



CHARLOTTE

Council Budget and Effectiveness Committee

December 1, 2020

2:30 – 4:00 p.m.

The public can view the meeting on the [Government Channel](#), the [City’s Facebook page](#) or on the [City’s YouTube page](#)

Committee Members: Ed Driggs, Chair
 Julie Eiselt, Vice Chair
 Dimple Ajmera
 Malcolm Graham
 Renee Johnson

Staff Resource: Ryan Bergman, Strategy and Budget Director
 Kelly Flannery, Chief Financial Officer

AGENDA

Agenda Overview

Staff Resource: Ryan Bergman, Strategy and Budget Director

I. Capital Projects Audit Update

*Staff Resource: Brent Cagle, City Manager’s Office
 Greg McDowell, City Auditor*

Action Requested: Informational and Input

II. Prioritizing Projects Funded by Hospitality Revenues

Staff Resource: Kelly Flannery, Chief Financial Officer

Action Requested: Policy Recommendation

III. Review of Current Mayor and Council Code of Ethics Policy

Staff Resource: Patrick Baker, City Attorney

- Continued review for potential updates

Action Requested: Information and consideration of changes

IV. Council Virtual Meeting Provisions

Staff Resources: Patrick Baker, City Attorney

- Review of current City Council Rules of Procedure and the legal parameters for Council meetings to determine if updates are recommended for full Council’s consideration around the provisions for virtual meetings.

Action Requested: Informational and Input


Next Meeting: TBD

Distribution:	Mayor/City Council	Marcus Jones, City Manager	Executive Team
	City Attorney	City Clerk	




Capital Project Management and Construction Manager at Risk Audit Update

- Cooperative, engaged process
- Active progress towards achieving audit recommendations
- Accountability within and between departments



CITY OF CHARLOTTE.

Capital Project Management
and Construction Manager at
Risk Contracting



City of Charlotte
Internal Audit Department
600 E. Fourth St.
Charlotte, NC 28202

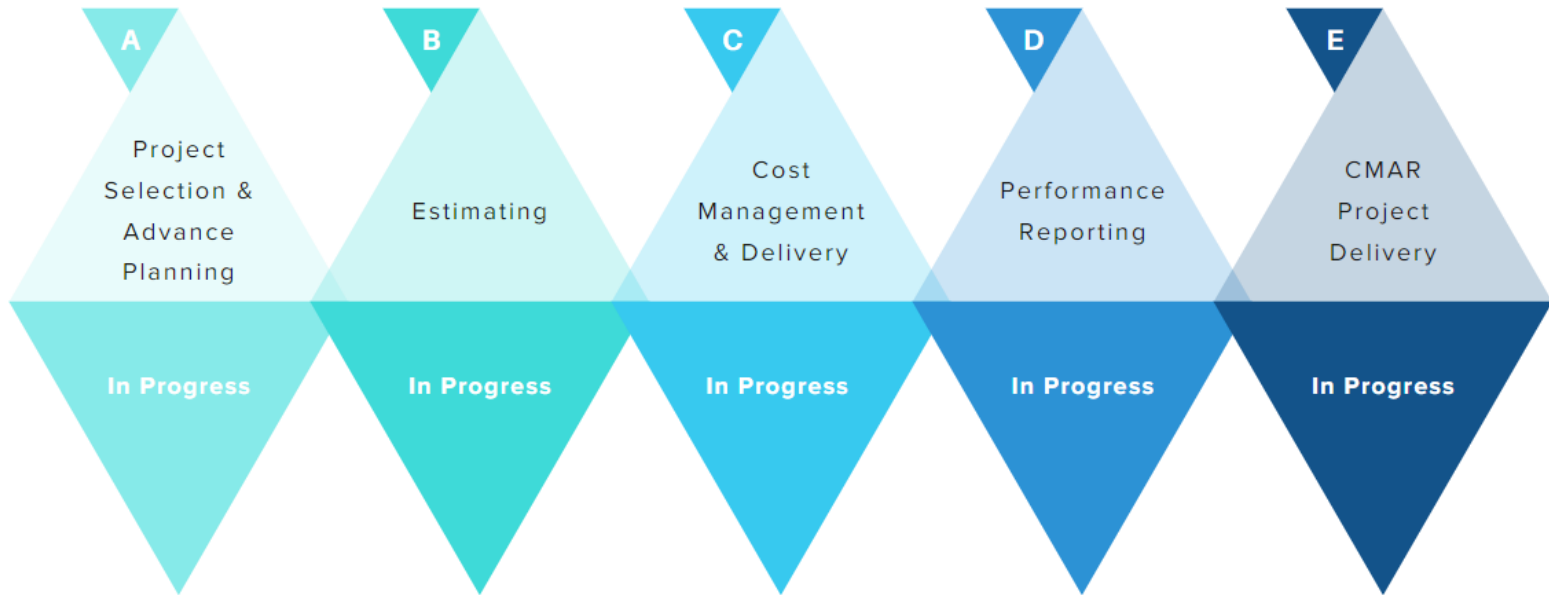
Staff
City Auditor
Gregory L. McDowell, CPA, CIA, CFE
Deputy City Auditor
Tina Adams, CPA, CIA
Audit Supervisor
Craig Terrell, CPA, CISA
Senior Auditor
Lynette Stover

