

ORDINANCE NO. 19-1902

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 2450 (CODE OF ETHICS) OF CHAPTER 4 OF ARTICLE II OF THE CARSON MUNICIPAL CODE

WHEREAS, the citizens and businesses of Carson are entitled to have fair, ethical and accountable government which has earned the public's full confidence for integrity; and

WHEREAS, the effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws affecting the operations of government; and

WHEREAS, public officials must show they are independent, impartial and fair in their judgment and actions; and

WHEREAS, public deliberations and processes must be conducted openly, unless legally confidential, and in an atmosphere of respect and civility; and

WHEREAS, all public resources are held in trust for the people, and must be used for the public good, not for personal gain; and

WHEREAS, the City has a commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment; and

WHEREAS, on May 4, 2004, the City Council adopted by resolution a Carson Code of Ethics; and

WHEREAS, on July 8, 2008, the City Council adopted Ordinance No. 08-1409 to add a Section 2450 (Code of Ethics) to Chapter 4 of Article II of the Carson Municipal Code; and

WHEREAS, the City's Code of Ethics both sets forth ethical standards of behavior related to City Council interactions with City staff, as well as regulates the appropriate behavior of the City Council in order to protect employees; and

WHEREAS, the City's Code of Ethics is intended to memorialize the trust that the people of Carson place into the hands of their elected Councilmembers to assure fair and equal treatment of all persons, claims and transactions; and

WHEREAS, nothing in this ordinance is intended to limit or otherwise infringe on the First Amendment rights of free speech or association of public officials, or to conflict with any other federal, State or local laws; and

WHEREAS, Section 2450(B) of Chapter 4 of Article II of the Carson Municipal Code provides that the Code of Ethics shall be periodically reviewed and updated by the City Council; and

WHEREAS, the recently adopted Carson City Charter in Section 202 affirms the form of government for the City shall continue to be a “Council-Manager” form of government, meaning “the city council shall establish the policies of the City, and the city manager shall administer the government of the City in accordance with such policies,” while also specifying in Section 307 that “Except for the purpose of inquiry, the city council and its members shall deal with the administrative service under the city manager solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately, directly or indirectly.”; and

WHEREAS, to expand the scope of the City’s Code of Ethics, the City Council desires that the City’s Code of Ethics shall expressly apply to members of the City Council, all elected officials, all department heads, the city manager, and all members of the City’s commissions, boards and committees (“members”); and

WHEREAS, consistent with prudent and lawful stewardship of public funds, the City Council desires to reaffirm public resources are to be used only for public purposes and not for private gain or personal purposes, and that furthermore public resources shall not be used to pay for the defense of members against allegations involving violations of the City’s Code of Ethics (to the fullest extent permitted by federal, State and local law); and

WHEREAS, out of the utmost respect for our common humanity and in the interests of good government, the City Council desires that all members treat each other, the City staff and members of the public with respect, courtesy, humility, and open-mindedness; and

WHEREAS, in the interests of just, orderly and productive transactions of the People’s business, the City Council desires that the highest standards of due process and respect be adhered to at public meetings; and

WHEREAS, the City Council desires that, consistent with its commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment, the Discrimination and Harassment Prevention Policy in the Carson Municipal Code shall apply to all members; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:

SECTION 1. The forgoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. Section 2450 of Chapter 4 of Article II of the Carson Municipal Code is hereby amended to read in its entirety as follows (new text is identified in ***bold & italics***, deleted text in ~~strike through~~):

A. Purpose. The City of Carson hereby adopts this Code of Ethics for members of the City Council, ***all elected officials, all department heads, the city manager, and all members of*** the City’s commissions, boards and committees (collectively “members”) to ensure the

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citizens of the City receive fair, ethical and accountable government, with adherence to both the spirit and the letter of the law affecting governmental operations. Nothing in the Code of Ethics is intended to limit or otherwise infringe on the First Amendment rights of free speech or association of public officials or members of the public, or to conflict with any Federal, State or local laws.

B. Distribution of Code of Ethics. This Code of Ethics shall be included in the regular orientations for candidates for City Council, *included in the* application packets to commissions, boards, and committees, and given to newly elected *members* and *newly* appointed ~~officials~~ *members*. Members entering office shall sign a statement affirming they read and understood the City of Carson Code of Ethics. In addition, the Code of Ethics shall be periodically reviewed and updated by the City Council upon recommendations from commissions, boards, committees, and the citizens of Carson.

C. Adherence to Principles. All members shall strive to adhere to the principles set forth in the Code of Ethics. If it appears that any member has not or is not adhering to the principles in this Code of Ethics, a hearing may be held by the City Council to discuss whether action should be taken. No hearing may be held, unless: (1) the hearing is requested by two members of the City Council, and (2) the person who is the subject of the hearing is given thirty (30) days' advance notice of the hearing, which notice shall describe the facts and reason for the hearing. The person who is the subject of the hearing shall be afforded all appropriate due process, including a meaningful opportunity to respond to allegations before any action is taken pursuant to subsection (D) of this Section.

