

**RESOLUTION ADOPTING A
CODE OF ETHICS FOR MECKLENBURG COUNTY OFFICIALS**

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 County, 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 Mecklenburg County, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Mecklenburg County Board of County Commissioners do **HEREBY** adopt the following General Principles, Declaration of Policy, and Code of Ethics to guide all County Officials 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 Board of County Commissioners 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 Board of County Commissioners must always remain aware that at various times they play different roles:
 - As advocates, who strive to advance the legitimate needs of the 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 Board of County Commissioners must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- The Board of County Commissioners 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.

DECLARATION OF POLICY

(a) The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the Board of County Commissioners 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.

(b) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

(c) Mecklenburg County is committed to establishing a culture of openness, trust and integrity in business practices. Effective ethics is a team effort involving the participation and support of every employee. All employees should familiarize themselves with the ethics guidelines that follow. The County will take appropriate measures in addressing violations of this policy.

In recognition of these goals, the following Code of Ethics for the Board of County Commissioners and County Officials is hereby adopted.

CODE OF ETHICS FOR MECKLENBURG COUNTY OFFICIALS

DEFINITIONS

For purposes of disclosure of personal interest in accordance with section seven (7) of this Code of Ethics, the following definitions shall apply when a financial interest of the county official or employee or financial interest of the county official's or employee's spouse, parent or children living in the same household becomes a matter to be voted upon, regulated, supervised or otherwise acted upon in an official capacity by the official or employee.

As used in this Code of Ethics, the following terms shall have the meanings indicated:

Business Entity means any "for profit" business whether conducted by a corporation, limited liability company, sole proprietorship, partnership or other form of unincorporated association.

County Official means a member of the Board of Commissioners and any County employee.

Immediate Family means (i) any child, spouse, sibling, parent or other person sharing the household of a County Official other than a tenant or employee; and (ii) any person whose finances the County Official manages if the County Official is or may become a beneficiary of such managed funds.

Interest means direct or indirect material pecuniary benefit accruing to a County Official as a result of a contract or transaction with a Business Entity which is the subject of an official act or action by or with the County. For the purpose of this Code of Ethics a County Official shall be deemed to have an Interest as a result of a contract or transaction with:

- (1) Any Business Entity in which the County Official owns five percent (5%) or more equity interest, or is an officer, director or employee;
- (2) Any Business Entity or Non-profit Organization from which the County Official or a member of the County Official's Immediate family received payments for services rendered in any capacity or other distribution in excess of \$5000 during the preceding 12 months;
- (3) Any Non-profit Organization in which the County Official or a member of the County Official's immediate family is an employee;
- (4) Any Business Entity in which any member of the County Official's Immediate Family is an executive officer, director, or employee; or
- (5) Any Business Entity, securities of which represent more than 25% of the County Official's aggregate net worth.

For purposes of this Code of Ethics the following are not deemed to create an Interest or create a violation of this Code of Ethics:

- (a) County Officials who manage funds for non-household members are not required to consider those holdings for purposes of this Code of Ethics and such holdings do not need to be listed in the annual disclosure statement unless the non-household members fall within the definition of Immediate Family.
- (b) Companies whose stocks or bonds are held in mutual funds owned directly by the County Official, or by Immediate Family members, or held in 401k, 453 or 457 plans managed by others, are not Business Entities for purposes of this Code of Ethics and do not need to be listed in the annual disclosure statement.
- (c) Investments in the NC Retirement system or in Mecklenburg County's employee contribution plans are excluded from this Code of Ethics and do not have to be listed in the annual disclosure statement.

Management Team means all department directors.

Non-profit Organization means any organization that is chartered or organized for purposes other than making a profit, whether or not it is given tax free status.

Official act or action means any legislative, administrative, appointive or discretionary act of any County Official.

CODE OF ETHICS

SECTION 1: Standards of Conduct

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

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

Board members should endeavor to keep up to date, through the board's attorney and other sources, about the most pertinent constitutional, statutory, and other legal requirements with which they must be familiar to meet their legal responsibilities.

- (a) Scope: All County Officials as defined in this Code of Ethics shall be subject to and abide by the following standards of conduct.
- (b) Interest in contract or agreement: No County Official, as herein defined, shall (i) have or thereafter acquire an Interest; or (ii) enter into any contract or undertaking with the County if he or she will privately benefit or profit from the contract or if such undertaking would violate N.C.G.S. 14-234.
- (c) Ethics education program required: All County Commissioners shall receive a minimum of two (2) clock hours of ethics education within twelve (12) months after initial election or appointment to the office and again within twelve (12) months after each subsequent election or appointment to the office. N.C.G.S. 160A-87.
- (d) Use of official position. No County Official shall use his or her official position or the County's facilities for his or her private gain, nor shall they advocate on behalf of any private person, group or interest before any department, agency, or board of the County except in matters of purely civic or public concern. Commissioners shall not appear in paid advertisements from entities that receive funds from Mecklenburg County from the date of filing for office until the general election. This would not apply to appearances in public service advertisements. The provisions of this paragraph (c) are not intended to prohibit a County Official's use of parking permits, receipts of gifts valued less than \$100 as defined by the County's existing policy under

paragraph (g) below, and are not intended to prohibit his speaking before neighborhood groups and other Non-profit Organizations.

