



Downtown Steering Committee

Ethics Training

Legal Topics for Discussion

- Public Records
- Statutory Conflicts of Interest Related to Development Regulations
- Statutory Conflicts of Interest in Contracting
- Code of Ethics



Public Records Defined

N.C.G.S. § 132-1. "Public records" defined.

"Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, **regardless of physical form or characteristics**, made or received pursuant to law or ordinance **in connection with the transaction of public business** by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include **every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government** of the State or of any county, unit, special district or other political subdivision of government.



Limitations

- N.C.G.S. 132-6.2 contains the following limitations:
 - Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record **by creating or compiling a record that does not exist**...Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.



Conflicts of Interest- Development Regulations

- N.C.G.S. § 160D-109(b) sets forth the conflict of interest rule regarding advisory and legislative decisions by appointed boards.
- Members of appointed boards shall not vote on any **advisory or legislative decision** regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is **reasonably likely to have a direct, substantial, and readily identifiable financial impact** on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a **close familial, business, or other associational relationship**.
- Development regulation is defined as a unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to Chapter 160D, or a local act or charter that regulates land use or development.
- Pursuant to N.C.G.S. 160D-501(c), the adoption of comprehensive or land-use plans are considered legislative decisions and shall follow the process mandated by 160D-601 for zoning text amendments. However, adopted plans shall be advisory in nature without independent regulatory effect.



N.C.G.S. 14-234: “Self-benefiting”

- As used in this section, the term "**public officer**" means an individual who is elected or **appointed** to serve or represent a public agency, other than an employee or independent contractor of a public agency.
- Prohibited Activities:
 - **Deriving a direct benefit if making or administering a contract:** A public officer or employee who makes or administers a contract on behalf of a public agency may not also derive a direct benefit from the contract (unless an exception applies).
 - **Influencing others if deriving a direct benefit:** A public officer or employee who will derive a direct benefit from a contract but is not involved in making or administering it shall not attempt to influence any other person who is involved in making or administering the contract.
 - **Getting gifts in exchange for influencing others:** A public officer or employee shall not solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves. Does not require that the officer or employee either derive a direct benefit or be making or administering the contract to violate this section of the statute.



Code of Ethics

Highlights:

- 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.
- Members must always remain aware that they play different roles at different times. The Members must also know how to distinguish among these roles in order to determine when each role is appropriate and how to act accordingly within each role in order to conform their behavior to standards of ethical conduct that warrant the trust of the Governing Board and citizens of the Town.
- Members should obey all laws applicable to their official actions. Members should be guided by the spirit of transparency, as well the letter of the law in whatever they do.
- Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.
- If a Member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek advice of the Town Attorney, and should consider publicly disclosing the facts of the situation, and the steps taken to resolve it (such as consulting with the attorney).

