

RESOLUTION NO.: R-2012-029

*Approving Ethics Policy for City Employees and Public Officials*

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WHEREAS, employees and public officials of the City of Columbia have an obligation and responsibility to the City and its citizens to help prevent fraud, waste and abuse; and,

WHEREAS, the Administrative Policy Committee has developed an ethics code and compliance reporting policy for employees; and,

WHEREAS, the Administrative Policy Committee has developed a compliance oath and an ethics code and compliance reporting policy for public officials of the City of Columbia; NOW, THEREFORE,

BE IT RESOLVED by the Mayor and Council this 8th day of May, 2012, that the attached Ethics Code and Compliance Reporting Policy for Employees; Compliance Oath; and, Ethics Compliance Reporting Policy for Public Officials of the City of Columbia are hereby approved and shall be incorporated into the City of Columbia Employee Handbook (Not a Contract). This resolution shall be effective as of final reading approval by City Council.

Requested by:

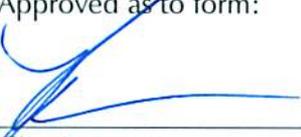
Administrative Committee

  
MAYOR

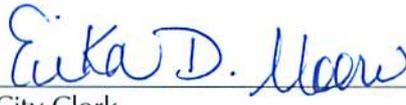
Approved by:

  
City Manager

Approved as to form:

  
City Attorney

ATTEST:

  
City Clerk

Introduced: deferred 4/18/2012

Final Reading: 5/8/2012

## ETHICS CODE AND COMPLIANCE REPORTING POLICY

The proper operation of government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public positions not be used for personal gain and that the public have confidence in the integrity of its government. In recognition of these goals, this Ethics Code for City employees is adopted. The purpose of this program is to establish policy and protocol for the ethical standards of conduct for all employees. All City Of Columbia employees have an obligation and responsibility to the City and its citizens to help prevent fraud, waste and abuse by immediately reporting any suspected or known violations. This policy, which will be reviewed and revised as needed annually, has been designed to help create a culture where ethical standards are valued and encouraged.

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### **City Policies That Relate to Ethics and Compliance**

All city employees will be subject to and abide by the following ethical standards of conduct. The City of Columbia's Ethics Code and Compliance Reporting Policy does the following:

- Oversees the ethics and compliance reporting for the City of Columbia's employees;
- Details training requirements for all employees, including full, part-time, volunteers and management;
- Helps employees understand what is expected of them, the law, importance of performing all city related activities in an ethical manner and avoid conflicts of interest as well as proper use of property, equipment and all other City resources.

#### **Interest in Contract or Agreement.**

While employed by the City of Columbia, no employee will have or acquire an interest in any contract or agreement with the City of Columbia. This does not prohibit employees from purchasing securities sold on recognized stock exchanges.

**Example 1:** If the City has a contract with a company to buy products or services from that company, no City employee may purchase an interest in that company except by purchasing its stock being sold on a recognized stock exchange.

**Example 2:** If the City has a contract or agreement with a company or person to buy products or services from that company or person, no City employee may be a subcontractor of that company or person, nor may any City employee receive a commission, share of the profits, or any other compensation or thing of value in connection with such contract or agreement.

#### **Use of Official Position**

No City employee will use his official position or the City's facilities for his private gain, nor will he represent any private person, group or interest before any department, agency, commission, or board of the City except in matters of purely civic or public concern. An employee may appear on his own behalf before such departments, agencies, commissions, or boards on matters involving his own rights as a citizen.

### Disclosure of Information.

- (1) No City employee will use or disclose confidential information gained in the course of or by reason of his official position.
- (2) No City employee will use or disclose any information gained in the course of or by reason of his official position for the purpose of advancing (a) his financial or personal interest, (b) a business entity of which he is an owner in part or in whole, or an officer or director, (c) the financial or personal interest of a member of his immediate household or that of any other person, or (d) to the detriment of the City when the City is engaged in a negotiation, preparation, trial (except as required by law), or any legal matter to include contractual matters.

### Gifts

No City employee will directly or indirectly solicit any gift or accept or receive a gift under circumstances in which it could reasonably be inferred that the gift was intended to influence him in the performance of his official duties or was intended as a reward for an official act on his part. A gift is defined as any benefit, favor, service, privilege, or thing of value which could be interpreted as influencing an employee's impartiality and includes, but is not limited to meals, trips, money, loans, rewards, merchandise, foodstuffs, tickets to sports, civic, or cultural events, entertainment, hospitality, and personal services or work provided by City suppliers or contractors.

