

***CITY OF SCOTTSDALE  
PUBLIC SERVICE ETHICS  
TRAINING***

***City Officials – Appointed  
September 2006***

**CITY OF SCOTTSDALE  
PUBLIC SERVICE ETHICS TRAINING**

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"You As a Public Official"

# **CITY OF SCOTTSDALE PUBLIC SERVICE ETHICS TRAINING**

**CITY OFFICIALS – APPOINTED**

**September 2006**

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## **ETHICS TRAINING**

✧ “Whenever you are to do a thing,  
though it can never be known but to  
yourself, ask yourself how you would  
act were all the world looking at you,  
and act accordingly.”

-Thomas Jefferson

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## **HISTORY**

September 20, 2005—City of Scottsdale Citizen Code of Ethics  
Task Force (“Task Force”) established by City Council

October 4, 2005—City Council appoints seven citizens to serve  
on Ethics Task Force

April 3, 2006—Task Force presents Final Report (“Final Report”) to  
Mayor and City Council

May 2, 2006—City Council adopts Public Service Ethics  
Program (Resolution No. 6879) and Code of Ethical Behavior  
(Ordinance No. 3675), effective July 1, 2006

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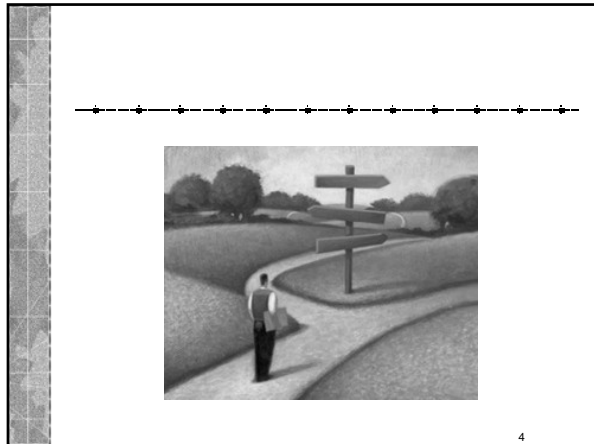
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### ***PUBLIC SERVICE ETHICS PROGRAM (RESOLUTION NO. 6879)***

1. ILLUMINATION
  - ※ Ethics Policy Acknowledgement and Agreement
  - ※ Personal Interest Disclosure Form
2. EDUCATION
  - ※ Public Service Ethics Training—all City officials
3. ENFORCEMENT

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### ***CODE OF ETHICAL BEHAVIOR FOR CITY OFFICERS***

Effective date: July 1, 2006

- ※ Definitions—SRC § 2-47
- ※ Ethics policy—SRC § 2-48
- ※ Conflict of interests—SRC § 2-49
- ※ Gifts; prohibited; exceptions—SRC § 2-50
- ※ Open government—SRC § 2-51
- ※ Open meeting laws; executive sessions—SRC § 2-52
- ※ Preservation and availability of public documents—SRC § 2-53
- ※ Undue influence on subordinates—SRC § 2-54
- ※ Enforcement—SRC §§ 2-55 through 2-58

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## WHAT IS “ETHICS”?

*Ethics—the rules or standards of good conduct governing a group or the members of a profession*

Ethical—conforming to the accepted standards and principles applicable to a group or members of a profession

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## ETHICS POLICY—SRC § 2-48

- (a) Uphold, promote and demand highest standards of ethical behavior from public officials

Hallmarks of public service: honesty, integrity, fairness, and transparency of action

Prohibits use of office/position for influence or personal gain

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## ETHICS POLICY—SRC § 2-48 (Continued)

- (b) Obey and observe letter and spirit of constitutions, laws and Ethics Code

Matrix of Laws

- (c) Agree to comply with laws, regulations, policies and Ethics Code and annual training

Ethics Policy Acknowledgement and Agreement

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## **ETHICS POLICY—SRC § 2-48 (Continued)**

- (d) SRC §§ 2-47 to -59 identifies key areas of clarification and emphasis
- ✧ Conflicts of Interest
  - ✧ Gifts
  - ✧ Open Government
  - ✧ Open Meetings
  - ✧ Public Documents
  - ✧ Undue Influence on Subordinates

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## **CONFLICT OF INTEREST – § SRC 2-49**

- ✧ Not new requirements
- ✧ Established by state law (A.R.S. §§ 38-502 to -511)
  - Charter – requires compliance
  - Local government pre-empted

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## **CONFLICT OF INTEREST – PRINCIPLE**

- ✧ Public officer or employee “cannot serve two masters”
- ✧ Purpose of laws – to remove or limit possibility of personal influence which may bear an official's decision

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## **CONFLICT OF INTEREST - PRINCIPLE**

- ⌘ Not “bad” to have a conflict, but illegal to fail to declare or participate (“You as a Public Official”)

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## **CONFLICT OF INTEREST A.R.S. § 38-503**

- ⌘ If a public officer or employee
- ⌘ or his/her relative
- ⌘ has a “**substantial interest**”
- ⌘ in a contract, sale, purchase or service, or
- ⌘ any decision

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## **“Relative”**

- ⌘ spouse
- ⌘ child
- ⌘ child’s child
- ⌘ parent
- ⌘ grandparent
- ⌘ brother or sister of the whole or half blood

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## More relatives

- ✖ and
- ✖ their spouses and
- ✖ the parent, brother, sister or child of a spouse

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## “Substantial interest” means

- ✖ “Any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.”
- ✖ Pecuniary = financial
- ✖ Proprietary = ownership

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## WHAT ARE REMOTE INTERESTS? (A.R.S. § 38-502(10))

### 11 Remote Interests

- ◆ “Class of 10”
  - Member of trade, business, profession, occupation, or class of persons
  - No greater interest than others
- ◆ Non-salaried officer/member of non-profit
- ◆ Member of a non-profit cooperative marketing association
- ◆ Reimbursement of actual and necessary expenses incurred in performance of official duties
- ◆ Receiving municipal services on same terms as non-officials
- ◆ Landlord, tenant, or attorney of contracting party
- ◆ Others – stock ownership, another government entity

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## WHAT TO DO IF CONFLICT EXISTS – SRC § 2-49

- ✧ Immediately refrain from participating in City's "decision-making process"
- ✧ in any manner
  - ◆ voting
  - ◆ plus: "any aspect of any decision"
  - ◆ attending meetings
  - ◆ written or verbal communication
  - ◆ offering advice

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## WHAT TO DO IF CONFLICT EXISTS (Cont'd)

- to:
- ◆ member of city council
  - ◆ any city employee
  - ◆ contractor, agent
  - ◆ charter officer
  - ◆ member of board, commission, committee
- Exception: City Attorney re: conflict question

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## IF CONFLICT EXISTS – (Cont'd)

- ✧ Must disclose
  - ◆ Publicly state at meeting
- ✧ File Declaration of Conflict of Interest or Personal Interest form with city clerk's office within three (3) business days
  - ◆ Updates Personal Interest Disclosure Form
- ✧ Must recuse and leave room

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## ***PENALTIES – A.R.S. § 38-510***

- ✖ Intentionally or knowingly = Class 6 felony
  - ◆ 1½ years/\$150K
- ✖ Recklessly or negligently = Class 1 misdemeanor
  - ◆ 6 months/ \$2,500
- ✖ Forfeit office and subject to suit

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## ***WHAT IF I THINK I MIGHT HAVE A CONFLICT?***

- ✖ Contact City Attorney's Office

City attorney will:

- (1) Get facts and confer with you
- (2) Prepare formal written opinion, if requested.
  - ◆ filed with clerk
  - ◆ valuable protection (A.R.S. § 38-446)

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## ***MORE PROHIBITED ACTS – (A.R.S. §§ 38-504-505)***

- ✖ Representing a person before the public body for compensation within 12 months
  - ◆ Concerning matter directly involved in
- ✖ Disclosure or use of confidential information gained during term of office
  - ◆ Never – if confidential by law
  - ◆ 2-years after term – if confidential by designation

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### **MORE .... (A.R.S. §§ 38-504-505)**

✖ Receive any compensation for performance of official duties, except as provided by law

✖ Use or attempt to use position to obtain any valuable thing or benefit not normally received in performance of official duties; of such character as to substantially and improperly influence duties

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### **IF I DON'T HAVE A LEGAL CONFLICT OF INTEREST, DO I STILL NEED TO BE CONCERNED?**

Depends...

Subsection 2-49(e) of the Ethics Code provides:

City officials are strongly encouraged to avoid involvement in situations where a ruling declares no technical conflict of interest, but where active participation might raise the perception of undue influence or impropriety.

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### **PERCEPTION OF UNDUE INFLUENCE OR IMPROPRIETY**

Suggestion:

Will the person I vote against think the decision was fairly made?

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### CONFLICTS SCENARIOS

1. Your spouse is President of XYZ Trophy Company. You have a rule that you never talk shop at home. While you are sitting on the dais and reviewing the meeting agenda, you notice an item to award XYZ a \$25,000 contract to provide trophies for the City's synchronized swimming team. What do you do?

