permissible pursuits and in a manner that exemplifies excellent stewardship.
- c. Town Council Members should require town employees subject to their direction and control to observe the standards of fidelity and diligence that apply to Town Council Members as well as those appropriate for employees.
- d. Town Council Members who become aware of improper conduct by a town employee should promptly inform the Town Manager, or, in the case of a town employee who reports directly to the Council (the Town Manager or Town Attorney), initiate appropriate disciplinary measures.
- e. Town Council Members should not employ or recommend the appointment of employees and should exercise the power of employment only on the basis of merit, avoid favoritism and refrain from illegal discrimination and nepotism. They should not approve compensation of employees beyond the fair value of services rendered.

Section Five

Council Members Should Conduct the Affairs of the Town in an Open and Public Manner

Town Council Members should be aware of the letter and intent of the State's Open Meetings

Law (NCGS Chapter 143 Article 33C), should conduct the affairs of the Town Council 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 town government and the office of Town Council. Consistent with this goal of preserving public trust, Town Council Members should be aware of the need for discretion in deliberations when the lack of discretion would pose a threat to the resources of the town, to the reputation of current or potential town employees, to orderly and responsible decision making to the integrity of other governmental processes or to other legitimate interests of the town.

Section Six

Council Members Should Regulate Personal Activities to Minimize the Risk of Conflict with Official Duties

1. Town Council Members should inform themselves concerning campaign finance, conflict of interest and other appropriate state and federal laws and should scrupulously comply with the provisions of such laws.
2. Town Council Members should refrain from financial and business dealings that tend to reflect adversely on the Council or on town government or to interfere with the proper performance of official duties.
3. Town Council Members should manage their personal financial interests to minimize the number of cases in which they must be excused from voting on matters coming before the Council.
4. Information acquired by Town Council Members in their official capacity should not be used or disclosed in financial dealings or for any other purpose not related to official duties.

Section Seven

Council Members Should Refrain from Political Activity Inappropriate to the Office

1. Town Council Members have a civic responsibility to support good government and the Council-Manager form of government by every available means, to continue to inform and educate the citizenry about the affairs and processes of town government, and to make themselves available to citizens of the town so that they may ascertain and respond to the needs of the community. In doing so, Town Council Members 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.
2. Candidates for the office of Town Council, including incumbents:
 - a. Should inform themselves concerning the laws of this state with regard to campaigns and relevant disclosure requirements and should scrupulously

comply with the provisions of such laws;

- b. Should 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 Town Council;
- c. Should not make pledges or promises of conduct in office that they will not or cannot perform or would be illegal if it were performed;
- d. Should not misrepresent their identity, qualifications, present position, or other fact;
- e. Should avoid pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; and
- f. Should advocate for and support the Council-Manager form of government as provided in the Town's Charter.

Section 8

Council Members Should Treat Other Council Members, Town Staff, Constituents, and Others They Come into Contact with Respect and Civility

1. The Garner Town Council shall take the 2024 North Carolina League of Municipalities Commit to Civility training, sign the individual pledge, and adopt the Commit to Civility Resolution.
2. Town Council's interactions with the public at public meetings should:
 - a. Make the public feel welcome.
 - b. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council Members toward an individual participating in a public forum.
 - c. Every effort should be made to be fair and impartial in listening to public testimony and staff presentations.
 - d. Be fair and equitable in allocating public hearing time to individual speakers. In accordance with the Garner Town Council Rules of Procedure, the Mayor or presiding officer may determine and announce limits on speakers at the start of the public hearing process. The Mayor may set a time limit for speakers and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. Speakers who demonstrate inappropriate behavior may lose their right to speak. Each speaker may only speak once during the public hearing unless the Council requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Mayor reopens the public hearing for a limited and specific purpose.
 - e. Listen intently and give the appearance of listening. Council Members should be aware and avoid giving the public the appearance of disinterest.
 - f. Ask for clarification but avoid debate and argument with the public and presenters. The Mayor is to maintain the order and decorum of the meeting. Questions by Council Members to applicants, presenters, and members of the public testifying or making comments should seek to clarify or expand information and should never belligerently challenge or belittle the

speaker. Council Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- g. Not include personal attacks of any kind, under any circumstance. Council Members should be aware that their body language and tone of voice, as well as the words they use, should not appear to be intimidating, belittling or aggressive.
3. Town Council's interactions with the public in unofficial settings should:
- a. Make no promises on behalf of the Council. Council Members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of Town policy and to refer to Town staff for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise Town staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).
 - b. Make no personal comments about other Council Members. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory and belittling comments about other Council Members, their opinions and actions. In addition, after a decision is made by a majority of Town Council, all members in the minority should respect and honor the decision.
 - c. Council Members should avoid public acts or comments that impugn the Town, the Town staff, or its processes.
 - d. Remember that Garner is a small community. Council Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the Town. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Council Members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

