

ORDINANCE NO. G-_____

AN ORDINANCE AMENDING THE CITY OF PHOENIX ETHICS POLICY TO INCLUDE A GIFT POLICY BY AMENDING CHAPTER 2, ARTICLE II, SECTION 2-52 OF THE PHOENIX CITY CODE; AND ESTABLISHING AN ETHICS COMMISSION BY REPEALING AND AMENDING CHAPTER 2, ARTICLE II, SECTION 2-53 OF THE PHOENIX CITY CODE; AND TO PROVIDE FOR THE APPOINTMENT OF ETHICS COMMISSION MEMBERS BY AMENDING CHAPTER 2, ARTICLE III, SECTION 2-96 OF THE PHOENIX CITY CODE; AND ESTABLISHING EFFECTIVE DATES FOR THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. Phoenix City Code Chapter 2, Article II, Section 2-52 is amended to read as follows:

Sec. 2-52. City of Phoenix Ethics Policy. 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 NON-PROFIT 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 PHOENIX CITY CODE 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, ~~and officials, whether elected or appointed~~ BOARD MEMBERS, AND VOLUNTEERS.

Accordingly, all City ~~officers and~~ ELECTED OFFICIALS, employees, BOARD MEMBERS, AND VOLUNTEERS, ~~members of City boards, commissions and committees and members of the City Council~~ should 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, and never use their City position or powers 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 PURSUANT TO PHOENIX CITY CHARTER CHAPTER XI, SEC.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 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 THE REASONABLY ESTIMATED FAIR MARKET VALUE OF THE GIFT 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 THIRTY (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 THE REASONABLY ESTIMATED FAIR MARKET VALUE OF GIFT IS GREATER THAN \$50.00,
- c. BRIEF 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.

SECTION 2. Phoenix City Code Chapter 2, Article II, Section 2-53 is hereby repealed in its entirety and a new Section 2-53 is created to read as follows:

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 AND SHALL CONSIST OF FIVE MEMBERS WHO SHALL 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. A MEMBER SHALL NOT SERVE MORE THAN ONE FULL TERM. ONE DEMOCRATIC MEMBER, ONE REPUBLICAN MEMBER, AND THE UNAFFILIATED MEMBER SHALL SERVE A FULL INITIAL TERM. ONE DEMOCRATIC MEMBER AND ONE REPUBLICAN MEMBER SHALL SERVE A THREE-YEAR INITIAL TERM. ANY COMMISSION VACANCY SHALL 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 SHALL SEEK OUT AND ENCOURAGE QUALIFIED INDIVIDUALS TO APPLY FOR APPOINTMENT TO THE ETHICS COMMISSION AND SHALL 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 SHALL CONSIDER THE DIVERSITY OF PHOENIX'S POPULATION. EACH COMMISSION MEMBER SHALL BE A PHOENIX RESIDENT AND A REGISTERED ARIZONA VOTER WHO HAS BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY OR REGISTERED AS UNAFFILIATED WITH A POLITICAL PARTY FOR THREE OR MORE YEARS IMMEDIATELY PRECEDING APPOINTMENT. A COMMISSION MEMBER SHALL NOT SERVE AS AN ELECTED OFFICIAL OR A PRECINCT COMMITTEE PERSON OF A POLITICAL PARTY DURING THE COMMISSION MEMBER'S TERM. THE BOARD SHALL RECOMMEND EACH COMMISSION MEMBER TO COUNCIL FOR APPROVAL BY THE AFFIRMATIVE VOTE OF SEVEN COUNCIL MEMBERS.

D. ETHICS COMMISSION COMPENSATION. ETHICS COMMISSION MEMBERS SHALL NOT RECEIVE A SALARY OR OTHERWISE BE COMPENSATED EXCEPT FOR THE REIMBURSEMENT OF REASONABLE PARKING FEES NEAR PHOENIX CITY HALL.

