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09/09

City of Mesa  
Ethics Handbook for  
Elected Officials

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## *I. City of Mesa Ethics Policy*

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IT IS THE POLICY of the City of Mesa to uphold, promote, and demand the highest standards of ethics from all of its officials, whether elected to City Council or appointed to advisory boards. Accordingly, all members of City boards, commissions, committees and the City Council (“elected officials and advisory board members”) shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or powers improperly or for personal gain.

The City of Mesa and its elected officials and advisory board members all share a commitment to ethical conduct in service to their community. This Code of Ethics has been created to ensure that all elected and appointed officials and advisory

<sup>1</sup> **Note:** Examples are used in certain portions of this Code and Handbook to illustrate the meaning of the text. Examples are intended to describe some situations of ethical or unethical conduct under this Code. The examples are not intended to be, and shall not be interpreted to be, the sole situation to which the text applies.

board members have clear guidance for carrying out their responsibilities.<sup>1</sup>

## *II. Applicable Laws and Policies*

### **A. General Character**

Elected officials and advisory board members are often called upon to make decisions that affect various groups and individuals adversely. Balancing diverse constituent interests is a difficult task. While someone will always be disappointed in decisions, officials shall adhere to ethical standards that eliminate disappointment borne of dishonesty, conflicts of interest, unfairness or illegality. Preservation of public trust is critical for the preservation of democracy.

A certain amount of detail is required in any code of ethics so that it serves as a clear guide. However, at the core of ethical behavior are some basic standards that officials shall use to reach a level of conduct that strives to be beyond reproach. Treating others as you would have them treat you is always a good ethical test. Another standard is to reflect on how your actions or decisions might be viewed by persons you or the public holds in high regard because of their ethical integrity.

#### **1. Honesty and Integrity.**

Honesty and integrity shall be the primary values in all issues. The public trust in the City Council and citizen boards can be a reality only when public officials are truthful.

#### **2. Fairness and Respect.**

All issues and citizens shall be handled with fairness, impartiality and respect. Elected officials and advisory board members have an obligation to treat all citizens fairly, such as by dividing time reasonably among potential speakers on an issue at a public hearing or meeting. In

reviewing, discussing and deciding issues, City Councilmembers and citizen advisory board members have an obligation to be accessible, open and direct, not only with the other members of the Council or board, but also to the citizens and business representatives who appear before them. The public is entitled to communicate with their public servants and understand the position of the Council and boards on public issues.

### **3. Effort.**

Elected officials and advisory board members have an obligation to attend meetings and to be prepared. It is expected that these officials will review the materials, participate in discussions and make an informed decision on the merits of the issue.

## **B. Conflict of Interest**

Elected officials and advisory board members must be constantly on guard against conflicts of interest. In short, elected officials and advisory board members shall not be involved in any activity which conflicts with their responsibilities to the City and its residents. The people of Mesa have a right to expect independence and fairness toward all groups without favoring individuals or personal interests.

### **1. Self-Dealing and Financial Disclosure**

Arizona conflict-of-interest laws apply to all elected officials and advisory board members, who must be consistently aware of any potential issues which may appear to be self-dealing. Officials must not be involved in discussing or deciding any issue over which they have jurisdiction as a Council or board member which may impact the member, or the member's family, financially.

It should also be noted that Councilmembers must comply

annually with the Financial Disclosure Act, as outlined in A.R.S. §§ 38-541-545.

## **2. Disclosure of and Policy on Acceptance of Gifts and Favors**

Arizona law prohibits elected officials and advisory board members from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. A.R.S. § 38-505(A).

Elected officials and advisory board members must consider ethical principles before accepting personal gifts of entertainment and sports/athletic activities.

Within two business days of receipt of the following gifts or favors in Mesa, or within two business days of returning to Mesa after receipt of a gift of favor while traveling outside of Mesa, elected officials and advisory board members shall disclose in writing to the City Clerk all gifts, benefits, or favors received from people with a financial interest in business before the City, or which may come before the City, that:

- relate to professional or collegiate sports, athletic, or entertainment activities or tickets, or
- have a face value of \$50 or more, amount subject to periodic review.

Under no circumstances shall a council or board member accept a gift or favor that is a bribe, or reflects, to a reasonable person, an effort to improperly influence the member contrary to that member's responsibility to the public to act impartially and on the merits of a matter.

When in doubt about these requirements, elected officials and advisory board members shall disclose the gift, benefit or favor. All disclosures will be kept for public record in the



City Clerk's Office.

In summary, you can follow this checklist:

- Does the gift or favor come from someone with business before the city or which may come before the city?
- And does the gift or favor exceed \$50 dollars in value, or consist of the type of sports or entertainment tickets described above?
- And did you accept the gift or favor for yourself or another?

If you answer "yes" to all these questions, then the gift or favor has to be reported to the City Clerk.

If you answer "no" to any of these questions, then the gift or favor does not have to be reported to the City Clerk unless it represents a bribe or other improper influence as described above.

Gifts having a value greater than \$50 that are donated to the city or a bona fide charity also do not need to be reported.

