

ORDINANCE 24-10

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, ADOPTING THE DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED “AMENDMENTS TO CHAPTER 2.30: CODE OF ETHICS” BY REFERENCE TO AMEND THAT CHAPTER OF THE MARICOPA CITY CODE AND PROVIDING FOR SEVERABILITY AND THE EFFECITVE DATE THEREOF.

WHEREAS, the City previously adopted Ordinances which established a Code of Ethics for City Officials; and

WHEREAS, the Mayor and City Council of the City of Maricopa believe, after consultation with its staff, that amending Chapter 2.30: Code of Ethics, of the City Code to update the Code of Ethics for City Officials would be in the best interest of the City of Maricopa; and;

WHEREAS, A.R.S. §9-802 allows a City to adopt a public record by Ordinance as a means to reduce publication costs while ensuring that the public gets fair notice and opportunity to review its operative provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, AS FOLLOWS:

SECTION 1. That certain document filed with the City Clerk and entitled “Amendments to Chapter 2.30: Code of Ethics” as set forth in Exhibit A, attached hereto and incorporated herein by reference, is hereby declared a public record. One paper copy and one electronic copy of Exhibit A shall be maintained in compliance with A.R.S. § 44-7041 and available for public inspection during normal business hours in the Office of the City Clerk and shall be available on the City’s website at: www.maricopa-az.gov.

SECTION 2. Chapter 2.30: Code of Ethics of the Maricopa City Code is hereby amended as set forth in Exhibit A, and that the amendments depicted therein are hereby approved and adopted.


SECTION 3. To the extent of any conflict between other City Ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing City Ordinance, Resolution or regulation except as expressly set forth herein.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.


SECTION 5. This Ordinance shall become effective thirty (30) days from the date of adoption by the City Council for the City of Maricopa.

PASSED AND ADOPTED by the Mayor and Council of the City of Maricopa, Arizona, this 1st day of October, 2024.

APPROVED:



Nancy Smith
Mayor

ATTEST:


Vanessa Bueras, MMC
City Clerk



APPROVED AS TO FORM:


Denis Fitzgibbons
City Attorney

Pursuant to A.R.S. 9-802(A), EXHIBIT A is on file at:

**Office of the City Clerk, City of Maricopa and
www.maricopa-az.gov.**

AMENDMENTS TO

Chapter 2.30

CODE OF ETHICS

Sections:

- 2.30.010** **Policy.**
- 2.30.020** **Definitions.**
- 2.30.030** **Code of ethical conduct.**
- 2.30.040** **Reporting ethics violations.**
- 2.30.050** **Sanctions.**

2.30.010 **Policy.**

A. It is the policy of the city of Maricopa to uphold, promote and demand the highest standards of ethics from its city officials. The city officials 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. By operating with these values, the city shall build, maintain, and enhance the trust of the public, staff and fellow city officials. This code of ethics has been created to ensure that all elected officials have clear guidance for carrying out their responsibilities.

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 code, laws and policies of the city of Maricopa applicable to city officials, including the city's code of ethics.

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. [Ord. 13-12; Code 2004 § 2-131.]

D. This Code of Ethics is not intended to prohibit a city official from earning a living or pursuing business opportunities within the city of Maricopa.

2.30.020 Definitions.

A. For the purposes of interpretation of this chapter, the following words and phrases shall mean:

“City official(s)” means the mayor and members of the city council.

“Ethics code” means the provisions set forth in this chapter.

B. Except as otherwise provided herein, the words, terms, and phrases used in this chapter shall have the meanings ascribed to them in A.R.S. Title [38](#) and the city code, except where the context clearly indicates a different meaning. [Ord. 13-12; Code 2004 § 2-132.]

