

**BOARD,
COMMISSION, AND
COMMITTEE
HANDBOOK**

UPDATED OCTOBER 2015



FORWARD

This Board, Commission, and Committee Handbook has been developed to assist new and continuing members of Gilbert's network of advisory boards and commissions to better understand the general principles and operating issues of membership, Code of Gilbert requirements, and Council Policy Statements that relate to Boards, Commissions, and Committees. This Handbook contains major points and guidelines of responsibilities.

Suggestions, improvements and questions regarding this handbook should be directed to the Town Clerk, (480) 503-6861.

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SECTION 1. GENERAL

1.1 Form of Government

Gilbert is a general law local government created under the authority granted by State Law. Gilbert was incorporated on July 6, 1920.

There are seven elected officials of Gilbert who exercise the powers and authority granted by State Law, local ordinances, and resolutions. The Mayor and six Councilmembers are elected at large to serve four-year overlapping terms.

Gilbert operates under the Council-Manager form of local government. Under this model, which is prevalent in Arizona and the western United States, the Mayor and Council select a full-time professional manager to serve as the chief administrative officer and head of the administrative branch of the Town. The Manager is responsible for implementing Council policies, managing the staff, preparing the budget, and other responsibilities as authorized by the Council in the Code of Gilbert.

Gilbert has committed its local government to being inclusive, participative, and transparent. A strong belief that the people should have an opportunity to be involved in their community has resulted in the creation of several Boards, Commissions, and Committees by the Council to encourage a broad base of advice and recommendation for governance and policy development.

Board, Commission, and Committee members are selected and appointed by the Council to meet the responsibility of representing the community interests and securing stakeholder participation in the governing and policy making for Gilbert.

Boards, Commissions, and Committees vary in their authority and power, and members are encouraged to review the specific responsibilities for the Board, Commission, or Committee to which they have been appointed.

1.2 Community Vision

Gilbert, a safe, healthy, clean, attractive, family-oriented community that embraces our Town's heritage yet recognizes the opportunities of the future without sacrificing the resources of today. Gilbert will continue to grow into a Town with:

- A vibrant and dynamic business climate
- Excellent educational opportunities
- A sense of community and neighborhoods
- Environmental stewardship
- Cultural amenities
- Diverse recreational opportunities
- Enduring architecture and design
- Sustainable practices
- Efficient transportation

1.3 Continuous Quality Improvement & Corporate Mission, Vision, and Values

The organization operates under a Continuous Quality Improvement (CQI) philosophy, which is imbedded within Gilbert's organizational culture.

Gilbert's Mission, Vision, and Values are the cornerstones of our quality efforts and are essential in achieving customer satisfaction.

The Mission describes who we serve, what we are in business to do, and how we intend to achieve our vision.

We are a service organization committed to enhancing quality of life and serving with integrity, trust, and respect.

At the core of our Mission is customer service. It is critical to know and understand our customers. Who are they? What are their needs and expectations? How does what we do, either directly or indirectly, affect the satisfaction of all our customers? A customer is defined as anyone who depends upon us, either directly or indirectly, for the quality, accuracy, and the timeliness of our work.

The Vision is a conceptual picture of our desired future state.

Gilbert will be best in class in all lines of service!

Corporate Values set forth the guiding principles regarding the way the Town of Gilbert conducts business.

Integrity by being ethical, professional, and trustworthy.

Respect by being fair, courteous, and valuing others.

Accountability by being responsible for our actions and following through on our commitments.

Innovation by continuously improving services through progressive and creative outcomes.

Learning by developing our knowledge and skills.

Communication through transparency, collaboration, and accessible information.

1.4 4 Disciplines of Execution™ and Strategic Initiatives

Consistent, focused execution is a leadership capability that is fundamental to the success of every organization and leader. The Town of Gilbert has installed Franklin Covey's The 4 Disciplines of Execution™ (4DX) as an operating system; it is a proven method through which behaviors and attitudes change, clarity and focus increase, and strategic objectives and desired results are accomplished and sustained over time. We chose Franklin Covey as partner because they are strong on execution; their tools and methods are very practical.

For each of our strategic goals we do the following: focus on the wildly important, act on lead measures, keep a compelling scoreboard, and create a cadence of accountability. Each of these goals is geared toward achieving our Strategic Initiatives that were set forth by Council: Community Livability, Technology Leader, Proactive Infrastructure, Balanced Short and Long Term Financial Plans, Economic Development, and High Performing Government.

You can find the results of our Strategic Goals by accessing them on Gilbert's website at: <http://www.gilbertaz.gov/strategic/default.cfm> and then clicking on each Strategic Initiative Icon.

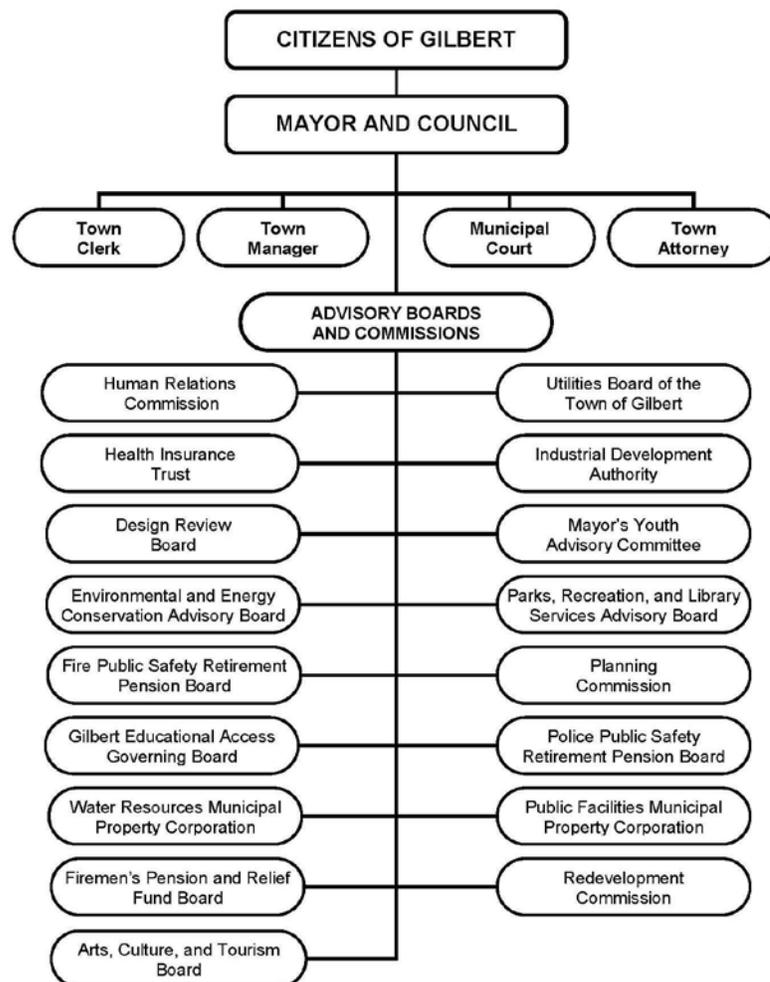
SECTION 2. BOARDS, COMMISSIONS, AND COMMITTEES

The Council establishes Boards, Commissions, and Committees that serve in different capacities to guide, advise, and/or implement policies in the community. Board, Commission, and Committee members serve at the pleasure of the Council.

Most Boards, Commissions, and Committees serve in an advisory role and make recommendations to the Council. The Planning Commission and Design Review Board make some final decisions.

In cases where a Board, Commission, or Committee has been delegated the authority to make decisions on behalf of the Council or Town, the Council or another Board may be designated to hear appeals of decisions.

ADVISORY ORGANIZATIONAL CHART



2.1 Board, Commission, and Committee Recruitment, Selection and Appointment

Notices of Board and Commission openings are placed on Government Cable Access Channel 11, on the Gilbert website, and provided to local newspapers. Citizens may also sign up on an email distribution list to receive notifications of Board and Commission openings. Applicants, including incumbents, are required to complete an application and questionnaire and submit them by the application deadline date. *Similar processes may be followed for Committees.*

A Council Subcommittee on Board & Commission Application Screening, Interview, and Selection was established. *The process followed by the Subcommittee is contained in Appendix A - Council Subcommittee on Board & Commission Application Screening, Interview, and Selection.*

2.2 Oath of Office

Individuals appointed to a Board, Commission, or Committee are required by State Law to take an Oath of Office prior to participating on the Board, Commission, or Committee.

An agenda item will be placed on the first Board, Commission, or Committee agenda following appointment by the Council. The new or reappointed member will take the Oath of Office publicly at that meeting. The Oath of Office will be administered by the Council Liaison to the Board, Commission, or Committee. In the event the Liaison is not available, the Chair, Vice Chair, or Staff Liaison may administer the Oath of Office.

A copy of an Oath of Office is available in Appendix B.

SECTION 3. ROLES & RESPONSIBILITIES

3.1 Board, Commission, or Committee Member (including Alternate Members)

A *Board, Commission, or Committee Member* shall:

- Regularly attend meetings;
- Communicate to the Staff Liaison and/or Chair when unable to attend a meeting;
- Prepare for meetings by reviewing meeting agendas, packets, and related materials prior to the meeting;
- Become educated on policies, codes, and procedures that apply to the Board, Commission, or Committee;
- Treat citizens, applicants, elected officials, other members, and staff with respect;
- Dress and behave in a professional manner at public meetings;
- Provide periodic reports to the Council through the Council Liaison, Chair (or designated member), or at periodic Joint Meetings;
- Comply with the Open Meeting Law;
- Declare conflicts of interest that may occur and submit a completed Conflict of Interest form to the Staff Liaison; and
- Resign from the Board or Commission immediately after elected to a Mayor or Council seat in accordance with the Code of Gilbert, Section 26-3(b).

3.2 Ad Hoc Member

An *Ad Hoc* member shall:

- Fulfill the responsibilities of a *Board, Commission, or Committee Member* but does not have voting rights on the Board, Commission, or Committee;
- May or may not be a Gilbert resident; and
- May serve as a subject matter expert or neutral party to the Board, Commission, and Committee.

3.3 Chairperson (or President)

The *Chairperson* shall:

- Fulfill the responsibilities of a *Board, Commission, or Committee Member*;
- Coordinate with the Staff Liaison on meeting agendas, meeting dates, and other logistical issues;
- Serve as the presiding officer and facilitate public meetings;
- Communicate meeting processes to the public and Board, Commission, or Committee members;
- Encourage discussion among Board, Commission, or Committee members and give all members an opportunity to speak, in a fair and orderly manner;
- Keep discussions and the meeting on track;
- Insure that all meeting participants are treated with respect; and
- Sign official minutes of the Board, Commission, or Committee, immediately following approval.

3.4 Vice Chair (or Vice President)

The *Vice Chair* shall:

- Fulfill the responsibilities of a *Board, Commission, or Committee Member*; and
- Assume the *duties of the Chair* during his or her absence.

3.5 Council

The *Council* shall:

- Establish Boards, Commissions, and Committees they deem appropriate to guide, advise, and/or implement policies in the community;
- Establish rules and regulations governing Boards, Commissions, and Committees;
- Ratify the By-Laws of Boards, Commissions, and Committees;
- Implement processes for recruiting, interviewing, selecting, and appointing Board, Commission, and Committee members;
- Interview, select, and appoint Board, Commission, and Committee members;
- Appoint a member of the Council to serve as a Liaison to a Board, Commission, or Committee, as deemed necessary;

- Communicate expected outcomes and/or boundaries to Boards, Commissions, and Committees;
- Schedule periodic Joint Meetings or reports from Boards, Commissions, or Committees; and
- Remove Board, Commission, and Committee members, when necessary, in accordance with the Code of Gilbert, Section 1-205.

3.6 Council Liaison

A Councilmember is appointed, if appropriate, to serve as a *Council Liaison* to a Board, Commission, or Committee.

The *Council Liaison* shall:

- Attend Board, Commission, or Committee meetings;
- Communicate Council policies and boundaries to the Board, Commission, or Committee;
- Coordinate with the Clerk and Staff Liaison to schedule joint meetings of the Council with the Board, Commission, or Committee, as needed;
- Recommend appointments to fill vacancies on Boards, Commissions, or Committees upon conclusion of the selection and interview process;
- Provide guidance to Boards, Commissions, or Committees, when appropriate;
- Encourage and support Board, Commission, or Committee members to achieve their mission within the boundaries established by Council; and
- Provide regular updates to the Council on Board, Commission, or Committee meetings, activities, and accomplishments.