To learn more about Internal Audit,
please visit our [website](#).

July 23, 2020

AUDIT SUMMARY

- Audit initiated in January 2019
- 22 recommendations
- 68 responses from 8 departments



The audit report is organized into five sections, A-E as shown above.

A – PROJECT SELECTION & ADVANCE PLANNING

- Formally document the connection between master plans and project selection in the FY22 Budget Book and incorporate it into the budget process
- Leverage advanced planning funds to explore project effectiveness and provide valid cost estimates
- Understanding our assets through regular inventories and standard criteria-based assessments



*Calendar Year

B – ESTIMATING

- Independent cost estimates (ICEs) prior to advertising projects that are expected to exceed \$5M in construction costs
- Consultant services for cost estimating, analysis, and other project control activities planned for City Council approval in December
- Review and update cost estimates and forecasts semi-annually
- Ensure contract language enables fee adjustments that accurately reflect scope changes for Construction Manager at Risk (CMAR)



*Calendar Year

C – COST MANAGEMENT & DELIVERY

- Establish standards in project management:
 - Project delivery method selection
 - Change management process
 - Managing project risk and quality assurance/quality control
- Develop citywide guidance for charging staff time to capital improvement projects



*Calendar Year

D – PERFORMANCE REPORTING



Consistency of Data

Achieve consistency through standardized reporting tools, technology solutions, and the capital project dashboard



Communicating Data

Ensure effective information sharing with City Council, city leadership and the public



*Calendar Year

E – CMAR PROJECT DELIVERY

- Formalize process for selecting the CMAR project delivery method
- Ensure appropriate evaluation and oversight to achieve fair Guaranteed Maximum Price amounts
- Resourcing for success



*Calendar Year

QUESTIONS



Charlotte Water



Charlotte-Douglas
International Airport



Storm Water Services



LYNX Goldline



Fire Station 43



Intersection & Roadway
Improvement



Subject/Title

Hospitality Revenue Capital Investment Policy

Date Effective

XXXXX

Revision Date Effective

Code Number

FIN XX

City Manager

Finance Department

Responsible Department

Objective:

The hospitality industry is a vital part of Charlotte’s economy and represents one of the region’s largest employment sectors. This industry creates employment opportunities for thousands through large employers, as well as supporting small and independent entrepreneurs in creating opportunities for themselves. Revenues generated from hospitality (Hospitality Revenues) are used by the City of Charlotte (the City) for the maintenance, operations, and further development of the hospitality industry.

The Hospitality Revenue Capital Investment Policy provides criteria to assist City Council in their consideration and evaluation of capital investments funded by Hospitality Revenues to ensure funding resources are maximized, to maintain long-term stability of hospitality funds and to promote transparency. Through the strategic and intentional allocation of Hospitality Revenues to capital improvement projects, the City will be able to grow Charlotte’s market share of both the regional and national hospitality and visitor market economy.

The Hospitality Revenue Capital Investment Policy, in conjunction with the City Financial Policies and Practices prescribed in the annual budget, provide a general framework for evaluating the allocation of Hospitality Revenues to capital improvement projects.

