

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 984

**AN ORDINANCE OF THE CITY OF PHOENIX
CHAPTER 2.30, CODE OF ETHICS, OF THE CITY MUNICIPAL CODE**

RECITALS:

WHEREAS, it is legislatively decided to be in the best interest to create and adopt a Code of Ethics in the Phoenix Municipal Code;

NOW, THEREFORE BE IT RESOLVED, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:

The following is added to the Phoenix Municipal Code as Chapter 2.30, Code of Ethics.

2.30.010. Declaration of Policy.

The proper operation of democratic government requires that public officials, including elected officials, appointed officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the 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. In recognition of these goals, there is hereby established a Code of Ethics applicable to all public officials, whether paid or unpaid, including members of regular or ad hoc boards, commissions, or committees filled by appointment by the Mayor and City Council.

The purpose of this Code is to establish ethical standards of conduct for all public officials by setting forth those acts or actions that are incompatible with the best interests of the City of Phoenix. It is also the purpose of this Code to assist public officials in determining the proper course of action when faced with uncertainty regarding the propriety of a contemplated action, thereby preventing them from unwittingly entangling public and private interests. Through adoption of this Code the City hereby expresses its intent to maintain high ethical standards in the City service, and to increase public confidence in the integrity of City public officials.

The provisions of ORS 244 ("Government Ethics Law") as it currently exists or may from time to time be amended are incorporated by reference herein. A violation of any provision of ORS 244 shall be considered a violation of this Code of Ethics.

2.30.020. Responsibilities of Public Office.

Public officials are agents of public purpose and are engaged for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state and the City, and thus to foster respect for all

government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

2.30.030 Dedicated Service.

All public officials of the City should work to support the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

Public officials should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials unless prohibited from so doing by law or by officially recognized confidentiality of their work.

2.30.040. Fair and Equal Treatment.

- A. Interest in Appointments. Canvassing of members of the Council or Mayor, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the City service shall disqualify the candidate for appointment except with reference to unpaid positions filled by appointment by the Mayor or Council.
- B. Use of Public Property. No public official shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such employee in the conduct of official business or as a specifically defined benefit in compensation of employment.
- C. Obligations to Citizens. No public official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen except as otherwise permitted by law or ordinance.

2.30.050. Conflict of Interest.

- A. Disclosure. No public official, whether paid or unpaid, shall take any action in the course of his/her duties, the effect of which potentially or actually would be to the private financial gain or loss of (a) the official, (b) any relative of the official or (c) those with whom the official has a close business relationship, without first disclosing such potential or actual gain or loss to the proper authority. Nor shall any public official, whether paid or unpaid, engage in any business or participate in any proposed or current City transaction, contract, purchase or sale which is potentially incompatible with the proper discharge of that public official's official duties or which would tend to impair independence of judgment or action in the performance of that public officials' official duties without first disclosing such potential or actual incompatibility or impairment of independent judgment or action to the proper authority. The requirements for such disclosure by elected and appointed officials and the limits on their participation in discussion, debate, or voting on any issue out of which an actual conflict arises shall be set forth in ORS 244.120(2), as it may be amended from time to time and as it is interpreted by the Oregon Government Ethics Commission. For employees, such disclosure shall be made in writing to the employee's immediate supervisor and Department Head. Any employee or appointed official who has a financial or other private interest in a particular matter shall

disclose the nature and extent of such interest on the records of the Council before participating in Council discussion on or giving an official opinion to the Council on the matter.

- B. Transactions with the City. A public official acting in an official capacity shall not recommend, approve, award, enter into or authorize a City transaction, contract, purchase or sale to which one of the parties is (a) the public official acting in his or her own behalf, (b) a relative of the official or (c) a business entity in which the official or a relative of the official has a substantial or controlling interest.
- C. Gifts. No public official shall solicit or accept gifts, favors, services, compensation, retainers or promises of future employment from a source with a legislative or administrative interest in the performance of his/her official duties or in anticipation of official action to be taken by the public official or by the City. For purposes of this provision, "gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official. A public official may not accept a gift from a source with a legislative or administrative interest in the public official's official duties if the gift has a value in excess of \$50 or smaller gifts from a single source with an aggregate value exceeding \$50 in the course of a calendar year. Gifts received by City employees with a value of less than \$50 shall, to the extent practical, be shared with other City employees. Public officials may accept gifts with de minimis value, such as caps, coffee mugs, pens and paperweights, and are not expected to share such gifts.
- D. Remuneration Contingent on City Action. No public official shall accept a retainer or compensation that is contingent upon a specific action by the City.
- E. Disclosure of Confidential Information. No public official shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City that is confidential or not readily available to the public. Nor shall any public official use information that is confidential or not readily available to the public to benefit private interests, including the official's private interests, at the expense of or in conflict with the public interest. Information that is public may not be readily available to the public if a special request is required to obtain the information or if special knowledge, such as that acquired as a public official, is needed to take advantage of the information.
- F. Representing Private Interests before Courts or City Departments or Elected or Appointed Bodies. No appointed official shall appear on behalf of a client for a fee or pro bono before the board or commission to which that official is appointed. No employee whose salary is paid in whole or in part by the City shall appear on behalf of private interests before any department or elected or appointed body of the City. An employee shall not represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a party, unless the employee is representing himself/herself as a private citizen on purely personal business.
- G. Incompatible Employment. No employee shall engage in or accept employment from or render services for another person or entity when such employment or service is incompatible with the proper discharge of that employee's official duties for the City or would tend to impair independence of judgment or action in the performance of that employee's official duties.
- H. More Restrictive State Law Provisions. Nothing in this ordinance relieves or excuses public officers and employees from compliance with more restrictive state laws applicable to the particular public position. Planning Commissioners, for example, are subject to more restrictive Conflict of Interest Provisions pursuant to ORS 244.135.