2.30.030 Code of ethical conduct.

A. *Operate in an Open, Accessible, and Transparent Manner and Adhere to All Applicable Laws At All Times.*

1. The citizens of Maricopa expect and deserve open government. City officials shall comply with all open meetings and public records laws as set forth in A.R.S. §§ [38-431](#) through [38-431.09](#) and §§ [39-121](#) through [39-121.03](#).
2. City officials shall conduct city business with transparency, seeking public input as advisable or appropriate, in a manner that fully adheres to and preferably exceeds state law regarding open meetings and transparency of actions and shall not circumvent the open meeting law, or the spirit of the law, by using technology, a “hub and spoke” scheme, or any technique involving less than a quorum yet designed to communicate with a quorum of the public body.
3. City officials shall be accessible, open and conduct city business with transparency.

B. *Conflicts of Interest.*

1. City officials shall not be involved in any activity which creates a conflict of interest with their responsibilities to the city and its residents as defined by Arizona law. Working, contracting, or owning a business within the city shall not by itself create a conflict of interest.

2. City officials shall disclose and make known actual or perceived conflicts of interest as required by Arizona law.

3. When a known conflict of interest arises, as described under Arizona law, the city official involved shall disclose the conflict as soon as reasonably practical and shall 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, 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).

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

C. *Serve Public Interests Over a City Official's Personal Interests.*

1. City officials have the obligation to put the interests of the city of Maricopa over all personal considerations.

2. The goal should be to balance what is in the best interest for the broadest public good of the city, consistent with constitutional and other legal protection for minority, property and other interests.

3. City officials shall use discretionary funds and city resources for public interest rather than personal interests in accordance with the Council Policy on Discretionary Funds.

4. City officials shall avoid favoritism and retribution, when acting on behalf of the city.

D. *Undue Influence and Appearance of Impropriety.*

1. No city official shall use or attempt to use his or her official position to influence council decisions or city staff actions in favor of individuals, organizations or companies that may directly benefit the individual city official.

2. Ask "Does this pass the headline test?"

3. City officials shall follow applicable gift policies and laws regarding disclosure and acceptance of gifts, including, but not limited to, gifts of travel, entertainment and sports/athletic activities and events.
4. No city official shall use or attempt to use his or her personal relationships with staff, businesses or others for inappropriate benefits.
5. When acting on behalf of the city, city officials shall avoid the appearance or reality of monetary gain or "quid pro quo."
6. No city official shall use or attempt to use his or her official position to gain personal, professional, or financial advantage for the individual city official or his or her direct family member. (As "direct family member" is defined in the city code.)

E. *Professionalism and Courtesy.*

1. During meetings and all public appearances, city officials shall treat each other, speakers, invited guests, residents, businesses, staff and general public with professionalism, courtesy, respect and dignity, and shall:
 - a. Be attentive, respectful and polite;
 - b. Avoid personal disparaging comments or references;
 - c. Focus on the action, not the individual;
 - d. Respect differences;
 - e. Be cognitive of demeanor and appearance;
 - f. Be respectful of schedules and agendas and responsive to all communications;
 - g. Be on time, prepared and ready to execute the duties and tasks of the position;
 - h. Avoid inappropriate actions and behavior that could reflect poorly upon the city or fellow city officials.
2. At the city workplace, at any city event and at all times while representing the city, including traveling on city business, city officials shall treat each other, staff and the general public with professionalism, courtesy, respect and dignity, and shall:

- a. Respect and embrace the golden rule (treat others as you would like to be treated);
- b. Be sensitive to differences in race, age, gender, disabilities, religious beliefs, political affiliation and national origin;
- c. Strive to create an environment that is productive and free from gossip, rumors, intimidation, harassment, threats, retaliation, violence, hostility, and other adversity;
- d. Avoid behavior and comments considered unacceptable in the workplace, such as inappropriate and demeaning comments, stories, humor and jokes;
- e. Avoid sexual harassment, such as sexual conversations, sexual innuendos, and other comments that may be perceived as sexual in nature;
- f. Keep personal and professional relationships separate.

F. *Respect and Abide by the Council-Manager Form of Government.*

1. Under the council-manager form of government, the city council appoints a city manager, who directs the day-to-day operations of all city employees. City officials should be sensitive to the role of the city manager and shall not circumvent the appropriate chain of command by directing city staff.
2. City officials shall not interfere with the hiring, promotion, transfer, discipline, compensation or termination of any city employee, other than those positions identified in the city code that serve at the pleasure of the city council.
3. City officials shall not interfere with or exert influence over the city's procurement process, except in an official capacity acting as council as a whole.

