

**Code of Ethics, Gift Policy, and Disclosure Requirements  
for the Mayor and City Council of the City of Charlotte, North Carolina**

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty,” and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem,” and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this City, and with obeying the law, and

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of Charlotte, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the City Council do hereby adopt the following General Principles and Code of Ethics to guide the Mayor and City Council in their lawful decision-making.

**GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS**

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- The Mayor and Council 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.
- The Mayor and Council members must always remain aware that at various times they play different roles:
  - As advocates, who strive to advance the legitimate needs of their citizens
  - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
  - As decision-makers, who arrive at fair and impartial determinations.
- The Mayor and Council members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- The Mayor and Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

## **A. CODE OF ETHICS**

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Mayor and Council members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for an official's best judgment.

### Section 1.

The Mayor and Council members should obey all laws applicable to their official actions. The Mayor and Council members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, the Mayor and Council members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that the Mayor or a Council member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

### Section 2.

The Mayor and Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Treating other council members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices

- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual Council members are not generally allowed to act on behalf of the Council but may only do so if the Council specifically authorizes it, and that the Council must take official action as a body

Section 3.a.

The Mayor and Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. They should also not disclose confidential information, including the premature disclosure of what transpired in a closed session. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Council member’s action would conclude that the action was inappropriate.

Section 3.b.

If the Mayor or a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the official ~~should~~shall seek the advice of the City Attorney and, if recommended to, in the discretion of the City Attorney, shouldshall ~~consider~~ publicly disclosing the facts of the situation and the steps taken to address the matter~~resolve it~~ (such as consulting with the attorney). The Mayor or a Council member shall seek the advice of the City Attorney anytime a business entity or real property that has been disclosed on their individual Annual Statement of Economic Interest may become a party to or the subject of a business transaction directly with the City. This requirement of the Council member to seek the advice of the City Attorney shall extend further to a contractor or subcontractors of the City so long as the Council member’s connection relates to the contractor or subcontractor’s business with the City. Neither the City nor a contractor or subcontractor has the obligation to seek the advice of the City Attorney under this section of the Policy.

Section 4.

The Mayor and Council members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

The Mayor and Council members should faithfully attend and prepare for meetings. They should demand full accountability from those over whom the board has authority.

The Mayor and Council members should be willing to bear their fair share of the governing board’s workload. To the extent appropriate, they should be willing to put the City’s interests ahead of their own.

Section 5.

The Mayor and Council members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or City employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Council members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

## **B. GIFT POLICY**

### **Definitions**

“Gift” – Anything of monetary value given or received without valuable consideration. The following shall not be considered gifts:

- (1) Anything for which fair market value, or face value if shown, is paid by the official.
- (2) Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business.
- (3) Contractual arrangements or commercial relationships or arrangements made in the normal course of business.
- (4) Academic or athletic scholarships based on the same criteria as applied to the public.
- (5) Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes (North Carolina Campaign Contributions Law).
- (6) Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
  - a. A sympathy card, letter, or note.
  - b. Flowers.
  - c. Food or beverages for immediate consumption.
  - d. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars per death per donor.

“Extended family” – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.

“Official” – the Mayor or a member of the City Council.

### **Gift Ban**

No official shall knowingly accept a gift unless the gift falls within one of the exceptions set forth below.

A prohibited gift shall be promptly declined, returned, paid for at fair market value, or donated to charity or the City.

## **Exceptions**

These prohibitions shall not apply to any of the following:

- (1) Gifts from the official's extended family, or a member of the same household.
- (2) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided that the gift is made under circumstances that a reasonable person would conclude that the gift was not given to influence or attempt to influence official action.
- (3) Nominal gifts having a value of less than \$50.
- (4) Anything generally made available or distributed to the general public without charge.
- (5) A memento such as a commemorative shovel, plaque, figurine, trinket, or novelty item related to a civic occasion or event.
- (6) Informational materials relevant to the duties of the official.
- (7) Food and beverages for immediate consumption in connection with any of the following:
  - a. A meeting of the City Council, provided that the meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.
  - b. Business meetings so long as the food and beverages are of incidental value.
  - c. Neighborhood or community meetings.
  - d. A gathering of ten or more individuals that is open to the general public, provided that the official pays the same amount, if any, that the general public is charged to attend.
- (8) Tickets or admittance to, and food and beverages for immediate consumption at, an event where the official is clearly representing the City and where the City has a legitimate purpose in being represented at the event. By way of illustration but not limitation, this would include events sponsored by the Charlotte Regional Visitors Authority, the Charlotte Chamber of Commerce, the Foundation for the Carolinas, Charlotte Center City Partners, the Regional Partnership, the United Way, the Arts & Science Council, colleges, universities, and other educational institutions, and similar organizations.
- (9) Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:
  - a. The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.
  - b. The official is a director, officer, governing board member, employee, or independent contractor of one of the following:
    1. The entity giving the food, beverage, or transportation.
    2. A third party that received the funds to purchase the food, beverages, or transportation.