3.7 Staff Liaison

The *Staff Liaison* shall:

- Provide Board, Commission, or Committee members with codes, by-laws, membership lists, or other documents needed to fulfill their duties;
- Educate and provide guidance on policies, codes, and procedures that apply to the Board, Commission, or Committee;
- Mentor the Chair and Vice Chair so they understand and perform their responsibilities;

- Provide guidance, as appropriate, to Board, Commission, or Committee members;
- Prepare, or supervise the preparation of, Board, Commission, or Committee agendas, staff reports, and related materials;
- Schedule on the next Board, Commission, or Committee agenda an item following Council appointments where new and reappointed members will publicly take an Oath of Office;
- Post, or assign staff, to post all agendas at Gilbert’s four (4) official posting locations at least *at least 24 hours before any meeting*;
- Send agenda and meeting notices for posting on the Gilbert website. *The agenda must be provided in advance so that it can be posted to the website at least 24 hours before any meeting*;
- Prepare, or assign department staff or contract workers, to record official minutes of the Board, Commission, or Committee meetings;
- Send draft minutes, or actions, for posting on the Gilbert website within three (3) working days of all meetings. *Minutes should be clearly marked “draft”*;
- Insure staff forwards the original signed copy of the official minutes to the Clerk upon approval of the Board, Commission, or Committee so minutes can be scanned, posted, and accessible on the website within two working days of approval;
- Coordinate with the Council Liaison and Clerk to schedule joint meetings and reports to the Council, as needed;
- Prepare Council Communications for Board, Commission, or Committee reports and/or recommendations to Council;
- Maintain, or supervise the maintenance of, official Town records for the Board or Commission, excluding the official minutes maintained by the Clerk;
- Communicate statutory requirements with guidance of the Attorney, when appropriate, and insure compliance with the law;
- Insure compliance with the Open Meeting Law;
- Obtain Conflict of Interest forms from Board, Commission, or Committee members who declare a Conflict of Interest and submit completed forms to the Clerk;
- Consult with the Attorney or Clerk, as appropriate, to obtain guidance related to the Open Meeting Law, Conflicts of Interest, Public Records, and other requirements;
- Monitor Board, Commission, or Committee attendance at meetings for compliance with the Code of Gilbert, Section 1-205; and

- Notify the Clerk of Board, Commission, or Committee absences which exceed acceptable standards established in the Code of Gilbert, Section 1-205.

3.8 Clerk

The Clerk, or designated Clerk's Office staff, shall:

- Contact incumbents to determine whether they wish to be considered for reappointment;
- Initiate and distribute notices for openings on Boards, Commissions, and Committees to local newspapers, the Communications Department, the Gilbert website, and government cable channel;
- Distribute and accept applications for Boards, Commissions, and Committees;
- Coordinate with the *Vice Mayor* and/or *Council Liaison*, as appropriate to facilitate recruitment, selection, appointment, and recognition of Board, Commission, and Committee members;
- Coordinate the process to rank applications by the Council in accordance with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Schedule dates and times for interviews with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Provide statutory notices to applicants regarding interviews with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Prepare and distribute application packets to the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Prepare, post, and retain official minutes for meetings of the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Prepare Council Communications for appointments, resignations, and other actions of Board, Commission, and Committee members;
- Prepare letters of appointment and non-appointment for the Mayor's signature;
- Contact the Staff Liaison following appointment of members so the Staff Liaison can schedule an Oath of Office on the next Board, Commission, or Committee agenda;
- Coordinate and schedule annual and/or other training of Board, Commission, or Committee members as directed by Council;

- Coordinate recognition processes of Board, Commission, or Committee members as directed or established by the Council;
- Provide guidance and respond to questions from the *Staff Liaison, or Board, Commission, and Committee members*, regarding requirements of the Open Meeting Law, Conflict of Interest, and Public Records;
- Respond to inquiries from the public, elected officials, and staff on Boards, Commissions, and Committees;
- Notify Board, Commission, or Committee members of removal from office in accordance with the Code of Gilbert, Section 1-205(b);
- Notify the Council of Board, Commission, or Committee members removed in accordance with the Code of Gilbert, Section 1-205(b);
- Schedule an interview before Council of Board, Commission, or Committee members that have been removed from office and are in accordance with the Code of Gilbert, Section 1-205(b) seeking reinstatement;
- Periodically monitor the website to verify that agendas and minutes of Boards, Commissions, and Committees are posted in conformance with Section 4.3 of the Board and Commission Handbook; and
- Periodically review and provide feedback to the Staff Liaison on agendas and minutes to insure documents meet the requirements of the Open Meeting Law.

SECTION 4. MEETINGS

4.1 Agendas and Meeting Packets

An agenda is prepared and posted for all meetings. Meeting packets are prepared and distributed, generally prior to a meeting, which may include staff reports and related materials to assist Board, Commission, or Committee members in preparing for the meeting.

All agendas are posted at four (4) official posting locations and on the Gilbert website in accordance with the Open Meeting Law at least 24 hours prior to the meeting.

4.2 Other Gatherings

On occasion, a quorum of a Board, Commission, or Committee may attend a conference, social event, or similar activity. *Board, Commission, and Committee members must exercise extreme caution to insure violations of the Open Meeting Law do not occur. These events are not meetings as defined by the Open Meeting Law and are not posted as a meeting.*

4.3 Official Minutes & Legal Actions

Official minutes are prepared for Board, Commission, or Committee meetings, including any Subcommittees of Boards, Commissions, or Committees. The official minutes must include the date/time/place, members present or absent, a general discussion of the matters discussed, and an accurate description of any actions taken.

*A verbatim transcript of meetings is generally not taken. Certain Boards, Commissions, or Committees may record meetings on audio, video, or similar media. If meetings are recorded for use other than to prepare minutes and are not immediately disposed of upon completion of the minutes, the audio or video, or similar media is a public record and must be maintained and disposed of in accordance with *Gilbert's Record Management Standards and Retention Schedules.**

Upon approval and execution of the official minutes, the Staff Liaison, or designee, is required to immediately submit original minutes of Boards, Commissions, and Committees to the Clerk. The Clerk retains the official minutes as a permanent record.

The Open Meeting Law requires cities and towns over 2,500 that have a website to post meeting notices and legal actions. Approved minutes must be posted to the Gilbert website. Effective September 30, 2009; draft minutes, or actions, posted to the website must be retained on the website for one year.

Gilbert adopted the following practices to comply with these requirements. These practices provide consistency between the Council and Boards, Commissions, and Committees so the public can readily access information.

- Post agendas and meeting notices to four (4) official posting locations and the Gilbert website at least twenty-four hours prior to a meeting as required by the Open Meeting Law.
- Post draft minutes to the Gilbert website within three (3) working days of a meeting. The draft minutes contain all legal actions taken. In limited cases, actions are posted in lieu of draft minutes.
- Provide signed minutes to the Clerk immediately following approval to allow for posting minutes to the Gilbert website within two (2) working days of approval.
- Maintain draft minutes, actions, and approved minutes on the Gilbert website for at least one year after posted.

4.4 Conduct

Board, Commission, or Committee members are representatives of the Town. *The following information serves as a guide to Board, Commission, or Committee members when acting as a representative of the Town:*

- Act in a professional manner at meetings when representing the Town, even when diverse ideas and opinions are presented.
- Be aware that opinions publicly expressed (to the public, press, stakeholders, etc.) by an individual member reflects only the individual's view and may not be represented as a Board, Commission, or Committee statement or position without public posting and opportunity for approval by all Board, Commission, or Committee members.
- Never use your position or information in the performance of duty as a means for making private profit or advancing the financial interest of others.
- Never discriminate unfairly by dispensing special favors or privileges to anyone, whether or not for payment.
- Never accept gifts or benefits that could be construed by reasonable persons as influencing the performance of official duties. *Any gifts accepted must be reported in accordance with Policy Statement 2012-03 Code of Ethics (Appendix D).*
- Exercise caution to avoid statements being construed as promises or binding upon the duties of office.

- Avoid negotiations entered into by the Town involving the purchase or sale to the Town of land, goods, or materials while acting in the capacity of a public official. In the event this occurs, certain guidelines must be observed. *See Section 7 Conflict of Interest.*

4.5 Parliamentary Procedure

Board, Commission, and Committee meetings are generally conducted in accordance with Roberts Rules of Order. Board, Commission, and Committee members are expected to understand basic parliamentary procedure. The following provides information on basic parliamentary procedure to serve as a guide.

4.5.1 Quorum

A quorum is the number of members needed to conduct business. In most cases, a quorum is a majority of the members. Therefore, a Board, Commission, or Committee with seven members would need four members for a quorum.

The By-Laws of a Board, Commission, or Committee may set forth the number of members that constitute a quorum.

4.5.2 Motion

There are a variety of acceptable forms in which to make a motion. The role and formality of the Board, Commission, or Committee will determine what is most appropriate. Motions are not required for discussion items but are used when making decisions and recommendations. Motions may also be used to provide direction to staff, but are not required when providing direction. Motions should be clear and concise so other Board, Commission, or Committee members understand the action upon which they are voting.

A motion requires a second to be discussed or considered by the Board, Commission, or Committee. In the event there is no second, the motion is not discussed or considered and dies for the lack of a second.

Motions are stated in a variety of ways, and are generally stated by beginning with:

- I move...
- Move for...
- Motion to...

The following examples show the same action stated in different manners:

- I move for approval of the staff report;
- I move the recommended action;
- Move for approval of the staff report;
- Move for approval (if the subject has been previously stated);
- Motion to approve the staff report, as submitted.

The complexity of the role of the Board, Commission, or Committee may also determine the formality and complexity of motions.

- Motion to recommend approval to the Council of the findings of fact and Zoning Case XXX subject to the conditions contained in the draft ordinance.
- Move to approve Case XXX with the staff recommendation and (insert additional conditions of approval).
- Move to recommend adoption of the proposed Parks and Recreation fees to Council.

After a motion is seconded, the Board, Commission, or Committee members may comment and/or discuss the proposed action.

Following discussion, the Chair calls for a vote and announces the results. Votes can be taken using electronic voting equipment, by voice, by roll call, or by a show of hands.

4.5.3 Amending a Motion

A subsidiary motion can be made to amend a motion to add, substitute, or take away from the original motion.

An amendment might be stated as:

- Move to amend the motion to delete condition xx.
- Move to amend to add a new condition (state condition).

In the event an amendment is made, the amendment is voted upon first.

If an *amendment passes*, it has the effect of changing the original motion. A vote on the original motion, as amended, follows.

If an *amendment fails*, there is no change to the original motion. A vote on the original motion is taken.

4.5.4 Reconsideration

On occasion, a Board, Commission, or Committee member may feel that an action should be reconsidered and moves to reconsider an agenda item. *A member that voted on the prevailing side must request reconsideration.* If the motion for reconsideration is approved, the Chair reopens the item.

Under Roberts Rules of Order, an item may also be considered on the next day, or in the case of a Board, Commission, or Committee, at the next meeting. Due to the requirements of the Open Meeting Law, reconsideration at the next meeting must be listed on the agenda. *A Board, Commission, or Committee member that voted on the prevailing side and is requesting reconsideration at the next meeting*

must contact the Staff Liaison so the item is included on an agenda that is posted in compliance with the Open Meeting Law.

4.6 Subcommittees & Other Committees

Subcommittees and Other Committees formed or appointed by a Board, Commission, or Committee, to make recommendations to the Board, Commission, or Committee, must comply with the Open Meeting Law. The Staff Liaison should contact the Clerk to determine whether the Open Meeting Law pertains to the Subcommittee or Other Committee. The Clerk consults with the Attorney, if needed.

SECTION 5. LAWS AND OTHER DOCUMENTS

5.1 Code of Gilbert

The Code of Gilbert sets forth local laws adopted by the Mayor and Council. Laws are adopted by Ordinance.

All Board, Commission, and Committee members are subject to the requirements found in the Code of Gilbert, Chapter 1, Article IV Boards, Commissions and Committees, Division 1 Generally. Other requirements governing specific Boards, Commissions, or Committees may be found in Article IV Board, Commissions, and Committees.

A copy of the Code of Gilbert, Chapter 1, Article IV Boards, Commissions and Committees, can be found in Appendix C.

5.3 Council Policy Statements

Council may establish policies through a Council Policy Statement. The following Council Policy Statements relate the Boards, Commissions, and Committees.

Policy Statement 2012-03 Code of Ethics

The Code of Ethics establishes standards of conduct for Gilbert's Public Officials. Topics covered in the policy address the responsibilities of public service, Open Meeting Law, Conflicts of Interest, Confidential Information, Council Relations with Other Public Bodies and Agencies, Code of Ethics Training, Procedures, and Enforcement.

Policy Statement 2012-05 Electronic Equipment and Services Policy

Certain Boards, Commissions, and Committees may use electronic equipment and services that may include email accounts, iPads, personal computers, or accounts in Dropbox or similar cloud computing. The policy sets forth what users must comply with if they are assigned these devices or services.

A complete copy of these Policy Statements can be found in Appendix D.

5.3 Other Town Codes and Documents

Local laws are also found in Codes or documents adopted for a specific purpose, such as the Land Development Code, the General Plan, the Subdivision Regulations, and similar Codes. The Staff Liaison provides the Board, Commission, or Committee members a copy of any Codes or documents needed to perform their duties.