E. ETHICS COMMISSION RULES AND PROCEDURES. THE CITY MANAGER SHALL PREPARE INITIAL RULES AND PROCEDURES FOR THE INVESTIGATION AND ENFORCEMENT OF AN ETHICS OR GIFT VIOLATION BY THE ETHICS COMMISSION, WHICH SHALL 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 INITIATION OF PROCEEDINGS, THE

INITIAL EVALUATION BY THE ETHICS COMMISSION, THE INVESTIGATION BY THE ETHICS COMMISSION, A FORMAL HEARING AFTER INVESTIGATION BY THE ETHICS COMMISSION, IF NECESSARY, AND THE ETHICS COMMISSION'S RECOMMENDATION TO COUNCIL RELATED TO AN ALLEGED ETHICS OR GIFT VIOLATION. BY AN AFFIRMATIVE VOTE OF FOUR MEMBERS, THE ETHICS COMMISSION MAY REFER ADDITIONS OR MODIFICATIONS TO THE INITIAL ETHICS COMMISSION RULES AND PROCEDURES TO THE CITY MANAGER FOR REVIEW AND RECOMMENDATION TO COUNCIL. ANY ADDITION OR MODIFICATION OF 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 RESIDENT OF THE CITY OF PHOENIX OR WHO IS AFFECTED 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 SHALL 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 SHALL FORWARD THE INQUIRY TO THE ETHICS COMMISSION AND THE INQUIRY SHALL BE PLACED ON THE AGENDA OF THE NEXT AVAILABLE MEETING OF THE ETHICS COMMISSION.

I. INITIAL EVALUATION BY COMMISSION. EACH INQUIRY RECEIVED BY THE COMMISSION SHALL 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 ITS 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 SHALL 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 SHALL 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 INTERPOSED FOR ANY IMPROPER PURPOSE, SUCH AS TO HARASS, OR TO CAUSE UNNECESSARY DELAY, OR NEEDLESSLY INCREASE COSTS AND EXPENSES TO THE ELECTED OFFICIAL OR BOARD MEMBER. THE COMMISSION MAY RECOMMEND THE COUNCIL IMPOSE A CIVIL SANCTION IN THE AMOUNT OF \$500 AGAINST THE PERSON OR ENTITY FOR FILING A FRIVOLOUS INQUIRY.

IF THE COMMISSION FAILS TO MAKE A DETERMINATION BY UNANIMOUS OR THE AFFIRMATIVE VOTE AS REQUIRED IN SUBSECTIONS (1) THROUGH (4), THE INQUIRY SHALL BE 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 AND ESTABLISHED 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 FACT FINDER OR HEARING OFFICER 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 HEARING OFFICER OR FACT FINDER SHALL PREPARE A WRITTEN REPORT WITH FINDINGS OF FACT AND RECOMMENDATIONS. THE REPORT SHALL BE PROVIDED TO THE ETHICS COMMISSION FOR SUCH ACTION AS THE ETHICS COMMISSION DEEMS APPROPRIATE. THE REPORT SHALL NOT BE AVAILABLE

FOR PUBLIC INSPECTION UNDER THE ARIZONA PUBLIC RECORDS ACT UNTIL AFTER FINAL ACTION BY THE ETHICS COMMISSION.

K. 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, IMPOSE WHAT, IF ANY, SANCTIONS 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, THE INQUIRY SHALL BE DEEMED CLOSED.

L. CONSIDERATION OF RECOMMENDATION. A RECOMMENDATION FROM THE ETHICS COMMISSION RELATED TO AN INQUIRY SHALL 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, IF ANY, THE SAME OR DIFFERENT SANCTIONS AS PERMITTED BY THIS SECTION, OR DISMISS THE INQUIRY. IF THERE ARE LESS THAN SEVEN VOTES TO ACCEPT THE ETHICS COMMISSION RECOMMENDATION IN WHOLE OR IN PART, OR TO DISMISS THE INQUIRY, THE INQUIRY SHALL BE DEEMED CLOSED.

M. SANCTIONS. BY AN AFFIRMATIVE VOTE OF SEVEN MEMBERS, THE COUNCIL MAY IMPOSE ANY NUMBER OF THE FOLLOWING ACTIONS OR SANCTIONS FOR A VIOLATION OF THE ETHICS OR GIFT POLICIES BY AN ELECTED OFFICIAL OR BOARD MEMBER: CENSURE, A MAXIMUM FINE OF \$500 FOR EACH VIOLATION, OR REMOVAL FROM OFFICE IF THE VIOLATION RELATES TO A BOARD MEMBER. PHOENIX CITY CODE SECTION 1-5 DOES NOT APPLY. 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.

N. 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 THE 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 INTERPOSED FOR ANY IMPROPER PURPOSE, SUCH AS TO HARASS, OR TO CAUSE UNNECESSARY DELAY, OR

NEEDLESSLY INCREASE COSTS AND EXPENSES TO THE ELECTED OFFICIAL OR BOARD MEMBER. A PERSON FOUND LIABLE FOR VIOLATING THIS SECTION BY A PREPONDERANCE OF THE EVIDENCE SHALL BE SUBJECT TO A CIVIL SANCTION IN THE AMOUNT OF \$500.00 AND MUST 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.

