

ORDINANCE NO. 037, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 2-568 OF THE CODE OF THE CITY OF FORT COLLINS
PROSCRIBING CERTAIN ACTIONS IN THE EVENT A CITY BOARD
OR COMMISSION MEMBER HAS DECLARED A CONFLICT OF INTEREST
AND ESTABLISHING A RELATED VARIANCE PROCEDURE

WHEREAS, Article IV, Section 9(b) of the Charter of the City of Fort Collins establishes rules of conduct concerning conflicts of interest; and

WHEREAS, Section 2-568 of the Code of the City of Fort Collins establishes the ethical rules of conduct for officers and employees of the City of Fort Collins; and

WHEREAS, the Ethics Review Board has met and discussed the need to clarify the activities that are prohibited for City board and commission members and Councilmembers when they have a conflict of interest in a City matter, along with establishing a variance procedure by which Council could, in certain circumstances, authorize a board or commission member to actively participate in a matter that he or she otherwise would be prohibited from participating in due to a conflict of interest; and

WHEREAS, the Ethics Review Board discussed specific revisions to Article IV, Section 9(b) of the Charter of the City of Fort Collins and Section 2-568 of the Code of the City of Fort Collins at meetings on July 25, 2016, and October 4, 2016; and

WHEREAS, on January 17, 2017, City Council adopted on second reading the Ordinance No. 003, 2017, submitting to the voters at the regular City election in April the question of an amendment to the City Charter to clarify the scope of the prohibition on sales to the City; and

WHEREAS, this Ordinance amends the City Code as recommended by the Ethics Review Board at its February 7, 2017, meeting, consistent with the terms of Ethics Opinion 2016-001, adopted by the City Council in July, 2016.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-568(a) of the Code of the City of Fort Collins is hereby amended by the addition of a new definition "*Attempt to influence or influence*" which reads in its entirety as follows and by renumbering accordingly all subsequent subparagraphs:

- (1) *Attempt to influence or influence*, as it pertains to this Section, shall mean take any action intended to impact, shape, control, sway, bias or prejudice.

Section 3. That Section 2-568(c) of the Code of the City of Fort Collins is hereby amended by the addition of a new subparagraph (3) to read as follows and renumbering accordingly all subsequent subparagraphs:

(3) In any action in which a member of a City board or commission member (“member”) declares a conflict of interest, such member shall not communicate to or attempt to influence such board or commission regarding such item, in any capacity, except that:

a. the member may communicate with said board or commission to protect a strictly personal interest, in the same or similar ways in which the public is permitted to communicate with the board or commission.

b. The member may prepare materials on behalf of another for a project in the normal course of business or operation, so long as the purpose of those materials is not directly and substantially related to advocacy before said member’s board or commission. Those materials may be included in materials submitted by another to said member’s board or commission so long as they fall within this exception. For illustrative purposes, such materials may include, but are not necessarily limited to architectural plans, technical studies, and engineering designs.

c. if a member has declared a conflict of interest in a matter in accordance with the City Charter and Code and so is precluded from participating in or influencing the decision of his or her board or commission, he or she may request a variance from the limitations of this subsection from the City Council in the following circumstances, and in the following manner:

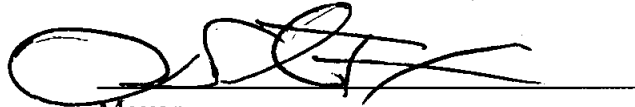
1. The member must submit a request for a variance to the City Clerk on a form provided by the City Clerk for such purpose.

2. The member must demonstrate that without the variance, he or she would suffer an exceptional hardship, and that no reasonable alternative exists that would allow for that hardship to be avoided or substantially mitigated;

3. The City Council must act by resolution to approve or disapprove the requested variance.

d. This limitation does not apply to other members, partners, or other parties of the member’s or firm or entity, who may continue to work on the project and may advocate to such member’s board or commission, provided that the member has declared the conflict and refrains from participating in the matter consistent with the application limitations.

Introduced, considered favorably on first reading, and ordered published this 21st day of February, A.D. 2017, and to be presented for final passage on the 7th day of March, A.D. 2017.



Mayor


ATTEST:

W Winkelman
City Clerk



Passed and adopted on final reading on this 7th day of March, A.D. 2017.





Mayor

ATTEST:

W Winkelman
City Clerk