5.4 By-Laws

Boards, Commissions, and Committees may also have By-Laws that contain requirements specific to the Board, Commission, or Committee. By-Laws may include information on meetings, quorums, membership, or other matters of procedure affecting the Board, Commission, or Committee.

The Staff Liaison to your Board, Commission, or Committee will provide By-Laws, if applicable.

5.5 State Laws

The Arizona Revised Statutes contain the laws of the State of Arizona. Gilbert is a General Law municipality, which means it does not have a Charter and its authority is set forth in the laws of the State of Arizona.

There are three laws of importance to Boards, Commissions, and Committees: the Open Meeting Law, the Conflict of Interest Law, and the Public Records Law. Detailed information on the application of these laws is explained in subsequent sections. *Annually, Board, Commission, or Committee members are required to attend training on these laws as set forth in the Code of Gilbert.*

Certain Boards, Commissions, or Committees may be subject to other statutory requirements that establish authority and processes. These include the Redevelopment Commission, Planning Commission, Industrial Development Authority, and Municipal Property Corporations. The Staff Liaison is responsible for communicating these requirements and ensuring compliance.

5.6 Other Documents

The League of Arizona Cities and Town created “*You as a Public Official*”. This publication covers a variety of topics applicable to you as a Board, Commission, or Committee member. The majority of information contained in this document pertains to Board, Commission, or Committee members, although Board, Commission, or Committee members are not subject to Annual Financial Disclosure.

A copy of “[You as a Public Official](#)” can be found in Appendix E.

SECTION 6. OPEN MEETING LAW

It is the policy of the State of Arizona that the public's business will be conducted in public. The State Legislature has adopted a law known as the "*Open Meeting Law*" applicable to public bodies and public officers. To comply with the Open Meeting Law, the Staff Liaison is responsible for preparing, or supervising the preparation of agendas; posting agendas; posting draft minutes or actions; and posting approved minutes.

Board, Commission, and Committee members must exercise caution when interacting with other Board, Commission, and Committee members. *Board, Commission, and Committee members should not congregate after meetings and discuss business of the Board, Commission, or Committee including the meeting that took place.*

The following are typical questions asked about the Open Meeting Law.

1. *What is the Open Meeting Law?*

The policy of the State is that the public's business should be conducted in public. The Open Meeting Law contains the rules that public bodies have to follow to assure that this policy is carried out.

2. *Is my Board/Commission/Committee a "public body" under the Open Meeting Law?*

Yes. All Boards, Commissions and Committees appointed by the Mayor or the Council are "public bodies" governed by the Open Meeting Law. According to the Attorney General's office, a public body also includes a committee appointed by the Manager if it is the intention that the committee will provide recommendations to the Council. On the other hand, a committee appointed by the Manager to provide advice only to the Manager would not be a "public body." If a Department Director appoints a committee to research and advise him or her, the committee is not a "public body."

3. *What is a meeting?*

Any time a quorum of the public body discusses, proposes or takes legal action related to municipal business, a meeting is being held. "Legal action" includes collective decisions, commitments or promises of the public body and is not necessarily a formal vote. A series of gatherings of less than a quorum can result in a meeting, especially if a consensus is reached. The gathering of the quorum may be held with one or more members participating by telephone or video conferencing. A meeting may also result from discussions had by e-mail if a quorum is involved and a "discussion" is taking place about municipal business. Great care should be taken in the use of e-mail to be sure you do not violate the Open Meeting Law.

4. *If my Board/Commission/Committee is going to have meeting, what do we have to do?*

The law requires that public bodies of the municipality must file a statement with the Clerk or Mayor's Office stating where public notices of their meetings will be posted and on the internet if the municipality has an internet site. The law also requires that the public body "shall give such additional public notice as reasonable and practical as to all meetings." In addition, meetings may not be held without at least 24-hours' notice to the members of the public body and to the general public. In Gilbert, notices of meetings are posted at the following locations:

- Gilbert Municipal Center, 50 East Civic Center Drive
- Heritage Annex, 119 North Gilbert Road
- Southeast Regional Library, 775 North Greenfield Road.
- Perry Branch Library, 1965 East Queen Creek Road

An agenda must include the date, time and place of the meeting. It must also include an agenda of matters to be discussed or decided at the meeting or information on how the public may obtain a copy of the agenda.

There is an exception for an "actual emergency," in which case the meeting may be held without the required 24-hour notice so long as the notice is posted within 24-hours declaring that the emergency meeting has been held. In that case, the notice must include a discussion of the specific matter consider/decided at the meeting. There are very few circumstances that qualify as "actual emergency" and unless a flood or fire is racing through the municipality that absolutely requires your Board, Commission or Committee to hold a meeting related to that flood or fire, you probably do not have an emergency that would qualify under the Statute.

5. *Can we discuss matters not on the agenda?*

No, unless there is "actual emergency" (see above).

6. *May there be a "communications from citizens" on the agenda?*

Yes, but the member of the public who is speaking is only allowed to address the public body on an issue within the jurisdiction of the public body. The public body may not discuss the matter raised by the member of the public but, at the conclusion of the open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, or may ask that a matter be put on a future agenda.

7. *May the agenda include an item permitting individual members of the Board/Commission/Committee to make a statement or report (without discussion) at the end of the meeting?*

Yes. The law does permit the public body to include on the agenda an item to “Report on Current Events” by the Chair, Board/Commission/Committee member, and Department Director [or other principal staff person in charge of the board/ commission/committee]. At that time, the individual may make a report to the public and public body. However, the public body may not discuss or take legal action on the matter unless the matter has also been listed on the agenda.

8. *Does my Board/Commission/Committee have to keep minutes of the meetings?*

Yes. Your Board/Commission/Committee must take minutes.

9. *What has to be included in minutes?*

For meetings other than executive sessions (see below), minutes must include:

- a. The date, time and place of the meeting.
- b. The members of the public body recorded as either present or absent.
- c. A general description of the matters discussed.
- d. An accurate description of all legal actions proposed, discussed or taken and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting materials to the public body and a reference to the legal action about which they made statements or presented material.

The minutes must be open to public inspection three working days after the meeting. If there is a recording, the recording can be made available and the written minutes can follow later.

10. *Do our minutes have to be posted on a website?*

Yes, for municipalities with a population of more than 2,500 persons and that have an internet site. A statement showing the legal actions taken by the public body must be posted within 3 working days following the meeting. Draft minutes meet this requirement. Approved minutes to city or town councils must be posted within 2 working days after approval.

11. *Can my Board/Commission/Committee meet in private?*

Yes, if it is for one or more of the specific purposes listed in the statute for which public bodies may meet in private. Those purposes are:

- a. Discussion of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the public

officer, appointee or employee. Generally, your Board/Commission/Committee will not have these discussions since you have no jurisdiction to appoint, promote, demote, or take other employee actions.

- b. Discussion of records exempt by law from public inspection.
- c. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
- d. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, pending or contemplated litigation or settlement discussions conducted in order to avoid or resolve litigation.
- e. Discussion with the public body's representatives regarding negotiations with employee organizations regarding salaries, salary schedules and compensation.
- f. Discussion for international or interstate negotiations or with members of a tribal council of an Indian reservation located within or adjacent to the municipality.
- g. Discussions with the public body's representatives regarding its position on the purchase, sale or lease of real property.

Most executive sessions of your Board/Commission/Committee will be for the purpose of receiving legal advice.

12. *If we have an executive session, do we have to keep minutes?*

Yes. However, minutes are kept confidential except from members of the public body that met in executive session and officers, appointees, or employees who are the subject of discussion if the executive session was held for personnel reasons.

13. *Can I use email to communicate with my fellow board members?*

Yes, but with caution. Use of email can constitute a meeting when the email proposes legal acts or when there is an exchange of facts and/or opinions if it is foreseeable that the topic may come before the board for action. For example, the Attorney General's Office cautioned that even a single email—without any responses—could violate the Open Meeting Law if the email is sent to a quorum of the public body and proposes legal action. Moreover, if a majority of the board responds to an email, it can constitute action for an illegal meeting. Be careful in responding to all and of chain emails. Use of emails in this manner can constitute a meeting which has not been properly noticed.

14. *Can I express my opinion to the news media or discuss an issue with the public if I know other board members may read or hear my comments?*

Yes. The Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public either at a venue other than a public meeting or through news or social media outlets so long as (1) the opinion or discussion is not principally directed at or directly given to another member of the public body, and (2) there is no concerted plan to engage in collective deliberation to take legal action. Additionally, the Attorney General's Office has released an opinion that a meeting does not occur when members of the public body merely hear or read a comment made by another member of the public body in the media.

15. *What happens if my Board/Commission/Committee violates the Open Meeting Law?*

The first thing that happens is that any action you took in violation of the Open Meeting Law is null and void.

The second thing that happens is that the Attorney General or County Attorney's Office may investigate a complaint alleging a violation of the Open Meeting Law and conduct an investigation. The Attorney General or County Attorney has broad powers to inspect all documents, require any person to submit a report or make a statement and issue investigative demands for production of documents. If a public body or an officer refuses, the Attorney General or County Attorney may go to court to get an order for enforcement.

Upon a finding that a public officer has violated the Open Meeting Law, a court may impose a civil penalty not to exceed \$500 for each violation against the person who violates the article or knowingly aids, agrees to aid or attempts to aid another person in violating the Open Meeting Law. If the court determines that a public officer intended to deprive the public of information, a court may remove the public officer from the office and shall assess him with all costs and attorney fees awarded to plaintiff in pursuing the action.

The municipality may not expend public monies to retain legal counsel to provide legal services to the public body or an officer unless the public body takes legal action at a public meeting to approve the expenditure.

Additional information on the Open Meeting Law is available. See [Attorney General's Arizona Agency Handbook, Chapter 7](#) and the Arizona Ombudsman's [Open Meeting Book](#).

SECTION 7. CONFLICT OF INTERESTS

At times, Board and Commission members may need to declare a conflict of interest. The following questions will assist in determining whether or not you have a conflict of interest.

1. *How do I know if I, as a member of a public body, have a conflict of interest?*

The first question you have to ask is whether, in any matter that comes before your Board, Commission or Committee, you have a “pecuniary” interest in the outcome. A pecuniary interest is any matter where you stand to gain or lose something of value from the decision.

2. *If I determine I have a pecuniary interest in a decision, then what?*

You need to determine whether your interest is a “remote interest.” A remote interest is any of the following:

- a. The interest of a non-salaried officer of a non-profit corporation.
- b. The interest of a landlord or tenant of the contracting party.
- c. The interest of an attorney of a contracting party.
- d. The interest of a member of a non-profit cooperative marketing association.
- e. The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock options, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
- f. The interest of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- g. The interest of a recipient of public services generally provided by the incorporated city or town, political subdivision or State department, commission, agencies, body or board of which who is a public officer or employee on the same terms and conditions as if he were not an officer or employee.
- h. The interest of a public school board member when the relative involved is not a dependent or a spouse.

- i. The interest of a public officer or employee or that of a relative of a public officer or employee unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative of any of the following:
 1. Another political subdivision;
 2. A public agency of another political subdivision; or
 3. A public agency except if it is the same governmental entity.
 - j. The interest of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of the trade, business, occupation or profession or class of persons.
- 3. *If I determine that my pecuniary interest does not fit into one of the above exceptions, then what?***

If your pecuniary interest does not fit one of the above exceptions, then you have a “substantial interest.” *If the interest fits into one of the above exceptions, you do not have a conflict of interest.*

- 4. *If I have a substantial interest in a decision or matter coming before my Board/Commission/Committee, what should I do?***

You must not take part in any discussion or action involving that matter. You do not have to resign from the Board/Commission/Committee. However, you must “make known” your substantial interest in the public records. The Clerk has a form for you to fill out that you will keep on file. You must disclose on that form the substantial interest that you have that resulted in the conflict of interest.

- 5. *What happens if I violate the conflict of interest laws?***

Any person affected by the decision of the public body may commence a civil suit in Superior Court for the purpose of enforcing the law. The Court may award reasonable attorneys’ fees to the prevailing party. Intentionally or knowingly violating the conflict of interest laws is a Class VI Felony. Recklessly or negligently violating the conflict of interest laws is a Class I Misdemeanor. A person found guilty might be required to forfeit his public office.

SECTION 8. PUBLIC RECORDS

The Town's records are the property of the State of Arizona. State laws require that records be maintained in accordance with the laws, standards, and requirements developed and implemented by Arizona State Library, Archives, and Public Records.

The Arizona Revised Statutes define records as books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business. Therefore, records include databases and electronic information.

The *Staff Liaison* is responsible for maintaining records of the Board or Commission.

State law governing records disclosure and protection of the public's right to know require that the municipality permit examination and/or reproduction of records.