This section does not apply to gifts exceeding \$50 in value and intended for the City rather than as a personal gift to a Councilmember or board member. These items are City of Mesa property. Elected officials and advisory board members who receive a gift on behalf of the City exceeding \$50 in value shall promptly turn the gift over to the City Manager for public display or other appropriate handling.

### **3. Loyalty**

Elected officials and advisory board members have an obligation to put the interests of the City of Mesa over all personal considerations. Their goal should be "what is in the best interest for the broadest public good of the City of Mesa, consistent with constitutional and other legal protec-

tions for minority, property, and other interests.”

#### **4. Nepotism**

As provided in the City Charter and Personnel Rules, no relative of a sitting Councilmember may be hired by the City, and no relative of a sitting advisory board member may be hired in the City department for which that advisory board member provides guidance.

### **C. Legal Compliance**

#### **1. Meetings**

Public Access: Open Meetings and Public Records

Discussion of issues which may appear before the Council or citizen board shall be prohibited when a situation arises where a quorum of the Council or board exists. Numerous Arizona and City laws require that meetings of public bodies be open to the public and that public records be available for inspection. Open Meeting Laws are found in A.R.S. §§ 38-431 through 431.09 and in the City Charter Section 209A, and Public Records Laws are found in A.R.S. §§ 39-121 through 121.03.

#### **2. Attendance**

Attendance is outlined by the City Charter and City ordinances.

##### **a. Mayor and City Council**

The City Charter provides that five councilmembers may discipline another councilmember if he or she misses three (3) consecutive and duly noticed meetings of the City Council without good cause. Duly noticed meetings of the City Council include regular council meetings, special council meetings, study sessions, policy ses-

sions, executive sessions, budget review meetings, and council committee meetings to which a councilmember is assigned.

Through this Ethics Code, the City Council finds that personal illness, family emergencies, military absences, family weddings, family graduation exercises, and bona fide business and vacation trips constitute good cause for nonattendance at council meetings. Whether good cause exists for any other absence shall be determined by vote of the entire City Council upon request of any councilmember made within ten (10) business days following the absence. The vote shall be taken after sufficient information is received explaining the reason for the councilmember's absence.

##### **b. Boards, Commissions and Committees**

The City's attendance policy for members of boards, commissions and committees provides that, if a member fails to attend three (3) consecutive and duly noticed meetings of such groups without being excused for good cause, the City Council may declare the seat vacant and appoint a replacement.

Members of City boards, commissions and committees are expected to attend all regularly scheduled meetings and should make every effort to do so. The City Council appoints members for their experience, background and perspective in a particular policy area, and desires the benefit of knowledgeable consideration and judgment. Moreover, boards, commissions and committees cannot conduct any business unless a quorum is present. Members should notify the chairperson of the board or the staff liaison regarding any meeting missed or to be missed.

The advisory board, commission, or committee shall

decide by vote of the entire body, upon request made by any member of the body with ten (10) business days following the absence, whether the absence was for good cause or not. Advisory boards, commissions, and committees shall use the same standard for good cause as set forth above for councilmembers.

### **3. Disclosure of Confidential Information**

Arizona law provides that, during a person's employment or service with the City and for two years thereafter, no member of a City board, commission, committee or the City Council may disclose or use confidential information without appropriate authorization. The information is outlined A.R.S. § 38-504(B). For example, confidential information includes discussions during executive sessions and certain economic development information such as prospect leads.

### **4. Discrimination and Harassment**

Public decision-making must be fair and impartial and shall not be discriminatory on the basis of those protected classes, such as racial and religious groups, outlined in federal, state, and city laws and ordinances.

It is the policy of the City of Mesa that its elected officials and advisory board members conduct business and operate in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious persuasion, both internally and in the relationships of the elected officials and advisory board members with their constituencies.

In addition, it is the policy of the City of Mesa that the elected officials and advisory board members strive to cre-

ate an operating environment internally and in the relationships of the elected officials and advisory board members with their constituencies, that is productive and free from intimidation, hostility or other adversity. Harassment of any sort – verbal, physical, visual – including intentional and unwarranted actions that would constitute sexual harassment were they to occur in an employment relationship, by any elected official or advisory board member, is prohibited and is considered a violation of this Code of Ethics.

#### D. Political Activities

Elected officials and advisory board members shall not use their political or appointed office to advance private interests. The prohibited activities are outlined in City Charter sections 902(a)4 through 6. Section 205a prohibits the Mayor and Councilmember from holding other offices. Board members are also governed by the resign-to-run regulation (Ordinance 3353), which requires the board member to resign from the City board when they seek any elective public office.

Elected officials, advisory board members and candidates shall not engage in political campaigning at City meetings or within city buildings. However, nothing in this section shall prohibit an elected official, advisory board member, or candidate from participating in public forums/debates or utilizing city buildings in the same manner and to the same extent as that provided to the general public. For example, participation in candidate forums or debates sponsored by private or non-profit organizations, and attendance at non-city sponsored meetings held in city community rooms. The use of these city buildings will only be provided in the same manner and under the same terms and conditions as these facilities are made available to the general public.