4. Social Media:

- a. When possible, Council Members shall consult with the Town Manager and Town Communications Director prior to posting messages on official Town social media accounts.
- b. Recognizing that Council Members retain their First Amendment rights, Council Members should have a clear delineation between their personal or campaign social media accounts and Town-related social media accounts. A personal social media account should not identify the account holder by their position with the Town. Elected officials should avoid any appearance of exercising their authority to speak on behalf of the government on that personal account.
- c. It is advisable for Council Members to clarify on their personal social media accounts that the member's personal views do not reflect the views of the Town, such as the following: "This is the personal page of [Council Member]. The views expressed are strictly my own."
- d. Council Members should be accurate when posting information on social media, and

should quickly correct any mistakes, misstatements, and/or factual errors in content upon discovery. Council Members are expected to conduct themselves on all social media platforms in a manner consistent with the Town's policies and ethical standards of conduct.

- e. Council Members must ensure they are not using social media to engage in any activity that uses the official's position or the Town's facilities, equipment, or supplies for the private gain or advantage of the official or others or uses or attempts to use the official's position to secure special advantage for the official or others.
 - f. Council Members personal social media accounts may be subject to the North Carolina Public Records Act (NCGS Chapter 132) and may subject the Town to liability.
 - g. The Town strives to be professional in its operations and processes. Council Members are strongly encouraged to consider the potential impact of social media statements prior to posting, understanding that members of the public who may appear before Town Council come from all walks of life. Public comments, in any forum, including on personal and government social media accounts, that contain racial slurs, profane language, or acronyms for profane language, and/or express bigotry toward a group based on a Protected Class (race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, National Guard or veteran status, religious belief or non-belief, age or disability) may be considered unbecoming conduct and may subject the individual or the Town to litigation or liability.
 - h. Council Members should not use government social media accounts to post or share information that is obscene, encourages or promotes illegal activity, or depicts Town property, equipment, or personnel in any manner that would be considered defamatory or libelous. Council Members should consider whether liking, sharing, retweeting, or commenting, on any social media posts could be perceived as an endorsement of or about the Town, its employees, constituents, other public officials, suppliers, vendors, or contractors.
5. Interactions between Council Members during meetings and work sessions should:
- a. Demonstrate civility, professionalism, and decorum in discussions and debate. Council Members should wait for recognition from the Mayor before speaking and avoid interrupting other speakers. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Council Members should conduct themselves in a professional manner at all times, including their appearance.
 - b. Honor the role of the Mayor or Mayor Pro Tem in maintaining order. It is the responsibility of the Mayor or presiding officer to keep the comments of Council

Members on track during public meetings. Council Members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following procedures outlined in the Council's Rules of Procedure.

- c. Conduct the affairs of the Council in an open and public manner. Council Members should be transparent with the public and the Council with respect to any of the Member's actions as they pertain to matters before Council. Council Members should avoid discussing public business before or after a meeting if a quorum is present. Even when less than a quorum is present, Council Members may need to disclose those activities or conversations, particularly when making quasi-judicial decisions. Council Members should consult with the Town Attorney regarding matters appropriate for closed sessions and those which will require disclosure of ex parte communications.
 - d. Avoid personal comments that could offend other Council Members. If a Council Member is personally offended by the remarks of another Council Member, the offended Council Member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Council Member to justify or apologize for the language used. The Mayor or presiding officer will maintain control of this discussion.
 - e. Demonstrate problem-solving approaches. Council Members have a public stage to demonstrate how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
 - f. Be punctual and keep comments relative to topics discussed. Council Members have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Council Members be punctual and prepared so that meetings start on time and be completed in an effective and efficient manner. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discuss scheduled issues.
 - g. Every Council member should have an opportunity to comment on any given matter before another member offers multiple comments.
 - h. Once a vote has been taken, the minority must respect the majority. No member should attempt to renegotiate, undo, or interfere with any Council-approved action or project, except through a valid motion for reconsideration.
6. Interactions between Council Members in private should:
- a. Remain respectful. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
 - b. Treat all written notes, voicemail messages, emails, texts and other communications with fellow Council Members as a public record. Technology allows words written or said without much forethought to be distributed wide and far. Written notes, voicemail messages, texts and emails between Council Members are considered public records.