Policy:

Guiding Principles

To ensure the most impactful use, Hospitality Revenue-supported capital investments will be evaluated based on the following principles:

- Demonstratable economic growth
- Financial viability including self-sustaining operations without need for additional funds or support from the general credit of the City
- Ability to provide ongoing maintenance to ensure competitive condition (i.e. current, relevant and competitive in the market)
- Adherence to City Council policies and priorities and compliance with applicable legislation
- Supports mixed capital investment portfolio that considers the arts, sports, and cultural experiences to address community needs
- Leverages outside investment from the private sector and/or community partners such as non-profit organizations when applicable

Subject/Title**Hospitality Revenue Capital Investment Policy**

Code Number

FIN XX

Page

2

of

5

Authority:

City financings for Hospitality Revenue capital investments will be conducted and maintained in accordance with applicable Federal and State laws, City Ordinances and other regulatory requirements, including the U.S. Internal Revenue Service (IRS), Rule 15c2-12 of the Securities and Exchange Commission and the North Carolina Local Government Finance Act. The Local Government Commission (LGC), under the State Treasurer, oversees and regulates debt issuance.

The City will follow the allowable uses for the original 3% Occupancy Tax in S.L. 1983-908 (1983) and amended by SB 647 and S.L. 2001-402; the additional 3% Occupancy Tax in SB 647 (1989) and amended by S.L. 2001-042 and 2013-26; the 2% NASCAR Hall of Fame Occupancy Tax in S.L. 2005-68 (2005); the Prepared Food and Beverage in SB 647 (1989) and amended by S.L. 2001-42 and S.L. 2011-160; the 1.5% Rental Car Tax in SB 635 (2001); and the 5% U-Drive-It Rental Car Tax in S.L. 1997-417(1997) and amended by S.L. 2006—162.

The City maintains three hospitality funds (Hospitality Funds) that are appropriated through the annual budget. The Hospitality Funds, their hospitality revenues and the permitted uses include:

- **Convention Center Fund:**
 - Supported by the additional 3% Occupancy Tax and the 1% Prepared Food and Beverage Tax.
 - Uses include the Convention Center Facility, convention and visitor promotion, hospitality/tourism marketing, amateur sports facilities and stadiums over 60,000 seats.
- **Tourism Fund:**
 - Supported by the original 3% Occupancy and the 1.5% Rental Car Tax and by a transfer from PAYGO for an equivalent amount of 4% of the U-Drive-It Rental Car Tax and City and County Synthetic Incremental Tax Grants.
 - Uses include marketing and visitor promotion, program and events that will generate visitors, and the construction and maintenance of facilities such as convention centers, civic centers, auditoriums and museums.
- **NASCAR Hall of Fame Fund:**
 - Supported by the 2% NASCAR Hall of Fame Occupancy Tax.
 - Uses include constructing and maintenance of the NASCAR Hall of Fame, the NASCAR Hall of Fame/Convention Center Crown Ballroom, and parking facilities.

A. Operating and Capital Funding Requests

Hospitality Funds investment opportunities will be evaluated to confirm alignment with City Council priorities and provide transparency when committing current or future debt affordability. Requests for operating and capital funding from hospitality funds must be documented and vetted by the City (i.e. Finance, Economic Development and Strategy and Budget) before presentation to City Council for consideration. City Council will utilize the guiding principles and parameters outlined in this policy to assist in their evaluation of funding requests.

Subject/Title**Hospitality Revenue Capital Investment Policy**

Code Number FIN XX Page 3 of 5

B. Fund Balance and Debt Parameters

The parameters below will serve as key metrics in evaluating the funding of capital investments within the hospitality funds. These key parameters will ensure the long-term fiscal health of the Hospitality Funds.

1. The City will maintain a Fund Balance equal to 100% of the following year's budgeted debt service within each Hospitality Fund. Fund balance is defined as the financial resources available, as determined annually from audited financial statements, in each Hospitality Fund.
2. The City will maintain a Recession Mitigation Reserve within each Hospitality Fund to an amount equal to 25% of the five-year average of annual revenues recognized in the fund, exclusive of fund balance. This reserve will provide stability during economic recessions.
3. The City will target long-term debt to be structured such that 50% or more of the principal is to be repaid within 15 years, or such amortization period if longer, that is supported by the useful life of the asset being financed. However, such amortization period shall not exceed 30 years.
4. The City will ensure maintenance and repair of City-owned, Hospitality Revenue supported capital assets by contributing a minimum of \$250,000 annually, or greater amount, if deemed necessary based on the age and value of the assets, to a Maintenance Reserve within each Hospitality Fund.

C. Evaluation Criteria

All capital investment opportunities for use of Hospitality Revenues will be evaluated through specific criteria to confirm alignment with City Council priorities and provide transparency when committing current or future debt affordability. A "Hospitality and Tourism Funds Capital Funding Request" form will be completed for each request that includes data to support the following evaluation criteria.

1. Economic Development Impact Criteria

- a. Job Creation – Expected number of permanent and temporary positions created by the investment, including average salaries of jobs created
- b. Investment – Net new property taxes, Hospitality Revenues and any new non-taxable capital investment generated by the investment and the return on investment

2. Financing Criteria

- a. Funding Plan – Detailed plans on project financing, including but not limited to:
 - i. Total project costs including information about investment leveraged from the private sector, and
 - ii. Detailed financing assumptions if the investment represents a Public-Private Partnership where the City will not serve as the primary issuer

Subject/Title

Hospitality Revenue Capital Investment Policy

Code Number

FIN XX

Page

4

of

5

- b. Financial Policy Compliance – Modeled evidence the proposed funding adheres to existing financial policies
- c. Affordability Analysis – Total investment and overall Funding Plan is enough to cover annual debt service through the final maturity for any debt issuance and to cover the full life-cycle costs of the capital investment

3. Socio-Political Criteria

- a. Community Partnership – Identification of how the investment benefits the City through intentional commitments and partnerships
- b. Maximize Inclusion – Acknowledgement and demonstration of MWSBE participation to promote economic growth
- c. City Initiative Alignment – Identification of how the investment aligns with City goals.

D. Allocation of Debt Affordability

Once approved by City Council, Hospitality Revenues-supported capital improvement projects will be implemented in compliance with the City’s adopted Debt Policies and Practices and the City’s internal Debt Management Procedures.

E. Reporting and Evaluation

Regular reporting and evaluation on approved investments and in-process investments will be performed to establish financial accountability, enhance operational effectiveness and promote transparency.

- 1. Approved Investments** – The Finance and Economic Development departments will provide an investment status overview to City Council annually, at a minimum, on key information for previously approved investments including:
 - a. An affordability analysis dashboard providing a long-range forecast of expected remaining life-cycle costs for existing commitments; and
 - b. A report comparing expected policy goals to actual outcomes for approved investments.
- 2. Horizon Investments** – An investment status overview will also be provided annually, at a minimum, for capital or operational/marketing investments that are reasonably or contractually necessary in the short to intermediate term but have not been approved by City Council. These horizon investments include investments that do not yet have a financial plan and/or sufficiently refined scope, cost, or business case.
- 3. In-Progress Investments** – Recipient entities, (e.g. Charlotte Regional Visitor’s Authority) will provide quarterly project status updates to City Council’s Budget and Effectiveness Committee to confirm projects are within scope and budget.

Quarterly updates will include:

- a. Budget to actual comparison, including:

Subject/Title

Hospitality Revenue Capital Investment Policy

Code Number

FIN XX

Page

5

of

5

- Review of expenditures in relation to current budget and life of the project; and
 - Review of encumbrances and estimates of planned expenditure activity;
- b. Any material changes to project scope, schedule, and/or funding that have occurred or are expected; and
- c. Confirmation of adequate cash flow.



Hospitality and Tourism Funds

Financial Policy Compliance and Affordability Review

In accordance with the Hospitality Revenue Capital Investment policy, Hospitality Revenue investment opportunities are to be evaluated to confirm alignment with City Council priorities and provide transparency when committing current or future debt affordability.

Project Proposal Information

Project name: _____

City Council presentation date: _____

Proposed start date: _____

Project timeline or duration: _____

Total hospitality funding request from City: _____

Proposed hospitality funding source (If known): _____

Project location, address, or area affected:

Detailed Project Description (Include party responsible for ongoing operations/maintenance):

Financing Criteria



Hospitality and Tourism Funds

Financial Policy Compliance and Affordability Review

Total Project Cost	Total Capital Committed by Others	Amount of Hospitality Funds Requested from City	Hospitality Fund Request (Convention Center, Tourism or HoF)	Proposed Source or Type of Funding	One-time or Ongoing Expense?
\$	\$	\$			

Financial Compliance and Affordability Analysis

Attach or include demonstration of Financial Policy Compliance and Affordability Analysis.

Economic Development Impact Criteria

Estimated Revenues to be Generated		
Direct Revenues	Indirect Revenues	Property Tax Generated
\$	\$	\$

Please detail direct and indirect revenues:

Expected Jobs Created and Average Salaries (Detail permanent and temporary positions; direct and indirect)

Socio-Political Criteria

Community Partnerships established with the project and benefits to the City:

Opportunities for MWSBE Inclusion with the project:



Hospitality and Tourism Funds

Financial Policy Compliance and Affordability Review

Project alignment with or project components that support other City goals:

Submitter's Information

Party Submitting Request:

Overseer of Project:

Other Parties Involved:

**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, should~~shall ~~consider~~ publicly disclosing the facts of the situation and the steps taken to ~~address the matter~~resolve it (such as consulting with the attorney).

Commented [BP1]: There is really no way for a written policy to completely eliminate the human element. Though these edits appear mandatory rather than suggestive, it will still require the individual councilmember to perceive that their actions may be misunderstood before the mandatory directive will be implicated.

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.

Commented [JL2]: Under the voting statute (GS 160A-75), members may be excused from voting *only* on matters 1) involving members own official conduct or financial interest), OR 2) involving contracting, land use and quasi-judicial decisions.

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.
- b. 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. Review

- a. The City Attorney shall review the complaint to determine whether it meets the requirements of provides the information required in subsection 1.a. 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 meet the requirements of to provide the information required by subsection 1.(a), the complainant shall be so informed in writing which may include electronic communication. Complainant shall be afforded, and afforded an opportunity to provide the required information 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, the complainant shall be notified in writing or electronic communication that no further action will be taken in the matter.
- c. If the City Attorney determines that a complaint does-meets the requirements of section 1.a, provide the required information, the City Council and the complainant shall be so informed. City Council shall then determine, in its discretion, whether the facts alleged are frivolous or are sufficient to state a claim under this Policy and are of such a serious nature that further review of the complaint is required.
- d. If City Council determines that a complaint is frivolous, fails to state a claim under the

Commented [BP3]: Given the personal nature of an ethics complaint, I think it is important for the CA to communicate directly with the affected Councilmember

Commented [BP4]: I recommend explicitly allowing the CA the opportunity to communicate directly with the complainant to ask questions to make sure there is a clear understanding of the complaint.

Commented [BP5]: As written, there is really no end to the potential back and forth between the CA and the complainant. Putting out reasonable time expectations adds some finality to the process rather than having a potential ethics inquiry existing indefinitely.

Commented [BP6]: I personally do not care for the word "frivolous" in an ethics policy because of the negative connotation it carries. I think it is important that Council retain some discretion over the type of complaint that should be reviewed. Essentially, I would recommend that you focus on those complaints that allege a set of facts that if true "are of such a serious nature that further review of the complaint is required." Keep in mind that the ultimate sanction for an ethics violation is a censure by Council so consider how much energy should be invested into reviewing a set of facts that even if true would not merit serious consideration of a censure motion.

Policy or is not otherwise of such a serious nature that a further review of the complaint is required, the City Council shall request that the City Attorney inform the complainant of the Council's determination in writing or electronic communication.

e. If the City Council determines that a complaint sufficiently states a claim which, if true, may constitute violations under this Policy and is of such a serious nature that further review of the complaint is required, the City Council may act as follows:

- (1) refer the complaint for additional consideration or mediation by the full Council or a subcommittee thereof ;
- (2) refer the matter to an appropriate regulatory or law enforcement agency for additional consideration and disposition;
- (3) refer the complaint to an independent 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 and any applicable responses to those allegations. Written conclusions shall also be made as to whether a violation of Policy has occurred. 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.

f. 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), 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, consideration and action under sections 2(c), 2(d) and 2(e) without a quorum if necessary.

g. Unless otherwise excused from voting pursuant to section 2(f) above, the Mayor shall have a vote in all deliberations, consideration and actions of the City Council contemplated in this Policy.

Commented [BP7]: Section e provides Council with options on how to handle a complaint that has met the minimum threshold for review.

Commented [BP8]: This provision contemplates that outside counsel will only be engaged once there has been a Council determination that the alleged facts are of such a serious nature that a full outside review is required.

Commented [BP9]: This effectively incorporates state law regarding an elected official voting on a matter related to his/her own conduct.

Commented [BP10]: This policy covers the Mayor and City Council. In the past, the Mayor has participated in the deliberations, but I felt it should be clearly stated in the policy.

~~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 ~~2~~3.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~~rd day of ~~February, 2015~~20.

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

Stephanie C. Kelly, MMC, NCCMC, City Clerk



CHARLOTTE.

