

**ORDINANCE
AMENDED
CITY OF CENTRAL FALLS
MUNICIPAL CODE OF ETHICS**

Be it ordained that the Revised Ordinances, City of Central Falls, Rhode Island, is hereby amended by adding a section, to be numbered Section 2-53 under Division I, Article III of Chapter 2 to read as follows:

SECTION 1. Code of Ethics

(a) *Legislative intent and declaration of policy.* It is declared to be the policy of the city that all officers and employees of the city are public servants of the people and hold their positions for the benefit of the public. These public servants shall fulfill conscientiously, according to the Home Rule Charter, the Code of Ordinances of the city and all applicable laws, their duties and shall prove themselves in their behavior worthy of the esteem which their position requires. In all official activity, such officers and employees shall strive to meet the highest standards of ethics consistent with this code and state law, regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern. In enacting this code of ethics the city recognizes that the state code of ethics applies to all city employees and officials. Accordingly, the purpose of the city's ethics code is not to replicate the prohibitions and regulations which already govern municipal employees. Rather, the goal of this ethics code is to address issues and conduct not covered by the state ethics code and in so doing to hold the city's employees and officials to the highest possible standards of ethics.

(b) *Definitions.* For purposes of this section:

- (1) Business associate means a person joined together with another person to achieve a common financial objective, irrespective of any profit or non-profit making status.
- (2) City means the City of Central Falls.
- (3) City facility means any structure or building owned, operated or managed by the city or a municipal agency.
- (4) Elected official means any individual elected to an office created by the Charter of the city.
- (5) Employee means any individual other than an elected official or an independent contractor, receiving compensation for services performed for the city.
- (6) Family member means an individual who is related to a person as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step-grandparent, step-great grandparent, step-grandchild, step-great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or

with whom the public officer or employee intends to form a household, or cohabitating and/or living arrangement in any form whatsoever.

(7) Municipal agency means any department, bureau, commission, board, or authority, of the city or quasi-public authority recognized by city charter or created by ordinance or resolution. It shall also include any group of persons, corporations, organizations, or other entities, however created, which exercise governmental functions of the city, other than in an advisory nature, and expend public funds in excess of ten thousand dollars (\$10,000.00) annually.

(8) For the purposes of interpretation and application under this city code of ethics, any reference to "City Official", or "Official", shall mean the mayor, the members of the city council and the members of all boards, commissions and authorities whose members are appointed by the mayor, with or without city council approval, and those appointed or elected by the city council, all department heads and all deputy department heads or city employees.

(9) A person "represents" another person before a municipal agency if he or she is authorized by that other person to act, and does in fact act, as the other person's attorney-at-law or his or her attorney-in-fact or a duly authorized agent in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in favor of that other person.

(10) A person "represents" himself or herself before a municipal agency if he or she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his or her favor.

(c) *Prohibited conduct relating to employment.*

(1) Coercion for trading with a particular business. It is unlawful for any official or employee of the city or a municipal agency to discharge, threaten to discharge, discipline, threaten to discipline or otherwise discriminate against any other officer or employee for trading or not trading as a customer or patron with any particular business, without just cause or reason not to engage any particular business.

(2) Use of public property. It is unlawful for an official or employee of the city or a municipal agency to knowingly use property, including but not limited to intellectual property, or resources, or city services wherein the city is the participating customer or patron, owned by the city or an independent agency, including but not limited to vehicles, for his or her personal benefit, convenience or profit, except in accordance with policies promulgated by the council or by the governing body of the municipal agency owning the property.

(3) City seal. It is unlawful for any person to fraudulently affix or impress the seal to or upon any certificate, instrument, commission, document or paper or with knowledge of its fraudulent character to use, buy, procure, sell or transfer to another any certificate, instrument, commission, document or paper, to or upon which the seal has been fraudulently affixed.