(e) Disclosure of information. No County Official shall use or disclose confidential information gained in the course of or by reason of his official position for purposes of advancing:

- (1) His financial or personal interest;
- (2) A Business Entity of which the County Official is an employee, an owner (in part or in whole), an officer or a director;
- (3) A Non-profit Organization of which the County Official is an employee, or serves as a director, or derives or may derive financial benefit; or
- (4) The financial or personal interest of any other person.

(f) Incompatible service. Unless disclosure is made in accordance with this Code of Ethics, no County Official shall engage in, accept private employment with, or render services for a Business Entity for compensation when such employment or service is or would be incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties.

(g) Gifts. No County Official shall directly or indirectly solicit any gift, or accept or receive any gift, including a gift made to the County by a third party or entity, having a value of one hundred dollars (\$100.00) or more or gifts from any one person or entity with an aggregate value of \$100 or more in any 12 month period whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties, or was intended as a reward for any official action on his part. Legitimate political contributions shall not be considered as gifts under the provisions of this paragraph.

A reasonable person standard shall be used in assessing what “could reasonably be inferred” above.

Further, under this policy and consistent with N.C.G.S. 133-32, it is both illegal and unethical for a County Official who is charged with the duty of developing contracts, awarding or administering contracts, or inspecting or supervising construction to willfully receive or accept any gift or favor from a contractor, subcontractor or supplier who has a contract with the County, or has performed under such contract within the past year, or anticipates bidding on such a contract in the future.

A gift of one or more tickets to attend a cultural or sporting event that is supported directly or indirectly in any way by an appropriation of money from the County (an "Event") creates the appearance of influence, regardless of the value thereof. No County Official may, therefore, solicit or receive any tickets to an Event if the County has in its most recently adopted budget included an appropriation that directly or indirectly

supports the Event or the venue in which the Event is to be held (the "Venue"). Furthermore, no County Official may solicit or receive any tickets to an Event if the County Official knows or has reason to know that the sponsors or promoters of the Event or the Venue are seeking, or intend to seek, financial support from the County for the Event or the Venue. A County Official who pays to the person or entity providing them, including but not limited to the County, the face value of the tickets to attend an Event shall not be in violation of this ban on receiving a gift of tickets to attend an Event that is supported directly or indirectly in any way by an appropriation of money from the County.

Provided, however, a cultural or sporting event being operated, promoted or sponsored by a County department or by the Charlotte-Mecklenburg Schools, CPCC or the Public Library is not an "Event" under this Code of Ethics. These entities are generally considered major business partners with Mecklenburg County and have such a long history of funding by and fundamental connection to the purpose of County government that acceptance of tickets to cultural or sporting events operated, promoted or sponsored by these entities should not be considered by a reasonable person as affecting the funding decisions of County Officials.

This subsection is not intended to prevent the gift and receipt of honorariums for participating in meetings or meals furnished at banquets. This subsection is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where County Officials are members of such professional organizations, nor is it intended to prevent County Officials who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting.

- (h) Non-profit gifts. No County Official shall solicit gifts for Non-profit Organizations on County property or with County resources unless in accordance with County policy.
- (i) Special treatment. No County Official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- (j) County Officials will act ethically and responsibly in accordance with all laws at all times.

SECTION 2: Standard of Behavior

County Officials 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 County Officials 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 members of the Board of County Commissioners are not generally allowed to act on behalf of the Board but may only do so if the Board specifically authorizes it, and that the Board must take official action as a body

SECTION 3: Standard of Performance – County Officials

County Officials 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. Although opinions may vary about what behavior is inappropriate, this Board will consider impropriety 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.

If County Officials believe that their actions, while legal and ethical, may be misunderstood, the official should seek the advice of the County Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

SECTION 4: Standard of Performance – County Commissioners

Members of the Board of County Commissioners should faithfully perform the duties of their offices. They should act as 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.

Members of the Board of County Commissioners should faithfully attend and prepare for meetings. They should demand full accountability from those over whom the board has authority.

Members of the Board of County Commissioners 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 County's interests ahead of their own.

SECTION 5: Conduct of Board Meetings

Members of the Board of County Commissioners 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 County employees.