They shall also not use public resources for political campaigning. For example, candidates or supporters of candidates shall refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause. Council and board members are free to express their opinions about the public issues on the agenda before them, but they must not make campaign speeches at council or board meetings touting their, or another's, candidacy, nor may they urge residents to vote for them or another, through words, signs, buttons or other means during duly noticed meetings of the City Council or its citizens advisory boards.

## **E. Facilities, Resources, and Expenses**

### **1. Expense Reports and Travel**

When traveling on City business, elected officials and advisory board members shall conduct themselves professionally as representatives of the City of Mesa. Travel guidelines for officials are outlined in the City's Management Policy 201. Officials are entitled to be reimbursed for actual and necessary expenses during travel. Expenses must be documented completely and accurately. Officials are asked to contact the appropriate City staff for assistance in travel plans and expense reports.

### **2. Use of Equipment and Facilities**

Elected officials and advisory board members shall not use City equipment or City facilities for private purposes, except to the extent that they are available to the public. A.R.S. §13-1802.

#### **a. Software Management.**

Elected officials and advisory board members shall not make, use, accept or install illegal copies of computer software, documentation, or templates. The City con-

ducts periodic audits to ensure compliance with City policies on software installed on City-owned computers.

The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the license, the original manuals, documented evidence of purchase, or copy of the completed product registration.

b. Electronic Mail.

City-assigned electronic mail accounts shall be used only for City business or for minor personal use such as setting up medical appointments or communicating occasionally with one's family in a way that does not interfere with City business. City-assigned electronic mail accounts may not be used for personal business or for any campaign purpose.

All City-assigned electronic mail is considered official City business and must be retained in accordance with the City's records management program. In general, electronic mail communications are public records and subject to disclosure under the public records law in A.R.S. § 39-101 et. seq.

### 3. Use of Staff

Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Councilmembers need to be sensitive to the role of the City Manager and City staff. Councilmembers shall work through the City Manager or the City Manager's staff.

Councilmembers may ask other staff members about the status of a matter and may ask for information, but Councilmembers shall not expressly or implicitly give orders or direction to staff, except through their

participation on the City Council. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff.

Council and board members shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussing and deciding policy matters for staff to carry out.

Appointed board members shall work through the staff liaisons of their board.

### *III: Procedures*

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#### **A. Where to Seek Advice**

Questions about this Code, a conflict of interest, or other ethical problems should be presented to the City Attorney's Office (480-644-2343). If time permits, requests should be in writing to the City Attorney directly. Requests related to conflicts of interest, A.R.S. §38-507 must be kept confidential. However, official opinions of the City Attorney are required by this law to become a public record.

#### **B. What to Do if You Are Uncertain**

The existence of an ethical issue often does not arise until a meeting is underway. Rather than risk an inadvertent violation of law, the safest course of action is simply to declare that a conflict may exist that prevents an elected official or advisory

<sup>2</sup> After the City Council adopted this Ethics Code and Handbook on Jan. 19, 1999, Mesa voters approved Proposition 102 during the March 14, 2000 Primary Election. Among other things, Proposition 102 amended the Mesa City Charter to make violations of this Ethics Code and Handbook grounds for five Councilmembers to issue a letter of warning, monetary penalty, reprimand, censure, suspend, or order the forfeiture of office for any Councilmember or Citizen Advisory Board Member who violates this Code and Handbook.

board member from participating. Indeed, if there is a consistent theme to this handbook, it would be: “If in doubt, don’t.”

### C. How to Declare a Possible Conflict

If an official believes that a conflict of interest (or even a possible conflict) exists, then he or she should disclose the fact as soon as possible. For example, as soon as an elected official or advisory board member realizes that a conflict exists on a given matter, they must disclose the conflicting interest on the record for the minutes. From that point on, the official shall not participate in any manner (by discussing, questioning or voting) in that matter.

Declaring a conflict and not participating should be recognized as a necessary part of preserving public trust and should not be avoided simply because of delays or inconvenience. Indeed, officials should declare possible conflicts to avoid any appearance of impropriety.

### D. Where to Report Improper Behavior

Elected officials and advisory board members have a duty to create the image and reality of a responsive, accessible, and fair city government. Accordingly, council and advisory board members have a duty to report if another elected official or advisory board member is violating laws or ethics relating to city government, as set forth in this code and handbook. Moreover, officials shall never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent of interfering with that person’s duty to disclose such improper activity.

If an official believes that someone else may have violated this Handbook, they may consult with the City Attorney’s Office, the City Clerk, or their colleagues.



#### *IV: Penalties and Sanctions*

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It is the intent of the City Council to educate, and where necessary, discipline board or councilmembers who violate this Code and Handbook. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a matter, including the intent of the one accused of wrongdoing. This Code does not prevent informal resolution of minor infractions, such as by immediate corrective action of the possible misconduct.<sup>2</sup>

### *V: Adoption and Amendment*

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Adoption of and amendments to this Ethics Code and Handbook shall require the affirmative vote of at least a two-third's majority of the full City Council — that is, five (5) votes. Adoption and amendment shall occur through passage of a resolution by the City Council.