BOARD OF ETHICS COMPLAINT FORM AND INSTRUCTIONS

Violations of Specified Prohibitions (CVMC 2.01.030(C))

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BOE COMPLAINT FORM

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Attachments: Chula Vista Municipal Code sections 2.01 and 2.28

INTRODUCTION

The Board of Ethics has the authority to hear complaints regarding alleged violations by City officials of only the Specified Prohibitions set forth in Chula Vista Municipal Code ("CVMC") section 2.01.030(C). "City officials" are identified in CVMC section 2.01.020 as the Chula Vista City Council, including the Mayor, the City Manager, the City Attorney, the City Clerk, Board and Commission members, Assistant City Managers, City Department Directors, and ex-City officials who previously occupied those positions.

Please review CVMC section 2.01.030(C) to ensure that your allegation(s) involves the Specified Prohibitions. Copies of CVMC Chapters 2.01 (specified prohibitions) and 2.28 (complaint procedures) are included with this Complaint Form packet. The Board of Ethics does not have jurisdiction to hear complaints about other issues or individuals. Further, it may refer complaints regarding alleged violations of the Specific Prohibitions to other enforcement agencies.

The Board of Ethics acts as the hearing body for complaints involving violations of the Specified Prohibitions. The Board of Ethics must be impartial in its actions. The complaint process begins with a *prima facie* review of the complaint, where the Board examines the information in this Complaint Form to determine if it was timely filed (a complaint must be filed within 90 days of the alleged violation), involves a City Official, and if it contains a specific and full set of facts that allege a Specific Prohibition has been violated. Please provide as much factual and detailed information as possible, particularly in the narrative section of this complaint form (Section 4), and completely describe the acts that form the basis for the alleged violations of the Specified Prohibitions.

As the Complainant, your name is not confidential and would be publicly available. If you would prefer your name to be held confidential, you may complete a "Request for Confidentiality" form to request limited confidentiality. If your request is granted, your name would be kept confidential for a limited period but may be disclosed during the probable cause stage of the proceedings. If your request is not granted, you will have the option to either pursue the complaint with your name not being confidential, or you may withdraw your complaint.

If a complaint survives the *prima facie* review, it is then set for a probable cause hearing to determine if there is enough information to conduct a hearing on the merits of the complaint. If a hearing is held, the Board of Ethics will issue a post-hearing written decision.

Please complete a separate complaint form for each City Official you believe violated the Specified Prohibitions set forth in CVMC 2.01.030(C). If you have any questions, you may consult with an attorney. You may also contact the City Attorney's Office if you have questions about the form at (619) 691-5037, but they do not provide advice as to the substance of a complaint. The Board of Ethics must be neutral and cannot assist any party in the complaint process. Thank you for taking time to submit your complaint.

SECTION I - COMPLAINTANT (PERSON WHO IS COMPLAINING) INFORMATION

For each person that is filing this complaint (Complainant(s)), please provide the following required information:

COMPLAINANT INFORMATION

Full Name _____

Address _____

_____

Phone Number _____

Email Address _____

The name of the Complainant(s) is not confidential. If you want to keep your name confidential for a limited period of time, you may make request for confidentiality. To do so, each person complaining must complete a Request for Confidentiality form, included with this complaint package.

REQUEST FOR CONFIDENTIALITY
(Check appropriate box)

□ No □ Yes

If there is more than one Complainant, please provide the above information for each additional person on an additional sheet of paper.

□ Check if additional pages are attached

SECTION II - RESPONDENT (PERSON YOU ARE COMPLAINING ABOUT) INFORMATION

For each person you are complaining about (Respondent(s)) please provide the following:

RESPONDENT 1
Person you are complaining about is:

Full Name: _____

THE ABOVE-NAMED PERSON IS (CHECK ONE):

☐ The Mayor
☐ Councilmember
☐ City Manager
☐ City Attorney
☐ City Clerk
☐ Assistant City Manager
☐ City Department Director
☐ Board or Commission Member

Name Board, Commission, or Department (if applicable):

_____

If the Respondent is not listed above, please contact the City Attorney's Office at (619) 691-5037. The Board of Ethics is unable to hear complaints regarding individuals not listed above but may be able to provide a referral to another agency.