Agenda packets and other materials provided to Boards, Commissions, and Committees by Town staff are retained by Town staff if they are a record. Board, Commission, and Committee members may dispose of the agenda after the meeting. If a Board, Commission, or Committee member keeps notes on agenda packets and retains the packets they are subject to disclosure if Gilbert receives a public records request or a subpoena.

Electronic mail (e-mail) may be used to transmit documents or may be a record in itself. *Board and Commission members must exercise extreme caution in the use of e-mail if communicating with other Board and Commission members so a meeting does not take place.* Generally, it is acceptable to disseminate information via electronic mail but no discussions should occur or there is a risk that the communication may violate the Open Meeting Law. *Board, Commission, or Committee members that use private email accounts are responsible for forwarding record emails to the Staff Liaison for retention in conformance with the law.*

Council Subcommittee on Board and Commission Application Screening, Interview, and Selection

The following is a summary of the process used by the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*.

General Information

- The subcommittee shall be comprised of the Mayor and Council.
- Three members of the subcommittee shall constitute a quorum.
- All subcommittee meetings and executive sessions shall comply with the Open Meeting Law.
- The Vice Mayor shall act as the person responsible for moving the screening, interview, and selection process forward.
- The subcommittee shall utilize the board or commission liaison, Vice Mayor, and other members to screen applications.
- The subcommittee shall make recommendations on appointments to the Mayor and Council.

Board and Commission Information

- An ideal candidate statement will be established for each board and commission by the *Staff Liaison* in collaboration with the *Council Liaison*. The statement will be provided to the clerk's office for the website.
- Application questionnaires will be reviewed and updated annually by the *Council Liaison* and *Staff Liaison*. Updated questionnaires will be provided to the Clerk's Office.
- The *Staff Liaison* will annually review and update Board and Commission Information contained on the website. The information shall include the role and responsibility of the board or commission, ideal candidate statement, and other information that may be appropriate. Updated information will be provided to the *Clerk's Office* for the website.

Recruiting

- The *Clerk's Office* is responsible for coordination of the Boards and Commissions recruiting process.
- The recruitment process will begin 90 days in advance of term expirations, whenever possible, so the recruiting process is complete prior to term expirations.
- Existing members whose terms will expire will be contacted by the *Clerk's Office* to determine if they wish to be considered for reappointment.
- The *Clerk's Office* will prepare a notice of the opening to be placed on Gilbert's website; the notice will also be provided to the Public Information Office and local newspapers.
- On-line applications will be accepted on Gilbert's website; a paper application will be available at the *Clerk's Office* for those applicants that do not have web access.
- The *Clerk's Office* will notify existing members whose terms are expiring that wish to be considered for reappointment and residents that have requested to be notified of board or commission openings that applications are being accepted. Notification may be made by e-mail, letter, or phone.

- ❑ Applications will generally be accepted for a two week period; a longer period may be used if necessary. No applications will be accepted after the closing date unless the recruitment is re-opened.
- ❑ Following the application closing date, the *Clerk's Office* shall notify applicants to confirm their application was received and that they will be notified of the status of their application as the process moves forward.

Screening

- ❑ Following the closing date, the *Clerk's Office* shall assemble and distribute application packets containing copies of all applications and a ranking sheet(s).
- ❑ The *entire Council* will rank applications.
- ❑ The Council Liaison will contact the *Staff Liaison* and chair to determine if there is a particular type of person, expertise, or skill set needed on the board or commission.
- ❑ *Councilmembers* may reach out and call applicants if they have questions.
- ❑ Designated seats will be recommended for appointment by the represented entity. Appointments will be placed on a Council Agenda and ratified by the *Council*.
- ❑ Following the established due date for rankings, the *Clerk's Office* will record rankings to determine the overall ranking of applicants.

Council Review

- ❑ Prior to a Regular or Special Council Meeting, the *Clerk's Office* will schedule an Executive Session for the subcommittee to review applications and rankings. Executive Sessions shall be scheduled monthly, quarterly, or as appropriate.
- ❑ A minimum of five (5) working days prior to the Executive Session, the *Clerk's Office* notifies all applicants that they may request discussions on their application occur in public meeting, prepares an agenda for the subcommittee meeting (which includes an executive session for the purpose of discussing applications and rankings), and posts the agenda.
- ❑ If an *applicant* desires to have discussions on their application in public meeting, the applicant must notify the Clerk's Office prior to the deadline indicated in the notice. *Clerk's Office* amends the subcommittee agenda and re-posts subcommittee agenda in accordance with Open Meeting Law.
- ❑ The *Clerk's Office* posts an agenda for the subcommittee meeting.
- ❑ The number of open positions and incumbents will be provided to the subcommittee.
- ❑ *Vice Mayor, Board/Commission Liaison, or first available member* unlocks at least one of the front doors to the Municipal Center, if necessary, prior to the start of the Executive Session and locks the doors following adjournment of the Executive Session. *A key will be maintained in the Mayor and Council Office.*
- ❑ *Subcommittee* meets in executive session to discuss applications and rankings and identifies applicants to be recommended to the Mayor and Council, or requests that interviews be scheduled.
- ❑ *Vice Mayor* records information for minutes and provides to the Clerk's Office.
- ❑ *Clerk's Office* prepares and processes meeting minutes.
- ❑ If Council requests that interviews be scheduled:
 - 1) A minimum of five (5) working days prior to interviews, the *Clerk's Office* notifies all applicants selected for an interview that they may request their interview occur in public

- meeting, prepares an agenda for the subcommittee meeting which includes an executive session for the purpose of conducting interviews, and posts the agenda; and
- 2) The *Clerk's Office* prepares standard letters notifying applicants not selected for an interview. This letter mailed immediately after applicants to be interviewed have been identified.

Selection

- a) *Clerk's Office* prepares Council Communication for appointments.
- b) *Clerk's Office* prepares standard letters notifying applicants that were not selected.
- c) *Clerk's Office* prepares standard letters notifying applicants of appointment and notifies the Staff Liaison that the member should be scheduled to take an Oath of Office at a meeting of the board or commission.



OATH OF OFFICE

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution and Laws of the State of Arizona, and the ordinances of the Town of Gilbert, Maricopa County, Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of a _____ member, in Gilbert, Arizona according to the best of my ability, so help me God (or so I do affirm).

Name

Date

ARS 38-231G

ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. - GENERALLY⁵¹

Footnotes:

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Editor's note—Ord. No. 2297, adopted Aug. 5, 2010, renumbered the former §§ 1-202—1-208 of div. 1 as §§ 1-203—1-209 and added a new § 1-202 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 1-201. - Appointment.

The council may appoint such standing and special committees, commissions and boards as it deems necessary. Members of town committees, commissions and boards serve at the pleasure of the council.

(Code 1984, § 4-1-1; Ord. No. 1400, § I, 6-11-02)

Sec. 1-202. - Membership; terms of office.

- (a) Every effort will be made to recruit as diverse an applicant pool as possible to provide candidates which reflect the racial, cultural, ethnic and demographic profile of the community.
- (b) Immediately prior to assumption of the duties of office, each member of a board, commission or committee shall, in public, take and subscribe to the oath of office.
- (c) Annually, all members of boards, commissions and committees must attend open meeting law and conflict of interest training provided by staff. New members must attend open meeting law and conflict of interest training within the first 180 days of appointment or the next scheduled training session, whichever is sooner.
- (d) Members shall be residents of the town unless otherwise provided in this division.
- (e) Members shall serve on no more than one board, commission or committee at one time.
- (f) All terms shall be three years in length, unless otherwise provided by law. Members shall continue to serve until their successors are duly appointed.
- (g) Members of committees, commissions and boards shall not have term limits.
- (h) Any subcommittees formed by a committee, commission or board shall be members of the committee, commission or board. Subcommittees may solicit advice and assistance from outside sources, but those advisors have no official status with the subcommittee.

(Ord. No. 2297, 8-5-10; Ord. No. 2407, § I, 12-6-12)

Sec. 1-203. - Powers and duties.

The powers and duties of such committees, commissions and boards may be prescribed by ordinance, motion or resolution of the council.

(Code 1984, § 4-1-2; Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10; Ord. No. 2407, § I, 12-6-12)

Sec. 1-204. - Meetings.

- (a) Following creation of a committee, commission or board, such committee, commission or board shall meet within 30 days to organize itself by electing a chairman and vice-chairman from its members.
- (b) Such committee, commission or board shall generally meet monthly, unless otherwise indicated or there is no business to come before the committee, commission or board, and shall make such report to the council as may be required. Special meetings may be held at any time upon the call of the chairman or upon the call of the clerk at the request of a majority of the members of such committee, commission or board.
- (c) All meetings, including subcommittee meetings, shall comply with the open meeting laws of the state.

(Code 1984, § 4-1-3; Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10; [Ord. No. 2539, § 1](#), 6-4-15)

State Law reference— Open meeting requirements, A.R.S. § 38-431 et seq.

Sec. 1-205. - Vacancies; removal from office.

- (a) In the event of death, resignation or removal of any member of a committee, commission or board, the council shall appoint a new member to serve for the unexpired portion of the term vacated. Alternate members may be considered for vacancies, subject to recommendation from the council liaison.
- (b) Except for members of the slum clearance and redevelopment commission and except for any absence occasioned by active duty in the United States Armed Forces or serious illness as determined by the council liaison of the body, if any member, including designated seats or ad hoc members is absent for three consecutive meetings or absent from 50 percent or more meetings during any six-month period, or fails to attend required training, his office shall be automatically vacated. Attendance at meetings must be reported to the town clerk within 24 hours of the meeting. The town clerk shall notify the member in writing by certified, return receipt mail that the office has been automatically vacated. The member may submit an application for reinstatement to the clerk within ten days of the date of receipt of the notice or ten days after the post mark of the letter, whichever is earlier. The application for reinstatement shall set forth the member's grounds for reinstatement. The council shall either reinstate the member to the office or shall appoint a new member to fill the vacancy. Members removed for attendance or failure to attend required training shall not be reappointed without an interview before the council.
- (c) Any member of a committee, commission or board may be removed, with or without cause, by the favorable vote of a majority of all members of the council, and the action of the council shall be final.
- (d) Before a final vote is taken by the council, the member of the committee, commission or board whose removal is under consideration shall receive five days' written notice of any consideration by the council in executive session if such request is received by the clerk not later than 48 hours before the scheduled council meeting.

(Code 1984, § 4-1-4; Ord. No. 1393, § I, 4-30-02; Ord. No. 1400, § I, 6-11-02; Ord. No. 1555, § I, 4-27-04; Ord. No. 1598, § I, 10-5-04; Ord. No. 1613, § I, 12-14-04; Ord. No. 1672, § I, 7-19-05; Ord. No. 2297, 8-5-10)

Sec. 1-206. - Rules and regulations.

Committees, commissions and boards shall establish rules and regulations to govern its affairs and such rules and regulations shall provide for:

- (a) The selection of a chairman and vice-chairman.
- (b) Chairs and vice chairs of committees, commissions and boards may only serve two consecutive one-year terms.
- (c) The manner of adoption, amendment and repeal of rules and regulations.
- (d) An annual planning meeting shall be held by committees, commissions and boards to discuss goals and objectives for the year and shall not include regular business.
- (e) Any and all other provisions necessary or desirable to aid the committee, commission or board in conducting its affairs which are not contrary to the provisions of this chapter and any other ordinances or resolutions of the town or laws of the state.

(Code 1984, § 4-1-5; Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10)

Sec. 1-207. - Advisory nature of recommendations.

Except as otherwise provided by ordinance or statute, the recommendations prepared by a committee, commission or board shall be advisory only and shall not be binding upon the final actions of the council.

(Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10; Ord. No. 2407, § I, 12-6-12)

Sec. 1-208. - Compensation; expenses.

Members of committees, commissions and boards shall serve without compensation. No expenses will be reimbursed unless prior authorization to incur such expense is received in writing from the town.

(Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10)

Sec. 1-209. - Application.

The provisions of sections 1-201 through 1-207 shall apply to all committees, commissions and boards appointed by the council, whether or not specifically set forth in this article.

(Ord. No. 1400, § I, 6-11-02; Ord. No. 2297, 8-5-10)

Secs. 1-210—1-230. - Reserved.

DIVISION 2. - RESERVED^[6]

Footnotes:

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Editor's note—Ord. No. 2297, adopted Aug. 5, 2010, repealed div. 2, §§ 1-231—1-234, which pertained to the economic development advisory board and derived from Ord. No. 1400, § I, adopted June 11, 2002; and Ord. No. 1556, § I, adopted April 27, 2004.

Secs. 1-231—1-250. - Reserved.

DIVISION 3. - SLUM CLEARANCE AND REDEVELOPMENT COMMISSION^[7]

Footnotes:

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Cross reference— Environment, ch. 30.

Sec. 1-251. - Creation; composition.

There is created a redevelopment commission composed of five members appointed by the mayor, as set forth in section 5.109 of the Town of Gilbert Zoning Code.

