

**NOTICE OF PUBLIC MEETING
CITY OF PHOENIX
ETHICS COMMISSION**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS COMMISSION** and to the general public, that the **ETHICS COMMISSION** will hold a Hybrid meeting open to the public on **May 16, 2024, at 3:00 p.m.**

OPTIONS TO ACCESS THE MEETING

- **Call-in to listen** to the live meeting: Dial 1-415-655-0001, Enter meeting access code 2632 331 1377, and press # again when prompted for the attendee ID.
- **Observe the live meeting virtually**, by clicking on the following link and registering to join the meeting online:
<https://cityofphoenix.webex.com/weblink/register/r94a556c078d9a8f5785aaabfac481b8d>
- If you would like to attend in person at Phoenix City Hall, 12th Floor, Central Conference Room 200 W. Washington St., Phoenix, Arizona, **please RSVP to ethics.commission@phoenix.gov**.
- **Para solamente escuchar la reunión en español**, llame a este mismo número el día de la reunión (602-666-0783; ingrese el número de identificación de la reunión 2630 931 5069#).
- **Register to speak and/or submit a comment** on an agenda item:
 - Contact: Rebecca McCarthy
 - At: (602) 262-7526
 - Email: ethics.commission@phoenix.gov
 - By: 11:00 a.m. on May 16, 2024

Public Comment: If you wish to provide a written comment or speak at the meeting virtually or by phone, please submit a request to ethics.commission@phoenix.gov or call (602) 262-7526 no later than 11:00 a.m. on Thursday, May 16, 2024. The email or phone call should include your first and last name, email address, the item number(s) and whether you would like your comment read into the record or if you wish to speak.

Additional information can be found at <https://www.phoenix.gov/ethics>.

Executive Session

The Ethics Commission may vote to convene into executive session (which will not be open to the public) pursuant to A.R.S. Section 38-431.03(A)(2) or (A)(3) for discussion or consideration of any items on the agenda, at any time during the meeting. The Ethics Commission must take action on an agenda item in open session. Items on the agenda may be discussed out of order unless they have been specifically noted to be set for a certain time.

The agenda for the meeting is as follows:

1.	Call to Order/Roll Call	Chair
2.	City Attorney Explains Public Comment	Staff
3.	Approval of Meeting Minutes from April 18, 2024 Discussion and Possible Action	Chair
4.	Review City of Phoenix Rules of Council Proceedings Information and Discussion	Chair/Staff
5.	Review Process for Requests for Inquiry Information and Discussion	Chair/Staff
6.	Review of Ethics Regulations Information and Discussion <i>Phoenix City Code, Chapter 2, Section 2-52 and 2-53 and Arizona Revised Statutes Title 38, Chapter 3, Article 8 Sections 38-501 through 38-511</i>	Chair/Staff
7.	Review of Current Complaints Discussion and Possible Action 1. <i>EC-19-01</i> 2. <i>EC-20-01</i> 3. <i>EC-20-02</i> 4. <i>EC-21-01</i> 5. <i>EC-21-02</i> 6. <i>EC-22-01</i> 7. <i>EC-23-01</i> 8. <i>EC-23-02</i>	Chair/Staff
8.	Call to Public	Chair
9.	Future Agenda Items and Meeting Dates	Chair
10.	Adjournment	Chair

For further information or to request a reasonable accommodation, please contact Rebecca McCarthy at (602) 262-7526 or TTY: 7-1-1 as early as possible to coordinate needed arrangements.

5/9/2024

Agenda Item 3

CITY OF PHOENIX ETHICS COMMISSION Summary Minutes April 18, 2024

Phoenix City Hall
12th Floor, Central Conference Room
200 W Washington St.
Phoenix, AZ 85003

Committee Members Present

Jose Samuel (Sam) Leyvas III
Cheryl Pietkiewicz
Patricia Sallen
Peter Schirripa

Committee Members Absent

1. Call to Order/Roll Call

Ms. Inger Erickson, Deputy City Manager, called the meeting to order at 3:00 p.m. with Commission Members Sam Leyvas, Cheryl Pietkiewicz, Patricia Sallen, and Peter Schirripa present.

2. Approval of Meeting Minutes from March 21, 2024

Ms. Erickson asked if the Commission would make a motion.

Ms. Sallen made a motion to approve the minutes of the March 21, 2024, Ethics Commission Meeting. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

3. Introduction of City Counsel and Outside Counsel

Ms. Erickson asked Mr. David Benton, City of Phoenix Chief Counsel, and Ms. Beth Nillen, Commission's Counsel, to introduce themselves and provide an overview of their roles as it relates to the Commission.

Mr. Benton introduced himself and shared information about his current role at City of Phoenix. He shared details about his previous work experience with public entities and his education.

Ms. Nillen introduced herself and shared information about her previous work and current work with Spencer Fane. Her experience includes working as a City Attorney for municipalities within Wisconsin, and after moving to Phoenix, she continued working on employment law, conducted workplace investigations, and provided outside counsel to government agencies.

Mr. Leyvas asked about their respective roles and responsibilities within the Commission, specifically relating to the roles of counsel and investigator.

Ms. Nillen explained the Commission is the final decision-making body for any ethical complaints brought to the Commission. However, as an investigator, Ms. Nillen will support with fact-finding during the investigation process and present the information in a report for the Commission. Ms. Nillen will separately provide legal advice and act as Counsel to help the Commission interpret the rules they need to operate within.

Mr. Leyvas asked Ms. Nillen to clarify if she would be acting as both Counsel and an independent investigator for the Commission.

Ms. Nillen clarified typically an independent investigator would make a finding of fact for the client. She stated the rules clearly delineate that the investigator's role would be to support the needs of the Commission by researching and presenting the facts in a neutral and unbiased manner but would not include providing a finding of fact for the Commission. The Commission will be the final decision-making body. Ms. Nillen explained the type of information she could provide and examples.

Mr. Leyvas asked to clarify Mr. Benton's role in the Commission.

Mr. Benton explained Ms. Nillen is the Commission's lawyer and to work with her for any questions the Commission has. He stated his role is to provide counsel to staff and City Council and support administrative needs for the Commission within the City. He stated it would be a clear conflict of interest for his position to provide counsel to the Commission.