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### CONFLICTS SCENARIOS

2. For 25 years, you worked for Happy Smith Aerial Photography, Inc. You started as an errand boy in high school and worked your way up to Sr. Vice President of Human Resources. To your significant financial satisfaction, the company went public 5 years before you retired. You retired last year and successfully ran for City Council. Happy Smith owns property in Scottsdale and your friend and longtime work colleague, the Sr. VP of Facilities for Happy Smith, told you they have submitted an application for re-zoning to build a new corporate headquarters. What do you do?

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### CONFLICTS SCENARIOS

3. You serve on the Board of Directors of a non-profit organization that supports persons afflicted by a certain medical syndrome. That charity has finally raised enough money to build its own office building. You've been in charge of fundraising for this project. The charity owns property in Scottsdale, and will need to get re-zoning. What do you do?

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## ***GIFTS; PROHIBITED; EXCEPTIONS – SRC § 2-50***

- (a) Prohibitions
  - Soliciting, receiving, accepting gifts "of any kind"
  - From
    - Anyone engaged in general practice
    - or
    - Specific situation involving City decision-making or permitting processes
- Exceptions – subpart (b)

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## ***"Gifts of Any Kind" – SRC § 2-50(a)***

- Defined
  - Money, services, loans, travel, hospitality (including meals), entertainment
  - Promises of future gift
  - Anything of value that might be construed as attempt to create more favorable relationship than general public, including
    - purchase, sale, lease
    - personal or real property at other than fmV by official or relative or entity
    - employment/services/contracts, direct or indirect, with official, relative, entity

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## ***EXEMPTIONS – SRC § 2-50(b)***

- Entertainment, hospitality (meals), transportation and token mementos
- Directly associated with events attending as representative of City

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## **EXEMPTIONS – SRC § 2-50(b)** **(Cont'd)**

- ✦ If permissible gift
  - Declare to City Clerk if \$25 +
  - Use Declaration of Gift Form
- ✦ Unless SRC § 14-135 does not require reporting

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## **SRC § 14-135 – NOT CONSIDERED GIFT**

- ✦ "Reflect legitimate public duties or purposes"
- ✦ Not considered gifts
  1. Events sponsored or funded, in whole or part, by City
  2. Reasonable hosting expenses for official speaking, engagements, ceremonies or appearance on behalf of City when public or civil purpose is served.
  3. Gifts of goodwill or tokens of appreciation accepted on behalf of City
    - Food – shared with others
  4. Received and donated to charity

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## **SRC § 14-135 – Gifts and Gratuities**

- ✦ Applies to elected and appointed officials
- ✦ Additional prohibited gifts
  - ◆ Soliciting items of value for personal benefit
  - ◆ Gratuities, tips, honoraria or payments for official duties
  - ◆ Items that are reasonably construed to exert improper influence on decision/action or as reward

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### **GIFT SCENARIO**

1. You are invited to the Arizona State University to speak to students in the MPA Program because of your position with the City. Your presentation is part of a day-long conference with speakers from many disciplines. The professor has asked you to be the lunch speaker and to provide insights into the local political process.

Can you enjoy the lunch provided by PF Chang's?  
Can you accept mileage reimbursement?  
Can you accept the \$25 VISA™ gift certificate given as a thank you to all speakers?

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### **GIFTS SCENARIOS**

2. Box of chocolates addressed to you arrives at your office during Holiday time. It's from Attorney V. Attorney V is known to you as he represents clients frequently on development applications that come before the board or commission you serve on for approval. You know of no current issues or cases on which Attorney V is working. What do you do?

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### **GIFTS SCENARIOS**

3. Box of brownies addressed to you appears on your desk at your office, during Holiday time. It comes with a note that says: "Thanks for your hard work and public service." It's from Citizen X. You do not know Citizen X and have never heard of him. What do you do?

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### **GIFTS SCENARIOS**

4. A Scottsdale resident that you have known for a few years wants to talk to you about a matter that will be coming before the board in the next couple of months. He suggests that you meet for lunch at Carlsbad Tavern. Can you meet with him?

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### **GIFTS SCENARIOS**

5. You are given two tickets by the City to the FBR open. What do you do?

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### **GIFTS SCENARIOS**

6. Every member of your board is invited to attend and receives two tickets to the annual fund-raising gala for a non-profit charity. A purchased ticket costs \$100. What do you do?

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### **OPEN GOVERNMENT – SRC § 2-51**

- (a) Official Arizona public policy that meetings be public
- (b) "Mindset of openness" in conducting affairs
  - ※ Adherence to open meeting laws – preferably exceed
  - ※ Exercise caution regarding executive sessions
  - ※ Do not circumvent through technology or schemes
  - ※ No favoritism regarding access to information
- (c) City attorney to vigorously promote and enforce open meeting laws, being proactive and assertive

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### **OPEN MEETING LAWS**

"All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings." A.R.S. § 38-431.01(A)

Public policy: business of the public should be done in public.

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### **WHAT'S A MEETING? – A.R.S. § 38-431(4)**

- ※ Gathering
  - in person or
  - through technological devices
- ※ of a quorum of members of a public body
- ※ at which they
  - discuss
  - propose or
  - take legal action,
  - including any deliberations by a quorum with respect to action

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**BASIC OPEN MEETING LAW  
REQUIREMENTS**

Notices

- ✖ At official posting place
  - ✖ NLT 24 hours before meeting
- New (eff. 9/21/06)
- ✖ Must post on website

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**BASIC OPEN MEETING LAW  
REQUIREMENTS (Cont'd)**

Agendas

- ✖ available 24 hours before meeting
- ✖ info "reasonably necessary" to inform public of matters to be discussed or decided. A.R.S. § 38-431.09
- ✖ item must be on Agenda
  - Anything not reasonably related cannot be discussed.

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**MINUTES ARE REQUIRED**

- ✖ Public and executive sessions
- ✖ May be written or recorded
- ✖ Must be available within 3 days
  - Executive Session – confidential

New (eff. 9/21/06)

- ✖ Post legal actions on website within 3 working days
- ✖ Post minutes within 2 working days after approval

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### **EXECUTIVE SESSIONS – A.R.S. § 38-431.03**

Public not allowed to attend discussion

But vote must occur in public

May be held only in situations allowed by statute

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### **EXECUTIVE SESSION TOPICS (38-431.03)**

Personnel matters

Legal advice

Contract negotiations

Litigation or settlement

Confidential records

Real property

Employee organization negotiations

Specific negotiations (tribal, etc.)

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### **EXECUTIVE SESSIONS - SRC § 2-52**

Infrequently and only in clearly compelling circumstance

Public vote, after introduction on agenda, explanation of need, assent by City Attorney

City Attorney must attend

- Except: personnel sessions may attend, if requested

City Attorney must give confidentiality reminder

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### **OPEN MEETING LAW SANCTIONS**

- ✳ Attorney General, County Attorney and any interested person may file lawsuit
- ✳ civil penalty - \$500 per violation
- ✳ attorneys fees and costs
- ✳ removal from office – intentional
- ✳ any other equitable relief
- ✳ actions at meeting are null & void

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### **ACCIDENTAL MEETINGS?**

- ✳ Quorum shows up at another public or community meeting and **discuss** matters that may come before them in the future
- ✳ Quorum shows up at a restaurant or social gathering and **discuss** matters that may come before them in the future
- ✳ City practice to post events quorum may attend
- ✳ KEY: If quorum - do not discuss Council business

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### **AG OPINION 105-004: E-MAIL**

- ✳ Members cannot use e-mail to circumvent the OML
- ✳ Quorum cannot use e-mail to:
  - Discuss Board business
  - Deliberate on Board business
  - Take legal action
  - Propose legal action

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## Back and Forth Between a Quorum

[illegible]

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### ***SERIAL COMMUNICATIONS – MAY VIOLATE OML***

- ✦ Verbal – going from one person to the next, sharing communications would violate OML
  - “splintering the quorum” prohibited

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### ***FACTS VS. OPINION?***

- ✦ There is no distinction between discussion of facts vs. discussing opinions among a quorum
- ✦ Two-way discussion of facts (by quorum) regarding potential business = violation
- ✦ Deliberation = “collective acquisition and exchange of facts preliminary to a final decision”

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### ***PROHIBITED 1-WAY COMMUNICATION***

- ✦ Proposing legal action
- ✦ “Propose” – urges outcome
- ✦ It only takes one person to propose legal action
- ✦ CANNOT propose legal actions outside of a noticed meeting

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### ***PROPOSING AN AGENDA ITEM?***

- ✦ Proposing an item for the agenda does not propose legal action
- ✦ **“without more”**
- ✦ be cautious – communicate the TOPIC only
- ✦ NOT the legal action you want the body to take

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### ***“PROPOSE” – Examples in the AG Opinion***

- ✦ “Chairperson Smith was admitted to the hospital last night”
  - Does NOT propose legal action
- ✦ “We should install a crosswalk at First and Main”
  - Does propose legal action
  - It’s more than a topic for the agenda because it urges outcome

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### ***“PROPOSE” – Examples (Cont’d)***

- ✦ “Here’s the recipe for the lemon bars I brought to the last meeting.”
- ✦ “I would like to discuss roundabouts at our next meeting.”
- ✦ “Here’s an article on a program the City of Minneapolis has put in place.”
- ✦ “We need to adopt a program like the one discussed in the attached article.”