(Ord. No. 1400, § I, 6-11-02; Ord. No. 1624, § I, 2-1-05)

Sec. 1-252. - Terms of office; residence.

The term of each member of the commission shall be as set forth in section 5.109 of the Town of Gilbert Zoning Code. Members shall reside within the town and meet all requirements of A.R.S. tit. 36, ch. 12, art. 3 for membership on the commission and of section 5.109 of the Town of Gilbert Zoning Code.

(Ord. No. 1400, § I, 6-11-02; Ord. No. 1624, § I, 2-1-05)

Sec. 1-253. - Powers and duties.

The commission shall have all the powers conferred upon municipalities by the provisions of A.R.S. tit. 36, ch. 12, art. 3, and the powers and duties set forth in section 5.109 of the Town of Gilbert Zoning Code.

(Ord. No. 1400, § I, 6-11-02;; Ord. No. 1624, § I, 2-1-0)

Sec. 1-254. - Removal from office.

A commissioner may be removed from office by the mayor as set forth in section 5.109 of the Town of Gilbert Zoning Code.

(Ord. No. 1555, § I, 4-27-04; Ord. No. 1624, § I, 2-1-05)

Secs. 1-255—1-270. - Reserved.

DIVISION 4. - RESERVED^[8]

Footnotes:

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Editor's note—Ord. No. 2252, § I, adopted Sept. 15, 2009, repealed div. 4, §§ 1-271—1-273, which pertained to the library advisory board and derived from §§ 4-2-1—4-2-3 of the 1984 Code, and Ord. No. 1400, § I, adopted June 11, 2002.

Secs. 1-271—1-285. - Reserved.

DIVISION 5. - PARK, RECREATION AND LIBRARY SERVICE ADVISORY BOARD^[9]

Footnotes:

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Editor's note—Ord. No. 2252, § I, adopted Sept. 15, 2009, changed the title of div. 5 from "Parks and Recreation Advisory Board" to "Park, Recreation and Library Service Advisory Board."

Cross reference— Parks and recreation department, § 2-266 et seq.; parks and recreation, ch. 46.

Sec. 1-286. - Creation.

There is created a park, recreation and library service advisory board composed of nine members appointed by council.

(Code 1984, § 4-3-1; Ord. No. 1400, § I, 6-11-02; Ord. No. 2252, § I, 9-15-09; Ord. No. 2366, § I, 5-3-12)

Sec. 1-287. - Membership; terms of office.

The term of each member of the parks, recreation and library service advisory board shall be for a period of three years or until their successors are duly appointed. Members shall serve staggered terms whereby no more than three members' terms expire in any one year.

(Code 1984, § 4-3-2; Ord. No. 1400, § I, 6-11-02; Ord. No. 2252, § I, 9-15-09; Ord. No. 2297, 8-5-10)

Sec. 1-288. - Powers and duties.

(a) The board shall have the following powers and duties:

- (1) Keep minutes as required by state law and submit copies of such minutes to the council for information.
 - (2) Advise the council on offers to the town of real and personal property to be used for parks, recreation and library purposes.
 - (3) Advise the council in the purchase, sale, lease or other method of acquiring or disposing of lands, structures and facilities for use as parks, recreation and library facilities.
 - (4) Advise the council and manager in the operation, use, care and maintenance of areas owned, leased or otherwise acquired by the town for use as parks, recreation or library facilities.
 - (5) Assist and advise the planning commission on the planning, acquisition and disposition of park lands and recreation areas owned, leased or otherwise acquired by the town and designated in the general land use plan.
 - (6) Receive, accept and acquire, subject to approval of the council, by gift, bequest or devise, real and personal property of every kind and description in the name of the town for park, recreation and library program and service purposes subject to the terms of the gift.
 - (7) Advise the council on regulations for the use of town lakes by the public, including regulations governing fishing at town fishing lakes.
 - (8) Receive public input regarding the providing of library services and programs for the community.
- (b) The chairman shall consult with the parks and recreation director and staff in the preparation of the agenda.

(Code 1984, § 4-3-3; Ord. No. 1399, § I, 6-11-02; Ord. No. 1400, § I, 6-11-02; Ord. No. 2252, § I, 9-15-09)

Secs. 1-289—1-305. - Reserved.

DIVISION 6. - PLANNING AND ZONING COMMISSION^[10]

Footnotes:

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Cross reference— Planning and zoning department, § 2-211 et seq.; planning, ch. 50.

Sec. 1-306. - Creation.

There is created a planning commission composed of seven regular members and one alternate member appointed by the council.

(Ord. No. 1214, § I, 10-26-99; Ord. No. 1400, § I, 6-11-02; Ord. No. 1624, § I, 2-1-05)

Sec. 1-307. - Membership; alternate commission member; terms of office.

The term of each regular member of the planning commission and of the alternate commission member shall be as set forth in section 5.103(a) of the Town of Gilbert Zoning Code.

(Code 1984, §§ 4-4-1(A), 4-4-2; Ord. No. 1214, § I, 10-26-99; Ord. No. 1400, § I, 6-11-02; Ord. No. 1624, § I, 2-1-05)

Sec. 1-308. - Powers and duties.

The planning commission shall have those powers necessary to fulfill its planning and advisory functions as provided for in section 5.103 of the Town of Gilbert Zoning Code.

(Code 1984, § 4-4-3; Ord. No. 1400, § I, 6-11-02; Ord. No. 1511, § I.2., 9-16-03; Ord. No. 1624, § I, 2-1-05)

Sec. 1-309. - Reserved.

Editor's note— Ord. No. 1624, § X, adopted Feb. 1, 2005, repealed § 1-309, which pertained to advisory nature of recommendations and derived from Code 1984, § 4-4-3; Ord. No. 1400, § I, adopted June 11, 2002; Ord. No. 1511, § 1.2, adopted Sept. 16, 2003.

DIVISION 7. - RESERVED^[11]

Footnotes:

--- (11) ---

Editor's note—Ord. No. 2407, § I, adopted Dec. 6, 2012, repealed Div. 7, §§ 1-310—1-312, which pertained to the special events commission and derived from Ord. No. 2552, § I, adopted Sept. 15, 2009.

Secs. 1-310—1-319. - Reserved.

DIVISION 8. - HUMAN RELATIONS COMMISSION^[12]

Footnotes:

--- (12) ---

Editor's note—Ord. No. 2409, § I, adopted Dec. 6, 2012, repealed Div. 8 and enacted a new division as set out herein. The former Div. 8, §§ 1-320—1-322, pertained to the human relations, culture and arts promotion commission and derived from Ord. No. 2154, § I, adopted May 13, 2008; and Ord. No. 2297, adopted Aug. 5, 2010.

Sec. 1-320. - Creation.

Human relations are the ways we interrelate, by respecting one another, valuing strengths and differences. The council hereby establishes the human relations commission to advise the council on these values. The commission shall meet on an as needed basis.

(Ord. No. 2409, § I, 12-6-12; [Ord. No. 2539, § 1](#), 6-4-15)

Sec. 1-321. - Membership.

The commission shall consist of five members and one alternate member appointed by the council. Terms shall be for three years, with staggered terms so no more than one-third of the membership shall expire in one year. The council may appoint nonvoting ad hoc members who are not residents of Gilbert.

(Ord. No. 2409, § I, 12-6-12; [Ord. No. 2539, § 1](#), 6-4-15)

Sec. 1-322. - Powers and duties.

The commission shall have the following powers and duties:

- (1) Serve in an advisory role to the council on human relations and diversity-related issues;
- (2) Serve as a resource and an advocate on behalf of the community on human relations and cultural diversity issues;
- (3) Review, suggest and champion policies, programs, services, and events, which affect human relations and cultural diversity; by consciously and consistently seeking to serve all residents;
- (4) Build purposeful relationships with residents, the outlying community, council, town leadership and a wide range of local, state, national and international groups, agencies and organizations to respect diversity and promote unity in the town;
- (5) Communicate accurate and respectful information in order to educate the community of the town's rich cultural heritage and diversity;
- (6) Provide support/vision to the staff to promote the cultural initiatives and events as identified by the commission and approved by the council;
- (7) Identify opportunities to increase the awareness of cultural diversity between citizens by establishing ongoing dialogue and interaction to promote respect for diversity among all citizens within the town;
- (8) Identify and collaborate with groups and organizations that can provide cultural activities and enrichment to the town;
- (9) Respond to community human relations and cultural diversity issues in a timely manner and with sensitivity and compassion;
- (10) Remain informed, open and responsive to opportunities that promote inclusion, equality, and unity within the town's strategic plan through council, town leadership and other commissions;
- (11) Encourage private funding for human relations efforts; and
- (12) Perform other duties as may be directed by the council from time to time.

(Ord. No. 2409, § I, 12-6-12)

Secs. 1-323—1-325. - Reserved.

DIVISION 9. - ENVIRONMENTAL AND ENERGY CONSERVATION ADVISORY BOARD^{[131](#)}

Footnotes:

--- (13) ---

Editor's note—Prior to the reenactment of Div. 9 by Ord. No. 2320, Ord. No. 2154, § I, adopted May 13, 2008, repealed Div. 9, §§ 1-326—1-328, which pertained to human relations commission and derived from Ord. No. 1341, § I, adopted May 15, 2001; Ord. No. 1361, § I, adopted Aug. 21, 2001; Ord. No. 1376, § I, adopted Nov. 27, 2001; Ord. No. 1390, § I, adopted April 16, 2002; Ord. No. 1400, § I, adopted June 11, 2002; Ord. No. 1438, § I, adopted Feb. 29, 2002; Ord. No. 1449, § I, adopted Jan. 7, 2003.

Sec. 1-326. - Creation and purpose.

There is created an environmental and energy conservation advisory board composed nine regular members and one alternate member appointed by council.

The environmental and energy conservation advisory board shall recommend to the council best practices that encourage conservation and environmental sustainability. The board shall strive to make Gilbert an environmentally sustainable model community through strong citizen involvement and leadership. The board shall meet on an as needed basis.

(Ord. No. 2320, § I, 2-10-11; [Ord. No. 2539, § 1](#), 6-4-15)

Sec. 1-327. - Membership; alternate board member; terms of office.

The term of each regular member of the environmental and energy conservation advisory board shall be for a period of three years or until their successors are duly appointed. Members shall serve staggered terms whereby no more than three members' terms expire in any one year. The alternate member shall serve a one-year term.

(Ord. No. 2320, § I, 2-10-11)

Sec. 1-328. - Power and duties.

The environmental and energy conservation advisory board shall have the following powers and duties to help ensure and sustain community livability through development of projects, policies and programs that may assist in the implementation of the policies and goals of the Gilbert General Plan:

- (1) Work to enhance public information and education programs that encourage conservation. Host or partner with others, including homeowner's associations, on events to encourage environmental awareness.
- (2) Conduct public meetings to solicit additional information regarding Gilbert's programs and services to protect, restore, and enhance the natural and urban environment. Provide community members who are interested in "green" the opportunity to share ideas, concerns, and projects.
- (3) As assigned by council, assist in identifying the environmental effects of proposed actions or regulations and suggest ways to minimize adverse impacts.
- (4) As directed by council or staff, review and provide recommendations regarding environmental projects that may be brought to the town by various suppliers.

- (5) Review and recommend to the council and/or staff, best practices that encourage energy and environmental conservation in the town's business operations.
- (6) Serve as a resource to council on matters dealing with energy conservation and/or the environment.
- (7) Advise the council on proposed new ordinances or town policies that concern energy and/or environmental subjects as referred by council or staff.

(Ord. No. 2320, § I, 2-10-11)

Secs. 1-329, 1-330. - Reserved.

DIVISION 10. - ARTS AND CULTURE BOARD^[14]

Footnotes:

--- (14) ---

Editor's note— [Ord. No. 2539, § 1](#), adopted June 4, 2015, amended the title of Div. 10 to read as set out herein. The former Div. 10 was titled "Arts, Culture, and Tourism Board."

Sec. 1-331. - Creation.

Culture is a people's unique way of life; art is the language of our human spirit and our cultural experience. The council hereby establishes the arts and culture board to advise the council on connecting these values.

(Ord. No. 2409, § I, 12-6-12; [Ord. No. 2539, § 1](#), 6-4-15)

Sec. 1-332. - Membership.

The board shall consist of seven members and one alternate member appointed by the council. Terms shall be for three years, with staggered terms so no more than one-third of the membership shall expire in one year. The council may appoint non-voting ad hoc members who are not residents of Gilbert.

(Ord. No. 2409, § I, 12-6-12)

Sec. 1-333. - Powers and duties.