- c. Be mindful that private conversations could still become public. As elected officials, Council Members actions, mannerisms, and language are likely to be more closely monitored than those of an average citizen. Council Members should be mindful that casual conversations may be eavesdropped upon, parking lot debates could be watched, and casual chatter between individuals before and after public meetings may be heard.
7. Council Members interactions with Town employees should:
- a. Treat all Town employees and staff as professionals and with dignity. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable and may subject the Town to liability, including claims of hostile work environment.
 - b. Be limited to specific Town staff. Questions of Town staff and/or requests for additional background information should be directed to the Town Manager, Assistant Town Managers, Town Attorney, Assistant Town Attorney or Department Heads. The Town Manager should be copied on or informed of any request. Requests for follow-up or directions to staff should be made only through the Town Manager or the Town Attorney when appropriate. When in doubt about what staff contact is appropriate, Council Members should ask the Town Manager for direction. Materials supplied to a Council Member in response to a request will be made available to all members of the Council so that all have equal access to information.
 - c. Not disrupt Town staff from their jobs. Pursuant to NCGS § 160A-148 and the ICMA Code of Ethics, the Town Manager shall manage all Town employees, except the Town Attorney, in accordance with the Town's personnel rules, regulations, policies, and ordinances and the Town Manager shall direct and supervise the administration of all departments, offices, and agencies of the Town subject to the general direction and control of Town Council. Council Members should not disrupt Town staff while they are in meetings, on the phone, or otherwise occupied in performing their job functions in order to have the Council Member's individual needs or requests for information met.
 - d. Council should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Town Manager through confidential correspondence or conversation.
 - e. Council Members must not attempt to influence Town staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of Town licenses and permits.
 - f. Council Members should check with the Town Manager and staff delegated by the Manager on correspondence before taking action. Before sending correspondence, Council Members should check with Town staff to see if an official Town response has already been sent or is in progress to maintain consistency in the Town message.
 - g. Council Members should not attend meetings with Town staff unless requested by the Town Manager or delegated staff. Even if the Council Member does not actively

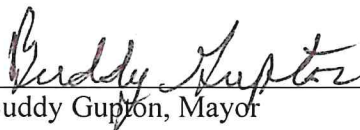
participate, the Council Member's presence could imply support, show partiality, intimidate staff, or hamper staff's ability to do their job objectively.

- h. Requests for additional staff support should be made to the Town Manager who is responsible for allocating Town resources in order to maintain a professional, well-run Town government.

BE IT FURTHER RESOLVED that:

1. Town Council may meet in closed session pursuant to NCGS § 143-318.11(a)(6) to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. Town Council may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the Town Council or another appointed body and may not consider or fill a vacancy among its own membership except in an open meeting.
2. A violation of this Code of Conduct and Ethics may subject the Mayor or a Council Member to a Censure Resolution by the Garner Town Council; however, no such Censure Resolution shall be adopted until the individual or individuals alleged to have committed the violation has been given notice of the alleged violation and provided with the opportunity to appear before the Council and be heard regarding the allegation.
3. When the Mayor or a Council Member has a question as to the applicability of this code to a particular situation, the individual may apply, orally or in writing, to the Town Attorney for advisory guidance. Upon receipt of a request for advisory guidance and based only upon the information given to the Town Attorney, the Town Attorney will provide advisory guidance to the Mayor and Council. In the Town Attorney's discretion, the Town Attorney may retain outside legal counsel to provide legal advice in connection with any request for advisory guidance. In no event will the Town Attorney's advisory guidance excuse the Mayor or Council Member from complying with the Code of Conduct and Ethics or other applicable law.

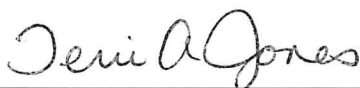
Adopted this the 17th day of September 2024 superseding Resolution No. (2010) 2080.


Buddy Gupton, Mayor

ATTEST:

Approved as to form:


Stella Gibson, Town Clerk


Terri Jones, Town Attorney