G. *Use of City Equipment, Property and Resources.*

1. City officials shall adhere to city rules and policies on the use of city property, city logo, and city letterhead or other approved city communication tools, materials or publications.
2. City officials shall use city issued equipment in accordance with city policies and shall not use city equipment or facilities for private purposes, unless such use is generally available to the public.

3. Any personal emails, faxes or use of other communications generated by the use of city equipment should be considered public information. As such, city officials shall use city-assigned electronic mail accounts for city business only and not for personal business or for campaign purposes.
4. City officials shall not disclose or use executive session information or other information deemed confidential under state law without proper authorization.

H. *Communications.*

1. City officials are never “off the record” and should be mindful of communication actions that create a public record and their duty to maintain public records.
2. City officials shall qualify public comments as either the official position of council or as a personal opinion and clarify whether council has or has not acted on the topic (i.e., state “council hasn’t voted on this matter yet, however, I believe we should go in direction xyz”).
3. City officials shall not make public statements or take individual actions on behalf of council unless expressly authorized by council.
4. City officials shall use all communication platforms to constructively benefit the city.
5. City officials shall communicate to fellow councilmembers, the city manager and/or the city attorney any information that could negatively affect the operation or image of the city council or the city to avoid a situation where such information is first learned from the media or outside sources.
6. When appropriate or advisable, city officials should notify appropriate city staff regarding all media contacts. [Ord. 13-12; Code 2004 § 2-133.]

2.30.040 Reporting ethics violations.

City officials have a duty to report violations of the Ethics Code or any misconduct that raises a substantial question as to a city official’s integrity or fitness as a public official. Council shall serve as a committee of the whole for purposes of Ethics Code enforcement, which includes a reasonable process for investigating complaints that affords the subject of a complaint a full and fair opportunity to be heard.

A. *Informal Reporting Procedures.* Before initiating the formal complaint process, a city official should make every reasonable effort to resolve issues constructively in an informal manner, unless such efforts would be futile or inadequate to address the nature and severity of the alleged violation.

1. Whenever possible, a city official should first discuss concerns with the alleged violator.
2. Either party may request the assistance of a neutral third party to facilitate discussions about the complaint. Both parties must agree to use the neutral third party.

B. *Formal Reporting Procedures.*

1. Only city officials may file a complaint regarding a violation of this Ethics Code. Complaints made by city officials shall be reported to the City Manager and/or the City Attorney. .
2. All complaints must contain at least the following:
 - a. The name of the city official filing the complaint (the “complainant”);
 - b. The name of the alleged violator;
 - c. The nature of the alleged violation, including the specific provision of the Ethics Code or law allegedly violated;
 - d. A statement of facts describing relevant conduct and dates;
 - e. Copies of relevant documents or materials and/or a list of unavailable, relevant documents or materials;
 - f. A list of relevant witnesses; and
 - g. A statement made under oath stating that the information contained in the complaint is true and correct, and stating the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the Ethics Code.

A complaint may be dismissed by the City Manager and City Attorney if the written complaint is void of sufficient detail to make a determination of validity; if it is filed more than thirty (30) days from the alleged incident giving rise to the complaint, unless good cause exists for an extension; or fails to state an allegation that, if true, would violate a mandatory

requirement or prohibition of the Ethics Code. For purposes of the Ethics Code, violations of aspirational goals or administrative provisions are not grounds for discipline. Further, a complaint may be dismissed if found to be false, misleading, frivolous, unsubstantiated or without merit. If a complaint is dismissed by the City Manager and City Attorney for any of the above-mentioned reasons, the complainant shall be notified in writing of the basis for such dismissal and the City Manager and City Attorney shall notify the city official named as the alleged violator of the complaint and subsequent dismissal. In the event that a complaint is dismissed by the City Manager and City Attorney, the city official who was the subject of the complaint may request a review of the alleged complaint in an executive session in accordance with A.R.S. § 38-431.03.