(4) Activities relating to promotion or appointment. It shall be unlawful for any person seeking employment or promotion in the city or a municipal agency to either directly or indirectly give, promise, or pay any money, service of other thing of value for, or on

account of, in connection with or for the purpose of influencing or affecting their test, appointment, proposed appointment, promotion or proposed promotion.

(5) Misuse of position. It is unlawful for an official or employee of the city or municipal agency to intentionally use his or her official position to secure a special privilege or exemption for himself, herself or any other person that said employee may have an association or relationship with defined under Section 1 (b)(1) and (6) of this ordinance.

(6) Misuse of information. It is unlawful for an official or employee of the city or a municipal agency to willfully or knowingly disclose any confidential or privileged information acquired by reason of the officer or employee's position, unless authorized or required by law to do so. Provided that nothing herein shall prohibit an officer or employee from engaging in conduct protected by Chapter 28-50 of the Rhode Island General Laws, the Rhode Island Whistle Blower's Protection Act.

(7) No show jobs. It is unlawful for an official or employee of the city or a municipal agency to knowingly employ a person with public funds who does not perform tasks which contribute substantially to the work of the government of the city or a municipal agency or whose tasks are grossly disproportionate to the compensation received.

(8) Outside work during business hours. No city employee shall engage in any outside business or commercial activity during regular business hours of his or her city position. All city employees are assumed to be full time, unless their personnel record or applicable personnel policies indicate otherwise.

(9) Representing persons. It shall be unlawful for any official or employee of the city or a municipal agency to act as agent or attorney for, or otherwise represent any person (except the city or the municipal agency) before any court, or before any state, federal, or local agency, or any officer or employee thereof in connection with a particular matter:

- a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
- b. In which the employee or official participated personally and substantially as a city official or employee; and
- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(10) Advising or consulting. It shall be unlawful for any official or employee of the city or a municipal agency to aid, advise, counsel, consult or assist another person (except the city or municipal agency) in connection with a particular matter:

- a. In which the city or a municipal agency is a party or has a direct and substantial interest; and
- b. In which the employee or official participated personally and substantially as a city official or employee; and
- c. Which involved a specific party or parties at the time of such participation; and
- d. Which is the same matter in which the official or employee participated as a city official or employee.

(d) *Duty to report.* A city employee with knowledge or information as to any prohibited conduct within Section (c) above shall have a responsibility to report said information in a timely manner to the City Ethics Integrity Officer.

(e) *Report of testimonial proceeds intended for personal use.* Within ninety (90) days from the date of a testimonial affair which was intended to raise funds for the personal use of a person who is a city employee upon her or his retirement or departure from the City or any municipal agency of the City, said city employee or a duly authorized designee shall make a full report to the city clerk, upon a form to be provided by the City Ethics Integrity Officer setting forth the net proceeds realized by the testimonial affair and the names and addresses of each contribution of in excess of one hundred dollars (\$100.00) to the affair and the amount contributed by each. The person making said report shall certify to its correctness. The city employee shall be responsible for maintaining accurate financial records of the testimonial affair and for filing the aforementioned report unless he or she files with the city clerk, prior to the affair, a statement designating another city employee who has signed an acknowledgement accepting responsibility to maintain those records and to file said report.

(f) *Former employees/officials.*

(1) Representing persons. It shall be unlawful for any person who was an official or employee of the city or a municipal agency or instrumentality, for a period of one (1) year after separation of said position, to act as agent or attorney for, or otherwise represent any person (except the city or the municipal agency) before any court, or before any state, federal, or local agency, or any officer or employee thereof in connection with a particular matter:

- a. In which the former employee or official participated personally and substantially as a city official or employee; and
- b. Which involved a specific party or parties at the time of such participation; and
- c. Which is the same matter in which the official or employee participated as a city official or employee.