If there is more than one Respondent please provide the above information for each additional Respondent on an additional sheet of paper.

□ Check if additional pages are attached

SECTION III - SPECIFIED PROHIBITIONS

The following Specified Prohibitions are found in CVMC 2.01.030(C). Please review the actual language of the Specified Prohibitions to ensure that your allegations involve an alleged violation of the Specified Prohibitions. In Section 4, you must provide a detailed description of the conduct alleged to show a violation of a Specified Prohibition. Any allegation not alleging a violation of a Specific Prohibition will not be considered and the allegation will be dismissed. For each person you are complaining about, please complete the below sentence and check the applicable box(es) indicating the Specified Prohibition believed to have been violated.

Statement:
I, _____ [insert Complainant name], allege that on or around _____[insert date or dates of violation or approximate dates], _____[Respondent], who is _____or formally was _____ [insert City official title], engaged in the following conduct: (please check all boxes that apply):

☐ 1. Accepted gifts, favors, or promises of future benefits, which might compromise or tend to impair independence of judgment or action. Gifts do not include campaign contributions authorized by the Political Reform Act.

☐ 2. Used their official title or position for personal gain. Personal gain includes, but is not limited to situations, where a City Official solicits items of value in consideration of their official title or position.

☐ 3. Divulged confidential information for personal gain or for the gain of associates in a manner contrary to the public interest or in violation of any law.

☐ 4. Used or permitted the use of City resources for unapproved non-city activities, except when available to the general public, provided for by administrative regulations or policies, or approved by City Council.

☐ 5. Improperly appeared on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the city.

☐ 6. For an Ex-City Official not including former elected officials: For a period of one year after leaving office or employment acted, for compensation, as an agent or attorney for, or otherwise represented, any other person by making oral or written communication before any City administrative office or agency or officer or employee, where the appearance of communication was made for the purpose of influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract for the sale or purchase of goods or property.

☐ 7. For a former member of the City Council, including the Mayor: Appeared as a compensated representative at any time before the Council, or any commission, board, or City staff in connection with any case or other matter

with which he/she personally participated while an official or employee of the City for 12 months following the date of separation from elected or appointed office, except by permission of the City Council finding on four-fifths vote that special identified and articulated circumstances exist, cast at a regular public meeting taken after the involved member of the City Council has left office. Such special identified and articulated circumstances include, but are not limited to, determinations that it is in the best interest of the City to permit such representation, that the former Councilmember, including the Mayor, is uniquely qualified to appear on the matter, or it is impractical to require another representative to appear on the matter.

☐ 8. Endorsed or recommended for compensation any commercial product or service in the name of the City or in the employee's official capacity within the City without prior approval by a City Council policy.

☐ 9. Violated Government Code section 87100 related to financial interests and governmental decisions made by them.

☐ 10. Coerced their subordinates or any other City employee to participate in an election campaign, contribute to a candidate or political committee, engage in any other political activity relating to a particular party, candidate, or issue, or to refrain from engage in any lawful political activity. A general statement encouraging another person to vote does not violate this prohibition.

☐ 11. Displayed campaign materials in any city-owned vehicle under their control and operated by that City Official.

☐ 12. Aided and abetted another City Official to violate the Specific Prohibitions set forth in the Code of Ethics.

☐ 13. Negotiated for employment with any person, firm, or organization at the same time that aforementioned person, firm, or organization had a matter pending before City Council, Board or Commission, or City department and upon which the City Official must act or make a recommendation.

SECTION IV - DESCRIPTION OF FACTS

Provide a specific and full description of the facts constituting the alleged violation of the Specified Prohibitions set forth in CVMC 2.01.030(C). You must include the date(s) of the incident(s), describe the Respondent's position in the City, and have a full and specific description of what occurred that allegedly violated the Specified Prohibitions set forth in CVMC 2.01.030(C). Avoid making unsupported conclusions or speculation. The Board of Ethics only holds jurisdiction over allegations involving the Specified Prohibitions set forth in CVMC 2.01.030(C). You may attach additional sheets as necessary.