C. *Evaluation of Complaints.*

1. Upon the proper filing of a written complaint, the City Manager and City Attorney will determine the validity of the complaint and, if appropriate, an initial course of action, as described below.
2. Within three (3) business days after receipt of the complaint, the city official named as the alleged violator shall be notified of the reported complaint. The notification shall include a copy of the written complaint, supporting documentation, if any, and the identity of the complainant.
3. The city official named as the alleged violator may provide a written statement responding to the complaint. A city official electing to provide a written statement shall provide such statement to the City Manager or City Attorney within five (5) business days from the city official's receipt of the notification of alleged complaint, unless good cause exists for the City Manager and City Attorney to extend such response period.

D. *Unsubstantiated or Minor Violations.*

1. If the City Manager and City Attorney agree that the alleged violation is void of sufficient detail, untimely or without merit, no further action will be taken. If the reported violation is deemed valid but minor in nature, the City Manager and City Attorney shall counsel and, if appropriate, admonish the city official named as the alleged violator to resolve the matter.

-
- a. Admonishment is considered to be a reproof or warning directed to the city official about a particular type of behavior that violates City policy.
2. The City Manager and City Attorney shall prepare a written statement regarding the complaint and any dismissal or admonishment provided. The City Manager or City Attorney shall cause this written statement to be provided to the complainant and the city official named as the alleged violator.
- E. *Allegations of Major Violations.*
1. If a reported violation is considered to be serious in nature, as determined by the City Manager and City Attorney, the matter shall be referred to an independent ethics officer selected by the City Manager and City Attorney for the purpose of conducting an initial interview of the city official alleged to have violated the Ethics Code. The independent ethics officer shall prepare a written report containing their initial findings and provide a copy of such report to the City Manager and City Attorney.
 2. If the City Manager and City Attorney determine that an investigation is warranted, the independent ethics officer shall be directed to conduct an investigation. The investigation process shall include, but is not limited to, interviews with any witnesses deemed relevant by the ethics officer and examination of any documentation deemed relevant by the ethics officer.
- F. *Report of Findings.*
1. At the conclusion of an investigation pursuant to Sec.2.30.040(E), the independent ethics officer shall prepare a written report containing his/her findings and provide such report to the City Manager and City Attorney. The report shall either:
 - a. Recommend that the city official named as the alleged violator be exonerated based on a finding that the investigation did not reveal evidence of a serious violation of the Ethics Code, or

2. Investigative findings presented to the City Council will not be conducted as an adversarial hearing and the rules of evidence shall not apply.
3. For purposes of determining if there was a violation of the Ethics Code or any other city, state or federal law or for any discipline to be imposed pursuant to Sec. 2.030.050, there must be an affirmative vote of 2/3 of the city officials present at the meeting.

2.30.050 Sanctions.

A. *Considerations in Determining Disciplinary Action.* Disciplinary Action may be imposed by the City Council upon a city official who violates the Ethics Code or other city, state or federal law. Disciplinary action or sanctions are considered when a serious violation of city policy has occurred by a city official. In determining the type of sanction imposed, the following factors may be considered:

1. Nature of the violation
2. Prior violations by the same individual
3. Other factors which bear upon the seriousness of the violation

B. *Types of Sanctions.* Upon an affirmative 2/3 vote of the city officials present at the meeting, sanctions may be imposed for violations of the Ethics Code or for engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:

1. Public Adm Public Admonishment – A reproof or warning directed to a city official about a particular type of behavior that violates city policy.
2. Revocation of Special Privileges – A revocation of a city official's Council Committee assignments, including standing and ad hoc committees, regional boards and commissions, and community-generated board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation and ceremonial titles.

3. Censure – A formal statement or resolution by the City Council officially reprimanding a city official.

C. *Expungement of Sanction.* After conducting a public hearing, the City Council has the right to expunge a sanction issued to a city official upon an affirmative vote of 2/3 of the city officials present at the meeting.