The arts and culture board shall have the following powers and duties:

- (1) Serve in an advisory role to the council on arts and culture issues; advise the council on any development of an arts vision for the community;
- (2) Serve as an advisor and advocate on projects, opportunities and events to celebrate and encourage appreciation for arts and culture within the community;
- (3) Review, suggest and champion policies and programs which affect arts and culture;

- (4) Increase awareness and education of the town's rich cultural heritage through arts and other forms of expression, while building relationships with other agencies and organizations to promote the town's unique identity;
- (5) Encourage development of private-nonprofit funding for the arts;
- (6) Advise the council on awarding grants or other funding to local organizations or others providing art, music, theatre or entertainment for the public;
- (7) Work with businesses to develop ways to incorporate public art and cultural expression in commercial enterprises;
- (8) Partner with community members, organizations, and stakeholders to increase cultural diversity, awareness and participation in cultural activities, public art, and unique visitor experiences in town sponsored special events;
- (9) Identify and collaborate with groups and organizations that can provide art and cultural activities and enrichment to Gilbert;
- (10) Review for council approval, gifts, bequest or devises, real and personal property of every kind and description accepted by the Town of Gilbert for arts purposes subject to terms of the gift;
- (11) Perform other duties from time to time as may be directed by the council.

(Ord. No. 2409, § I, 12-6-12; [Ord. No. 2539, § 1](#), 6-4-15)

Secs. 1-334, 1-335. - Reserved.

POLICY STATEMENT NO. 2012-03

SUBJECT: Code of Ethics

DATE: August 2, 2012

P O L I C Y S T A T E M E N T

SUBJECT: Code of Ethics for Members of the Town Council and Boards, Commissions and Committees

PURPOSE AND ETHICS STATEMENT

The Town of Gilbert is a clean, safe and vibrant community that values trust, honesty, personal responsibility, professionalism, service and accountability. Members of the Town Council and its boards, commissions and committees (“Public Officials”) have an obligation to the residents of Gilbert, its customers and its partners to uphold the highest standard of ethics.

The purpose of this Code of Ethics is to establish standards of conduct for Gilbert’s Public Officials in order to maintain public confidence in the integrity of Gilbert’s Public Officials and to instill public trust through the actions, words and deeds of Gilbert’s Public Officials. The requirements of this Code of Ethics are in addition to and are intended to complement the requirements of State law governing conduct of Public Officials.

POLICY

1. ***Responsibilities of Public Service.*** Recognizing the special responsibilities of serving Gilbert and its citizens and customers, Public Officials shall maintain the highest standards of integrity and honesty and shall treat all members of the public and fellow colleagues with respect, courtesy, concern and responsiveness.
 - 1.1 Fairness and Respect. All issues and citizens shall be handled with fairness, impartiality and respect. Public Officials 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, by having an open mind on issues presented, and by being willing to listen to different points of view.
 - 1.2 Meeting Attendance. It is the responsibility of Councilmembers to attend Council meetings and the responsibility of other Public Officials to attend meetings of their respective board, commission or committee to which they have been appointed in order to fairly conduct the business of Gilbert. It is also the responsibility of Public Officials who have been appointed as voting members representing Gilbert on other boards, commissions or committees to attend meetings of those boards, commissions or

committees. Absence from meetings should be avoided if at all reasonably possible.

- 1.3 Abstaining from Voting. A Public Official should not abstain from voting on a matter before his or her Public Body unless he or she has a conflict of interest or believes he or she may have a conflict of interest or a personal interest as set forth in Paragraph 3.4.
2. **Open Meeting Law.** The intent of the open meeting law is to assure that government is transparent and that the public's business is conducted in public.
 - 2.1 Compliance with Open Meeting Law. Public Officials shall comply with the open meeting law of the State of Arizona and shall not attempt to circumvent the requirements of the open meeting law.
 - 2.2 Polling. Practices such as polling individual members to reach a decision outside a public meeting is prohibited.
 - 2.3 Serial Meetings. A discussion among less than a quorum may lead to a violation of the open meeting law if eventually a quorum is involved in the discussion. This is a violation of the open meeting law and is prohibited. For example, if three members of the Council discuss a matter that is before the Council or may come before the Council for discussion or action, and one of those members discusses the matter with another member of the Council, a serial meeting has been held without notice and agenda required by the open meeting law. Serial meetings may occur through telephone conversations, written correspondence, e-mail or other means of communications about a matter of Town business.
 - 2.4 Use of Staff or Others. Use of Gilbert's staff or others to promote discussion among other members of the Public Body to circumvent the purposes of the open meeting law is prohibited.
 - 2.5 Open Meeting Law Violations. Notwithstanding the reporting process set forth in paragraph 7.4, reports of violations of the open meeting law may be made directly to the Attorney General's office or the County Attorney's office.
 3. **Conflicts of Interest.** The purpose of the conflict of interest laws is to prevent self-dealing by Public Officials and to remove or limit any improper influence which might bear on a Public Official's decision. A conflict of interest occurs when (i) a Public Official or a relative of the Public Official has a pecuniary interest in a matter that may come before the Public Body during the Public Official's term of office on which the Public Official sits and that interest is not a remote interest as defined in ARS Section 38-502(10), or (ii) or when the Public Official has an interest that results in the Public Official not being able to act

impartially on a matter before the Public Body. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

- 3.1 Compliance with Conflict of Interest Laws. Public Officials shall comply with the conflict of interest laws of Arizona. If a Public Official is not sure he or she has a conflict of interest on a matter before the Public Body of which the Public Official is a member, the Town Attorney should be contacted. Requests related to conflicts of interest are confidential; however, official opinions of the Town Attorney are required by law to be a public record.
 - 3.2 Disclosure of Conflict of Interest. If a Public Official has a conflict of interest, he or she shall disclose that fact as soon as possible by filing a statement with the Town Clerk setting forth the nature of the conflict of interest. The Public Official shall not participate in any manner as a Public Official in the matter.
 - 3.3 Loyalty. Public Officials have an obligation to put the interest of Gilbert over personal considerations and to make the public's interest their primary concern.
 - 3.4 Personal Interests. Occasionally a Public Official may find that he or she has a personal interest in a matter, even though a conflict of interest would not exist under the conflict of interest laws. Public Officials are encouraged to adhere to strongly held ethical values which are exercised in good faith and to refrain from discussing or voting on a matter if he or she believes the personal interest precludes making a fair and impartial decision.
 - 3.5 Gifts. Public Officials shall disclose in writing to the Town Clerk any (i) gift, benefit or favor received with a value in excess of \$50.00 or (ii) any gifts, benefits or favors with a combined value in excess of \$50.00 within a six month period, from a person with a financial interest in business with the Town or in a matter which may come before the Public Body. The written disclosure shall be made within two (2) business days of receipt of the gift, benefit or favor or multiple gifts, benefits or favors totalling \$50.00 in value within a six month period. If the gift is donated to Gilbert or a bona fide charity, it does not have to be disclosed; provided however, that the gift is donated immediately upon receipt.
4. ***Confidential Information.*** Gilbert is committed to maintaining an open and accessible government intended to engender trust and confidence from the public, while at the same time protecting confidential information as required or permitted by law.

- 4.1 Disclosure of Confidential Information. Public Officials shall not disclose confidential, privileged or protected information, unless authorized by the majority vote of a quorum of the Council or is required by law to do so.
 - 4.2 Public Officials shall not use confidential, privileged or protected information to advance the financial or other private interest of himself or herself or others.
5. ***Town Council Relations with other Public Bodies and Agencies.*** The Town Council may attend meetings of other Public Bodies of Gilbert or other governmental agencies. Individual Councilmembers shall accurately describe the positions of Gilbert to such Public Bodies and governmental agencies.
6. ***Code of Ethics Training.*** It is important that training be made available to Public Officials in order that the purposes of this Code of Ethics may be successfully implemented.
 - 6.1 Training. Public Officials shall attend at least one training session per term regarding the regarding this policy.
7. ***Procedures.*** It is important that procedures for reporting violations of this Code of Ethics be clearly understood and followed.
 - 7.1 Questions. Questions about this Code of Ethics, a conflict of interest, or other ethical problem should be presented to the Town Attorney's office. If time permits, requests should be in writing to the Town Attorney. If the ethical issue arises during a meeting, rather than risk an inadvertent violation of the law, the safest course of action is simply to declare that a conflict may exist that prevents the Public Official from participating.
 - 7.2 Obligation to Report Violations. Public Officials have a duty to report if another Public Official is violating laws or this Code of Ethics.
 - 7.3 Interference with Duty to Disclose Violations. Public 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 improper activity.
 - 7.4 Reporting Process. Reports of alleged violations of this Code of Ethics shall be made to the Town Clerk, whether such report is by a member of the public, an employee or a Public Official. Upon receipt of an alleged violation, the Town Clerk shall forward a copy to the members of the Public Body and to the Town Attorney. The Town Attorney shall either prepare a recommendation to the Public Body or request an independent investigation. Recommendations of the Town Attorney or the independent

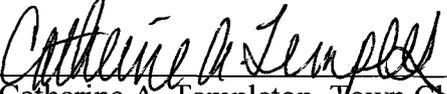
investigator shall be filed with the Town Clerk. The Town Clerk may place the matter on a Council agenda for action by the Council.

8. **Enforcement.** The Council intends that violations of this Code of Ethics be treated fairly and expeditiously.
- 8.1 **Council Action.** The Council shall review the report and the recommendation at a regular or special Council meeting. The report and the recommendation shall be a public record. If the Council determines that a Code of Ethics violation has occurred, the Council may impose penalties in accordance with Paragraph 8.2.
- 8.2 **Penalties.** It is the intent of the Council to educate, and where necessary, discipline Public Officials who violate this Code of Ethics. In addition to other penalties provided by law, the members of a Public Body may vote to censure another member who violates this Code of Ethics, provided that (i) the member who may be censured shall not vote on the matter but may explain his or her actions, and (ii) censure shall require a vote of five (5) members of the Public body. This paragraph does not prevent informal resolution of minor infractions, such as immediate corrective action of the alleged misconduct.



John W. Lewis, Mayor

ATTEST:



Catherine A. Templeton, Town Clerk

POLICY STATEMENT NO. 2012-05

SUBJECT: Electronic Equipment and Services Policy

DATE: August 2, 2012

P O L I C Y S T A T E M E N T

SUBJECT: Electronic Equipment and Services Policy for Elected and Appointed Officials and Members of Boards, Commissions and Committees
--

WHEREAS, the Town of Gilbert ("Town") provides electronic equipment and services to elected and appointed officials and members of Town boards, commissions and committees ("Users") for the purpose of performing Town work efficiently and effectively; and

WHEREAS, use of electronic equipment and services will assist "Users" in the efficient performance of their public duties and thereby improve service to the public; and

WHEREAS, the Town Council desires to outline procedures which set forth the conditions for use of electronic equipment and services by Users.

NOW, THEREFORE, the following policy is hereby established:

1. Each User shall comply with this policy when using electronic equipment and services provided to such User.
2. Each User shall use a Town issued email account when electronic equipment or services require the creation of user accounts (iTunes accounts, Drop Box accounts, etc.) that will be used to send official Town documents, including without limitation Town Council agendas, staff reports, and the like.
3. Electronic equipment and services provided by the Town are tools for conducting Town business. The use of such tools will be solely for Town related purposes, such as, to review Council, Board and Commission agenda materials, research relevant topics, obtain useful information for Town related business, and conduct business communications as appropriate. All of the Town's computer systems, including electronic equipment and services provided to Users, are public property. All documents, files, and email messages are subject to the Arizona Public Records Law, and are considered the property of the Town of Gilbert. Users shall comply with Town procedures on preservation and retention of public records when using Town issued electronic equipment and services.
4. Users shall comply with the copyrights, software license provisions, and property rights of the Town. All existing Town policies will continue to apply to use of the Internet and to use of E-mail, including but not limited to those that deal with misuse of Town resources, sexual harassment, information and data security, and confidentiality.
5. Electronic equipment and services activity will be traceable to the Town of Gilbert and will impact the reputation of the Town. Users shall refrain from making any false or defamatory statements in any Internet forum and from committing any other acts which could expose the

Town to liability. Users shall not download files from sources which may be untrustworthy nor shall Users open and read files attached to E-mail transmissions unless they originate from a trustworthy source. Downloaded files and attachments may contain viruses or hostile applications that could damage the Town's systems. Users will be held accountable for any breaches of security caused by files obtained for non-business purposes.

6. There is no expectation of privacy with respect to the use of electronic equipment and services. The Town reserves the right to inspect all files stored on electronic equipment or monitor provided services in order to assure compliance with this policy. Users do not have any privacy right in any matter created, received, stored in, or sent from or with any Town electronic equipment or services and the Town Manager may institute appropriate practices and procedures to assure compliance with this policy.

7. Users shall not download any application, or software to electronic equipment that are not for the sole purpose of conducting Town business. Electronic equipment will be equipped and periodically updated with such applications and software as may be reasonably necessary and appropriate to perform Town related duties. Any software or data (E-mail messages, files, etc.) downloaded via the Internet into the Town systems become the property of the Town, and may only be used in ways that are consistent with licenses or copyrights.