Commission Member Pietkiewicz asked if Mr. Benton would be attending all meetings moving forward.

Mr. Benton responded he will not be attending all meetings but will be available for the first few meetings as the processes are new.

Ms. Erickson asked if there were any additional questions from the Commission.

The Commission had none.

4. Review and Adopt Bylaws

Ms. Erickson asked the Commission if there were any questions or concerns with Bylaws as red-lined in the posted packet.

Mr. Leyvas made a motion to approve the Bylaws as red-lined in the posted packet. Ms. Sallen seconded the motion which passed unanimously 4-0.

5. Elect Chairperson and Vice Chairperson

Ms. Erickson asked if there was a consideration for a Commission Member to serve as Chair or Vice Chair and opened the floor for discussion.

Ms. Pietkiewicz stated she would not like to be nominated.

Ms. Sallen asked if Mr. Schirripa or Mr. Leyvas were interested in the position.

Mr. Schirripa asked if the Commission needed to wait until the fifth and final commissioner was sworn in.

Ms. Nillen recommended to move forward with electing a Chair and Vice Chair now to provide order for the Commission.

Mr. Schirripa stated he would not like to be nominated.

Ms. Nillen clarified that the rules of order are the City's Rules of Conduct, which are unique from Robert's Rules of Order.

Ms. Sallen asked Mr. Leyvas if he was interested in the role of Chair.

Mr. Leyvas stated he would be interested in the role.

Ms. Sallen nominated Mr. Leyvas as Chair. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

Ms. Pietkiewicz nominated Ms. Sallen as Vice Chair. Mr. Schirripa seconded the motion which passed unanimously 4-0.

Ms. Erickson turned the meeting over to Chair Leyvas to lead the remainder of the meeting.

6. Review and Adopt Initial Rules of Procedure

Chair Leyvas asked if there were questions or possible action for the Initial Rules of Procedure as red-lined in the posted packet.

Vice Chair Sallen asked about the review limitation written in Section 4 Rule 3 and how the rule works as the Commission only began in 2024.

Ms. Nillen clarified the Section states the complainant must make their complaint within one year after the incident. For any of the complaints that have not been acted upon yet, the complaints will remain open until the Commission acts on it. The rule does not indicate a limitation on the Commission's review and actions.

Vice Chair Sallen asked how Rule 10.C applies to the Commission.

Ms. Nillen clarified Rule 10.C is in relation to the gift clause, referencing special occasions (such as weddings).

Chair Leyvas asked if there were other questions or feedback from the Commission.

Ms. Erickson stated that there is a draft Request for Inquiry Form.

Chair Leyvas asked for clarification if the City Manager considers the Initial Rules of Procedure still to be in draft form.

Ms. Nillen indicated they are in draft form so the Commission may act upon and approve the Initial Rules of Procedure once the Commission was seated.

Mr. Benton confirmed that any future recommended changes to the Initial Rules of Procedure would need to be taken to Council for approval.

Chair Leyvas expressed his appreciation and thanks for the opportunity to review and adopt the Initial Rules of Procedure.

Chair Leyvas asked for a motion.

Vice Chair Sallen moved to approve the Initial Rules of Procedure as red-lined in the posted packet. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

7. Call to Public

There were no public available to comment.

Ms. Erickson mentioned the public records request and information requested during the March 21 meeting by Mr. Thacker was provided to him.

8. Future Agenda Items and Meeting Dates

Chair Leyvas opened the floor to discuss future agenda items and meeting dates.

Ms. Erickson verified meeting dates for 2024 have been set.

Chair Leyvas asked how many complaints there are currently.

Ms. Erickson stated there are eight complaints. She stated the complaints can be sent to the Commission and discussed at the next meeting.

Ms. Pietkiewicz asked if the complaints and any other relevant information could be placed in a shared drive or site.

Ms. Nillen expressed concerns about potential open meeting law violations when posting information in a shared drive.

Ms. Pietkiewicz asked about conversations the Commission may need to have in a confidential setting, not in a public setting.

Ms. Nillen explained executive session is a confidential portion of the meeting for the Commission to obtain legal consultation on a specific agenda item, and she referenced the executive session statement on the agenda. She clarified that during executive session, no member of the public may attend, and there is no recorded or written record. As per the Ordinance, the complaints are confidential and may only be referenced in public by the EC number assigned to them. The Commission's final decision would be made in open, or public, session.

Ms. Pietkiewicz asked to clarify what is considered public record.

Ms. Nillen clarified any written communication is subject to a public records request after the conclusion of the investigation of the specific matter.

Mr. Schirripa asked about the process and workflow as defined by Rule 5 in the Initial Rules of Procedure. He also asked if it is recommended to create a specific email address for Commission matters.

Ms. Nillen recommended each of the Commission Members create specific emails for Commission related correspondence, to simplify collecting information related to any public records requests in the future.

Mr. Benton reiterated the importance of deciding how the Commission wants to communicate with each other and stressed the importance of adhering to Open Meeting Law. He recommended to direct any invitations, questions, or emails from the public to staff, and staff can provide the Commission Member with a recommendation on how the inquiry should be dealt with.

Ms. Erickson stated the City has established an Ethics Commission email where information may be sent to. Staff can share information to the Commission using the email, without sharing the Commission members' emails publicly.

Ms. Pietkiewicz asked if a complaint would be sent directly to their emails.

Ms. Erickson clarified a complainant would provide the Request for Inquiry, or complaint, to the City Clerk. The City Clerk then has five business days to assign a matter number to the Request for Inquiry and refer the Request for Inquiry to the Ethics Commission for initial evaluation at the Ethics Commission's next available meeting.

Chair Leyvas asked for clarification on the workflow of the current eight complaints.

Ms. Erickson confirmed staff will send the complaints to the Commission, and during the next meeting, the Commission may convene in executive session to discuss the complaints.

Ms. Nillen explained that during the initial review, the Commission can decide how to move forward with each complaint.

Chair Leyvas recommended the Commission reread the Bylaws and Initial Rules of Procedure to better understand the process and the conditions on how to assess each item.

Chair Leyvas asked about Ms. Nillen's availability for each of the Commission Members.