The acceptance of gifts might create or appear to create a conflict of interest. It also might influence or appear to influence employees when performing our job duties. It also might influence or appear to influence employees when we are performing our job duties. Because of this, City employees shall not accept:

- Gifts of value  
Usually, a gift with minimal value (values at less than \$25) does not represent a conflict of interest and may be accepted by City employees. Some examples of such gifts are logo items from other companies, like umbrellas, key chains, flashlights, or tote bags. Certificates, plaques and other non-monetary award type items are also acceptable. Flowers, candy and other food items are not acceptable unless provided to more than two employees every time offered.
- Cash or monetary gifts
- Gratuities – money paid or gift given as a result of good service
- Kickbacks- An illegal, secret payment made in return for a referral or other action which resulted in a transaction or contract

Any gifts or cash award an employee receives from the City is acceptable because it does not represent a conflict of interest.

### Gift That Can Be Given To Others

City logo items of minimal value are acceptable gifts to give outside contacts. Certificates of appreciation or recognition are also appropriate gifts you may give. Refreshments provided at meetings or light lunches served to a meeting group are also acceptable.

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## General Disclosure

The following procedure shall be followed when an unsolicited gift of value is received:

An employee will report the gift to his immediate supervisor and include a description of the gift, the name of the donor (if known), and the date when the gift was received. The supervisor will forward this information to the Department Director. The Department Director will return the gift to donor (if known) and explain City guidelines regarding gifts. The Department will retain a record of the return receipt. If donor is unknown, the gift will be forwarded to the appropriate department for random distribution to an "Employee of the Month" recipient or as determined by the City Manager.

Any person who believes that a violation of this policy has occurred has an obligation to file a complaint in writing with the Director of Human Resources or contact the contract provider directly to submit a complaint through the hotline number or website.

## Special Treatment

No City employee will grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

## Incompatible Service

No City employee will engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper dismissal of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is as provided by City policy.

## Reporting

### Employee Responsibility

All City Of Columbia employees are responsible for reporting ethics or compliance related issues. Employees have the right and responsibility to report any activity that appears to be improper, unethical or illegal. Employees also have an obligation to report suspected misconduct and violations addressed by the Ethics and Compliance Program. The City is committed to investigating potential violations and then addressing them if they have merit. Employees who do not report suspected misconduct may be subject to disciplinary action. All employees are obligated to cooperate in investigating matters reported.

### Reporting a Concern

Suspected instances of fraud, waste or misuse of office or misconduct and violations **shall** be reported to an employee's supervisor, Division Head, Department Director, Human Resource Department Director, City Manager or his designee or may contact the contract provider directly to submit a complaint through the hotline number or website.

### Investigations and Sanctions

The City Manager may designate whomever he deems appropriate to investigate any apparent violations as it applies to any City employee. If the City Manager concludes that a violation of has occurred, he may take such action as deemed appropriate. Investigations may be conducted by various personnel depending on the nature of the investigation. Criminal investigations will be

investigated by the appropriate law enforcement official. If the violation occurs within the City of Columbia Police Department, it will be investigated by an outside law enforcement entity. Investigations may be conducted by a Review Committee including but not limited the City Attorney, City Manager or his designee, Human Resource Director or other appropriate staff. Any apparent violation committed by the City Manager will be referred to the City Attorney for investigation.

### **Reporting to City Council**

The City Manager shall submit a report to Columbia City Council on a quarterly basis, specifying when an each violation (not by name) was reported, the type of violation, the department involved and the action taken, including date of action taken.

### **Confidentiality of Information**

When an employee reports a concern or a violation(s) to his or her manager or supervisor, Human Resources, the City Manager or his designee or to the hotline, all efforts will be made to protect the confidentiality of the employee. However, for investigation purpose, the information may be disclosed to Directors or employees with a specific need to know. All reports involving the investigation shall remain confidential until final disposition unless subject to release under the South Carolina Freedom of Information Act or any other applicable state or federal law or regulation, a court order, subpoena or other judicial process. The informant does have the right to waive confidentiality. If the informant reports repeated violations that are determined to be unfounded, the informant may be subject to disciplinary actions in accordance with the City disciplinary policy. (Also see Non-Retaliation Section below.)