8. Users shall not send any messages of an obscene, libelous, vulgar, or defamatory nature. Users shall not use any messaging service during any Town meeting and Users will not use the iPad in any way that might violate the Open Meeting Law.

9. Users shall not use the electronic equipment or services for operating a business for personal gain, sending chain letters, soliciting money for religious or political causes, or any other purpose that does not relate to Town business activities.

10. Users shall not use the electronic equipment and services to deliberately propagate any virus or other hostile computer program or file, to disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.

11. In using the electronic equipment and services, Users shall identify themselves honestly, accurately, and completely at all times.

12. Users shall return their electronic equipment to the Mayor / Council Assistant, Secretary of the Board or staff liaison when their term and service for the Town of Gilbert has ended or upon request by the Town Manager. The electronic equipment will be wiped clean of any and all information upon return of the electronic equipment to the Mayor/Council Assistant, Secretary of the Board or staff liaison.

13. Users shall notify the Town's Office of Information Technology help desk immediately in the event that electronic equipment is lost or stolen so appropriate action can be taken to protect the Town's information and services.


John W. Lewis, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk



YOU AS A PUBLIC OFFICIAL

YOU AS A PUBLIC OFFICIAL

Prepared by

League of Arizona Cities and Towns

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May 2013

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INTRODUCTION

Congratulations on making the choice to serve your community as an elected official. As a mayor or member of your city or town council, you are putting into action the best principles of our form of government. You are continuing in the tradition of citizen lawmakers, people who are willing to give up their time and privacy, and apply their experience and knowledge to the business of making public policy choices for their communities.

Holding public office is an honor but it comes with certain legal responsibilities that can be a challenge. As an elected official, you need to know and understand the various Arizona laws that apply to your conduct in office and how to comply with them.

This report is designed to assist you in meeting that challenge. Seven topics are included: open meetings; conflict of interests; public records; incompatibility of offices; nepotism; financial disclosure; and limitations on entertainment. These laws apply not only to elected officials, but also appointed officials (city or town staff) with the exception of the final one - limitations on entertainment - which only applies to elected officials.

The life of a public official is not an easy one. In addition to the challenges of making good decisions for the future of your community, you must be careful to not violate state laws in the course of your service on the city or town council. These laws, like the seven highlighted in this report, continually affect the decision-making process.

While very few public officials ever intend to violate the law in the conduct of their duties, good intentions alone (such as, "but I didn't **mean** to violate the law") are not enough. Even well-intentioned elected officials who violate the law may face stiff penalties. Therefore, it is in your own self-interest as well as the interest of your city or town to be familiar with the laws governing your conduct in public office.

We hope you will take the time to read this report and retain it for future reference. Most importantly we hope this report will prompt you to discuss each of these laws with your city or town attorney. This report is not intended to replace the need for you to review these laws with your local attorney; it's really only a starting point for discussion of your particular situation in your city or town.

OPEN MEETING LAW

General Provisions¹

The operation of government and the activities, decisions and policies of government officials are issues of concern to the general public. The public has a right to expect—and state law demands—adherence to an important and distinct principle: **THE PUBLIC'S BUSINESS MUST BE CONDUCTED IN PUBLIC!**

The Arizona Legislature has declared its policy concerning open meetings very clearly:

“It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this [law] shall construe any provision of this [law] in favor of open and public meetings.”²

State law requires that all public officials elected or appointed to a public body review Open Meeting Law materials prepared by the attorney general at least one day before taking office. The Open Meeting Law materials from the attorney general’s office are to be posted on the public body’s website.³

Arizona’s Open Meeting Law (Law) provides very simply that, with a few limited exceptions, all meetings of a public body shall be open to all persons desiring to attend and listen to the deliberations and proceedings.⁴ The Law defines a "meeting" as "the 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 such action."⁵ Technological devices include but are not limited to e-mail, website, blogs, tweets, Facebook, telephone and video conferences and similar technologies. The label attached to a particular meeting does not alter application of the Law. Whether the meeting is referred to as regular or special, workshop or study session, the Law’s requirements must be met. A meeting may also occur when less than a quorum of the council discusses a matter of city or town business and one or more members later discusses the matter with another member of the council. The only exception to the public meeting requirement is an executive session, which is discussed later.

Members of the public body may express an opinion or discuss an issue with members of the public outside of a meeting without violating the Law. Examples of this would include a person to person conversation, through the media or other form of public broadcast communication or through technological means if the opinion or discussion is not principally directed at or directly given to another member of the public body, or if there is no concerted plan to engage in collective deliberation to take legal action.⁶ The attorney general has determined that an individual member of the public body may speak to the media about an issue that may come before the public body without violating the Law.⁷

"Public body" is defined as: "the Legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article

applies except and only to the extent that specific constitutional provisions supersede this article.”⁸

This broad definition includes planning and zoning commissions, boards of adjustment, state licensing boards, library boards, and school boards. It also includes advisory committees and subcommittees created by action of the mayor and council, even if no member of the original appointing public body is a member of the advisory group.⁹

Public Notices of Meetings

The Law requires a public body to give advance notice of every public meeting and executive session to the general public and to each member of the public body. In giving notice, the first step is to conspicuously post on the city/town website or on the League’s website a statement identifying where notices of the meetings of the public body will be posted, including physical and electronic locations.¹⁰

Once this statement has been posted, the Law requires the public body post notice of each of its meetings in accordance with the statement and "give such additional public notice as is reasonable and practicable."¹¹ Notice of individual meetings is not necessary if the public body intends to meet at a regular day, time, and place and chooses to post one notice of all of its meetings during a specified time period.¹² Such notice must be posted at the beginning of the period and specify the period covered.

Except in the case of an actual emergency, no public meeting or executive session may be held with less than 24 hours' notice to the general public and each member of the public body.¹³ The 24-hour period includes Saturday if the public has access to the physical posted location but excludes Sundays and holidays. The notice must include the date, time, and place of the meeting. If an executive session will be held, the notice must also cite the specific provision of law authorizing the executive session.¹⁴

There are three exceptions to the notice requirements outlined above. First, a meeting for which notice has been properly posted may be recessed and resumed with less than 24 hours' notice, although the date, time, and place of the resumed meeting must be announced prior to recessing the originally posted meeting or the method by which notice is to be given is announced publicly.¹⁵ Second, an emergency meeting may be held with less than 24 hours' notice in the case of an *actual* emergency. Such an emergency exists when, due to unforeseen circumstances, immediate action is necessary to avoid some serious consequences that would result from waiting until the required notice could be given. Prior to the emergency discussion or action, the public body must give as much notice as possible, announce the nature of the emergency, include those reasons in the minutes of the emergency meeting, and post a public notice within 24 hours declaring that an emergency session has been held and setting forth the agenda items covered.¹⁶ Third, notice of a meeting to consider ratification of a prior act taken in violation of the Law requires at least 72 hours' advance notice.¹⁷

Agendas

In addition to notice of the date, time, and place of the meeting, the Law requires that the notice include either an agenda of the matters to be discussed, considered, or decided at the meeting, or information on how the public may obtain a copy of the agenda. The agenda for a public meeting must list the "specific matters to be discussed, considered or decided,"¹⁸ and should contain "such information as is reasonably necessary to inform the public of the matters to be discussed or decided."¹⁹ Such items as "new business" or "old business" are insufficient unless the specific items of new or old business are identified.

Agendas for executive sessions must contain a "general description of the matters to be considered" and must "provide more than just a mere recital of the statutory provisions authorizing the executive session," but the agenda should not contain information that "would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege."²⁰

The agenda may be made part of the public notice or, if the notice advises members of the public how they can obtain an agenda, then it can be distributed separate from the notice. In either case, the agenda must be made available at least 24 hours before the meeting, unless an actual emergency exists. The 24-hour period includes Saturday if the public has access to the physical posted location but excludes Sundays and holidays. Supporting documentation that is referred to in or made part of the agenda should be made available to the public in the same time frame to the extent possible. It may be appended to the actual agenda itself (provided the public can read it), or the agenda may advise the public where such supporting documentation can be obtained.

The agenda sets the parameters of what can be done during a public meeting. Only those items specifically listed on the agenda or matters related thereto may be discussed, considered, or decided.²¹ Two quasi-exceptions apply.

First, agendas may include a "summary of current events" item, during which any member of the public body or the chief administrator "may present a brief summary of current events without listing in the agenda the specific matters to be summarized."²² However, the public body may not propose, discuss, deliberate, or otherwise take legal action on such a matter at that meeting, unless that particular matter also has been specifically identified on the posted agenda.

Second, a public body may (but is not required to) put an "open call to the public" on its agenda to allow members of the public to address the public body on matters not otherwise listed on the agenda. The public body may impose reasonable time restrictions on speakers during "call to the public." However, the public may only raise issues within the jurisdiction of the public body, and members of the public body may not discuss or take legal action on new matters raised during an open call to the public. Members of the public body have four options: sit in silence or wait until "the conclusion of an open call to the public" and then respond to criticism, ask staff to review a matter, or ask that a matter be put on a future agenda so it can be discussed.²³

Website Postings

All public notices of meetings held by any public body of a city or town that maintains a website must be posted on the website. If the city or town does not maintain a website, the information can be posted on the League's website. The Open Meeting Law requires that cities and towns with populations in excess of 2,500 post on their website a statement showing legal actions taken by a city/town public body during a meeting or a recording of the meeting within three working days after the meeting. In addition, approved minutes of council meetings must be posted to the website within two working days of approval except for executive session minutes, which remain confidential. An exception to the time frame requirements is made for advisory committees and subcommittees. Those bodies must post a statement of legal action or a recording of their meeting within 10 working days of the meeting. Minutes must remain on the website for at least one year from the date posted.

Executive Sessions

The Law permits an executive session (a closed meeting) to be held only for seven limited purposes. In addition to the notice and agenda requirements set forth earlier, members of the public body must vote during a public meeting to agree to meet in executive session. The general public is properly excluded from an executive session. Only those "individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session."²⁴ The public body must instruct those present at the executive session that all matters discussed in the executive session, as well as the minutes, must be kept confidential.²⁵ Finally, no vote may be taken during an executive session. However, the public body may instruct its attorneys or representatives on the issues listed below under 4, 5, and 7. Any final action on an item discussed in an executive session must be taken when the public body reconvenes in a public meeting.²⁶

The only purposes for which an executive session discussion may be held are the following:

1. Personnel matters involving a specific position or individual (and these individuals must be given written notice at least 24 hours in advance in case they want to be discussed in open session).²⁷ The employee being discussed may be invited to attend but has no right to do so. Personnel matters are extremely sensitive, and there may be other laws and city charter provisions that will apply to these discussions. It is critically important that your legal counsel be consulted.
2. Confidential information specifically exempt by law from public inspection.
3. Legal advice provided by the public body's attorney.²⁸
4. Discussion with the public body's attorney regarding pending or contemplated litigation, settlement discussions to avoid or resolve litigation, or contract negotiations.

5. Instruction of designated representatives concerning salary and compensation negotiations with employee organizations.
6. International and interstate negotiations, and negotiations by a city or town with a tribal council located within or adjacent thereto.
7. Instruction of designated representatives concerning negotiations for the purchase, sale, or lease of real property.²⁹

Improper use of the executive session provision is one of the most common types of Open Meeting Law violations. Therefore, a public body, with the assistance of its attorney, should establish a clear procedure to use before holding an executive session.

Minutes

All public bodies must take and retain written minutes or a recording of all meetings.³⁰ The minutes or a recording of all public meetings must include, at a minimum, the following:

1. The date, time, and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters discussed or considered.
4. An accurate description of all legal actions proposed, discussed, or taken, and the names of members who proposed each motion.
5. The names of persons making statements or presenting material to the public body and a reference to the specific legal action addressed by the person.
6. Sufficient information to permit further investigation of the background or specific facts of a decision if the discussion in the public session does not adequately disclose the subject matter and specifics of the action taken.
7. In case of an actual emergency, a statement setting forth the reasons necessitating a discussion, consideration, or decision without the matter being placed on an advance agenda.
8. In case of ratification, a copy of the required disclosure statement.

The minutes of executive sessions must contain the information described in 1, 2, 3, and 7 above, and an accurate description of all instructions given in an executive session and such other matters as may be deemed appropriate by the public body.³¹

The minutes or a recording of any meeting (*except* an executive session) must be available for public inspection no later than three working days after the meeting.³² In addition, for cities and

towns with populations in excess of 2,500, a statement showing legal actions taken by a city/town public body at a meeting must be posted within three days of the meeting and approved minutes of council meetings must be posted to the city/town website within two working days of approval except for executive session minutes which are confidential. Advisory committees and subcommittees have ten working days to post a statement of legal action or a recording of their meeting on the website.

Minutes must be taken in executive sessions and must be kept confidential except from the members of the public body that met in executive session; the officers, appointees, or employees who were the subject of discussion in a personnel executive session; the auditor general when conducting an audit; or the attorney general or county attorney when investigating alleged violations of the Law.³³ If the public body wishes to exclude all staff from attending the executive session, then the minutes should be kept or recorded by a member of the public body.