D. Actions Against Members. If, after a hearing described in subsection (C) of this Section, the Council wishes to take action in response to any violation of the Code of Ethics, such action may include a public admonishment, a resolution of censure, removal of the member from the commission, board or committee on which he or she serves (does not apply to members of the Council), or any other action reasonably related to ensuring that member does not engage in future Code of Ethics violations, *including but not limited to the City Council not providing indemnification for defense against any complaints or legal action against a member, if the complaint or legal action arises from the member's alleged violation of this Code of Ethics*; provided further, that such action is consistent with all Federal, State and local laws. The Council may adopt a policy of progressive remedies starting with warnings and increasing to more serious penalties to deter or prevent future violations.

E. Code of Ethics. The following principles shall constitute the Carson Code of Ethics, applicable to all members of the City Council and the City's commissions, boards and committees:

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Carson and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Carson City

Council, commissions, boards and committees.

2. Comply with the Law. Members shall comply with the laws of the nation, the State of California and the City of Carson in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Carson Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government. Members shall also comply with all applicable City policies and procedures.
3. Conduct of Members. ~~The professional and personal conduct of members must be above reproach and should~~ **Members must treat each other, the City staff and members of the public with respect, courtesy, humility, and open-mindedness. Members must engage each other, the City staff and members of the public with utmost professionalism and** take steps to avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members ~~of the Council, commissions, boards and committees,~~ the **City** staff or the public.
4. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and commissions, boards, and committees governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.
5. Conduct of Public Meetings. Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus their attentions on the business at hand. **To ensure due process at any public meeting,** ~~They~~ shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, ~~or interfering with the orderly conduct of meetings,~~ **or engaging in discussions, communications, or other activities that distract their attention from the business at hand.**
6. Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. Communication. Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or commissions, boards, and committees, which they may have received from sources outside of the public decision-making process.
8. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest.

In accordance with the law, members who are subject to the City's Conflict Code shall, in accordance with the Conflict Code, disclose investments, interests in real property, sources of income and gifts; and abstain from participating in deliberations and decision-making where conflicts may exist

9. Gifts and Favors. Members shall not use their public office to take any special advantage of services or opportunities for personal gain that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. Use of Public Resources. ***Members shall at all times be prudent stewards of public resources and actively consider the impact of decisions on the long-term financial and social stability of the City and its residents.*** Members shall not ***request or*** use public resources not available to the public in general, ***and members shall not use public resources in a manner not available to the general public,*** such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. Representations of Private Interests. In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any commission, board, committee, or proceeding of the City, nor shall members of commissions, boards, and committees appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies. This section shall not prevent members of commissions, boards, and committees from attending meetings of the Council or other commissions, boards or committees and advocating their views on matters of public policy, provided they are not doing so as a lobbyist for compensation.
13. Advocacy. Members shall represent the official policies or positions of the City Council, commission, board, or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state that they do not represent their body or the City of Carson, nor shall they allow the inference that they do. When representing the City on Federal, State, or regional bodies, members shall advocate policies which are in the best interest of the City of Carson over their own personal interests.
14. Policy Role of Members. Members shall respect and adhere to the council-manager structure of Carson City government. In this structure, the City Council determines

the policies of the City with the advice, information and analysis provided by the public, commissions, boards, committees, and City staff.

Individual members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions. ***Pursuant to Section 307 of the Charter of the City of Carson:***

- a) ***The City Council and its individual members shall not interfere with the execution by the city manager of his or her powers and duties.***
- b) ***The City Council and its individual members shall not order, directly or indirectly, the appointment by the city manager or by any of the department heads in the administrative service of the City, of any person to an office or employment, or his or her removal therefrom.***
- c) ***The City Council and its individual members shall deal with the administrative service under the city manager solely through the city manager (except for the purpose of inquiry).***
- d) ***The City Council and its individual members shall not give orders to any subordinates of the city manager, either publicly or privately, directly or indirectly.***

15. Independence of Commissions, Boards, and Committees. Because of the value of the independent advice of commissions, boards, and committees to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

16. Positive Workplace Environment. Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

17. The policies and procedures provided for in Chapter 11 (Discrimination and Harassment Prevention Policy) of Article II of the Carson Municipal Code apply in their entirety, without any exceptions, to all members.

F. No Effect on Decisions. A violation of this Code of Ethics shall not be a basis for challenging the validity of any Council, commission, board, or committee decision.

G. Implementation Guidelines. The City Council from time to time may by resolution adopt implementation guidelines which concern any issue addressed by this Code of

Ethics, and such implementation guidelines shall be enforceable pursuant to this Section 2450 as if set forth expressly herein.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its passage.

SECTION 5. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED AND ADOPTED on the ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ALBERT ROBLES, Mayor

ATTEST:

DONESIA GAUSE-ALDANA, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney