

A RESOLUTION OF THE CHARLOTTE CITY COUNCIL AMENDING THE CODE OF ETHICS FOR MEMBERS OF BOARDS, COMMITTEES, AND COMMISSIONS OF THE CITY OF CHARLOTTE

~~Section 4.~~ The ~~October~~ November 23~~26~~, 2015 Resolution of the Charlotte City Council Amending the Code of Ethics for Members of Boards, Committees, and Commissions of the City of Charlotte, North Carolina, recorded at Resolution Book 47, Page 9425 is hereby amended to read as follows:

Code of Ethics Gift Policy, and Disclosure Requirements for Members of Boards, Committees, and Commissions 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 statemotto, *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, pursuant to Section 160A-86, the Charlotte City Council has previously adopted a Code of Ethics for the Mayor and City Council, and

WHEREAS, it is appropriate that members of City boards, committees, and commissions, as well as Mayoral and City Council appointees to non-City bodies (hereinafter "Board Members"), also adhere to a Code of Ethics.

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 Boards Members 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.

- Board 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.
- Board Members must always remain aware that they may, at various times, play different roles:
 - As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions
 - As decision-makers, who arrive at fair and impartial determinations.
- Board Members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Board Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and City Council and the citizens of Charlotte. Each Board Member 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 Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.

Section 1.

Board Members should obey all laws applicable to their official actions. Board Members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Board Members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or ~~citizen~~the public. However, in doing so, Board Members:

- (a) shall be mindful that they were appointed by the Mayor or City Council, or by another appointing authority to a City Board, Committee, or Commission and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and Council of such as soon as practicable;
- (b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and Council or other decision-making body rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;

(c) shall understand that they hold a position of trust on behalf of the City and its ~~citizen~~the public; and

(d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Board Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that a Board Member is behaving unethically because one disagrees with that ~~official~~member on a question of policy (and not because of the Board Member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

Board 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
- For Board Members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceeding themselves
- Treating other Board 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~~poorly on those offices

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

Section 3.a.

Board 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. Although opinions may vary about what behavior is inappropriate, ~~the Council will consider~~ impropriety will be considered in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board Member's action would conclude that the action was inappropriate.

Section 3.b.

If a Board Member believes that his or her actions, while legal and ethical, may be misunderstood, or if a matter before their board may present a conflict of interest under any applicable law or policy, ~~the official Board Member should~~ shall seek the advice of the City Attorney's Office and, if recommended to, in the discretion of the City Attorney or their designee, ~~and should consider publicly disclosing~~ shall publicly disclose the facts of the situation and the steps taken to ~~resolve it~~ address the matter (such as consulting with the attorney). Board Members shall seek the advice of the City Attorney's Office any time 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 Board Member to seek the advice of the City Attorney's Office shall extend further to relationships with contractors or subcontractors of the City so long as the Board 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's Office under this section of the Policy.

Section 4.

Board Members should faithfully perform the duties of their offices. They should act as the especially responsible ~~citizens~~ constituents 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.

Board Members should faithfully attend and prepare for meetings.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

Section 5.

Board 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 have made it clear that an environment of transparency and candor is to be maintained at all times ~~in the governmental unity~~ by the boards. ~~They~~ Board Members should take deliberate steps to make certain that any closed sessions held by the ~~body~~ boards 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 Covered Member.
- (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.

"Covered Member" – a member of any of the ~~following~~ Boards, Committees, and Commissions: covered under this policy.

~~(1) Land use and other regulatory bodies–~~

~~— Historic District Commission~~

~~— Planning Commission~~

~~— Zoning Board of Adjustment Housing Appeals Board~~

~~— Passenger Vehicle for Hire Board~~

~~(2) Non transit public enterprise advisory boards–~~

~~— Airport Advisory Committee~~

~~— Charlotte Water Advisory Committee~~

~~— Storm Water Advisory Committee~~

~~(3) Business~~

~~— Business Advisory Committee~~

~~— Privatization/Competition Advisory Committee~~

~~(4) Other~~

~~— Civil Service Board~~

~~— Citizens Review Board~~

Gift Ban

No Covered Member 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 Covered Member'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 Covered Member.
- (7) Food and beverages for immediate consumption in connection with any of the following:
 - a. A meeting of the Covered Body, 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 Covered Member 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 Covered Member 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 Covered Member is a director, officer, governing board member, employee, or independent contractor of one of the following:
 - i. The entity giving the food, beverage, or transportation.
 - ii. 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 Covered Member 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, Covered 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, INVESTIGATION REVIEW, AND SANCTIONS

1. Complaints

- a. Any individual may file a complaint alleging a violation ~~of this policy~~. 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").
- b. ~~Upon receiving a complaint, the City Clerk shall forward the complaint to the City Attorney.~~ Prima facie allegations subject to further review may include but are 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. ~~The City Attorney shall review the complaint to determine whether it provides the information required in subsection a. If the City Attorney determines that the complaint fails to provide the information required by subsection (a), the complainant shall be so informed and afforded an opportunity to provide the required information. If the City Attorney determines that a complaint does provide the required information, the complaint shall be investigated.~~ Upon receiving a complaint, the City Clerk shall forward the complaint to the City Attorney, or designee, for initial review.

2. ~~Investigations~~ Initial Review by City Attorney's Office

- a. ~~Investigations will be conducted by the City Attorney's Office unless there is a conflict or significant political concerns that warrant investigation by an independent third party.~~ The City Attorney, or designee, shall review the complaint to determine whether it meets the requirements of Part D, Section 1.a. and 1.b.
- b. ~~In the event that the complaint is determined to be either: (i) frivolous; or (ii)~~

~~does not state a claim of a violation even if the alleged facts are true, that conclusions shall be communicated to the complainant, the subject of the complaint, and the Mayor. If the City Attorney, or designee, determines that the complaint fails to meet the requirements of Section 1.a. or 1.b., the complainant shall be so informed in writing. Complainant shall be 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 written notice. 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., the complainant shall be notified in writing that no further action will be taken in the matter.~~

- c. ~~In the event that the complaint is determined to not be frivolous and does state a claim of a violation if the facts alleged are true, the complaint shall be investigated and written findings as to the truthfulness of the factual allegations and conclusions as to whether a violation has occurred shall be prepared. The written findings and conclusions shall be provided to the complainant, the subject of the complaint, the Mayor, and the City Council. If the City Attorney, or designee, determines that a complaint does meet the requirements of section 1.a. and 1.b., the complaint shall be investigated. Investigations will be conducted by the City Attorney's Office unless there is a conflict or significant political concerns that warrant investigation by an independent third party. The investigation shall include written findings as to the truthfulness of the factual allegations, whether a violation has occurred, and may recommend a response to those findings. The written findings and conclusions shall be provided to the complainant, the subject of the complaint, the Mayor, and the City Council.~~
- d. Any Board Member who is the subject of a complaint shall be excused from participating in any board considerations, deliberations, and actions while that complaint is under investigation per Section 2.c.

3. Sanctions

~~Upon receipt of written findings and conclusions pursuant to Section 2.c. Part D,~~ Section 2.c., the Covered Board Member who was the subject of the investigation may be sanctioned. Potential sanctions include the adoption of a Resolution of Censure and any other lawful sanction within the Council or Mayor's power, including, but not limited to, removal from the Board, Committee, or Commission.

This Resolution shall be effective ~~January 1, 2016~~ March 13, 2023.