(2) Advising or consulting. It shall be unlawful for any person who was an official or employee of the city or a municipal agency or instrumentality, for a period of one (1) year after separation of said position, to aid, advise, counsel, consult or assist another person (except the city or municipal agency) in connection with a particular matter:

- a. In which the former employee or official participated personally and substantially as a city official or employee; and
- b. Which involved a specific party or parties at the time of such participation; and
- c. Which is the same matter in which the official or employee participated as a city official or employee.

(3) Contracts, grants and subsidies. It shall be unlawful for any former employee or official of the city or a municipal agency who participated personally and substantially in the negotiation of a municipal contract, grant or, subsidy, including but not limited to a tax stabilization agreement or a tax increment financing arrangement valued at fifty thousand dollars \$50,000.00 or more, or who supervised the negotiation or award of such a contract to accept employment with a party to the contract (except the city or municipal agency) or with the recipient of the grant or subsidy for a period of one year after such contract is signed or the grant or subsidy is awarded.

(4) Confidential information. It shall be unlawful for any former employee or official of the city or a municipal agency to disclose confidential or privileged information acquired during service as employee or official, unless authorized or required by law to do so.

(5) Revolving door.

a. It shall be unlawful for an elected official, while holding office and for a period of one (1) year after leaving office, to seek or accept employment with any municipal agency or instrumentality, other than employment which was held at the time of the official's election or at the time of the enactment of this section, except as provided herein.

b. Nothing contained herein shall be construed to prohibit an elected official from seeking or being elected to any other elective office.

(g) *Campaign ethics.*

(1) Political activities while on duty with the exception of the Mayor, it is unlawful for an employee of the city or an independent agency to take any active part in political management or in political campaigns during duty hours; provided that this section shall not be construed to prohibit an officer or employee from voting as he or she may choose and from expressing his or her opinion on a political subject or candidate.

(2) Restrictions on campaigning by city employees. It is unlawful for any employee of the city or a municipal agency while attending to city business within city offices; or while wearing a city uniform required for his or her employment to: a. Request, in person, that any individual contribute any time, money or other thing of value to any candidate, political party or political committee; or b. Solicit, in person, support or votes for any candidate, political party or political measure.

(3) Soliciting contributions from city employees. It is unlawful for any person to solicit political contributions from employees of the city or a municipal agency during the employee's hours of employment.

(4) Soliciting contributions in city facilities. It is unlawful for a person to make, solicit, or knowingly accept any campaign contribution in a city facility.

(h) *Aiding and abetting.* No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any provision of this ordinance.

(i) *Suspension or dismissal for felonies related to employment.* Upon indictment, information or complaint and/or arraignment for a felony directly related to his or her employment, any city employee shall be suspended with or without pay, or transferred to another position. Upon conviction of or plea of nolo contendere to a felony related to his or her employment, a city employee shall be dismissed immediately.

(j) *Penalties and enforcement.*

(1) Criminal penalties. Any person who knowingly and willfully violates the provisions of this article shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) for each violation and/or imprisonment of not more than thirty (30) days.

(2) Civil penalties. Any person who intentionally or negligently violates the provisions of this article shall be liable in a civil action brought by the city solicitor in the municipal court for an amount up to five hundred dollars (\$500.00) for each violation as well as the pecuniary value of any unjust enrichment realized by the violator, a family member of the violator or a business associate of the violator as the result of his or her violation of this article.

(3) Statute of limitations. No complaint may be made under this article except within five years after the violation alleged in the complaint has been committed.

(k) *City Ethics Integrity Officer.* The role of city ethics integrity officer is hereby established and shall be executed by the City Solicitor.

(1) Mission. The mission of the city ethics integrity officer is to encourage each of the officials and employees of the city and municipal agencies to act in an ethical manner. This mission requires that the city ethics integrity officer encourage employees and officials not only to comply with various laws, but more importantly, to adhere to the highest standards of ethical behavior.