Ms. Nillen stated she is available for any questions and shared her contact information.

Ms. Erickson stated staff will meet with the Chair to discuss the next meeting's agenda and compile the agenda packet for posting.

Ms. Erickson confirmed staff will wait to send the complaints until the Commission Members have established new emails, if they choose to.

Chair Leyvas asked if there were any other future agenda items.

The Commission had none.

9. Adjournment

Chair Leyvas adjourned the meeting at 3:33 p.m.



City of Phoenix

Rules of Council Proceedings

UPDATED JUNE 2021

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This booklet reflects the ordinances approved by the City Council through June 2, 2021.

A copy is available to print or download at:

<https://www.phoenix.gov/cityclerk/site/Documents/Rules.pdf>

RULES OF COUNCIL PROCEEDINGS

In accordance with the provisions of Chapter IV, Section 7, of the Charter of the City of Phoenix, the Rules of Council Proceedings were established in 1969 and incorporated into the Code of the City of Phoenix, Chapter 2, Article II, Section 2-60.

Rule 1 Applicability

The proceedings of the Council of the City of Phoenix shall be governed by these Rules, resorting to the latest standard edition of Robert's Rules of Order, if necessary.

Rule 2 Meetings¹

- (a) The Council shall meet regularly according to the adopted meeting calendar as follows:²
 - (1) Policy Sessions to receive information and determine policy, or Work Study Sessions to review and discuss ideas that could lead to future policies and programs, at 2:30 p.m. on Tuesdays.³
 - (2) Formal Meetings to consider and act on general business at 2:30 p.m. on Wednesdays.
- (b) Special meetings may be called by the Mayor or three Councilmembers.⁴
- (c) The City Manager will include an item on the Formal Agenda at the written request of the Mayor or at least three Councilmembers. Before the meeting or before any vote occurs related to the item, the item may be withdrawn from the agenda by written request to the City Manager from the Mayor, only if the item was requested by the Mayor, or one of the Councilmembers who requested the item. Otherwise, an item can only be withdrawn from the agenda by a majority vote of the City Council.
- (d) Meeting times, dates, and locations may be changed, or meetings may be canceled by the Mayor.

Rule 3 Order of Business for Formal Meetings

The City Clerk shall prepare and publish an agenda for each formal meeting with items approved by the City Manager in the following order:

- (a) Roll call of members;
- (b) Approval of minutes of previous meetings;
- (c) Appointment of Vice Mayor, Board and Commission members and Municipal Court judges and administration of oaths;
- (d) Liquor license, bingo, and off-track betting license applications;
- (e) Payment ordinances;
- (f) Reading and passage of ordinances and resolutions, formal recorded actions, consideration of bids, abandonments and easements not related to planning, old business, and new business items listed under the categories of administration, community services, economic development, public safety, and transportation and infrastructure;⁵

1 Charter, Chapter IV, Section 19, requires the Council to meet at least once a month. Generally, meetings are held on the first and third Wednesday of the month.

2 Charter, Chapter IV, Section 4, requires the Council to provide for the time and place of its regular meetings.

3 See Rule 4 for description of Policy Sessions.

4 Charter, Chapter IV, Section 4, requires the Council to provide the manner in which special meetings will be called. Charter, Chapter IV, Section 20, provides that special meetings may be called by the Mayor or three Councilmembers.

5 Code, Section 2-78 provides that ordinances and resolutions may be read by title and agenda item only if the titles of the proposed ordinances and resolutions were available to the public in the City Clerk's office at least 24 hours before a meeting. If not available, the text of the ordinance or resolution must be read in full before the vote. Council may waive the reading by a 2/3 majority vote.

- (g) Planning and zoning matters including plats, abandonments and easements, ordinances, resolutions, public hearings, and ratification of planning/zoning cases;
- (h) Action on citizen petitions previously submitted, if applicable;
- (i) Reports from the City Manager, committees, or city officials;
- (j) Citizen comments.

Rule 4 Policy and Work Study Session Agendas

The Policy and Work Study Session agendas shall be prepared as follows:

- (a) The agenda shall be set by the Mayor, provided that an item may be placed on the agenda upon the written request of four Councilmembers.
- (b) The Policy agenda shall include time for Councilmembers to request information from City staff.
- (c) The agenda may include a consent agenda set by the Mayor, which shall be adopted, rejected, or continued without discussion.
- (d) Items shall be removed from the consent agenda upon the request of any Councilmember prior to 5:00 p.m. of the day preceding the meeting.
- (e) The Policy agenda may include a section in which formal actions, ordinances, and resolutions may be approved or adopted by the City Council. These items may be placed in this section upon City Manager's Office approval of an item in accordance with the normal process and deadlines.

Rule 5 Subcommittees

- (a) The Mayor may establish, modify, and terminate subcommittees of the Council and charge them with their powers, duties, and responsibilities. Subcommittee membership shall not exceed four.
- (b) The Mayor may refer matters to subcommittees for the purpose of collecting information, providing analysis, and making recommendations to the Council. Subcommittees may conduct public hearings on matters referred to them.
- (c) The Mayor shall appoint and remove the members and chairperson for each subcommittee. Only the Mayor and Councilmembers may serve on a subcommittee. The Mayor shall be a nonvoting ex-officio member of all subcommittees, unless otherwise designated.
- (d) The subcommittee chairperson shall determine the agenda for subcommittee meetings consistent with the subcommittee's charge.
- (e) The Mayor shall file with the City Clerk a list of all subcommittees with each subcommittee's members, chairperson, and charge. Any changes in subcommittee information shall also be filed with the City Clerk.

Rule 6 Ad Hoc Committees

- (a) The Mayor may establish, modify, and terminate ad hoc committees of the Council and charge them with their powers, duties, and responsibilities.
- (b) The Mayor shall appoint and remove the members and chairperson for each ad hoc committee. Membership of ad hoc committees may include citizens and up to four Councilmembers.
- (c) Ad hoc committees shall be established to study, review, and make recommendations regarding specific issues designated by the Mayor.
- (d) Ad hoc committees shall be established only for a limited, clearly defined, time and at the end of the designated time shall automatically be abolished unless the time is extended by the Mayor.