- (10) An expense appropriate for reimbursement by the City if it had been incurred by the official personally. Such a gift shall be considered a gift accepted by or donated to the City, provided that the gift and its value are reported in writing to the City Clerk within two weeks of receipt.

## C. DISCLOSURE REQUIREMENTS

By February 1 of each year, the Mayor and Council members shall file with the city clerk a statement of economic interest using the form set forth in Exhibit A attached hereto. The statements required by this section are public records available for inspection and copying by any person during normal business hours.

## D. COMPLAINTS, ~~INVESTIGATIONS,~~ REVIEW AND SANCTIONS

### 1. Complaints

a. Any individual may file a complaint alleging a violation. Complaints shall be filed with the City Clerk on a form provided by the City Clerk. Complaints shall: (i) identify the complainant; (ii) state with specificity the facts that form the basis for the alleged violation under this Policy; and (iii) cite the provision under this Policy that has allegedly been violated. The facts set out in the complaint, if true, must be sufficient to establish the alleged violation (hereinafter referred to as a “prima facie allegation”).

a.b. Prima facie allegations subject to further review may include but is not limited to complaints claiming: contractor or subcontractor connections as described in Part A, Section 3.b. of this Policy; misappropriation of City resources.; criminal or fraudulent activity; or, any activity constituting harassment or sexual harassment as those terms are commonly defined under the law. To the extent applicable, the City Attorney reserves the right to refer criminal or fraudulent activity or other allegations of violations of law directly to agencies responsible for such investigations.

c. Upon receiving a complaint, the City Clerk shall forward the complaint to the City Attorney for initial review. The City Attorney shall forward a courtesy copy of the complaint to the Councilmember who is the subject of the complaint.

### 2. Initial Review by City Attorney

a. The City Attorney shall review the complaint to determine whether it meets the requirements of ~~provides the information required in subsection 1.a. and 1.b.~~ and that it sets out a prima facie allegation. In conducting this review, the City Attorney may communicate directly with the complainant to address any questions or seek clarification regarding the substance of the complaint.

b. If the City Attorney determines that the complaint fails to meet the requirements of ~~to provide the information required by subsection 1.(a) or 1.b., or fails to state a prima facie allegation~~ the complainant shall be so informed in writing which may include electronic communication. Complainant shall be ~~and~~ afforded an opportunity to provide the required information or an amended complaint to the City Attorney within seven (7) business days

from the date of the writing or electronic communication. If after this time period has elapsed the City Attorney continues to determine that the complaint fails to meet the requirements of section 1.a., or 1.b. does not state a prima facie allegation, the complainant shall be notified in writing or electronic communication that no further action will be taken in the matter.

- a.c. If the City Attorney determines that a complaint does meet the requirements of section 1.a., and 1.b., states a prima facie allegation provide the required information, the complaint shall be referred to an independent investigator outside counsel selected by the City Attorney. In such a referral under this subsection, the independent outside counsel shall investigate the allegations of the complaint and make written findings as to the truthfulness of the allegations, whether a violation of the p. Policy occurred and may recommended a response to those findings. Such written findings and conclusions shall be provided to the City Attorney who shall in turn provide them to the City Council for consideration and disposition. Any such disposition by the City Council shall be reduced to writing or electronic communication and provided to the complainant along with a copy of the report from the independent outside counsel.
- d. Any Councilmember who is the subject of a complaint shall be excused from participating in any Council considerations, deliberations and actions related to that complaint under sections 2(c) and, 2(d). and 2(e). To the extent multiple Council members are the subject of a single complaint and their alleged conduct cannot be reasonably be separated and considered on an individual basis, Council may proceed with deliberation, considerations, deliberations and action under sections 2(c), and 2(d) and 2(e) without a quorum if necessary.

## 2. Investigations

a. The independent investigator shall review a complaint referred by the City Attorney. In the event that the independent investigator determines that the complaint is either: (i) frivolous; or (ii) does not state a claim of a violation even if the facts alleged are true, then the investigator shall communicate that conclusion in writing to the City Attorney who shall in turn communicate that conclusion to the complainant and the Mayor or, if the subject of the complaint is the Mayor, to the Mayor Pro Tempore.

b. If the independent investigator determines that the complaint is not frivolous and does state a claim of a violation if the facts alleged are true, the independent investigator shall investigate the allegations and make written findings as to the truthfulness of the factual allegations and conclusions as to whether a violation has occurred. The written findings and conclusions shall be provided to the City Attorney who shall in turn provide them to the complainant, the Mayor, and the City Council.

## 3. Sanctions

Upon receipt of written findings and conclusions pursuant to Section 23.b., the City Council may sanction the official who was the subject of the investigation. Potential sanctions include the adoption of a Resolution of Censure and any other lawful sanction within the Council's power.

**CERTIFICATION**

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of the General Principles and Code of Statutes for the Mayor and City Council of the City of Charlotte, North Carolina, adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the ~~23~~<sup>23</sup>rd day of ~~February~~, 201~~5~~<sup>20</sup>.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, the ~~xx~~rd day of ~~February, 2015xx~~, 2020.

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Stephanie C. Kelly, MMC, NCCMC, City Clerk