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### ***ONE-WAY E-MAIL FROM STAFF***

- ✳ Passive receipt of information from staff, without more, does not violate OML
- ✳ Staff may send e-mail to members
- ✳ Staff may send agenda packets to members
- ✳ Staff may not send opinion or substantive communication about the public body's business from one member to enough other members to constitute a quorum

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### ***STRONG AG RECOMMENDATION***

- ✳ Even though some one-way communications are not a per se violation –
- ✳ Members on boards, commissions and other appointed advisory groups should communicate about City business at open public meetings, and not by e-mail

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### ***AG E-MAIL HYPOTHETICALS***

- ✳ Assume the e-mails are not sent by a board member or at the direction of a board member with the purpose of circumventing the OML
- ✳ Assume one-way communications do not propose legal action

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### ***Hypothetical a.***

- ✦ Discussions between less than a quorum that are forwarded to a quorum
- ✦ By a board member or at board member's direction
- ✦ WOULD VIOLATE OML

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### ***Hypothetical b.***

- ✦ A staff member e-mails a quorum
- ✦ No further e-mails among the board members
- ✦ NO VIOLATION OF THE OML

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### ***Hypothetical c.***

- ✦ Member A on 5-member board cannot e-mail members B and C and communicate what D and E have said on the topic
- ✦ Chain of improper serial communication between a quorum

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### ***Hypothetical e.***

- ✦ E-mail from staff member to quorum – no violation
- ✦ If board member replies to staff member – OK
- ✦ If board member replies to all or a quorum = VIOLATION
- ✦ If staff member forwards board members responses to a question = VIOLATION

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### ***Hypothetical g.***

- ✦ Board member may send cc on a response to a constituent, unless it proposes action
- ✦ Constitutes a one-way communication that is not a discussion, deliberation or taking legal action
- ✦ Other board members may not reply

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### ***Hypothetical h.***

- ✦ Board member may ask staff for specific information and cc other board members
- ✦ Staff may reply to all – as long as there is no communication of opinions of other board members
- ✦ Board members may not reply to enough to make a quorum = discussion or deliberation

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### ***Hypothetical i.***

- ✳ Board member may send an article, report or factual information to the other members or staff and ask that it be included in agenda packet
- ✳ Staff may distribute agenda packets via e-mail
- ✳ Board members may not discuss the information via e-mail (or otherwise) - amongst quorum

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### ***Protective Measures***

- ✳ Add notices (warnings) to e-mails

To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other board members and board members should not reply to this message.

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### ***PRESERVATION AND AVAILABILITY OF PUBLIC DOCUMENTS SRC § 2-53***

- (a) Written communications
  - ✳ between public officers and citizen
  - ✳ on City business
  - = public documents
- (b) must be preserved in compliance with City's document retention policy

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### ***PUBLIC DOCUMENTS - SRC § 2-53...***

✳ City electronic communications for official business only, except for limited permissible personal uses

✳ no commercial or inappropriate uses of City e-mail

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### ***Public Document Scenarios***

1. You and your wife have an e-mail account on Hotmail. Friends of yours e-mail you complaining about an item on your next meeting agenda and asking you to vote "no." What do you do?

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### ***Public Document Scenarios***

2. You receive an e-mail at your City e-mail address from your brother requesting that you run an errand for him in downtown Scottsdale. What do you do?

78

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### Public Document Scenarios

3. You get a fax from another board member at your out-of-state hotel about City business. What do you do?

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### UNDUE INFLUENCE ON SUBORDINATES—SRC § 2-54

- (a) City Charter- "administrative authority is vested solely in the city manager"
- ✱ City Council may make **inquiries** of staff, but not interfere with city manager's authority
  - ✱ No "orders, explicit directions or requests, publicly or privately...to any subordinates of city manager."
  - ✱ No influence on city manager re: hiring or firing
- (b) All city officials shall respect the orderly lines of authority within city government

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### INQUIRY VS. ORDER/DIRECTION?

- ✱ No additional direction
- ✱ Use common sense
- ✱ New project or "original" work – go through staff liaison

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## **ENFORCEMENT – SRC § 2-55 to -58**

### **COMPLAINTS**

- ✦ Violation of mandatory provisions
- ✦ Required contents and form
  - ID – not anonymous
  - Violation, facts, documents, witnesses
  - If > 90 days, when learned
  - Sworn complaint – affidavit
- ✦ Time – earlier of: 365 days after violation or 90 days after discovery

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## **ENFORCEMENT – (Cont'd)**

- ✦ Penalty for false or frivolous
  - Knowingly -criminal perjury  
civil, e.g. defamation
  - City Attorney review and may refer to law enforcement
  - City official – personal civil action
- ✦ Election Complaints
  - File with City Clerk

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## **Complaint Processing**

- ✦ Two Separate Procedures:  
NON-CITY COUNCIL (§ 2-56);
- ✦ Initial review by City Attorney
  - Dismiss if incomplete, untimely, no violation of mandatory provisions
  - Refer to law enforcement or appropriate authorities
  - Take action
- ✦ Investigate and make findings, conclusions,
  - 30 days (15-day extension from Mayor)
- City Council consider at public meeting
- ✦ Penalty – may remove from office

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## ***Complaint Processing (Cont'd)***

### **CITY COUNCIL (2-57)**

- ✧ Independent Ethics Reviewers
  - ◆ Panel 10-12 retired judges, legal faculty
    - At least 2/3
    - Non-resident
    - No regular Scottsdale work
- ✧ Others if not enough judges/faculty

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## ***Complaint Processing (Cont'd)***

- ✧ Independent Ethics Officer (IEO)
  - ◆ City Attorney annually nominate
  - ◆ Panel confirms or makes alternative selection
  - ◆ Serve no more than 1 consecutive year

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## ***Complaint Processing (Cont'd)***

### **Screening and Review**

City Attorney transfers to IEO immediately

- ✧ IEO conducts initial screening
  - ◆ Dismiss: incomplete, untimely, no mandatory violations alleged
  - ◆ Refer to appropriate authority if false, frivolous, etc.
  - ◆ Refer to Independent Ethics Panel
    - 3 persons
    - Selected by IEO

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### ***Complaint Processing (Cont'd)***

Review by Ethics Panel:

- ✧ Panel investigates and makes findings of fact and conclusions of law
  - ✧ Report to City Council, complainant, official, City Attorney, and City Clerk
  - ✧ 60 days (30-day extension from IEO)
- City Council considers report at public meeting
- ◆ Accept or reject report as submitted

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### ***Complaint Processing (Cont'd)***

- ✧ Public Information
  - ◆ Notice of disposition of complaint
  - ◆ Reports
    - Filed with City Clerk
- ✧ Rules of Procedure
  - ◆ Developed by City Attorney
  - ◆ To govern review process

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### ***TAKE THE HIGH ROAD***



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RESOLUTION NO. 6879

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADOPTING A PUBLIC SERVICE ETHICS PROGRAM FOR CITY OFFICIALS.

WHEREAS, on September 20, 2005, the Scottsdale City Council, in response to a citizen's petition and after receiving a report from City staff, established the City of Scottsdale Citizen Code of Ethics Task Force ("Task Force"), charging it with recommending a code of ethics or ethics policy for the City Council and members of City boards and commissions; and

WHEREAS, on October 4, 2005, the City Council appointed seven Scottsdale citizens to serve as members of the Task Force; and

WHEREAS, over the four months following the appointment of the members of the Task Force it engaged in research, discussion, and debate about the best course of action for the City of Scottsdale, holding ten public meetings and receiving information and receiving comments from numerous citizens, who contributed to the final product by sharing their insights and perspectives; and

WHEREAS, on April 3, 2006, the Task Force presented its Final Report ("Final Report") to the Mayor and City Council, which included several recommendations to promote ethical behavior in Scottsdale city government, one of which was to adopt the City of Scottsdale Public Service Ethics Program, which was presented as a part of the Final Report; and

WHEREAS, the City Council believes that the adoption of the proposed City of Scottsdale Public Service Ethics Program and a Code of Ethical Behavior, relating to elected and appointed officials of the City; including the Mayor, City Council members, and members of all City boards, commissions, committees, task forces, and other appointed advisory groups (collectively "City Officials"), is in the best interests of the City and its residents to promote ethical behavior by City Officials.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Arizona, as follows:

Section 1. The Mayor and City Council hereby accept the Final Report of the City of Scottsdale Code of Ethics Task Force, attached as Exhibit A to this Resolution and incorporated by this reference, and the recommendations made in the Final Report.

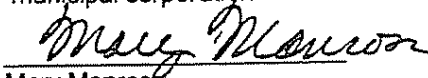
Section 2. The Mayor and City Council hereby adopt the Public Service Ethics Program set forth in Exhibit B to this Resolution, which is incorporated by this reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona, this 2<sup>nd</sup> day of May, 2006.