- (e) The Mayor shall file with the City Clerk a list of all ad hoc committees, together with each ad hoc committee's members, chairperson, and charge. Any changes in ad hoc committee information shall also be filed with the City Clerk.

Rule 7 Rules of Governance

- (a) A majority of the members of the Council shall constitute a quorum.⁶ The Charter requires the affirmative vote of a majority of the members of the Council to pass any ordinance, franchise, resolution or formal recorded action.
- (b) The Mayor shall be the presiding officer⁷ and have a voice and vote in all Council proceedings. During the absence or disability of the Mayor, the Vice Mayor shall act as Mayor.⁸ In the absence of both the Mayor and Vice Mayor at a council meeting, the Councilmember who most recently served as Vice Mayor shall serve as the acting Mayor to preside over the meeting.⁹ During the extended absence or disability of both Mayor and Vice Mayor, the Council shall elect a presiding officer for all meetings.
- (c) The Council shall select a new Vice Mayor once each calendar year at the first Formal meeting in January or at the next regularly scheduled meeting after a Vice Mayor vacancy occurs.¹⁰
- (d) The Mayor shall assign the seating arrangement for the Formal and Policy Meetings.
- (e) Before any vote occurs related to an item on a Formal Council Agenda, the item may be withdrawn from the agenda by the City Manager, or by written request as provided in Rule 2(C). Otherwise, an item can only be withdrawn from the agenda by a majority vote of the City Council.
- (f) There will be no more than one amendment to a motion permitted. (A substitute motion is considered an amendment.)
 - (1) A "friendly" amendment that is accepted by the maker and the second shall not count as an official amendment. The purpose of a friendly amendment is to make minor modifications or clarifications to a motion.
 - (2) When a motion to amend a motion, which includes a substitute motion, has been made and seconded, the next vote shall be on that motion.
 - (3) If the motion to amend fails, the original motion remains on the floor and shall be voted on.
- (g) During a meeting, any Councilmember can request for all Councilmembers to receive a typed or written copy of a motion made by a Councilmember prior to the Council voting on the item. At the direction of the meeting chair, staff will retrieve a copy of the motion from the motion maker and provide it to the rest of the Council for their review. During the time staff is obtaining the motion and distributing it to the Council, the meeting chair can pause the meeting, or table the item for it to be heard at a later time in the same agenda.
- (h) Any member, at any time, may request a roll call vote for clarification of a voice vote.
- (i) Councilmembers shall not be excused from voting. A failure to vote or a voluntary abstention shall count as an "aye" vote unless excused by an announced conflict of interest.¹¹
- (j) Roll will be called in alphabetical order by Councilmember last names, followed by the Vice Mayor and Mayor.

6 Charter, Chapter IV, Section 6, establishes a majority of the Council (5) as a quorum. Charter, Chapter IV, Section 10, requires the affirmative vote of a majority of the members of the Council (5) to pass any ordinance, franchise, resolution, or formal recorded action.

7 Charter, Chapter IV, Section 3, provides that the Mayor shall preside at Council meetings.

8 Charter, Chapter III, Section 5(A), provides that in the Mayor's absence the Vice Mayor shall act as Mayor pro tempore.

9 Charter, Chapter V, Section 4(B) and 4(C).

10 Per Ordinance G-6558, this provision will not become effective until January 1, 2021.

11 Charter, Chapter IV, Section 23, requires Councilmembers to vote on all matters.

- (k) In the case of a tie in the vote on any measure, the measure shall be considered defeated.¹²
- (l) The Journal of the Proceedings of the Council (meeting minutes) shall record individual votes on all ordinances, resolutions, franchises, formal actions, and liquor license applications recommended for disapproval.¹³ For voice votes of ayes and nays that are not unanimous, the Mayor shall indicate the individual votes. The Mayor may require that Councilmembers' votes be clarified.
- (m) During a meeting, the Council may vote to reconsider any item except an ordinance that failed to pass. The Charter provides that if an ordinance fails to pass, the vote on the motion shall not be taken within 24 hours thereafter.¹⁴ The motion to reconsider any measure may be made only by a member on the prevailing side and must receive a second, which may be made by any member.
- (n) After the meeting, requests for reconsideration may also be filed by a member of the prevailing side with the City Clerk within seven business days following the date of original action, except requests for reconsideration of zoning matters shall be filed within seven calendar days after the action.¹⁵
 - (1) The request for reconsideration should be addressed to the City Clerk and contain the meeting date, item subject, and number of the item requested for reconsideration.
 - (2) If properly and timely filed, the City Clerk should place the request for reconsideration on the next available formal meeting agenda. Except for zoning cases, the item being reconsidered should be placed on the agenda to immediately follow the item to request reconsideration. Reconsidered items for zoning cases should be placed on the next available Formal agenda that allows compliance with the applicable posting period.
 - (3) A motion to reconsider must receive a second, which may be made by any Councilmember.

Rule 8 Debate and Decorum - Elected Officials

- (a) When a measure is presented for consideration, the presiding officer shall recognize the appropriate person or persons to present the matter.
- (b) Councilmembers may speak after recognition by the presiding officer. The presiding officer shall not unreasonably withhold such recognition; however, the presiding officer may not recognize similar repetitive discussions, disrespectful comments or behavior, or motions which would delay the meeting.
- (c) When two or more members of Council wish to speak, the presiding officer shall determine the order of speaking and recognize the first speaker.
- (d) While a member of the City Council is speaking, no other member shall interrupt except to make a point of order or point of personal privilege.
- (e) When a motion is made and seconded, the presiding officer shall ensure that the debate is confined to the motion.
- (f) The Council may agree to limit debate on any matter before it. A limit may be formalized by a majority vote of the Council, or the presiding officer may announce time limits on any agenda item.

12 Charter, Chapter IV, Section 6, establishes a majority of the Council (5) as a quorum. Charter, Chapter IV, Section 10, requires the affirmative vote of a majority of the members of the council (5) to any ordinance, franchise, resolution, or formal recorded action.

13 Charter, Chapter IV, Section 9, requires Council votes to be recorded in the Journal of the Proceedings of the Council.