(2) Duties. In pursuing the above referenced mission, the duties of the city ethics integrity officer include, but are not limited to the following:

- a. Education and training. Develop training and education programs in coordination with the state ethics commission and in so doing encourage compliance with both the letter and the spirit of ethics laws. An introductory program will be required for all employees and officials.
- b. Written materials. The city ethics integrity officer will publish a "plain English" Ethics Handbook which addresses the requirements of the city ethics code and the code of ethics of the state.
- c. Website and Reporting. The city ethics integrity officer may develop and publish a website related to city ethics to contain a vehicle whereby members of the public may report any circumstance or situation involving an employee or official of the city or a municipal agency which appears to violate or may potentially violate the city ethics code or the code of ethics of the state. The website should contain links to readable and downloadable copies of the city ethics code and the code of ethics of the state.
- d. Information advice. The city ethics integrity officer will be available on a confidential basis to all employees and officials to answer questions regarding ethics and may provide informal advice regarding issues relating to the city code of ethics. The municipal integrity officer will also assist employees and officials

in seeking guidance from the state ethics commission relative to the code of ethics of the state.

e. Review and recommend. Review periodically this code and other applicable laws and recommend to the office of the mayor and the city council appropriate changes to this ordinance.

f. Liaison with state ethics commission. The city ethics integrity officer will maintain liaison with the state ethics commission on a regular basis to remain attuned to the requirements of the state code to engender cooperation with the state ethics commission.

SECTION 2. Lobbyist Disclosure.

(a) *Purpose.* The purpose of this section is to create disclosure requirements for municipal lobbyists to ensure the transparency and openness of city government. This disclosure will require lobbyists to provide pertinent information for the benefit of the general public, the mayor and the city council. This section is not intended to discourage or prohibit the exercise of constitutional rights.

(b) *Definitions.*

(1) City official means the mayor, members of the city council, directors, deputy directors and department heads in the City of Central Falls.

(2) Lobbying means any verbal communication with a city official for the purpose of influencing a municipal decision and for which compensation is received.

(3) Lobbyist means any person who engages in lobbying for compensation.

(c) *Lobbyist Disclosure Required.* Prior to any lobbying, every lobbyist is required to disclose the following information to the city clerk in a publicly accessible database: lobbyist name, name of lobbyist entity, if applicable, work address, work phone number, work email, name of person or entity on whose behalf the lobbying activity is occurring, amount of compensation for lobbying activity and specific subject matter of lobbying activity.

(d) *Lobbyist Reports Required.* Reports shall be filed with the city ethics integrity officer, both by the person, corporation, or association having engaged any person to act as a lobbyist, and by the lobbyist, as follows:

(1) A final report shall be filed not later than January fifteenth of each year. The report shall include all money or anything of value which in the aggregate exceeds two hundred fifty dollars (\$250.00) provided or promised to any city official within the preceding calendar year. "Money" and "anything of value" in this subsection and in subsection (d)(2) of this section shall mean any fee, salary, commission, expense, allowance, forbearance, forgiveness, royalty, rent, capital gain, gift, loan, reward, favor or service, gratuity or special discount, or any other form of recompense that constitutes income under the Federal Internal Revenue Code. In the event no compensation has been paid or received, and no expenses have been paid or incurred

during the preceding calendar year, an annual report stating such information shall be filed not later than January fifteenth.

- (2) Not later than January fifteenth of each year, every person, corporation, or association specified in this subsection shall provide an exact copy of the report required in subsection (d)(1) [of this section] to the Rhode Island Ethics Commission and to any city official to whom the person, corporation, or association provided or promised money or anything of value which in the aggregate exceeds two hundred fifty dollars (\$250.00) within the preceding calendar year.

(e) Administrative penalty for violations.

Any person, corporation, association, or lobbyist who is found to have intentionally violated any provision of this article may be subject to administrative penalties imposed by the city clerk as the circumstances may merit upon notice and opportunity to be heard before the city clerk. Said penalties include the imposition of a fine not to exceed two hundred fifty dollars (\$250.00) per day and/or the removal of such lobbyist from the city clerk's register of lobbyists and prohibition of lobbying activity until the following year or until compliance is established.