☐ If more space is needed, please check this box and attach additional sheets as necessary

SECTION V - WITNESSES

Provide the following information about witnesses that can provide facts that support the alleged violations of the Specified Prohibitions:

WITNESS #1

Name _____

Address _____

Contact Phone Number _____

Email _____

Identify what the witness will attest to:

_____

_____

_____

WITNESS #2

Name _____

Address _____

Contact Phone Number _____

Email _____

Identify what the witness will attest to:

_____

_____

_____

☐ If more space is needed for witness statements or additional witnesses, please check this box and attach additional sheets as necessary

SECTION VI - DOCUMENTATION

List and attach copies of any documents in your possession that support the alleged violations of the Specified Prohibitions. In addition, indicate below whether there are other records, not in your possession, that you believe would assist the Board of Ethics in reviewing the complaint.

Documents Attached

Document Name	Describe How This Document Supports the Allegation

Other records not attached

Document Name	Describe How This Document Supports the Allegation

☐ If more space is needed, please check this box and attach additional sheets as necessary

SECTION VII - RELATED COMPLAINTS

Have you or someone you know made or filed the same or similar complaint in a court or with another agency?

Yes □ No □

If yes, identify the court or agency and attach a copy of any complaint and response. Briefly describe the complaint and response below:

Court or Agency Name	Describe Complaint and Response

☐ If more space is needed, please check this box and attach additional sheets as necessary

SECTION VIII - ADDITIONAL INFORMATION

Provide any additional information that you believe may assist the Board of Ethics in evaluating this complaint.

☐ If more space is needed, please check this box and attach additional sheets as necessary

SECTION IX - VERIFICATION

I declare under penalty of perjury, under the laws of the State of California, that the above statements and information are true and correct:

Executed on (date): _____

At (City and State): _____

By (Name): _____

Signature: _____

If there is more than one Complainant, each one must complete the above verification on a separate sheet of paper.

□ Check of there are additional pages with complainant verifications.

BOARD OF ETHICS COMPLAINT FORM INSTRUCTIONS

The following are instructions to help you complete the Board of Ethics complaint form. If you require assistance you should seek the advice of an attorney. If you have questions regarding the complaint form you may contact the City Attorney's Office at (619) 691-5037, but they do not advise as to the substance of a complaint.

Section I [Complainant Information]: In this section, the person (You) or persons (You and others) who are complaining, also called Complainant(s), identify themselves and provide the below listed contact information.

1. Provide complete name.
2. Provide complete address. This address will be used to send correspondence.
3. Please provide a phone number where you may be contacted.
4. Provide an email address where you may be contacted.

If there is not enough room on the form or there are additional complainants, you may use additional sheets of paper and provide the requested identifying information.

In this section, the complainant can also request to have their name kept confidential. The request for confidentiality is for a limited period of time, usually up to the probable cause hearing (at which time their identity may become known). To request confidentiality, a separate form must be completed and must meet the requirements of CVMC section 2.28.090(C).

Section II [Respondent information]: In this section, you are asked to identify the person or persons you are complaining about, also called the Respondent, and their City position. The required information includes:

1. Complete name
2. Official City Title
3. Identify if the Respondent is the City of Chula Vista Mayor, a Councilmember, the City Attorney, a Board or Commission Member, or a City of Chula Vista Department Director.

The Respondent must be the Mayor, a City Councilmember, the City Attorney, a City board or Commission Member, or a City Department Director, referred to as "City Officials" in the Code of Ethics. The Board of Ethics does not hear complaints regarding other individuals.

City departments include: Development Services Department, Economic Development Department, Finance Department, Fire Department, Human Resources Department, Information and Technologies Department, Library Department, Police Department, Public Works Department, and Recreation Department.

If there is not enough room on the form, you may use additional sheets of paper and provide the requested identifying information.

Section III [Specified Prohibitions]: In this section, for each Respondent, insert their name in the blank for "[Name]" and insert their City title in the blank for "[City Title]" and then check the Specified Prohibition(s) that you believe was violated. The checklist of the thirteen specified prohibitions is a summary. You should review the actual language for each Specified Prohibition found in Chula Vista Municipal Code section 2.01.030(C), a copy of which is included in this complaint package. Please complete the above steps for each City Official you are complaining about. You may use additional sheets of paper if needed.