14 Charter, Chapter IV, Section 13, provides that if an ordinance fails to pass, and a motion to reconsider is made, the vote on the motion shall not be taken within 24 hours thereafter.

15 Zoning Code, Chapter V, Section 506(A)(12).

- (g) Any member may call for the question on any issue under debate. The call for the question must receive a second and then receive at least a two-thirds vote. Passage of a motion to address the question terminates all debate on the original motion. The Council shall immediately vote on such motion.
- (h) If a member breaks these rules, the presiding officer shall, or any Councilmember may, call that member to order. The member so called shall immediately cease speaking, but may appeal to the Council. The Council shall decide the appeal without debate. If the appeal is granted, such member may continue speaking. If the appeal is denied, such member shall remain silent. Such offender is subject to censure or other punishment as the Council, by a three-quarters vote, deems just and proper under the law.

Rule 9 Decorum - Speaker and Audience

- (a) No personal attacks by any speaker on Councilmembers, city staff or members of the public shall be allowed.
- (b) No person shall be permitted to interrupt Councilmembers or any other speakers during a Council meeting.
- (c) Only one person may approach the microphone at any one time and only the person at the microphone will be allowed to speak. This rule does not apply to interpreters. The person at the microphone shall comply with the directions of the Chair.
- (d) The Mayor, or presiding officer, may at any time and at his/her discretion, increase or reduce the time a person has to address the City Council.
- (e) The Mayor may determine the order in which persons speak and may establish time limits for agenda items and speakers.
- (f) Phoenix residents may be allowed to speak before nonresidents.
- (g) The Mayor has the authority to preserve order at all Council meetings, and may call for recess and/or remove or cause the removal of any person from any meeting of the Council.
- (h) A member of the public who disrupts and is ordered removed from a council meeting shall be excluded from the remainder of that meeting.

Rule 10 Enforcement, Suspension of Rules

- (a) These rules shall be enforced by the presiding officer, subject to an appeal to the Council.
- (b) Unless otherwise provided by law, these rules may be suspended or modified at any time by a majority vote of the Council.

Rule 11 Citizen Comment Period

Citizen comments will be heard for up to 30 minutes (unless extended by the Chair) before adjournment or recess of the formal meeting provided a quorum of the Council is present. Additional time for Citizen Comments may be allowed at the discretion of the presiding officer. Any member of the public may address the Council to comment on issues of interest or concern to them. Members of the public will be given a maximum of three minutes each to address the Council. Citizen comments will be televised as part of the formal meeting. In compliance with the Arizona Open Meeting Law, the City Council cannot discuss or take formal action on any matter raised during citizen comments.

Rule 12 Open Meeting Law

The Council and its committees, subcommittees, and ad hoc committees shall hold all meetings and conduct all business in accordance with the provisions of the Arizona Open Meeting Law, A.R.S. § 38-431 et seq.

Rule 13 Conflict of Interest

Each member shall comply with the Arizona Conflict of Interest Law, A.R.S. § 38-501 et seq. When a member recognizes a potential conflict of interest, the member shall declare the potential conflict and refrain from voting or participating in any manner in the matter.

Rule 14 Emergencies

Emergencies shall be handled as provided by the Charter, Chapter IV, Section 14 and Chapter V, Section 4; the City Code, Administration Article II, Section 2-79; and the provisions of the Arizona Open Meeting Law, A.R.S. § 38-431 et seq. All ordinances, resolutions and franchises, other than an emergency measure, shall take effect and become operative 30 days after passage by the City Council. Emergency measures necessary for the immediate peace, health or safety of the City shall become effective immediately upon adoption by the affirmative vote of three-fourths of the members of the City Council if the item states in a separate section why the emergency is necessary.¹⁶

Rule 15 Use of Staff (8-Hour Rule)

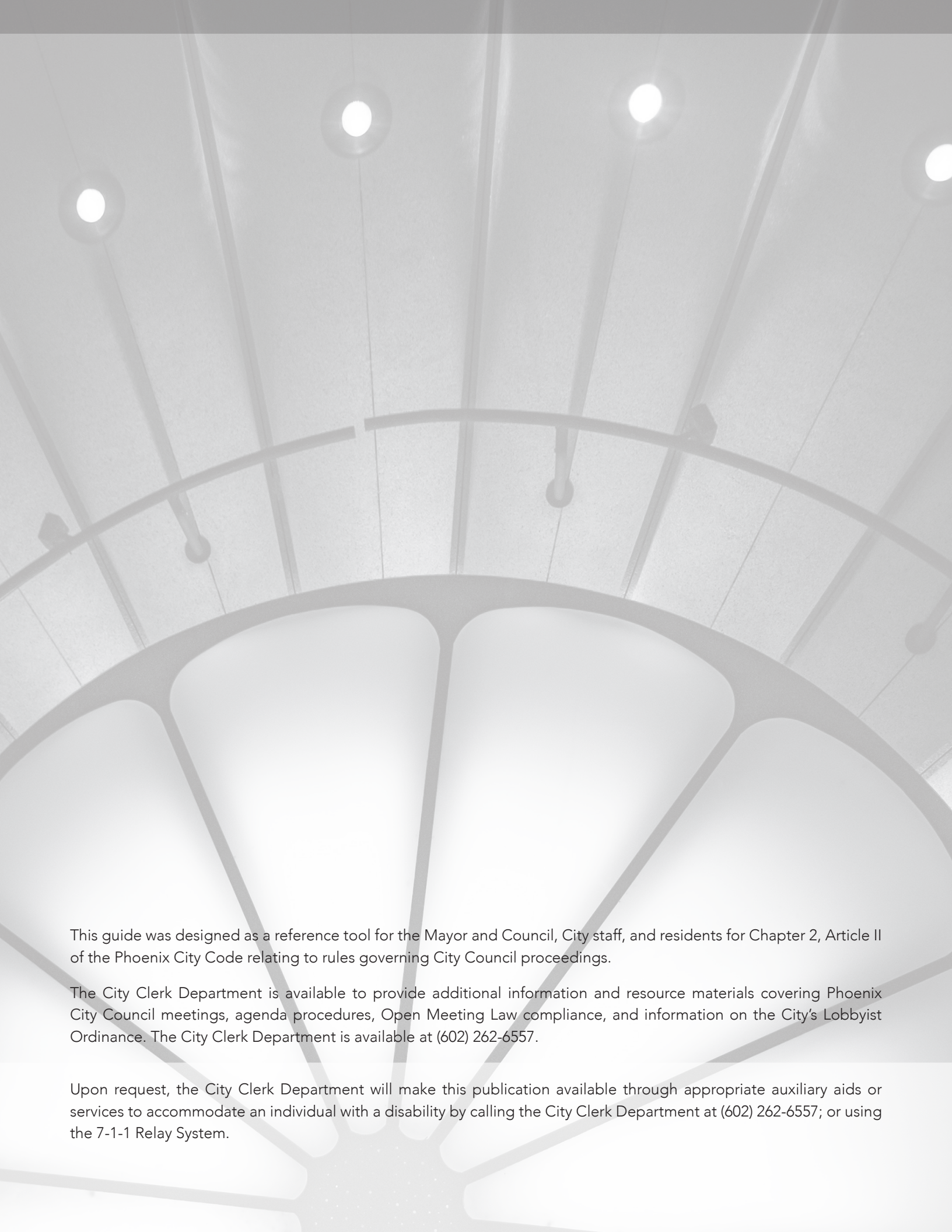
- (a) An individual Councilmember shall only request a staff project requiring over eight hours of staff work by first seeking approval of the full City Council. This includes requests such as research, ordinance development, listening sessions, hearings or community input meetings. The request shall be made in writing to the City Manager identifying the project being requested.
- (b) Items placed on a subcommittee agenda by a subcommittee chair or a regular agenda by the Mayor do not require an 8-Hour Rule request for basic staff work necessary for an initial discussion of the item. However, development of a new ordinance will generally require an 8-Hour request approved by the full City Council. A majority vote of a subcommittee can request staff to conduct up to three listening sessions or public hearings for the subcommittee.
- (c) This rule does not apply to district Council or Mayor office staff conducting their own research or community or public outreach meetings.