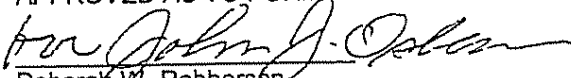
ATTEST:

  
Carolyn Jagger  
City Clerk

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

  
Mary Manrose  
Mayor

APPROVED AS TO FORM:

  
Deborah W. Robbersen  
City Attorney



**Final Report:  
Scottsdale Citizen Code of Ethics Task Force**

On September 20, 2005, the Scottsdale City Council, in response to a citizen's petition and after receiving a report from City staff, established the City of Scottsdale Citizen Code of Ethics Task Force. The Council charged the Ethics Task Force with recommending a code of ethics or ethics policy for the City Council and members of City boards and commissions. On October 4, 2005, the City Council appointed seven Scottsdale citizens to serve as members of the Ethics Task Force:

- Art DeCabooter (Chair), President of Scottsdale Community College
- Jim Bruner, attorney, banker, and former Councilman and County Supervisor
- Jim Derouin, attorney and the person who filed the citizen's petition
- Margaret Dunn, business owner
- Ned O'Hearn, former Councilman
- Rita Saunders-Hawarnek, Scottsdale Coalition board member
- Dewey Schade, businessman and public commission member

For assistance, the Task Force consulted with Dr. Teri Traaen, General Manager of Human Resources, who wrote her dissertation on ethics when earning her Ph.D. in Public Administration. The Task Force also retained Tim Delaney, President of the Center for Leadership, Ethics & Public Service and former Solicitor General of Arizona, to help the Task Force design an ethics program for the City of Scottsdale.

Over the next four months, the Task Force engaged in research, discussion, and debate about the best course of action for the City of Scottsdale. The Task Force held ten public meetings and heard from numerous citizens who contributed to the final product by sharing their insights and perspectives.

The Task Force also discussed the need to ensure that all of the City's representatives – not only elected and appointed officials, but also employees – be aware of and honor ethical guidelines. Being mindful of the Task Force's charge to focus on ethical matters relating to elected and appointed officials (the Mayor, City Council members, and members of all City boards, commissions, committees, task forces, and other appointed advisory groups – collectively, "City officials"), and recognizing that the City Manager has been developing a set of ethics policies for City employees (in a draft Administrative Regulation 320), the Task Force focused primarily on ethics relating to City officials.

The Task Force developed a comprehensive ethics program that combines *illumination* of existing public service ethics laws so City officials will know their obligations and the standards against which their actions will be measured, *education* to make sure City officials understand their legal obligations and where to turn if they have questions, and *enforcement* procedures to

ensure that processes are in place to file, evaluate, and, if appropriate, take action on complaints that City officials violated ethics laws. Highlights of this comprehensive ethics package include:

*Illumination*

- As a prerequisite to exercising the authority of office, each City official must first read and sign the "City of Scottsdale Code of Ethical Behavior" that underscores key elements of public service in Scottsdale;
- The new ethics code includes an annotated matrix of public service ethics laws to emphasize some critical components of existing ethics laws; and
- As a prerequisite to exercising the authority of office, each City official must first complete a "Personal Interest Disclosure Form" to help identify and avoid potential conflicts of interests.

*Education*

- Each City official will receive ethics training within 30 days of being sworn into office, and each City employee will receive and agree to follow the City's Administrative Regulation on ethical standards at an employee orientation and attend ethics training within 90 days of being hired;
- Each year thereafter, every City official and employee will receive continuing ethics education as reminders about these laws and updates on any changes; and
- Each time someone completes a training session, the person will sign a statement confirming that he or she has completed the training and acknowledging that he or she is aware of the public service ethics laws and will abide by them.

*Enforcement*

- Mechanisms must be in place for individuals to report concerns about alleged violations of ethics laws by City officials, so the program includes filing procedures and a process for meaningful review of any complaints; and
- To protect citizens who serve this City from being abused by frivolous or bad faith complaints, all filings must be thoroughly documented and submitted under penalty of perjury, as is done in other jurisdictions.

Based on the foregoing, the City of Scottsdale Citizen Code of Ethics Task Force recommends the City Council take the following actions to promote ethical behavior in Scottsdale city government:


1. Adopt as a resolution the "City of Scottsdale Public Service Ethics Program" that is attached hereto as Exhibit 1;
2. Adopt as an ordinance the "City of Scottsdale Code of Ethical Behavior" that is attached hereto as Exhibit 2 to provide an enforceable Code of Ethics for the City's elected and appointed officials;
3. Encourage the City Manager to promulgate Administrative Regulation 320 (Ethical Standards) to provide ethics guidance to City employees;
4. Request that the City Attorney develop a complaint form (including an affidavit to be signed under penalty of perjury), and develop the necessary enforcement mechanisms as set forth in the Code of Ethical Behavior;



5. Recognizing that some lead time will be needed to prepare high-quality ethics training and ethics guidance materials as required by the Public Service Ethics Program, stagger the initial training sessions for all of the City's approximately 175 elected and appointed officials and approximately 2,600 employees;
6. Direct the City Manager to take appropriate steps to put in place any additional procedures or forms required to have this ethics program in operation by no later than July 1, 2006; and
7. Review the entire ethics program on a periodic basis to ensure it remains fresh, accurate, and meaningful in serving the citizens and City officials and employees of Scottsdale.

Respectfully submitted by the  
City of Scottsdale  
Citizen Code of Ethics Task Force

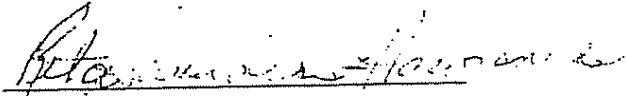
  
Art DeCabooter, Chairman


  
Jim Bruner

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Jim Derouin

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Margaret Dunn

\_\_\_\_\_  
Ned O'Hearn

  
Rita Saunders-Hawarnek

  
Dewey D. Schrade

## FINAL AS ADOPTED BY THE TASK FORCE

5. Recognizing that some lead time will be needed to prepare high-quality ethics training and ethics guidance materials as required by the Public Service Ethics Program, stagger the initial training sessions for all of the City's approximately 175 elected and appointed officials and approximately 2,600 employees;
6. Direct the City Manager to take appropriate steps to put in place any additional procedures or forms required to have this ethics program in operation by no later than July 1, 2006; and
7. Review the entire ethics program on a periodic basis to ensure it remains fresh, accurate, and meaningful in serving the citizens and City officials and employees of Scottsdale.

Respectfully submitted by the  
City of Scottsdale  
Citizen Code of Ethics Task Force

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Art DeCabooter, Chairman

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Jim Bruner

  
\_\_\_\_\_  
Jim Derouin

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Dewey D. Schade

## FINAL AS ADOPTED BY THE TASK FORCE

5. Recognizing that some lead time will be needed to prepare high-quality ethics training and ethics guidance materials as required by the Public Service Ethics Program, stagger the initial training sessions for all of the City's approximately 175 elected and appointed officials and approximately 2,600 employees;
6. Direct the City Manager to take appropriate steps to put in place any additional procedures or forms required to have this ethics program in operation by no later than July 1, 2006; and
7. Review the entire ethics program on a periodic basis to ensure it remains fresh, accurate, and meaningful in serving the citizens and City officials and employees of Scottsdale.

Respectfully submitted by the  
City of Scottsdale  
Citizen Code of Ethics Task Force

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Art DeCabooter, Chairman

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Jim Bruner

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Jim Derouin

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Margaret Dunn

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Ned O'Hearn

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Rita Saunders-Hawarnek

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Dewey D. Schade

**City of Scottsdale**  
**~ Public Service Ethics Program ~**

To promote the highest standards of honesty and integrity in City government, ensure the quality of City government through adherence to ethical principles, and support the Mayor, members of the City Council, and members of every City board, commission, committee, task force, and other appointed advisory groups ("City officials") in their efforts to serve the public the best way possible, it is the policy of the City of Scottsdale to utilize the following comprehensive, three-part ethics program ("Ethics Program"):

1. **Illumination.** To highlight the ethical and legal standards against which City officials are held accountable, and as a prerequisite to participating in her or his first meeting and before January 31 every year thereafter that the official continues to serve the City, each City official shall:
  - a. Read the *City of Scottsdale Code of Ethical Behavior*, set forth in chapter 2 of the Scottsdale Revised Code, and sign a statement agreeing to comply with the *City of Scottsdale Code of Ethical Behavior* and all federal, state, and City laws; and
  - b. Complete the *Scottsdale Personal Interest Disclosure Form*, file it with the City Clerk, and be vigilant in honoring the legal requirement to avoid participating in any manner on behalf of the City of Scottsdale when a conflict exists between the official's City duties and the official's personal interests or the interests of the official's relatives, as defined by state law.
2. **Education.** To provide consistent and up-to-date guidance for City officials and employees and to protect the public trust, the City shall provide:
  - a. Public Service Ethics Training to the Mayor and members of the City Council no later than within thirty days of being sworn into office and to all other City officials no later than ninety days of being sworn into office; and once a year thereafter for as long as the City officials serve the City. Provide Public Service Ethics Training to employees within ninety days of their hiring and at least once a year thereafter for as long as they serve the City. Training sessions will be comprehensive and meaningful, such that they will:
    - Explain the letter and spirit of public service ethics laws regulating service to the City;
    - Use case studies or examples illustrating the application of the public service ethics laws to general behavior and specific situations; and
    - Identify the approved process to follow should City officials or employees have questions or concerns regarding their activities or those of others in City service.