**RULES OF PROCEDURE
FOR THE CHARLOTTE CITY COUNCIL
Revised April 8, 2019**

1. Regular Meetings

At its organizational meeting, the City Council shall fix the time and place of its regular meetings. Its regular meeting schedule may be changed by the Council at any time upon compliance with the notice provisions of the open meetings law.

2. Special Meetings

Upon compliance with the notice provisions of the open meetings law, the Mayor, or in the absence of the Mayor, the Mayor Pro Tempore, or a majority of the members of the City Council may at any time call a special meeting by causing a written notice, stating the business to be transacted and the time and place of holding such meeting and signed by the person or persons calling the same to be delivered to each member at least six (6) hours before the time of such meetings. Only the business stated in the written notice may be transacted at the special meeting so called, except when the Mayor and all members of the Council are present and consent to the transaction of other business.

3. Organizational Meeting

At the first regular meeting in December following a general election in which Council members are elected, the Mayor and Council members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Council shall elect from its members a Mayor Pro Tempore who shall hold office at the pleasure of the Council.

4. Agenda: Procedures

(a) The City Manager shall prepare the agenda for the meeting. The Mayor or City Manager¹ may place an item on any agenda. The Mayor and each member of the Council shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to the Mayor and Council.

(b) During its consideration of the agenda, Council members shall confine their discussion and comments to only those items that appear on the agenda. For purposes of

¹ Unless expressly provided in these rules, the authority and powers granted to the City Manager may not be delegated. However the authority and powers granted to the City Manager may be exercised by an Interim or Acting City Manager.

this subsection, any issue which is raised by a speaker at a Citizens Forum shall be considered an agenda item for purposes of questions and discussion, but not for action, unless all Council members agree in accordance with subsection (c) below.

(c) Any matter which is not on the agenda may be discussed upon the completion of the agenda. The Council may not take formal action on any non-agenda matter unless all Council members, in accordance with Section 3.23 (a) of the Charter, vote to add the matter to the agenda. A motion to suspend the rules shall not be in order if the purpose of the motion is to suspend the requirement of unanimity necessary to add a non-agenda matter to the agenda.

(d) Any member of Council may request the City Manager to place an item on a future agenda by making such a request at a Council meeting. Unless a Council member or the City Manager objects, the requested item shall be included. If a Council member or the City Manager has an objection, the item in question shall not be included on a future agenda, unless a majority of the Council votes in favor of including the item.

(e) The City Council may periodically hold policy agenda meetings to discuss issues of a policy nature and to determine the necessity for further action. Policy agenda meetings will be considered informal sessions of City Council

5. Addressing Council

(a) Persons desiring to address the City Council shall contact the office of the City Clerk and give their name, address, telephone number, and subject matter to be discussed. Any person unable to give advance notice prior to a Council meeting, shall fill out the card available for this purpose and hand it to the City Clerk prior to the time the agenda item is reached. Once an agenda item has been called, a person may not sign up to speak. Notwithstanding the forgoing, for matters where an unusually large number of persons are expected to speak, the Mayor may set an earlier deadline for speakers to register with the City Clerk.

(b) For agenda items and public hearings other than zoning public hearings, persons who have signed up to speak shall be allowed to speak for up to three (3) minutes. The Mayor, or the presiding officer in the absence of the Mayor, shall have the discretion, subject to appeal to the Council, to shorten the time for speaking when an unusually large number of persons have registered to speak. Speakers may not yield their time to another person.

(c) Zoning public hearings. At hearings involving amendments to the zoning ordinance, the time allotted for speakers and the order of presentation is set forth below. The time of proponents or opponents may be extended by an affirmative vote of a majority of the Council members present.

- A. If speakers are signed up in opposition, or if staff opposes the petition:
 - (i) Staff makes presentation.
 - (ii) Proponents and opponents will be allowed 10 minutes each; proponents will be allowed 2 minutes rebuttal.
- B. If no speakers are signed up to speak in opposition and staff recommends approval:
 - (i) Staff makes presentation.
 - (ii) Petitioner will be allowed up to 3 minutes.

(d) Once a matter has been the subject of a public hearing, persons will not be allowed to address the Council on the matter at a subsequent Council meeting, or at a subsequent informal session devoted to hearing from citizens. Citizens may respond to questions or inquiries for information from Council members or the Mayor after the close of a public hearing.

(e) The provisions of this rule shall not apply to speakers addressing Council on awards and recognitions or for staff or other individuals expressly invited to address Council on a matter.