Rule 16 Invocation Procedure

The City of Phoenix maintains a longstanding tradition of invocations at or preceding formal meetings. An invocation before a formal meeting shall be scheduled as follows:

- (a) A Fire Department or Police Department Chaplain will be invited to offer a nondenominational invocation at a formal meeting on a rotational basis.
- (b) The City Clerk will arrange each invocation with a specific chaplain and furnish instructions and guidelines to the chaplain.
- (c) If a Chaplain fails to appear as scheduled, or if no chaplain is available to be scheduled, the Mayor may call for a moment of silent prayer and reflection.

¹⁶ Charter, Chap IV, Sec. 14; City Code section 2-79. The Charter requirement of 2/3 vote is preempted by the 3/4 vote requirement in A.R.S. Sec. 19-142(B).



This guide was designed as a reference tool for the Mayor and Council, City staff, and residents for Chapter 2, Article II of the Phoenix City Code relating to rules governing City Council proceedings.

The City Clerk Department is available to provide additional information and resource materials covering Phoenix City Council meetings, agenda procedures, Open Meeting Law compliance, and information on the City's Lobbyist Ordinance. The City Clerk Department is available at (602) 262-6557.

Upon request, the City Clerk Department will make this publication available through appropriate auxiliary aids or services to accommodate an individual with a disability by calling the City Clerk Department at (602) 262-6557; or using the 7-1-1 Relay System.

Sec. 2-52. City of Phoenix ethics and gift policies.

A. *Definitions.* The following definitions apply to this section. The plural of the word or phrase includes the singular, and the singular includes the plural:

1. *Board member* means a member, or the person's relative or partner, of a City of Phoenix board, committee, commission, or task force.
2. *City business* means an activity or enterprise for gain, benefit, advantage, or livelihood with a public entity, a research organization, a regulatory body, a business association, or a professional association, whose primary purpose relates to research, rulemaking, development, best practices, or regulations that affect or relate to the City of Phoenix.
3. *Community event* means an event, activity, or function located in Arizona and sponsored by the City of Phoenix, a nonprofit organization, a professional association, a business association, a charitable organization, a cultural/arts organization, or a community organization.
4. *Compensation* means money, a tangible thing of value, or a financial benefit.
5. *Elected official* means a person, or the person's relative or partner, elected or appointed as Mayor or as Council member of the City of Phoenix.
6. *Employee* means a person, or the person's relative or partner, who is not an elected official, board member, volunteer, or City of Phoenix Municipal Court Judge, and who is employed full-time or part-time by the City of Phoenix.
7. *Gift* means direct or indirect compensation, other than as provided by law, for services, duties, or responsibilities rendered or to be rendered by a person in their capacity as an elected official, employee, board member, or volunteer. *Gift* does not mean:
 - a. Compensation received by an elected official, board member, or volunteer as part of the person's employment outside of the City of Phoenix or as part of the person's service as a member of a board of directors for a corporation or other elective office, and which compensation is unrelated to the person's position or office as an elected official, board member, or volunteer; or
 - b. A political campaign contribution as permitted by law; or
 - c. Compensation received by an elected official, employee, board member, or volunteer from the person's relative or partner; or
 - d. Compensation in the form of a personalized plaque or similar personalized award received by an elected official, employee, board member, or volunteer for the person's service to the City of Phoenix consistent with the duties and responsibilities of the person's position or office; or

- e. Compensation in the form of admission, food, beverages, transportation, or accommodations received by an elected official or employee in the capacity as a City of Phoenix representative and related to City business; or
- f. Compensation associated with a relative's or partner's elective office; or
- g. Compensation in the form of admission, food, or beverages received by an elected official, employee, board member, or volunteer to attend a community event.

8. *Partner* means a person in a domestic partnership as defined in Section [18-401](#).

9. *Relative* means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouse, and the parent, brother, sister, or child of a spouse.

10. *Special occasion* means an engagement or wedding involving a relative, partner, or relative of a partner, the birth or adoption of a child, or the death of a relative, partner, or relative of a partner.

11. *Volunteer* means a person, or the person's relative or partner, other than a board member who provides their services to the City of Phoenix without any express or implied promise of compensation, and serves as a hearing officer, intern, extern, contractor, vendor, or otherwise serves in the administrative offices of an elected official, the City Manager, or a City of Phoenix department or function head. A block watch captain is not a volunteer for purposes of this gift policy.