Upon completion of each public service training program, attendees shall sign a statement confirming that they have completed the training and acknowledging that they are aware of the public service ethics laws and will

**EXHIBIT B**



abide by them.

b. Public Service Ethics Guidance Materials to all City officials and employees. The City Manager shall ensure that appropriate training and educational materials are provided to City officials and employees for use during the mandatory public service ethics training sessions, and that the training and educational materials used as part of the City's ethics training program are updated periodically to reflect any changes in applicable laws and to incorporate fresh illustrative examples. The City Attorney shall update annually, or more frequently if necessary, both the annotated matrix of public service ethics laws and the Personal Interest Disclosure Form, as set forth in the City of Scottsdale Code of Ethical Behavior, to ensure the documents present accurate information. The City Manager shall ensure that each City employee receives and agrees to follow the City's Administrative Regulation on ethical standards at new employee orientations.

3. **Enforcement.** To provide a clear and orderly process for filing, evaluating, and acting upon complaints alleging violations of ethics laws, the City shall adopt by ordinance enforcement procedures. The procedures shall define specific steps for filing complaints, including strict requirements related to identification of sources, documentation, and validation of claims. The procedures also shall describe separate processes for evaluating and acting upon complaints against (a) the Mayor and members of the City Council, and (b) appointed officials serving on boards, commissions, committees, task forces, and other appointed advisory groups.

ORDINANCE NO. 3675

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ARTICLE II OF CHAPTER 2 OF THE SCOTTSDALE REVISED CODE, RELATING TO THE CITY COUNCIL, TO ADD DIVISIONS 3 AND 4, A CODE OF ETHICAL BEHAVIOR FOR CITY OFFICERS, AND AMENDING DIVISION 1 OF ARTICLE V OF CHAPTER 2 OF THE SCOTTSDALE REVISED CODE, RELATING TO BOARDS AND COMMISSIONS, TO ADD SECTION 2-243, MAKING THE CODE OF ETHICAL BEHAVIOR APPLICABLE TO MEMBERS OF CITY BOARDS AND COMMISSIONS.

WHEREAS, on September 20, 2005, the Scottsdale City Council, in response to a citizen's petition and after receiving a report from City staff, established the City of Scottsdale Citizen Code of Ethics Task Force ("Task Force"), charging it with recommending a code of ethics or ethics policy for the City Council and members of City boards and commissions; and

WHEREAS, on October 4, 2005, the City Council appointed seven Scottsdale citizens to serve as members of the Task Force; and

WHEREAS, over the four months following the appointment of the members of the Task Force it engaged in research, discussion, and debate about the best course of action for the City of Scottsdale, holding ten public meetings and receiving information and receiving comments from numerous citizens, who contributed to the final product by sharing their insights and perspectives; and

WHEREAS, on April 3, 2006, the Task Force presented its Final Report to the Mayor and City Council, which included several recommendations to promote ethical behavior in Scottsdale city government, one of which was to adopt as an ordinance the City of Scottsdale Code of Ethical Behavior, which was presented as a part of the Final Report; and

WHEREAS, the City Council believes that the adoption of the proposed Code of Ethical Behavior, along with the City of Scottsdale Public Service Ethics Program, relating to elected and appointed officials of the City; including the Mayor, City Council members, and members of all City boards, commissions, committees, task forces, and other appointed advisory groups (collectively "City Officials"), is in the best interests of the City and its residents to promote ethical behavior by City Officials.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Article II of Chapter 2 of the Scottsdale Revised Code, relating to the City Council, is hereby amended to add Divisions 3 and 4, a Code of Ethical Behavior for City Officers, which shall read as follows, reserving sections 2-45 and 2-46:

DIVISION 3. CODE OF ETHICAL BEHAVIOR: GENERAL

**Sec. 2-47. Definitions.**

The following words, terms and phrases, when used in divisions 3 and 4 of this article of the Code shall have the meanings ascribed to them in this section, except where the context clearly

indicates a different meaning:

*City official* means the mayor, members of the city council, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups.

*City of Scottsdale Code of Ethical Behavior* means the provisions set forth in divisions 3 and 4 of this article.

*Ethics code* means the City of Scottsdale Code of Ethical Behavior.

**Sec. 2-48. Ethics policy.**

(a) It is the policy of the City of Scottsdale to uphold, promote, and demand the highest standards of ethical behavior from its mayor, members of the city council, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups. Honesty, integrity, fairness, and transparency of action are the hallmarks of public service in Scottsdale. Use of one's office or position for personal gain or inappropriate influence will not be tolerated.

(b) All city officials shall obey and observe the letter and spirit of the constitution and laws of the United States of America, the constitution and laws of the State of Arizona, and the charter, laws, and policies of the City of Scottsdale applicable to city officials, including the city's ethics code. A listing of key public service ethics laws is shown below.<sup>1</sup>

(c) As a prerequisite for exercising any power of office, each city official is required to read and agree in writing to comply with the provisions of these laws, regulations, policies and this ethics code, as well as to participate annually in continuing education workshops regarding public service ethics.

(d) Federal, state, and city laws provide the legal framework governing public service ethics. Within these laws the city has identified in sections 2-49 through 2-54 of this article the specific areas where clarification and emphasis of the intent and spirit of ethical standards are most warranted.

**Sec. 2-49. Conflicts of interests.**

(a) Arizona law prevents local governments from imposing different conflicts of interests laws than state law. To provide guidance to city officials, Scottsdale interprets Arizona's conflicts of interests laws as follows.

(b) A conflict of interests arises when a city official, a relative of that official, or an entity in which a city official has a substantial interest is actively engaged in an activity that involves the city's decision-making processes. "Decision-making processes" is broader than just voting and includes being involved with any aspects of any decisions the city makes, such as contracting, sales, purchases, permitting, and zoning.

(c) When a conflict of interests arises, the city official involved must immediately refrain from participating in any manner in the city's decision-making processes on the matter as a city official, including voting on the matter or attending meetings with, having written or verbal communications with, or offering advice to any member of the city council, or any city employee, contractor, agent,

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<sup>1</sup> See Exhibit A to this Ordinance No. 3675.

charter officer, or member of a city board, commission, committee, task force, other appointed advisory group, or agency (other than the city attorney when the city official is seeking legal advice regarding a possible conflict). In addition, within three business days the city official must declare the specific nature of the interest on the public record by updating her or his Personal Interest Disclosure Form in the city clerk's office.

(d) During a public meeting when an agenda item in which a city official has a conflict of interests comes up for consideration, the city official shall state publicly that he or she has a conflict, recuse himself or herself, and leave the room while the matter is being discussed and acted upon by others on the public body.

(e) In situations where a city official has a question about the applicability of this ethics code or the provisions of Arizona's conflicts of interests laws, the city charter, or any city ordinance, a ruling may be sought from the city attorney on whether an actual conflict of interests exists. City officials are strongly encouraged to avoid involvement in situations where a ruling declares no technical conflict of interests, but where active participation might raise the perception of undue influence or impropriety.

(f) As a prerequisite for exercising any power of office, a city official is required to read, complete, and submit to the city clerk the Personal Interest Disclosure Form, shown below,<sup>2</sup> before participating in her or his first meeting and before January 31 of every year of continued service to the city.

#### **Sec. 2-50. Gifts; prohibited; exceptions.**

(a) City officials are prohibited from soliciting, receiving, or accepting gifts of any kind from anyone who is engaged in a general practice or specific situation that involves the city's decision-making or permitting processes, except as exempted below. The term "gifts of any kind" includes money, services, loans, travel, entertainment, hospitality (including meals), promises of any future gifts, or anything of value that might be construed as an attempt to create a more favorable relationship than that enjoyed by any other citizen, including: (a) the purchase, sale, or lease of any real or personal property by the city official, that official's relative, or an entity in which that official has a financial interest at a value below or above that available to the general public, and (b) employment and/or services, contracts, direct or indirect, by a city official, that official's relative, or an entity in which that official or relative has a financial interest.

(b) Exemptions include entertainment, hospitality (including meals), transportation, and token mementoes directly associated with events that an official is attending as a representative of the city. If any gift or personal benefit is permissible and exceeds \$25 in value, then the city official must declare it to the city clerk as provided in the Scottsdale Revised Code Section 14-135, unless reporting is not required by the Code provision.

#### **Sec. 2-51. Open government.**

(a) The citizens of Scottsdale expect and deserve open government. Arizona has an official public policy "that meetings of public bodies be conducted openly" and that any doubt should always be resolved "in favor of open and public meetings" (A.R.S. § 38-431.09). The city council has adopted a formal goal of "Open and Responsive Government: Make government accessible, responsive and accountable so that decisions reflect community input and expectations" (Nov. 4, 2004 Mission and Goals). And Scottsdale citizens have voted in favor of a Vision Statement that

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<sup>2</sup> See Exhibit B to this Ordinance No. 3675.