(f) Scheduling Public Forum. A Public Forum shall be held at least once a month during which persons may speak on matters not on the agenda. To enable speakers an equal opportunity to address the Council, an individual may only speak at the Public Forum once each quarter. The number of speakers at a Public Forum shall be limited to no more than fifteen (15) unless otherwise agreed to by a majority of Council. The Mayor or other presiding officer shall determine the actual number of speakers present at the Public Forum through a roll call at the beginning of the Public Forum. If no more than ten (10) persons requesting to speak are present at the time of the roll call, each person shall be allowed to speak for up to three (3) minutes. If more than ten (10) persons requesting to speak are present at the time of roll call, each person shall be allowed to speak for up to two (2) minutes.

6. Office of Mayor

The Mayor shall preside at all meetings of the Council. In order to address the Council, a member must be recognized by the Mayor. At such Council meetings, the Mayor shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstruction or dilatory purposes;
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in their remarks and to entertain and rule on objections from other members on this ground;

- (c) To entertain and answer questions of parliamentary procedure (the City Attorney may offer advisory opinions or advice to the Mayor);
- (d) To call a brief recess at any time;
- (e) To adjourn in an emergency;
- (f) To vote in cases of a tie and as otherwise authorized by Section 3.23(b) of the Charter; and
- (g) To veto any action adopted by the City Council except those actions set forth in Section 3.23(b) of the Charter.

7. Office of Mayor Pro Tempore

The Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Council member for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor Pro Tempore shall preside, and when presiding, shall have the right to vote upon all questions, but shall have no additional vote in case of a tie.

8. Presiding Officer When the Mayor is in Active Debate

The Mayor shall preside at meetings of the Council unless actively engaged in debate on a particular proposal, in which case the Mayor may designate another Council member to preside over the debate. The Mayor shall resume the duty to preside as soon as the debate on the matter is concluded and prior to a vote on the matter.

9. Action by the Council

The Council shall proceed by motion. Any member after being recognized may make a motion. All motions require a second.

10. One Motion at a Time

A member may make only one motion at a time.

11. Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

12. Adoption by Majority Vote

A motion shall be adopted if it receives at least six (6) affirmative votes unless otherwise required by the Charter, or the laws of North Carolina.

13. Debate

Once a motion has been made and seconded, the Mayor shall open the floor for debate. The Mayor shall preside over the debate according to the following general principles:

- (a) The introducer (the member who makes the motion) is entitled to speak first; and
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

14. Procedural Motions

In addition to substantive motions, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

- (a) To adjourn. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter. This motion is not debatable.
- (b) To take a recess. This motion is not debatable.
- (c) To suspend the rules. The motion requires a two-thirds (2/3) vote to pass.
- (d) To divide a complex motion and consider it by paragraph.
- (e) Call of the previous question. The motion is not in order until all Council members, who have indicated a desire to be recognized, have had an opportunity to speak once. Requires a two-thirds (2/3) vote and is not debatable.
- (f) To postpone to a certain time or day.
- (g) To refer to a committee. Sixty (60) days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Council, whether or not the committee has reported the matter to the Council.
- (h) To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the intent of the motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made.
- (i) To reconsider. This motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken. The

motion cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.

(j) To substitute. A motion to substitute may seek the opposite result of the original motion, but it must be pertinent to the subject matter of the original motion. It shall not be necessary for the Council to vote a second time on the same subject matter if a motion to substitute is approved.

15. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before a vote. Permission of the member seconding the motion is not required. Once a motion is withdrawn, the same motion cannot be remade by the same Council member in the form of a substitute motion.

16. Duty to Vote

Every member must vote unless excused by the remaining members as authorized or required by law. A member who wishes to be excused from voting shall so inform the Mayor, who shall take a vote of the remaining members. In all other cases, a failure to vote by a member who is physically present in the Council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

17. Adoption of Motions, Resolutions and Ordinances

Six (6) affirmative votes shall be required for the passage of any motion, resolution or ordinance. Motions, resolutions and ordinances granting special franchises and special privileges must be voted on and passed at not less than two regular meetings of the City Council. Except as provided in this section, motions, resolutions and ordinances will be deemed adopted if passed upon one reading.