B. *Ethics policy.* It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its elected officials, employees, board members, and volunteers. Accordingly, all City elected officials, employees, board members, and volunteers must maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or power for improper personal gain.

C. *Permissible and prohibited gifts.*

1. A gift in any amount received by an elected official, employee, board member, or volunteer is prohibited if the gift creates the appearance of undue influence, or if the gift creates a conflict of interest under Phoenix City Charter Chapter XI, Section 1 (Title [38](#), Chapter 3, Article 8, Arizona Revised Statutes).

2. A gift with a known or reasonably estimated fair market value of \$50.00 or less, received by an elected official, employee, board member, or volunteer, is permissible if the gift is not otherwise prohibited by law. The gift disclosure requirements provided in this section do not apply to a permissible gift under this subsection.

3. A gift with a known or reasonably estimated fair market value greater than \$50.00 received by an elected official or employee is permissible if the gift is not otherwise prohibited by law and if the gift is disclosed by the recipient of the gift as provided in this section. A gift with an unknown value should be disclosed as "unknown" if a reasonable estimate of the gift's fair market value is greater than \$50.00.

4. A gift with a known or reasonably estimated fair market value greater than \$50.00 received by a board member or volunteer is permissible if the gift is not otherwise prohibited by law.
5. An elected official, employee, board member, or volunteer may request a gift waiver for a gift received in connection with a special occasion by filing a written request with the Ethics Commission. In addition, an elected official or employee who must file a disclosure form as provided in this section may seek a waiver of the disclosure requirements for a gift received in connection with a special occasion. If the gift or disclosure waiver is approved by the Ethics Commission, the waiver request form must be filed with the City Clerk as provided in this section.

D. *Gift disclosure requirements.*

1. If a gift must be disclosed by an elected official or employee as provided in this section, the gift recipient must file a form with the City Clerk within 30 calendar days following the end of the quarter in which the gift is received.
2. The form must include the following information related to the gift:
 - a. Gift recipient's full name and status as an elected official or employee;
 - b. Value, including disclosure of unknown value as "unknown" if a reasonable estimate of the fair market value of the gift is greater than \$50.00;
 - c. Description of gift;
 - d. Date received; and
 - e. Gift giver's full name and affiliated organization if applicable.
3. The City Clerk shall post the gift disclosure form and maintain the posting of each disclosure form on the City of Phoenix website and, when funding is authorized, in a searchable database:
 - a. For an elected official, three years after the end of the elected official's term.
 - b. For an employee, five years from the date the disclosure form is filed by an employee.
4. The disclosure requirements provided in this subsection shall not apply to a board member or volunteer. (Ord. No. G-3438, § 2; Ord. No. G-6274, 2017; Ord. No. G-6422, 2018)

Charter reference—Conflict of interest, ch. XI.

Cross reference—Lobbyists, § [2-1000](#) et seq.; campaign finance and financial disclosure, § [12-1300](#) et seq.

The Phoenix City Code is current through Ordinance G-7131, passed June 28, 2023.

Disclaimer: The City Clerk's Office has the official version of the Phoenix City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.phoenix.gov](http://www.phoenix.gov)

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Sec. 2-53. City of Phoenix Ethics Commission; ethics or gift policy violations by elected officials or board members.

- A. *Definitions.* The definitions in Section [2-52\(A\)](#) apply to this section.
- B. *City of Phoenix Ethics Commission.* The City of Phoenix Ethics Commission is hereby established to consist of five members who each serve a term of five years unless otherwise specified. Two Commission members must be registered members of the Democratic Party, two Commission members must be registered members of the Republican Party, and one Commission member must be registered with no party affiliation. All members must be Phoenix residents and must not be elected officials, precinct committee persons of a political party, or Phoenix employees. A member may not serve more than one full term. One Democratic member, one Republican member, and the unaffiliated member will each serve a full initial term. One Democratic member and one Republican member will each serve a three-year initial term. Each Commission vacancy must be filled by a candidate recommended by the Judicial Selection Advisory Board and approved by Council as provided in this section.
- C. *Appointment of Commission members.* The Judicial Selection Advisory Board will seek out and encourage qualified individuals to apply for appointment to the Ethics Commission and may conduct investigations into the background and qualifications of candidates through the use of questionnaires, personal interviews, and other means as the Board deems reasonable. When making recommendations for appointment to the Commission, the Board should consider the diversity of Phoenix's population. A candidate for appointment to the Commission must be a registered Arizona voter who has been continuously registered with the same political party or registered as unaffiliated with a political party for five or more years preceding the date the candidate files an application with the Board. A candidate for appointment to the Commission must be a Phoenix resident and may not serve as an elected official, a precinct committee person of a political party, or Phoenix employee on the date the candidate files an application with the Board. As provided in Section [2-96](#), the Board will recommend candidates for appointment to the Commission by the affirmative vote of seven Council members.
- D. *Ethics Commission compensation.* Ethics Commission members will not receive a salary or otherwise be compensated except for reimbursement of parking fees near Phoenix City Hall.
- E. *Ethics Commission rules and procedures.* The City Manager will prepare initial rules and procedures for the Commission's investigation and enforcement of an ethics or gift violation. All violations must be approved by an affirmative vote of four Ethics Commission members and an affirmative vote of seven Council members. These rules and procedures must address the process and procedures for the Ethics Commission to initiate proceedings, conduct the initial evaluation and investigation, proceed with a formal hearing after investigation by the Ethics Commission, if necessary, and recommend action, if necessary, to Council related to an alleged ethics or gift violation. By an affirmative vote of four members, the Ethics Commission may refer changes to the initial Ethics Commission rules and procedures to the City Manager for review and recommendation to Council. Any changes to the initial Ethics Commission rules and procedures must be approved by an affirmative vote of seven Council members.