"Scottsdale will be a leader in promoting open government processes that are accessible, responsive, and fair to all of its citizen participants" (City of Scottsdale General Plan 2001, page 87).

(b) Therefore, city officials shall conduct themselves in a manner that fully adheres to and preferably exceeds state laws concerning open meetings and transparency of actions. Indeed, city officials are encouraged to employ a "mindset of openness" in conducting the affairs of the city and should be cautious before voting to hold a portion of a meeting in executive session. Moreover, city officials are reminded that any attempt to circumvent the Open Meeting Law – such as by using technology, a "hub-and-spoke" scheme, or any other technique involving less than a quorum yet designed to communicate with a quorum of the public body – can violate the Open Meeting Law. City officials also shall show no favoritism on who has access to or receives relevant information on matters under consideration or of general public interest.

(c) The city attorney is encouraged to vigorously promote and enforce state laws regulating open meetings, and be proactive and assertive in ensuring strict adherence to those laws reflecting the city's "mindset of openness."

#### **Sec. 2-52. Open meeting laws; executive sessions.**

(a) Arizona law recognizes that there are very narrowly limited occasions when the public's interests are best protected by the public body meeting in closed executive session. To honor the mindset of openness, city officials should consider that, although state law allows discussion of certain limited matters in executive session, closed meetings should be utilized as infrequently as possible and only in clearly compelling circumstances.

(b) In addition to complying with the Open Meeting Law requirement that a majority of the public body vote in favor of meeting in closed executive session, Scottsdale public bodies will first introduce the item on the agenda, hear the need to go into executive session explained, receive the assent of the city attorney (or designee) that the matter would be an appropriate use of the executive session exception, and then vote to see if a majority of the public body agrees there is a legitimate need to go into executive session.

(c) To ensure strict compliance with state law, the city attorney (or designee) shall be present at and actively protect the letter and spirit of the Open Meeting Law in all council meetings, all council executive sessions, and all executive sessions to be held by any other city board, commission, committee, task force, or other appointed advisory group. While in executive session, the city attorney (or designee) shall ensure that all discussions and consultations that take place fit within the bounds of what is allowed and appropriate under a strict and tight interpretation of Arizona's Open Meeting Law. All other questions and discussions related to that same issue shall be posed and addressed only in a public forum either prior to or following the executive session.

(d) The city attorney (or designee) will not attend those portions of executive sessions involving personnel matters, pursuant to A.R.S. § 38-431.03(A)(1), relating to the city auditor, city clerk, city judge, associate city judges, city manager, or city treasurer, but may attend if requested to do so by the city council.

(e) Before leaving the executive session, the city attorney (or designee) shall remind those present in the closed executive session that Arizona law (a) mandates that all discussions within and minutes of executive sessions are strictly confidential for all time, and (b) prohibits attendees from revealing to anyone, including family members, any part of any discussion that took place in executive session.

**Sec. 2-53. Preservation and availability of public documents.**

(a) Consistent with Arizona's Public Records Laws, written communications between public officials and private citizens on matters explicitly involving the affairs of the city are considered public documents. Such written communications shall be preserved in compliance with the city's document retention policy and made available for review upon request.

(b) "Written communications" includes city-related e-mail messages and attachments originating from or received by elected or appointed officials on any publicly or privately owned equipment at city hall, the city official's place of employment, private residence, or remote locations. Destruction of such communications prior to the expiration of the time period specified in the city's document retention policy is prohibited.

(c) The city's electronic messaging systems and electronic communications systems (including telephones) are to be used for official city business only, except for limited personal uses (e.g., asking a person to lunch or a social event, checking on the welfare of family members, scheduling or canceling a doctor's appointment). City officials are prohibited from using the city's official e-mail service for commercial purposes or other inappropriate uses.

**Sec. 2-54. Undue influence on subordinates.**

(a) Under the city's charter, administrative authority is vested solely in the city manager. Members of the city council may make inquiries to city staff. Members of the city council may not interfere with the city manager's authority, however, by giving orders or explicit directions or requests, publicly or privately, regarding city matters to any subordinates of the city manager, and they shall not attempt to exert influence on the city manager on issues relating to the hiring or removal of persons employed by the city.

(b) All city officials shall respect the orderly lines of authority within city government.

**DIVISION 4. CODE OF ETHICAL BEHAVIOR: ENFORCEMENT**

**Sec. 2-55. Filing complaints.**

(a) Contents. Any person who believes a city official in her or his official capacity has violated a mandatory requirement or prohibition in the City of Scottsdale Code of Ethical Behavior, set forth in division 3 of this article, above, or violated any state or city law may file a sworn complaint with the city attorney identifying:

- (1) The complainant's name, address, and telephone number;
- (2) The name and position of the city official who is the subject of the complaint;
- (3) The nature of the alleged violation, including the specific provision of the ethics code or law allegedly violated;
- (4) A statement of facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred;
- (5) All documents or other material in the complainant's possession that are relevant to the allegation, a list of all documents or other material relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other material relevant to the allegations but unavailable to the complainant, including the location of the documents, if known;
- (6) A list of witnesses, what they may know, and their contact information, if known; and

(7) If the alleged violation occurred more than ninety days before the sworn complaint is filed with the city attorney, then the complaint must identify the date the complainant learned of the alleged violation and provide a statement of the facts surrounding the discovery of the violation, a list of the persons with knowledge about the date the violation was discovered, and a summary of the information they possess about the discovery.

The complaint shall include an affidavit stating that the information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the ethics code. If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(b) Time for filing. A complaint must be filed on or before the 365<sup>th</sup> day after the violation is alleged to have occurred or the 90<sup>th</sup> day after the violation was discovered, whichever date is earlier.

(c) False or frivolous complaints. A person who knowingly makes a false, misleading, or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and potential civil liability for, among other possible causes of action, defamation. If after reviewing an ethics complaint it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided under penalty of perjury, then the city attorney may refer the matter to the appropriate law enforcement authority for possible prosecution. A city official who seeks to take civil action regarding any such complaint shall do so at her or his expense.

(d) Elections complaints. Any complaints relating to city elections shall be filed with or referred to the city clerk for review and disposition as provided by law.

**Sec. 2-56. Complaints against members of boards, commissions, committees, task forces, and other appointed advisory groups.**

(a) Initial screening of complaints. The city attorney shall review each complaint filed alleging a violation by a member of a city board, commission, committee, task force, and other appointed advisory group and within fifteen days either:

- (1) Return it for being incomplete;
- (2) Dismiss it for being untimely;
- (3) Dismiss it if the complaint on its face fails to state allegations that, if true, would violate a mandatory requirement or prohibition – as opposed to an aspirational or administrative provision – of the ethics code or any laws;
- (4) Dismiss it as being without merit and refer it to the appropriate authorities for action against the complainant if the city attorney determines the complaint was false, misleading, frivolous, or unsubstantiated;
- (5) Refer alleged violations of Arizona or federal laws to an appropriate law enforcement agency if the complaint states on its face allegations that, if true, would constitute a violation of Arizona or federal law; or
- (6) If the complaint states on its face allegations that, if true, would constitute a violation of a mandatory requirement or prohibition (as opposed to aspirational or administrative provisions) of the city's Code of Ethical Behavior or a city law, take action as set forth below.

In all circumstances, the city attorney shall simultaneously notify in writing the complainant, the city official subject to the complaint, and the city clerk regarding the action taken.

(b) Review and findings. For ethics complaints alleging violations of the city's Code of Ethical Behavior or a city law that proceed for additional review, the city attorney shall investigate the allegations and, within thirty days (unless the city attorney requests a fifteen day extension that is granted in writing by the mayor or vice mayor), submit to the city council, the complainant, the official who is the subject of the complaint, and the city clerk a report with findings of fact, conclusions of law, and a recommendation. The city council shall consider the city attorney's report at a public meeting. If the city council finds an ethical violation, then it may remove the member from the city board, commission, committee, task force, or other appointed advisory group. In resolving a complaint, the totality of the circumstances shall be taken into consideration, including the intent of the person accused of wrongdoing.

**Sec. 2-57. Complaints against the mayor and members of the city council.**

(a) Independent ethics reviewers. The city shall use independent, non-city personnel to handle ethics complaints lodged against the mayor and members of the city council (and to handle any ethics complaints filed against a member of a city board, commission, committee, task force, or other appointed advisory group if the city attorney would have a conflict of interests in handling that complaint). The city attorney, in compliance with applicable provisions of the city Procurement Code, shall select a pool of ten to twelve individuals who could serve as the city's independent ethics reviewers to handle ethics complaints lodged against the mayor and members of the city council. To be eligible for selection, individuals must be retired federal or state judges or faculty members at the law schools at Arizona State University or the University of Arizona who do not live in Scottsdale and do not work for firms or employers that regularly have business in Scottsdale or represent clients in Scottsdale. In the event the city attorney cannot select a sufficient number of eligible people who can perform the necessary services, then the city attorney may complete the pool by selecting independent qualified attorneys who do not live or office in Scottsdale and whose firms or employers do not regularly have business in Scottsdale or represent clients in Scottsdale. At least two-thirds of the independent ethics reviewers shall be retired judges or law school faculty members. Individuals who serve as the city's independent ethics reviewers shall do so as the city's agents and enjoy the city's full liability protection and immunity as allowed by law. Each year the city attorney shall nominate one person from the independent ethics reviewers to serve as the city's "independent ethics officer," and the other independent ethics reviewers will either confirm the nominee or select another reviewer from the pool. The independent ethics officer shall not serve in that role for more than one consecutive year.