N. REMOVAL OF BOARD MEMBER. COMPLIANCE WITH THIS SECTION IS NOT REQUIRED FOR THE COUNCIL TO TAKE ACTION PURSUANT TO SECTION 2-51; PROVIDED HOWEVER, REMOVAL OF THE UNAFFILIATED ETHICS COMMISSION MEMBER REQUIRES AN AFFIRMATIVE VOTE BY SEVEN COUNCIL MEMBERS.

SECTION 3. Phoenix City Code Chapter 2, Article II, Section 2-96 is amended to read as follows:

Sec. 2-96. Judicial Selection Advisory Board—Establishment; membership; powers and duties; operating procedures.

A. There is hereby created a Judicial Selection Advisory Board to be composed of the Chief Presiding Judge of the City Court, who shall serve as a nonvoting member, and nine voting members, consisting of the following: the Presiding Judge of the Superior Court of Maricopa County or his designee; an appellate court judge to be appointed by the Chief Justice of the Arizona Supreme Court; a member of the Maricopa County Bar Association who shall reside in the City of Phoenix and who shall be appointed by the Mayor from among three nominees recommended by the association's board of directors; an active member of the State Bar of Arizona who shall reside in the City of Phoenix and who shall be appointed by the Mayor from among three nominees recommended by the State Bar's Board of Governors; and five nonattorney public members who are nominated by the Mayor and who are residents of the City of Phoenix. The diversity of the City's population shall be considered when making an appointment to the board. None of the public members shall be an employee of the City of Phoenix. Voting members shall be subject to approval by the City Council. Voting members shall serve a term of three years and shall be eligible for reappointment for one additional three-year term. The members shall serve without salary or compensation.

B. The Board's officers shall consist of a chairman and vice-chairman, each selected from the Board's voting members. Officers shall serve one-year terms. No member shall serve more than two terms as chairman or two terms as vice-chairman, not

including any term filled for the remainder of another member's unexpired term. Upon expiration of the chairman's first term or, if selected for a second term, upon expiration of the chairman's second term, the vice-chairman automatically shall become the chairman. If upon expiration of the chairman's first term, the chairman is selected by the voting members for a second term, the vice-chairman shall automatically continue in that office for a second term. A vacancy in the office of chairman caused other than by the expiration of a term shall be filled by the vice-chairman for the remainder of the unexpired term. The members shall determine operating procedures for the Board, which shall be kept in writing. The vice-chairman shall preside whenever the chairman is absent or unable to act. The chairman will have the duty to prepare written reports as may be requested by the City Council.

C. The Board shall have the following powers and duties:

1. To seek out and encourage qualified individuals to apply for the office of judge of the City Court OR THE CITY OF PHOENIX ETHICS COMMISSION.
2. To conduct investigations into the background and qualifications of candidates for the office of judge of the City Court OR FOR THE CITY OF PHOENIX ETHICS COMMISSION, including but not limited to the use of questionnaires, personal interviews, and contacting such individuals and institutions as it deems reasonable to obtain as much background information on the candidate as possible.
3. To submit its recommendations for candidates for appointment or reappointment to the office of judge of the City Court or Chief Presiding Judge OR TO THE CITY OF PHOENIX ETHICS COMMISSION to the Mayor, who thereafter shall convene the City Council for the purpose of interviewing all candidates recommended. When making recommendations for judicial office OR FOR THE CITY OF PHOENIX ETHICS COMMISSION, the Board shall consider the diversity of the City's population; however, the primary consideration shall be merit.

D. The meetings of the Board shall be held once each year for the purpose of reviewing operating procedures and on call of the chairman or a majority of the members. The chairman shall issue a call for a meeting promptly upon learning of the existence or anticipated existence of a vacancy in the office of judge of the City Court OR IN THE CITY OF PHOENIX ETHICS COMMISSION. The Board shall, whenever practical, hold public meetings designed to permit interested parties and groups to submit and recommend persons for consideration.

SECTION 4. SECTION 2, Subsections 2-53(F) through 2-53(N) shall be effective, and shall solely apply to an act, or the failure to act, by an elected official, employee, board member, or volunteer first occurring on or after January 1, 2018. All other provisions of this Ordinance shall be effective July 1, 2017.

PASSED by the Council of the City of Phoenix this 15th day of February, 2017.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

Acting City Attorney

REVIEWED BY:

City Manager

DLB/dlb: ____/Item ____/02-15-17/1288707v1