(f) *Exceptions.* The following persons or actions shall be exempt from the provisions of this section:

- (1) Any elected public official or the official's designee acting in his or her official capacity, or any municipal employee acting within the scope of his or her employment.
- (2) News media employees or agents who in the ordinary course of business write, publish, or broadcast news items, editorials, or other comments or paid advertisements which directly or indirectly urge legislative action, if those persons engage in no other lobbying activities in connection with that action.
- (3) Drafting legislation.
- (4) A person appearing to testify in a public forum in support of or in opposition to legislation or municipal decision.
- (5) Attorneys representing clients before a city board or commission shall not be considered lobbying for purpose of this ordinance.

SECTION 3. Pay to Play Prohibited.

(a) *Definitions.* For purposes of this section:

- (1) Candidate for Central Falls public office means the candidate committee of any holder of or candidate for municipal public office in the City of Central Falls which has filed a Notice of Organization with the Campaign Finance Division of the Rhode Island Board of Elections.
- (2) Contribution means any contribution, whether a monetary or in-kind contribution, of any amount, made to a candidate for Central Falls public office.

(3) “No-bid contract” means any contract awarded without public bidding pursuant to Chapter 9 of the Home Rule Charter.

(b) *Restrictions.*

(1) The City of Central Falls shall not enter into a no-bid contract with any person or entity if that person or entity has made any contribution to a candidate for Central Falls public office which exceeds the thresholds set forth in section (2) below within one (1) year prior to the date of the award of the no-bid contract for such services.

(2) Any person or entity may annually contribute a maximum of \$300 each for any purpose to any candidate for Central Falls public office without violating section (1) above.

(3) All no-bid contracts shall provide that it shall be a breach of the terms of the contract for the person or entity to make or solicit a contribution in violation of this section.

(4) No contribution shall be deemed a violation of this section if made prior to the effective date of this ordinance.

(5) Prior to awarding any no-bid contract, the purchasing agent shall receive a written certification from the person or entity attesting to compliance with this section.

(c) *Penalty.* Any person or entity who violates the provisions of this article shall be deemed to have materially breached the no-bid contract and shall be disqualified from eligibility for any future no-bid contract with the City of Central Falls for a period of one (1) year from the date of violation and shall be subject to a fine up to five hundred dollars (\$500.00) for each violation.

SECTION 4. Revocation or reduction of retirement benefits of employees for dishonorable service.

(a) Payment of a retirement allowance or annuity or other benefit or payment subject to Sec. 4-1601 of the Home Rule Charter shall be for “honorable service” only.

(b) Definitions. For purposes of this section:

(1) “Board” shall mean the Board of Retirement of the City of Central Falls;

(2) “crime related to his or her public employment” shall constitute “dishonorable service,” and shall include any of the following conduct, whether or not the conduct results in a criminal conviction:

(A) committing, or aiding or abetting the commission of, embezzlement of public funds;

(B) committing, or aiding or abetting the commission of, any felonious theft by a public employee from his or her employer;

- (C) committing, or aiding or abetting the commission of, bribery in connection with, or involving, a public employee;
- (D) committing, or aiding or abetting the commission of, any felony by a public employee who willfully, and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or for some other person, through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment; and
- (E) Any other misconduct or crime which the Board, by a majority vote, determines is “dishonorable service,” after weighing and balancing the following factors:
 - (i) the employee’s length of service;
 - (ii) the basis for retirement, i.e., age, service, disability, etc.;
 - (iii) the extent to which the employee’s pension has vested;
 - (iv) the duties of the particular employment;
 - (v) the employee’s public employment history and record;
 - (vi) the employee’s other public employment and service;
 - (vii) the nature of the misconduct or crime, whether it involved an isolated act or multiple acts, and its gravity or substantiality;
 - (viii) the relationship between the misconduct or crime and the employee’s public duties;
 - (ix) the quality of moral turpitude or the degree of guilt and culpability, including the employee’s motives and reasons, personal gain, and the like;
 - (x) the availability and adequacy of penal sanctions; and
 - (xi) other personal circumstances relating to the employee bearing upon the justness of forfeiture.