(b) Initial screening of complaints. The city attorney shall immediately transfer any complaint filed against the mayor or members of the city council to the city's independent ethics officer, who will conduct the initial screening of the complaint and within fifteen days issue a report of findings and conclusions and recommend that the city attorney handle the complaint as follows:

- (1) Return it for being incomplete;
- (2) Dismiss it for being untimely;
- (3) Dismiss it if the complaint on its face fails to state allegations that, if true, would violate a mandatory requirement or prohibition – as opposed to an aspirational or administrative provision – of the ethics code or any laws;
- (4) Dismiss it as being without merit and refer it to the appropriate authorities for action against the complainant if the independent ethics officer determines the complaint was false, misleading, frivolous, or unsubstantiated;
- (5) Refer alleged violations of Arizona or federal laws to an appropriate law enforcement agency if the complaint states on its face allegations that, if true, would constitute a violation of Arizona or federal law; or
- (6) If the complaint states on its face allegations that, if true, would constitute a violation of a mandatory requirement or prohibition (as opposed to aspirational or administrative provisions) of



the city's Code of Ethical Behavior or a city law, refer the matter to an independent ethics panel for further action as set forth in subsection (c) below.

In all circumstances, the city attorney shall follow the independent ethics officer's recommendation and notify in writing the complainant, the city official subject to the complaint, and the city clerk regarding the action taken.

(c) Review and findings. If the independent ethics officer recommends referral of a complaint to an independent ethics panel for further review, then the city attorney shall immediately transfer the complaint to an ethics panel consisting of three independent ethics reviewers selected by the independent ethics officer from the pool of eligible individuals. The members of the ethics panel shall investigate the complaint and report to the city council, the complainant, the official who is the subject of the complaint, the city attorney, and the city clerk its findings of fact and conclusions of law within sixty days (unless the panel requests a thirty day extension that is granted in writing by the independent ethics officer). The city council shall consider the ethics panel's report at a public meeting and either accept or reject the ethics panel's report as submitted.

**Sec. 2-58. Review of complaints.**

(a) Presumptions. The city attorney's recommendation to refer a complaint for further review does not mean that any of the complaint's allegations are true or that any city official has violated this ethics code or any law.

(b) Procedures. The city attorney will adopt written rules of procedure to govern the review process, including the right of a city official against whom the complaint has been lodged to respond to the complaint, attend any hearing, and present witnesses and other evidence on her or his own behalf.

(c) Expedite. The timelines for handling complaints set forth above set the outer limits. Reviewers and decision-makers are strongly encouraged to make their findings, recommendations, and decisions as expeditiously as possible for the sake of the public and the city officials against whom complaints have been filed.

(d) Public information regarding action taken and reports issued. On the same day the city attorney notifies a complainant of the action taken on a complaint as set forth in subsections 2-56(a) and 2-57(b) of this Code, above, and on the same day the city attorney issues a report to the city council regarding complaints against members of city boards, commissions, committees, task forces, or other appointed advisory groups as set forth in subsection 2-56(b) of this Code, above, or an ethics panel issues a report to the city council regarding complaints against the mayor or a member of the city council as set forth in subsection 2-57(c) of this Code, above, copies of those notices and reports shall be filed with the city clerk and made available to the public as public records.

(e) Inapplicable provisions. The provisions of section 1-8 of this Code are inapplicable to divisions 3 and 4 of this article.

**Sec. 2-59. Effective date; prospective application.**

Divisions 3 and 4 of this article II of chapter 2 of this Code are effective on and after July 1, 2006. The provisions of these divisions shall apply prospectively only to acts that are alleged to have occurred on or after the effective date.

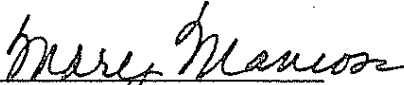
Section 2. Division 1 of Article V of Chapter 2 of the Scottsdale Revised Code, relating to boards and commissions is hereby amended to add section 2-243, relating to the Code of Ethical Behavior, which shall read as follows:

**Sec. 2-243. Code of Ethical Behavior**

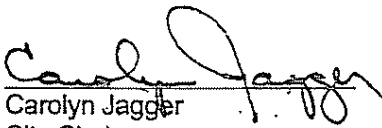
The provisions of the City of Scottsdale Code of Ethical Behavior, as set forth in Divisions 3 and 4 of Article II of this chapter, apply to all members of city appointive boards and commissions.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 2nd day of May 2006.

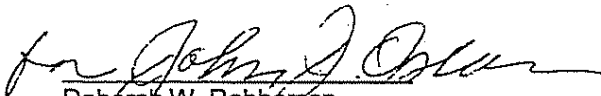
CITY OF SCOTTSDALE, an  
Arizona municipal corporation,

  
Mary Manross  
Mayor

ATTEST:

  
Carolyn Jagger  
City Clerk

APPROVED AS TO FORM:

  
Deborah W. Robberson  
City Attorney

# City of Scottsdale

## Sampling of Public Service Ethics Laws Applicable to City Officials

(Mayor, City Council Members, and Members of All City Boards, Commissions, and Committees)

Topic	Arizona Law	Scottsdale Law	General Summary <sup>1</sup>	Penalties & Sanctions <sup>2</sup>
Bribery	A.R.S. §§ 13-2602; 38-444		It is illegal for you to solicit, accept, or agree to accept any benefit upon an understanding that it may influence your official conduct, or to ask for or receive any gratuity of reward (or promise thereof) for your official act.	felony
Conflicts of Interests (general)	A.R.S. §§ 38-501 through -511	Charter Art. 8, § 6	If you or any relative could benefit from you taking official action, then you must (1) <i>disqualify</i> yourself by not participating "in any manner" -- not voting, not discussing, not anything, and (2) <i>disclose</i> that personal interest.	felony or misdemeanor, more
Contracting with the City	A.R.S. §§ 38-503, 36-1406, -1477	Charter Art. 8, § 5	If you or any relative has a substantial interest in "any contract, sale, purchase or service" to the City, then you must disclose that interest and "refrain from voting upon or ... participating in any manner."	felony or misdemeanor; cancel contract
Conduct After Leaving City Position ("Anti-Revolution Door")	A.R.S. § 38-504(A)		For 12 months after your City service, you cannot represent another person for compensation before the City in connection with any matter in which you personally participated in a substantial and material way.	felony or misdemeanor
Confidential Information (Disclosure/Use of)	A.R.S. § 38-504(B)		During and for two years after your City service, it is illegal for you to disclose or use for personal profit any confidential information you learned in the course of your duties.	felony or misdemeanor; more
Discrimination & Favoritism	Constitutions, plus statutes; ARS § 38-231(G)		It is illegal to discriminate based on race, color, gender, national origin, religion, age, or physical or mental disability; plus, in your Loyalty Oath you pledged to "faithfully and <i>impartially</i> discharge the duties of...office."	attorneys fees, damages, more
E-mail	A.R.S. §§ 39-121; 38-431 <i>et seq.</i>		Your e-mail communications are subject to the Public Records Law, and improper e-mail involving a quorum of the members of a public body may violate the Open Meeting Law.	attorneys fees, costs, more
Employment of Relatives ("Nepotism")	A.R.S. § 38-481	S.R.C. § 14-134(b) (Council only)	You may not be involved in the appointment or hiring of a relative (which is defined broadly to include your parents, siblings, spouse, children, grandchildren, grandparents, and all in-laws).	misdemeanor
Employment - Discussion of Future Employment	A.R.S. §§ 38-503, -504(C)		If you engage in certain discussions about future employment, then it might trigger bribery or conflicts of interests laws.	felony or misdemeanor

<sup>1</sup> CAUTION: These brief descriptions are provided for quick introductory purposes and cannot and do not present the full scope of these laws.

<sup>2</sup> Violations of these laws may expose a City official to a variety of sanctions, including criminal penalties, personal financial liability (for damages and fines, as well as payment of costs and attorneys fees -- both prosecution and defense), cancellation of contracts, public embarrassment (for the official and her or his family and employer), and removal from office. For example, a City official convicted of a felony may be fined up to \$150,000 for each violation and sent to prison for several years. A.R.S. §§ 13-801, -701. Conviction of a misdemeanor may result in a fine up to \$2,500 for each violation and a jail sentence of up to six months. A.R.S. §§ 13-802, -707. This information is presented not to scare City officials, but to help them by underscoring the seriousness of conducting the public's business properly.