### **Non-Retaliation**

A Non-retaliation policy is in place to protect employees who reports concerns or violation(s) so that reports can be made without fear of being subjected to retaliation or harassment. No supervisor, manager, officer or other employee is permitted to engage in retaliation or any form of harassment directed against an employee who makes a good faith report or voices a concern. Any supervisor, manager, officer or other employee who engages in such retribution or harassment is subject to discipline in accordance with the City disciplinary policy.

Employees will not be exempt from the consequences of their wrongdoing by reporting the wrongdoing. The consequences from that wrongdoing, however, may be less severe because the employee has made the self-report. In most cases, an employee's prompt and forthright disclosure of his or her error or wrongdoing will be considered a positive action and consideration will be given to this disclosure.

### **Whistle-Blower Protection**

An employee may not be fired, demoted, or otherwise discriminated against in retaliation for disclosing what he or she reasonably believes is:

- a violation of City State or Federal Law, Rule or Policy
- a waste of public funds
- an abuse of authority
- a specific danger to public health or safety
- gross mismanagement

City employees have a responsibility to report concerns about violations of City ethical standards and are not permitted to overlook such violations. The City is committed to a policy that encourages timely disclosure of such concerns and prohibits any retaliation or retribution directed against an employee for making a good faith report of his/her concern.

### **Management's Responsibility**

All provisions in the "Ethics Code and Compliance Reporting Policy" apply to all City employees and managers. City management employees have a special responsibilities related to ethics and compliance.

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#### **Management will:**

- Listen to employee concerns and questions.
- Address employee concerns or questions by either responding or by routing concerns or issues to the appropriate area for handling and response.
- Support compliance efforts in the City and follow the code of conduct.
- Strive to provide a work environment where employees feel comfortable raising compliance issues or concerns.
- Encourage compliance initiatives within the work area that promote compliance awareness and reporting.
- Set the example for all by always conducting themselves in an ethical and honest manner.

#### **Management will not:**

- Ignore reports or questions regarding compliance concerns or issues.
- Retaliate against or harass in any way any employee or person who raises compliance issue or concern.
- Deter an employee from addressing or reporting issues through the City's open door policy, contacting the compliance hotline or compliance website.

### **Training**

Training is a key element in creating a culture of ethics and ensuring compliance with the City's "Ethics Code and Compliance Reporting Policy." All new employees will receive a copy of the City's policy and be introduced to the City's Ethics Code and Compliance Reporting process at new employee orientation. In addition, all City employees will be required to attend at least an annual ethics related training. Managers will also be required to receive additional annual training to ensure employee compliance to this policy. This policy will be reviewed and revised as needed annually and a training assessment will be conducted as well to ensure that the training is reinforcing a culture where ethical standards are valued and encouraged.

The "Ethics Code and Compliance Reporting Policy" is very important to the City and allows the City to provide a quality workplace for employees, customers and the citizens the City serves.

**Compliance Oath of Mayor and City Council**

I hereby swear or affirm that I will, at all times:

- (i) fully comply with the Public Official Ethics Code and Compliance Policy;
- (ii) refrain from being involved in any manner in the appointment or removal of any municipal administrative officers or employees whom the City Manager or any of his or her subordinates are empowered to appoint (SC Code Ann. Section 5-13-40 (b)\*);
- (iii) except for the purposes of inquiries and investigations, refrain from dealing with municipal officers and employees who are subject to the direction and supervision of the City Manager, except through the City Manager (SC Code Ann. Section 5-13-40 (c)\*);
- (iv) refrain from giving public or private orders to any municipal officer or employee who is subject to the direction and supervision of the City Manager (SC Code Ann. Section 5-13-40 (c)\*);
- (v) fully comply with all applicable provisions of the South Carolina Ethics, Government Accountability and Campaign Reform Act.

So help me God.

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires: \_\_\_\_\_

**\*SECTION 5-13-40.** Councilmen prohibited from holding other offices during term, appointing or removing employees whom manager is empowered to appoint and dealing with employees under control and supervision of manager.

(a) Except where authorized by law, no councilman shall hold any other municipal office or municipal employment while serving the term for which he was elected to the council.