To ensure strict compliance with the laws concerning openness, members of the Board of County Commissioners 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 Board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

SECTION 6: Disclosure of Interest in legislative action.

Any member of the Board of Commissioners who has an Interest in any official act or action before the Board of Commissioners shall (i) publicly disclose on the record of the Board of Commissioners the nature and extent of such Interest, (ii) request to be excused from voting, and (iii) shall withdraw from any consideration of the matter upon being excused by the Board of Commissioners pursuant to North Carolina law. County Officials who participate in the development of a budget for a Non-profit Organization, advisory agency or board soliciting money from Mecklenburg County shall publicly disclose the nature of that relationship.

SECTION 7: General disclosure statement.

- (a) Members of the Board of Commissioners, the County Manager, General Managers, Assistants to the County Manager, County Attorney and the Management Team shall file with the Clerk to the Board on the first day of February of each year, a statement disclosing the following information:
- (1) The identity, by name and address, of any Business Entity or Non-profit Organization of which he or any member of his immediate family has an Interest. Additionally, the County Official shall disclose the name of his or her employer and that of his or her spouse, or, if self-employed, state the nature of his or her work.
 - (2) The identity by name and address of any Non-profit Organization where the County Official is serving as a member of the Board of Directors, including a statement that the County Official is not receiving any compensation for serving in such capacity and has

no pecuniary interest in the affairs of the Non-profit Organization, including, but not limited to, any consulting or other agreement with the Non-Profit Organization providing for consideration to be paid to the County Official.

- (b) The statements required by this section shall be filed on a form prescribed by the Clerk to the Board and are public records available for inspection and copying by any person during normal business hours. The Clerk to the Board is authorized to establish and charge reasonable fees for the copying of statements. If there is no change from one year to the next in the information required to be disclosed, resubmission of the disclosure form will not be necessary

SECTION 8: Investigations

Questions and complaints regarding violations of this Code of Ethics or other unethical conduct shall be investigated as follows:

- (a) The Board of County Commissioners may direct the County Attorney to investigate any apparent or perceived violation of this Code of Ethics as it applies to any member of the Board of Commissioners or anyone, other than the County Attorney, under the appointment jurisdiction of the Board of Commissioners, and to report the findings of the investigation to the Board of Commissioners.
- (b) The Board of Commissioners or the County Manager may direct the County Attorney or Deputy County Attorney to investigate any apparent or perceived violation of this Code of Ethics as it applies to any County Official other than members of the Board of Commissioners or the County Manager, and to report the findings of the investigation to the County Manager.
- (c) The Board of Commissioners may direct the County Manager to investigate any apparent or perceived violation of this Code of Ethics by the County Attorney, and to report the findings of the investigations to the Board of Commissioners.
- (d) Any person who believes that a violation of this Code of Ethics has occurred may file a detailed complaint in writing with the County Attorney when a member of the Board of Commissioners, County Manager or Clerk to the Board is the subject of the complaint, or may file a detailed complaint in writing with the Chairman of the Board of County Commissioners when the County Attorney is the subject of the complaint, or may file a detailed complaint in writing to the County Manager when the subject of the complaint is a General Manager, Assistant to the County Manager, Department Director or other County employee. Those who receive the detailed written complaint may thereafter proceed with the investigation of complaint(s) as provided in paragraphs (a) through (c) of this section.

SECTION 9: Sanctions by County Manager; Board of Commissioners; rights of accused at hearings.

- (a) The County Manager shall take whatever lawful disciplinary action he deems appropriate, including but not limited to, reprimand, suspension, demotion or termination of service, for any officer or employee in the administrative service of the County under his jurisdiction

who he finds has violated this Code of Ethics. Said disciplinary action shall be in accordance with County policy.

- (b) For members of the Board of Commissioners or County Officials under the appointment jurisdiction of the Board of Commissioners, the Board may adopt a resolution of censure which shall be placed as a matter of record in the minutes of an official Board meeting.
- (c) No sanction by the Board of Commissioners provided for hereunder shall be invoked until an adequate investigation shall have been made and the person charged with the violation shall have been afforded all of the legal and constitutional rights due to him.

SECTION 10: Advisory Opinions

When any County Official has a doubt as to the applicability of any provision of this Code of Ethics to a particular situation related to his or her potential future conduct, or has a doubt or question as to the definition of terms used in this Code of Ethics, he or she may apply to the County Attorney or Deputy County Attorney for an advisory opinion based on the particular set of facts of his or her situation. The County Official shall have the opportunity to present an interpretation of the facts at issue and of the applicability of provisions of this Code of Ethics before such advisory opinion is made. The County Attorney or Deputy County Attorney shall assess the facts as presented and advise the County Official on the applicability of the Code of Ethics upon the County Official's situation.

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