Employment – Incompatible	A.R.S. § 38-505		Certain outside employment could trigger conflicts of interests laws.	depends on the facts
Employment – Representing Others Before the City	A.R.S. § 38-504		During your City service, it is illegal for you to represent another person for compensation in connection with any matter in which you will personally participate in a substantial and material way as a City official.	felony or misdemeanor
Entertainment (attending or participating in a cultural or sporting event)	A.R.S. § 41-1232.08(B) [only applies to City Council]		It is illegal for the Mayor or a Council member to accept from a “compensated lobbyist” “an expenditure or single expenditure for <i>entertainment</i> ” (defined broadly to mean not only <i>attending</i> any sporting or cultural event, but also <i>participating</i> in any cultural or sporting event, such as golf).	misdemeanor
Extra Compensation	A.R.S. § 38-505	S.R.C. § 14-135(c)	It is illegal for any City official to receive any money (except the salaries the City pays the Mayor and Council members) or anything of value for any service rendered in connection with performing their official duties.	felony or misdemeanor
Financial Disclosures [NOTE: Council only]	A.R.S. § 38-545 (which requires City adopt same)	S.R.C. §§ 2-76 thru -78	It is illegal for Council members to fail to file, or knowingly file an incomplete personal financial disclosure statement (which are designed to help you identify and avoid potential conflicts of interests).	misdemeanor
Gifts & Things of Value		S.R.C. § 14-135 (b), (c), (d)	“No gifts, gratuities, or other benefits or items of value shall be solicited” and “[g]ifts and other personal benefits or items of value shall not be accepted if acceptance could be... construed as an attempt to exert improper influence.” Gifts worth more than \$25 must be reported to the City Clerk. City officials may use City resources only to the extent those resources are available to the public (e.g., if the public is charged 20¢ page for copying, then a City official must pay the same). Otherwise, it is theft (see below).	ethics code investigation and public report
Misuse of Public Resources (see “Theft” below)	A.R.S. §§ 13-1802, -2310, -2316		“It is the policy of this state that meetings of public bodies be conducted openly ... and interpretations of this [law] shall construe any provision ... in favor of open and public meetings.”	felony or misdemeanor
Open Meetings	A.R.S. § 38-431 through -431.09	Charter Art.2 § 12 (Council only)	“It is the policy of this state that meetings of public bodies be conducted openly ... and interpretations of this [law] shall construe any provision ... in favor of open and public meetings.”	action null & void; attys fees; more
Political Activities	A.R.S. § 9-500.14		It is illegal to use city personnel/ resources to influence non-bond elections.	
Public Monies	A.R.S. § 35-301	Charter Art.8 § 3	If you handle or spend public monies, then you need to be extra cautious and recognize that special rules and obligations apply, including the City’s procurement processes	felony
Public Records – Access to	A.R.S. § 39-121, <i>et seq.</i> , plus more	Charter Art.13 § 1	Arizona law has a strong presumption that records shall be open to public inspection, but with hundreds of exemptions, you should seek immediate help from the City Attorney if you get a public records request.	range: attorneys fees & costs
Public Records – Tampering with	A.R.S. § 13-2407		It is illegal to “tamper with a public record” by making a false document purporting to be a public record, altering or making a false entry, destroying, removing, hiding, or otherwise impairing a public record.	felony
Solicitation of Gifts & Things of Value	A.R.S. § 38-504(C)	S.R.C. § 14-135	It is illegal to use or attempt to use your official position to get any valuable thing or benefit that you would not ordinarily get. (See also “Bribery” and “Gifts” above.)	felony or misdemeanor
Theft of City Property, Resources, or Services	A.R.S. § 13-1802		Unauthorized (such as personal) use of City resources (facilities, equipment, personnel, supplies) can be considered “theft,” which is the taking or unauthorized use of another person’s property (including the City’s).	felony or misdemeanor
Travel	A.R.S. §§ 13-1803, -2407		Unauthorized use of a City vehicle can constitute “unlawful use of means of transportation,” and submitting a false travel or expense report is “tampering with a public record.”	felony

Undue Influence [NOTE: Council only]		Charter Art.2 § 17 (Council only)	Council members "shall deal with the administrative service solely through the city manager" and shall not direct or request the City Manager appoint or remove any city employee.	ethics code investigation and report
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City of Scottsdale  
Personal Interest Disclosure Form

Pursuant to the City of Scottsdale Code of Ethical Behavior, all City officials (the Mayor, members of the City Council, and members of all City boards, commissions, committees, task forces, and other appointed advisory groups), before participating in their first meeting and before January 31 every year thereafter that they serve the City, must complete and submit a Personal Interest Disclosure Form to the City Clerk's Office. The purpose of the form is to help City officials by alerting and reminding them of their need to avoid participating in any manner on behalf of Scottsdale when a conflict arises between their official City duties and their personal interests (or the interests of their relatives).

Two definitions are very important because violating Arizona's conflicts of interests laws is a criminal offense and can lead to serious consequences.

1. Arizona law requires that if a public officer of a public agency, or her or his relative has a *substantial interest* in any contract, sale, purchase or service to the public agency, or an official decision of the public agency, then that officer "shall make known that interest in the official records of the public agency and shall refrain from voting upon or *otherwise participating in any manner* as an officer or employee" regarding that matter. (A.R.S. § 38-503). *Substantial interest* means a pecuniary (money/financial) or propriety (property) interest, direct or indirect, except certain specific, limited *remote interests* listed in the statute. (A.R.S. § 38-502). By listing "voting" and "otherwise participating in any manner" separately, the Legislature has made clear that if you have a conflict, then you must immediately refrain from taking *any* action in your official position; you may not do anything – vote, talk, discuss, write, wink, or nod – to try to influence the decision or any decision-makers.

2. The definition of relative is quite sweeping, and includes your "spouse, child, child's child [grandchildren], parent, grandparents, brother or sister [and step-brother or step-sister], and their spouses and the parent, brother, sister or child of a spouse." A.R.S. § 38-502(9).

If after you complete this form another substantial interest surfaces that was not anticipated, then you are obligated to immediately refrain from participating in the decision-making process and, within three business days, update this form to disclose the interest in the City Clerk's Office. If you have any questions, please contact the City Attorney's Office with as much lead time as possible.

1. Identify the decision or other matter in which you or a relative may have a substantial interest.  
(Attach another page if more space is needed.)

2. Describe each substantial interest referred to above. (Attach another page if more space is needed.)

Statement of Disqualification

To avoid any possible conflict of interests, I will refrain from participating in any manner in the matter(s) identified above.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position in the City of Scottsdale

EXHIBIT B

## ***SCOTTSDALE REVISED CODE***

### **Sec. 2-47. Definitions.**

The following words, terms and phrases, when used in divisions 3 and 4 of this article of the Code shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City official* means the mayor, members of the city council, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups.

*City of Scottsdale Code of Ethical Behavior* means the provisions set forth in divisions 3 and 4 of this article.

*Ethics code* means the City of Scottsdale Code of Ethical Behavior.

## ***SCOTTSDALE REVISED CODE***

### **Sec. 2-48. Ethics policy.**

(a) It is the policy of the City of Scottsdale to uphold, promote, and demand the highest standards of ethical behavior from its mayor, members of the city council, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups. Honesty, integrity, fairness, and transparency of action are the hallmarks of public service in Scottsdale. Use of one's office or position for personal gain or inappropriate influence will not be tolerated.

(b) All city officials shall obey and observe the letter and spirit of the constitution and laws of the United States of America, the constitution and laws of the State of Arizona, and the charter, laws, and policies of the City of Scottsdale applicable to city officials, including the city's ethics code. A listing of key public service ethics laws is shown below.<sup>1</sup>

(c) As a prerequisite for exercising any power of office, each city official is required to read and agree in writing to comply with the provisions of these laws, regulations, policies and this ethics code, as well as to participate annually in continuing education workshops regarding public service ethics.

(d) Federal, state, and city laws provide the legal framework governing public service ethics. Within these laws the city has identified in sections 2-49 through 2-54 of this article the specific areas where clarification and emphasis of the intent and spirit of ethical standards are most warranted.

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<sup>1</sup> See Exhibit A to this Ordinance No. 3675.



**ETHICS POLICY ACKNOWLEDGEMENT AND AGREEMENT  
SCOTTSDALE REVISED CODE SECTION 2-48(C)**

\_\_\_\_\_  
Scottsdale Revised Code Section 2-48(c) provides:

*(c) As a prerequisite for exercising any power of office, each city official is required to read and agree in writing to comply with the provisions of these laws, regulations, policies and this ethics code, as well as to participate annually in continuing education workshops regarding public service ethics.*

\_\_\_\_\_

By my signature below, I \_\_\_\_\_  
acknowledge and agree that I have been provided with a copy of City of Scottsdale Ordinance No. 3675 (Scottsdale Revised Code Sections 2-47 through 2-58, and 2-243), which constitutes the City of Scottsdale Code of Ethical Behavior ("Ethics Code"), including Exhibit A "City of Scottsdale—Sampling of Public Service Ethics Laws Applicable to City Officials" and Exhibit B "Public Interest Disclosure Form".

By my signature below, I acknowledge that I have read and understand the Ethics Code. I agree that I will comply with the constitution and laws of the United State of America, the constitution and laws of the State of Arizona, and the charter, laws, regulations and policies of the City of Scottsdale, including the Ethics Code. I further agree to participate annually in continuing education workshops, regarding public service ethics, as required by the Ethics Code.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Elected/appointed position

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date