(b) Neither the council nor any of its members shall in any manner be involved in the appointment or removal of any municipal administrative officers or employees whom the manager or any of his subordinates are empowered to appoint.

(c) Except for the purpose of inquiries and investigations, neither the council nor its members shall deal with municipal officers and employees who are subject to the direction and supervision of the manager except through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately. HISTORY: 1962 Code Section 47-83; 1975 (59) 692.

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## Public Official Ethics Code and Compliance Reporting Policy

The City of Columbia seeks to promote an environment where public officials, employees, citizens and business partners are encouraged to report any concerns or issues involving unethical or illegal activity as well as concerns related to fraud and abuse of City of Columbia resources. The term public officials is defined as all city elected officials, members of city sponsored boards and commissions, and board members of city development corporations.

### Public Official and Employee Responsibility

All City of Columbia public officials are responsible for reporting ethics or compliance related issues. Public Officials have the right and responsibility to report immediately any activity that appears to be improper, unethical or illegal. Public officials also have an obligation to report suspected misconduct and violations addressed by the Ethics Code and Compliance Program. The City is committed to investigating potential violations and addressing them if they have merit or referring the matter to the SC Ethic Commission or other appropriate legal body. Public officials or employees who do not report suspected misconduct may be subject appropriate actions up to and including removal from their appointment or censure by City Council. If a Public Official reports suspected misconduct he or she is obligated to cooperate in investigating the matter.

### Reporting Process

Public officials are obligated to report instances of fraud, waste or misuse of office. Suspected misconduct and violations should be reported immediately to the Columbia City Manager, SC Ethic Commission, other appropriate legal body or through the City's hotline number or website as may be provided by State Law.

### Investigations and Sanctions

The City Manager may designate or refer the reported violation to whomever he deems appropriate to investigate any apparent violations. If the City Manager or other appropriate source concludes that a violation has occurred, he may take such action as deemed appropriate.

Penalties for violation of the City's Ethic Code by appointees to boards or commissions could result in removal from the appointment. Violation by an elected official could result in removal from office by the Governor or censure by City Council.

### Reporting to City Council

The City Manager shall submit a report to Columbia City Council on a quarterly basis specifying when an alleged violation was received, type of complaint, the type of public official involved and actions taken, including date of action taken.

### Confidentiality Information

When a public official discloses confidential information of a violation(s) to the City Manager; the public official must understand the City will protect their confidentiality. However, for investigation purpose, the information may be disclosed to public officials or directors or employees with a specific need to know. All reports involving the investigation shall remain confidential until final disposition. The informant does have the right to waive confidentiality. If the public official informant reports repeated violations that are determined to be unfounded, they may be subject to removal from

his/her appointment and if an elected official could result in their removal from office by the Governor or censure by City Council. (See Non-Retaliation Section below.)

### **Non-Retaliation**

Non-retaliation is in place to protect public officials who reports violation(s) without fear of being subjected to retaliation or harassment. The City takes such concerns and allegations very seriously.

### **Whistle-Blower Protection**

When a public official discloses to authority about alleged dishonest or illegal misconduct occurring at the City; the public official is prohibited from being removing from office or otherwise discriminating against in retaliation for disclosing what he or she reasonably believes is:

- a violation of City State or Federal Law, Rule or Policy
- a waste of public funds
- an abuse of authority
- a specific danger to public health or safety
- gross mismanagement

Public officials have a responsibility to report concerns about violations of our City ethical standards and are not permitted to overlook such violations. The City is committed to a policy that encourages timely disclosure of such concerns and prohibits any retaliation or retribution directed against a public official for making a good faith report of a concern.

### **Training**

Training is a key element in creating a culture of ethics and ensuring compliance with the City's "Public Officials Ethics Code and Compliance Reporting Policy." All public officials will receive a copy of the City's policy and introduced to the City's Ethics Code and Compliance Reporting process during orientation. In addition, all public officials will be required to attend periodic ethics related trainings.

### **Compliance Oath**

Public officials will also be required to sign a "Compliance Oath" annually. The "Compliance Oath" will reference S.C. Code Ann. §5-13-40 which deals with issues related to the "Ethics Code and Compliance Reporting Policy."

The "Ethics Code and Compliance Reporting Policy" is very important to the City and allows the City to provide a quality workplace for employees, customers and the citizens the City serves. It is also a mechanism to strive to obtain standards of excellence that focus on accountability and integrity.