- F. *Filing of inquiry.* Any person who is a Phoenix resident or who is directly aggrieved by an act or the failure to act of an elected official or board member may file with the City Clerk a written inquiry containing specific allegations of violations of the City's ethics or gift policy by any elected official or board member.
- G. *Elected official participation.* An elected official must not participate in any discussion or vote in an inquiry involving the elected official's acts or failure to act except to respond to the inquiry or defend against any allegation related to the inquiry.
- H. *Consideration of inquiry.* Within five days of receiving the inquiry, the City Clerk will forward the inquiry to the Ethics Commission and the inquiry will be placed on the agenda of the Commission's next available meeting.
- I. *Initial evaluation by Commission.* Each inquiry received by the Commission will be initially evaluated by the Commission to determine by the affirmative vote of four members if the allegations in the inquiry:
1. Are within the Commission's jurisdiction and are facially sufficient in whole or in part to warrant additional evaluation or investigation of the allegations in the inquiry; or
 2. Are outside of the Commission's jurisdiction or facially insufficient to warrant investigation and, therefore, dismiss the inquiry. The Commission's dismissal of the inquiry is not subject to review; or
 3. May involve a crime, in which case the Commission must refer the inquiry to the proper authority for investigation and prosecution. If the Commission refers the inquiry to another authority for criminal investigation or prosecution, the Commission must stay all action related to the inquiry until the criminal investigation and any related proceedings are resolved; or
 4. Are not well grounded in law or fact and are interposed for an improper purpose, such as to harass or cause unnecessary delay or expense to the elected official or board member. The Commission may recommend that the Council impose a civil sanction in the maximum amount of \$500.00 against the person or entity for each frivolous inquiry.

If the Commission fails to make a determination by unanimous or the affirmative vote as required in subsections [\(I\)\(1\)](#) through [\(4\)](#) of this section, the inquiry is deemed closed.

J. *Ethics Commission authority.* Upon a determination that an inquiry warrants additional evaluation or investigation, the Ethics Commission is authorized to investigate, take testimony, and engage in any other action to the extent permitted by law to oversee the investigation and enforcement of the ethics or gift policy related to an elected official or board member. The Commission may appoint an independent investigator as may be necessary to assist the Ethics Commission in carrying out its purpose and responsibilities. In addition, the Ethics Commission may issue advisory opinions regarding ethics and gift policy issues upon request by an elected official or board member, and make recommendations to Council.

K. *Inquiry report.* After the conclusion of any hearing or fact finding related to an inquiry alleging a violation of the City's ethics or gift policy by an elected official or board member, the investigator will prepare a written report with findings of fact and recommendations. The report will be provided to the Ethics Commission for such action

as the Ethics Commission deems appropriate. The report will not be available for public inspection under the Arizona Public Records Act until after final action by the Ethics Commission.

L. *Commission review.* The Ethics Commission may review and discuss the inquiry and the report in executive session as permitted by law. In public session, by the affirmative vote of four members the Ethics Commission may recommend to the full Council to sustain the alleged violations in whole or in part, to impose sanctions, if any, permitted by this section, or to dismiss the inquiry. If there are less than four votes to make a recommendation to the full Council or to dismiss the inquiry, then the inquiry is deemed closed.

M. *Consideration of recommendation.* A recommendation from the Ethics Commission related to an inquiry will be placed on the agenda of the next available meeting of the full Council. By the affirmative vote of seven members the Council may accept the Ethics Commission recommendation in whole or in part, impose the same or different sanctions, if any, as permitted by this section, or dismiss the inquiry. If there are less than seven votes to accept the Ethics Commission's recommendation in whole or in part, or to dismiss the inquiry, the inquiry is deemed closed.

N. *Sanctions.* By an affirmative vote of seven members, the Council may impose any of the following actions or civil sanctions for a violation of the ethics or gift policies by an elected official or board member: censure, a maximum civil sanction in the amount of \$500.00 for each violation, or removal from office if the violation relates to a board member. Section [1-5](#) does not apply to action under this subsection. The penalties and remedies provided in Title [38](#), Chapter 3, Article 8, Arizona Revised Statutes, may apply and may be enforced as provided by law.

O. *Action for frivolous allegations.* Upon a finding and recommendation by an affirmative vote of four members of the Ethics Commission and by an affirmative vote of seven members of the City Council, the City Council may direct the City Manager through the City Attorney to file a complaint in Municipal Court against a person, or other entity recognized by law, for the filing of allegations of ethics or gift violations that are not well grounded in law or fact and are interposed for an improper purpose, such as to harass or cause unnecessary delay or expense to the elected official or board member. A person found liable for violating this section by a preponderance of the evidence may be subject to a maximum civil sanction in the amount of \$500.00 for each violation and may be ordered to pay the reasonable attorney's fees and costs incurred by the elected official or board member to respond to and defend against the improper allegations.

P. *Removal of Commission member.* Compliance with this section is not required for the Council to take action under Section [2-51](#). (Ord. No. G-6274, 2017)

The Phoenix City Code is current through Ordinance G-7131, passed June 28, 2023.

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Arizona Revised Statutes Title 38, Chapter 3, Article 8
Sections 38-501 through 38-511

38-501. Application of article

A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

38-502. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.
2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.
4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.
6. "Public agency" means:
 - (a) All courts.
 - (b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
 - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. "Public competitive bidding" means the method of purchasing prescribed by title 41, chapter 23, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.
8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.
9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
10. "Remote interest" means:
 - (a) That of a nonsalaried officer of a nonprofit corporation.
 - (b) That of a landlord or tenant of the contracting party.
 - (c) That of an attorney of a contracting party.
 - (d) That of a member of a nonprofit cooperative marketing association.
 - (e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
 - (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
 - (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
 - (h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
 - (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would

confer a direct economic benefit or detriment on the officer, the employee or his relative, of any of the following:

(i) Another political subdivision.

(ii) A public agency of another political subdivision.

(iii) A public agency except if it is the same governmental entity.

(j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

(k) That of a relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.

(l) The ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

11. "Substantial interest" means any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

38-506. Remedies

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

38-510. Penalties

A. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.

2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

38-511. Cancellation of political subdivision and state contracts; definition

A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. Leases of state trust land for terms longer than ten years cancelled under this section shall respect those rights given to mortgagees of the lessee by section 37-289 and other lawful provisions of the lease.

C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.

G. For purposes of this section, "political subdivisions" do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19 or 22.