Please note that the Board of Ethics can only consider complaints regarding the Specified Prohibitions found in Municipal Code section 2.01.030(C), but cannot consider complaints about the Guiding Principles found in Municipal Code section 2.01.030(A) and (B).

Section IV [Description of Facts]: In this section, please describe, for each Respondent, the **facts** that show a violation of the Specified Prohibitions. Legal-type language is not required. Instead, write it like a story in chronological order. You must include the specific date the violation occurred and describe in detail what **facts** show a violation of the Specified Prohibitions. The specific date the violations occurred is important because the complaint must be filed within 90 days of the violation. Also, avoid making unsupported conclusions or engaging in speculation. This section is very important because the Board of Ethics uses the **facts** in this section to determine if a *prima facie* showing has been made and to continue BOE consideration of the complaint. You may attach additional sheets if you need more space.

Section V [Witnesses]: In this section, provide the following information for each witness that supports your complaint:

1. Full name
2. Complete Address
3. Phone where they may be contacted
4. E-mail where they may be contacted

For each witness, have them write a statement detailing what facts they would provide that shows a violation of the Specified Prohibitions. If that cannot be done in time, a summary of what they would say is acceptable. Also, the witness must be someone you spoke with and know what they will say. A witness is not someone who you think will say something in support of your complaint. Please complete the above steps for each witness. Please note that as the case progresses, the witnesses may be called to testify before the BOE at a hearing on the merits of the complaint.

Section VI [Documentation]: In this section, provide copies any documents that support your allegation of a violation of the Specified Prohibition. You may also provide web links to the

documents if they are on the internet. Also, if you are specifically aware of documents that exist, but are not in your possession, please explain what the documents are, what information they will contain, and where they are located.

Section VII [Related Complaints]: In this section, provide copies of complaints that are the same or similar as the current complaint or related to the current complaint that you have filed with another agency or court. Other agencies may include District Attorney's Office (DA), Attorney General's Office (AG), or Fair Political Practices Commission (FPPC). If you have received a response from that other agency, please include that as well.

Section VIII [Additional Information]: If there is any information that you have not yet provided in this complaint form, but believe such information is relevant and would assist the Board of Ethics in determining if there is a violation of the Specified Prohibitions, please provide that information is this section. If you are not sure, it is better to provide too much information than not enough, and you may provide such information in this section.

Section IX [Verification]: Chula Vista Municipal Code section 2.28.090 requires that the complaint be signed and filed under penalty of perjury. Each person that is making the complaint must sign the complaint under penalty of perjury.

REQUEST FOR CONFIDENTIALITY FORM

A person filing a complaint that a Specified Prohibition has been violated may file a request to keep their name and other identifying information (together called "Identifying Information") confidential pursuant to CVMC section 2.28.090(C). The complainant filing the request bears the burden of showing good cause that their Identifying Information should be kept confidential. A separate request must be submitted by each complainant requesting to keep their Identifying Information confidential. The confidentiality is limited and their name may be released at the probable cause stage of the proceedings. If the request is denied, the complainant must either withdraw their complaint or proceed with their name being publicly available.

I, _____[Name], hereby request that my Identifying Information be kept confidential, pursuant to CVMC Section 2.28.090(C), and that good cause exists to do so because [check one that applies]:

□ The existence of an employer/employee or supervisor/subordinate relationship between respondent and complainant or the existence of such a relationship between complainant's spouse or immediate relative(s) and respondent or respondent's spouse or immediate relative;

□ Facts that show that complainant would be shunned, ostracized, or rebuked by an organization or group to which they belong if their name were to be made public;

□ Evidence of prior acts of retaliation or harm by respondent against complainant or any other person;

□ The existence of criminal convictions for crimes of violence by or the existence of any restraining orders against respondent; or

□ Other

Describe (in detail) in the following section below why your Identifying Information should be kept confidential. Conclusionary or speculative statements of harm or retaliation are insufficient to establish good cause.

I declare under the penalty of perjury the following:

_____

_____

_____

□ If more space is needed, please check this box and attach additional sheets as necessary

Signature: _____ Date: _____