Except for Council appointments to committees, boards and commissions; its employment of the City Manager, the City Attorney and the City Clerk; its internal affairs; and matters which must be approved by the voters, the Mayor may veto any action adopted by the City Council. The veto must be exercised at the meeting at which the action was taken. An action vetoed by the Mayor shall automatically be on the agenda at the next regular or special meeting of the Council, but shall not become effective unless it is re-adopted by the Council with at least seven (7) members voting in the affirmative.

18. Closed Sessions

The Council may hold closed sessions as provided by law.

19. Quorum

A majority of the actual members of the Council shall constitute a quorum. A member who leaves a meeting, whether excused or unexcused, shall be counted as present for purposes of determining whether a quorum is present.

20. Quorum at Public Hearings

A quorum of the Council shall be required at all public hearings required by law.

21. Minutes

Full and accurate minutes of the Council proceedings shall be kept and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes.

22. Council Committees

The following rules shall be applicable to all Council committee meetings:

- (a) A quorum shall be required consisting of a majority of the members of the committee.
- (b) The chairman of the committee shall have a vote on all matters coming before the committee.
- (c) Minutes of committee meetings shall be kept and open to the inspection of the public. The results of each vote shall be recorded in the minutes.

23. Reference to Roberts Rules of Order

To the extent not provided for in these Rules, and to the extent it does not conflict with North Carolina law, the Council shall refer to Roberts Rules of Order, Revised, to answer unresolved procedural questions.

24. Contacts with City Staff

With regard to the Council-Manager relationship, Section 4.03 of the Charlotte City Charter provides as follows: “The Council shall hold the City Manager responsible for the proper management of the affairs of the City and the City Manager shall keep the Council informed and shall make reports and recommendations as requested by Council or as the Manager determines necessary. Neither the Mayor, the Council nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.”

Council members shall contact the City Manager or a member of the City Manager’s Office

staff on any item or question of a policy nature, or if the Council member is seeking additional information, briefing or analysis which is not readily available. The City Manager will refer requests which require more than four hours of staff time to the City Council for approval.

Routine requests for information shall be directed to the Manager's staff or to the appropriate department head. Council members are encouraged to direct citizens who have routine service requests to 311

25. Communications with Citizens Committees and Other Parties

In contacts with appointed Citizens Committees or other individuals or groups, Council members shall not represent their individual views as being representative of the full City Council unless Council has formally authorized them to do so.

If the City is entering into negotiations with another party on a matter which could result in a formal contractual arrangement, Council will normally direct the City Manager to conduct those negotiations and come back to the Council with a recommendation. The Council may ask one or more of its members, or a Council Committee, to work with the City Manager during negotiations but may only do so at a Council meeting. The Mayor may make such a request if time is of the essence, with notification to the Council immediately thereafter, and confirmation by the Council at its next meeting.

Unless a Council member's participation has been authorized as outlined above, Council members shall not participate in formally authorized negotiations with any outside parties.

26. Council Contacts with Media

Council members shall not represent any contacts they have with the media as being representative of the full City Council unless Council has formally taken a position on the matter.

Individual Council members shall not release information to the media or the public when that information has been provided to them by the City Attorney as part of a Confidential Attorney-Client memorandum or as part of a City Council closed session held in compliance with the Open Meetings law (see Sec. 3.a. of the Mayor and Council's Code of Ethics – "They should also not disclose confidential information, including the premature disclosure of what transpired in a closed session."). The Council may choose to designate a spokesperson, such as the Mayor or City Attorney, to release appropriate information to the media or the public.

27. Nominations for Boards and Commissions by Absent Council Members

A Council member who will be absent from a meeting at which nominations for boards and commissions will be accepted, may make nominations in writing by submitting those written nominations to the City Clerk at any time prior to the scheduled beginning time of the meeting at which the nominations will be accepted.

28. Telephonic and electronic attendance at meetings.

- (a) Committee meetings. Council members may attend committee meetings by telephone or other electronic means when they are unable, by reason of illness or injury, to attend in person. Members who plan to attend by electronic means shall notify City staff at least 48 hours in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the committee meeting.

- (b) Council meetings. Council members may attend Council meetings by telephone or other electronic means for emergency meetings. In addition, Council members may attend regular and special meetings by telephone or other electronic means where:
 - (i) necessary to achieve a quorum;
 - (ii) attendance is precluded due to weather, civil unrest, emergency, etc.; and
 - (iii) the meeting needs to be continued (*e.g.*, need to open and continue a public hearing to avoid the need to readvertise) or to take action on matters that cannot be delayed.