(3) “Employee” shall mean any current or former city elected official, or any appointed official, or employee of the city, or of a city board, commission or agency, who is otherwise entitled to receive a pension.

(4) “Pension” shall include an employee’s retirement allowance or annuity or other benefit or payment subject to Sec. 4-1601 of the Home Rule Charter.

(c) *Mandatory Board Action.* Notwithstanding any other provision of law, a pension shall be revoked or reduced by the Board under this section if an employee is convicted of, or pleads guilty or *nolo contendere*, to any crime related to his or her public employment. Any such conviction or plea shall be deemed to be “dishonorable service” and a breach of the employee’s contract with his or her employer; however, for purposes of this section, “pleads guilty or *nolo contendere*” shall not include any plea of guilty or *nolo contendere* which does not result in a conviction by virtue of G.L. 1956, § 12-10-12 or § 12-18-3, as amended.

(d) *Permissive Board Action.* Notwithstanding any other provision of law, a pension may be revoked or reduced by the Board under this section if a majority of the Board determines by a preponderance of the evidence that an employee has engaged in “dishonorable service” after weighing and balancing the factors set forth in section (b)(1)(E).

(e) *Due Process.* If a majority of the members of the Board vote to consider any action to revoke or reduce any pension, the Board, before taking any such action, shall:

- (1) conduct a meeting with the involved employee and inform the employee of the alleged conduct forming the basis of the contemplated Board action; and thereafter,
- (2) provide the employee, and his or her spouse or domestic partner, dependents and/or designated beneficiaries, with ample notice of the relevant alleged conduct and an opportunity to be heard.

(f) *Balancing Test; Calculations.* This ordinance is intended to be equitable, rather than penal, in nature. Thus, when deciding to revoke or reduce a pension, the Board shall weigh and balance the factors set forth in section (b)(1)(E). In addition:

- (1) the Board need not compare an employee's periods of dishonorable service with periods of allegedly honorable service, other than as may be required to determine the legitimate interest of an innocent spouse, domestic partner, dependent, and/or designated beneficiary, and the Board may revoke or reduce a pension even if the evidence of "dishonorable service" is limited to an isolated act by an employee who had separate periods of city employment;
- (2) the Board shall decide whether the revocation or reduction shall take effect (and be calculated) from the date:
 - (A) of the dishonorable service; or
 - (B) the date notice was provided under section (e)(2); or
 - (C) the date of the Board's decision under section (g); and
- (3) if the Board determines to revoke or reduce a pension, the employee's contribution to the pension system shall be refunded, without interest; however, if, as of the date of the Board decision, the employee:
 - (A) has not made full restitution for any loss proximately caused by his or her dishonorable service (including, but not limited to, the fees and costs incurred by the Board), and/or
 - (B) has already received pension payments, the amount of the unreimbursed loss and/or the pension payments received shall be deducted from any such refund.

(g) *Appeal and Standard of Review.*

- (1) If the Board determines by a majority vote that revocation or reduction of a pension is warranted, it shall make specific factual findings in support thereof and shall render a written decision, which shall be appealable to the Superior Court as long as such an appeal is filed within twenty (20) calendar days from the date the Board decision was rendered. Such appeals shall be pursuant to the Rhode Island Administration Procedures Act 42-35-1, et seq.

SECTION 5. Severability; Indispensable Party. The holding of any section or sections or parts hereof to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any

other section or part hereof. The city shall be an indispensable party in any action contesting the validity of this ordinance.

SECTION 6. Effective Date. This ordinance shall take effect upon passage.

Final Version (amending 1/18/13 and 2/11/13 iteration) Solicitors Office
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