2.30.060. Political Activity.

Employee involvement in certain political activities is protected under the First Amendment. However, under Oregon and federal law, there are some restrictions on the political activities of Oregon public employees. City employees are expected to be familiar with and to comply with these laws as they currently exist or as amended.

Oregon law (ORS 260.432(2)) requires that: "No public employee shall solicit any money, influence, service or other thing of value or to promote or oppose any political committee or to promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views."

The Hatch Act (federal law) further requires that employees whose principal job responsibilities are financed in whole or in part from loans or grants made by the federal government may not use their official influence to interfere with or affect the result of an election or a nomination for office. An employee covered by the Act may not, either directly or indirectly, coerce or advise another employee to contribute anything of value in any form whatsoever to any organization or agency for political purposes.

The expression of personal political views while on the job during working hours is permitted only to the extent that such expression does not interfere with the performance of the employee's duties or performance of the duties of other employees. While on the job, during working hours, any comment or suggestion to fellow employees or the public to vote a certain way is prohibited, even if it does not interfere with the performance of duties of the employee or other employees. Politically related activities such as fundraising, soliciting volunteer help on political campaigns or disseminating partisan election material is prohibited while on the job during working hours. No public official shall promise an appointment to any municipal position as a reward for any political activity.

2.30.070. Applicability of City Code of Ethics and State Ethics Law; Responsibility for Defense.

A. This City ethics code shall be operative in all instances covered by its provisions except when superseded by an applicable statute, ordinance or resolution which is mandatory or when the application of a statute, ordinance or resolution provision is discretionary but determined to be more appropriate or desirable. Full compliance with the City code of ethics and with Oregon's Government Ethics Law is the personal responsibility of each public official. The opinion of the City Manager, the City Attorney or the Mayor shall not be considered an affirmative defense if a public official is charged by the Oregon Government Ethics Commission with a violation of state Ethics Law. Any public official accused of violating the state Ethics Law shall be solely responsible for the costs of his or her defense before the Oregon Government Ethics Commission. If the charges are dismissed or determined to be unfounded, the City Council, at its sole discretion, may elect to reimburse a public official for some or all of the costs incurred by the official.

1. Employees. When an employee has doubt as to the applicability of a provision of this ethics code or the Government Ethics Law to a particular situation, the employee should apply to

the City Manager, who is charged with the implementation of the City's ethics code for an advisory opinion, and be guided by that opinion when given. The employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provision(s) of the ethics code or Government Ethics Law before such advisory decision is made. All such requests for advice shall be treated as confidential. The City Manager may ask the City Attorney to provide an advisory opinion based upon the facts presented, which opinion shall be subject to the attorney-client privilege.

2. Appointed and Elected Officials. When an appointed official or an elected official has doubt as to the applicability of a provision of ethics code or state Ethics Law to a particular situation, he or she may seek an advisory opinion from the City Attorney. If an appointed or elected official requests advice on an ethics question about that official's actions or potential actions, the opinion itself shall be subject to the attorney-client privilege and not be disclosed to the Mayor, Council members, or anyone other than the requesting official without the official's explicit approval.
3. The opinion of the City Manager or the City Attorney shall not be considered an affirmative defense if a public official is charged by the Oregon Government Ethics Commission with a violation of state Ethics Law.

2.30.080. Code of Ethics Definitions.

- A. Employee - For the purposes of this section, "employee" shall mean one who is hired and paid a wage or salary to work for the City other than elected or appointed officials.
- B. Appointed Official - For the purposes of this section, "appointed official" shall mean a person who is appointed to serve on one of the City's boards or commissions and shall also mean the City Manager and City Attorney.
- C. Elected Official - For the purposes of this section, "elected official" shall mean one who is elected by the registered voters of the City of Phoenix to serve the City and shall include the Mayor and City Councilors.
- D. Public Official - For purposes of this section, "public official" shall mean any employee, appointed official or elected official.
- E. Private Interests - The interests, including but not limited to financial interests, of discrete individuals or entities, as distinct from the interests of the City as a whole or the interests of its citizens in general.
- F. Relative –
 1. The spouse and any children, siblings, parents, or spouses of siblings or parents of a public official;
 2. Any children, siblings, parents, or spouses of siblings or parents of a public official's spouse;
 3. Any individual for whom a public official has a legal support obligation; or
 4. Any individual for whom a public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.
- G. Sanctions. Violation of any provision of this section, determined after notice and an opportunity to be heard, shall constitute cause for disciplinary action up to and including termination for an employee, or removal from office of an appointed official. Discipline or removal actions shall be in addition to, and not in lieu of, any other City initiated sanction or penalty.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 2nd day of October, 2017.



Mayor

ATTEST:



City Manager