In addition to written or recorded minutes of the meeting, the Law provides that any part of a public meeting may be recorded by any person in attendance by means of a tape recorder, camera, or other means of sonic reproduction as long as there is no active interference with the conduct of the meeting.³⁴

E-Mail and Other Social Media Violations

The Law applies to all meetings of a public body, whether a quorum gathers “in person or through technological devices.”³⁵ Therefore, you should be extra careful when communicating with any other council members – even less than a quorum – via technology, such as by telephone or e-mail. This includes serial discussions where you communicate with one member and that member speaks to another, etc. Otherwise, you may find that you have violated the Law.

A “meeting” occurs when a quorum of a public body “gathers” and takes any one of four actions: discusses legal action, proposes legal action, takes legal action, or deliberates with respect to any such actions. An attorney general opinion notes that the simple act of a public body member sending out a single e-mail to a quorum of the public body could violate the Law if the e-mail proposes legal action.³⁶ Moreover, “[t]hree of these activities [to discuss, deliberate, or take action] necessarily involve more than a one-way exchange between a quorum of a public body,” so even the simple act of a member of the public body responding to, exchanging, or otherwise circulating e-mails regarding legal action among a quorum could be interpreted as a violation of the Law.³⁷ Therefore, you should be extra cautious whenever communicating with other council members using e-mail or other technological devices.

To help public bodies comply with the Law, the attorney general recommended that, while it is not legally required, members of public bodies who send e-mails to each other might want to include the following language in their e-mail message to remind colleagues that replying or

circulating an e-mail to others could be construed as discussing, deliberating, or taking legal action:

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

For similar reasons, the attorney general advised that staff might want to use the following language:

“To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the public body. Members of the public body may reply to this message, but they should not send a copy of the reply to other members.”

Your city or town should adopt a policy governing social media and consider the provisions of the Open Meeting Law in drafting the policy. Discussions among members of a public body via blogs, tweets, Facebook and similar social media are subject to the Open Meeting Law in the same manner as e-mail.

Ratification

A public body may ratify legal action that may have been taken in violation of the Law. Ratification is appropriate when the public body needs to validate retroactively a prior act in order to preserve the earlier effective date of the action.

Ratification merely validates the prior action. It does not eliminate liability of the public body or others for violation of the Law.

All legal action transacted during a meeting held in violation of the Law is null and void unless ratified. The procedure for ratification is prescribed in A.R.S. § 38-431.05(B). It is a detailed and complicated procedure that must be followed carefully, “within thirty days after discovery of the violation,” and with advice by the public body's attorney.

Sanctions

All legal action transacted by any public body during a meeting held in violation of the Open Meeting Law is null and void unless the ratification procedure discussed above is utilized.³⁸ However, the Open Meeting Law does not render null and void all legal action taken at a meeting at which an Open Meeting Law violation occurs if the violation involves only a single improperly noticed agenda item.³⁹ The Law can be enforced against a member of a public body and any person who knowingly aids, agrees to aid, or attempts to aid anyone in violating the Law.⁴⁰ Any person affected by an alleged violation, the attorney general, or the county attorney

for the county in which an alleged violation occurred, may file an action and obtain civil penalties of up to \$500 for each violation, plus attorney's fees and court injunctions against the offending public body or public official. If the court finds that a public officer (in this report the term "public officer" includes elected and appointed officials of a city or town) intentionally violated the Law, the court may remove the officer from office and assess him or her personally with the attorney's fee award. Moreover, a member of a public body shall not direct staff to communicate in violation of the Law. ⁴¹

In addition to enforcement of the Open Meeting Law by the attorney general's office, the state ombudsman-citizens aide has been given investigative authority for alleged violations of both the Open Meeting Law and Public Records Law. The ombudsman may investigate, hold hearings, and issue subpoenas if necessary to compel testimony or evidence when the city or town has failed to produce information when requested. The ombudsman's office is also charged with the responsibility of providing educational programs on both laws and providing educational materials regarding the public access laws. ⁴²

CONFLICT OF INTERESTS

One of the most misunderstood phrases in the media today is: conflict of interests. The phrase carries such negative connotations, and yet it is only natural, in our system of part-time citizen legislators, for elected and appointed officials to face potential conflict of interests situations. It is not "bad" to have a conflict of interests, but it is illegal to fail to declare a conflict of interests under Arizona law or to participate or otherwise be involved in discussions on issues or contracts where such a conflict exists.

This portion of the report may help you identify potential conflicts of interests and how you may avoid violations of this state law, which is one of the most complicated set of laws on the books. To understand its effect on your actions we suggest you discuss the law and your particular situation with your own private attorney, or your city or town attorney. You should also discuss with relatives (see definition below) their various business dealings so you do not inadvertently discuss or vote on a matter where your relative has a substantial interest. **FIND OUT AHEAD OF TIME WHAT YOUR CONFLICTS ARE!**

Applicability

The Conflict of Interests Law covers all public officers and employees of incorporated cities and towns. This includes the mayor, council members, and members of all appointed boards and commissions (parks, planning and zoning, libraries, etc.); the city manager, his or her appointees, and all consultants; and full-time, part-time, and contractual employees of the city or town.

The Conflict of Interests Law is also applicable when the private interests of a public official's or public employee's relative are under consideration. **The law broadly defines a relative to be not only a husband or wife, child, grandchild, parent, grandparent, brother or sister (and their spouses) but also the following in-laws: brothers, sisters, parents, and the child of a spouse.**⁴³ All other relatives, whether by blood or marriage, are not subject to the restrictions of this law.

Conflict of Interests Defined

The Conflict of Interests Law distinguishes between interests that are "remote" and those that are "substantial."⁴⁴

Essentially what it says is that remote interests are so minor that they do not constitute illegal conflicts of interests, and that any interest which is not remote, as detailed in state law, is a substantial interest. If you have only a "remote interest" in a matter before the council, then you can vote and participate in the discussion. Here is what the law defines as a remote interest.

REMOTE INTERESTS exist when the public officer or employee or a relative is:

1. A nonsalaried officer or member of a nonprofit corporation. Thus, being a nonsalaried officer or a member of a nonprofit health agency doing business or requesting a grant from the city or town technically would not constitute a conflict.
2. The landlord or tenant of a contracting party. For example, a council member may lease office space to a party that has a private interest in a public matter without it resulting in a conflict of interests.
3. An attorney of a contracting party. For attorneys who serve on council or as a member of any other public body or as employees of a public body there may be State Bar ethics rules, which could restrict their actions.
4. A member of a nonprofit cooperative marketing association.
5. The owner of less than 3 percent of the shares of a corporation with an interest in a matter with the city or town, provided that:
 - a. Total annual income from dividends, including the value of stock dividends, does not exceed 5 percent of the officer's or employee's total annual income; and
 - b. Any other payments made to the officer or employee by the corporation do not exceed 5 percent of the officer's or employee's total annual income.
6. Being reimbursed only for actual and necessary expenses incurred in performance of official duties.

7. Receiving municipal services on the same terms and conditions as if the person were not an officer or employee of the municipality. Thus, when a council member who owns a business within the city or town votes for or against an increase in the business license tax, a conflict would not exist because this action would apply to all businesses in the corporate limits.
8. An officer or employee of another political subdivision, a public agency of another political subdivision, or any other public agency unless it is the same governmental entity being served who is voting on a contract or decision which would not confer a direct economic benefit or detriment upon the officer. Thus, a council member who is a school teacher may vote to enter into an intergovernmental agreement with the school district, unless such agreement would confer some direct economic benefit, such as a salary increase, upon the council member.
9. A member of a trade, business, occupation, profession, or class of persons and has no greater interest than the other members of that trade, business, occupation, profession, or class of persons. A class must consist of at least 10 members to qualify the interest as remote.

SUBSTANTIAL INTEREST is defined in this law as any pecuniary or proprietary interest, either direct or indirect, other than those that are remote.⁴⁵ In general, a conflict of interests will result when an officer or employee of a city or town or relative of an officer or employee is involved in substantial ownership or salaried employment with a private corporation doing business with the city or town. For example, if a council member owns or is employed by a lumberyard selling to the city, then a conflict may exist. On the other hand, if the council member is the lawyer for that lumberyard, or if the council member leased land to the lumberyard, then it is possible that no conflict exists.

A public officer or an employee may sell equipment, material, supplies, or services to the municipality in which the officer or employee serves if this is done through an award or contract let after public competitive bidding.⁴⁶ An exception to this law allows cities and towns to purchase supplies, materials, and equipment from a member of the council without going to public competitive bid as long as the single transaction does not exceed \$300 and the annual total of such transactions with a member of the council does not exceed \$1,000.⁴⁷ The city or town must adopt a policy governing such purchases and must approve this policy on an annual basis. All transactions above these limits must take place as a result of public competitive bidding. However, the city or town officer or employee would not be allowed to influence the bidding process in any way and must make known in a timely manner such interest in the official records of the city or town.

The attorney general has concluded that there is no statutory restriction on a school board member or employee bidding on property being sold by the district, as long as the board member or employee publicly discloses such interest in the property being sold and refrains from participating in any manner in the decision to sell the property.⁴⁸

Additional Provisions

The Conflict of Interests Law also contains the following restrictions on the activities of public officers and employees that should be reviewed with your city or town attorney.

1. When a public officer or employee has been directly concerned or has exercised "administrative discretion" in an issue, that officer or employee may not represent another person before an agency of the city or town on the same issue and receive compensation for such representation. This restriction extends to 12 months after termination of office or employment with the city or town.⁴⁹
2. During the period of a public officer's term or employee's employment and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties that has been clearly designated to the officer or employee as confidential and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee cannot disclose or use confidential information obtained during the term of office or employment.⁵⁰
3. A public officer or employee cannot receive any compensation (other than as provided by law) for performance of services in any case, special proceeding, application, or other matter pending before any agency of the city or town.⁵¹
4. A public officer or employee cannot use or even attempt to use his or her position to obtain anything of value that normally would not be received in the performance of official duties. Something is considered to have "value" when it exerts a "substantial and improper" influence on the duties of the public official.⁵²

The State Bar of Arizona has placed another restriction on local elected officials who are lawyers. The State Bar ruled that attorneys on city or town councils cannot represent clients in the city or town's courts.⁵³ However, the Arizona Supreme Court has ruled that attorneys on city and town councils may represent clients in superior court in cases that involve members of the police department in such council member's city as adverse witnesses.⁵⁴

Declaration of a Conflict

When a public officer or employee (or their relative) has a substantial interest in any decision of, or contract, sale, purchase, or service, to their city or town, the public officer or employee must:

1. Refrain from participating in any manner (voting, discussing, or in any way attempting to influence) in their capacity as an officer or employee a decision of the governing body or agency of the city or town; and

2. Make the substantial interest known in the official records of the city or town. For a member of the council, this can be done by either declaring at a council meeting that a conflict of interests exists and having this declaration officially entered in the minutes or filing a written declaration with the city or town clerk. For an employee who faces a conflict of interests situation, the employee should file a letter with the manager or clerk declaring in writing that a conflict exists. Both officers and employees with a substantial interest must refrain from participating in any manner as an officer or employee in the decision or issue.⁵⁵ As a best practice, you should file notice with the clerk as soon as you become aware of the conflict.

The provisions of state law relating to conflict of interests, specifically the requirement that members of the council refrain from participating in or attempting to influence a decision in which they have a substantial interest, may preclude the council from acting as required by law in its official capacity. For example, this situation may occur when a majority of the members of the *entire* council (not just those present at a particular meeting) have a substantial conflict of interests. To address this potential problem, state law provides that if the conflict of interests statutes prevent a public body from acting as required by law in its official capacity, such action shall be allowed if the members of the public body with the apparent conflicts make known their substantial interests in the official records of the public body.⁵⁶ For example, each affected council member should state that he or she has a substantial interest in the issue before the council, and then make sure it is recorded in the official minutes of the meeting. Such statement should be made at the beginning of any discussion of the issue by the council. This process can be tricky, so seek legal counsel before proceeding.

Legal Opinions

If you ask your city or town attorney for an opinion on conflict of interests, the request is confidential. However, formal final opinions are a matter of public record and must be filed with the city or town clerk.⁵⁷ This filing requirement does not apply to verbal communications between a mayor or council member and the city/town attorney. In addition, no city/town public officer or employee is personally liable for acts done in his official capacity in good faith reliance on written opinions of the city or town attorney of the city or town where they serve.

Filing of Disclosures

The clerk must maintain a special file for all disclosures of conflicts of interests. One method to comply with this requirement would be to place a separate copy of the council meeting minutes when a conflict is declared in a special file labeled "Conflict of Interests Disclosures."

Penalties

A public officer or employee who intentionally or knowingly conceals or fails to disclose any substantial interest or engages in any of the activities prohibited by A.R.S. § 38-503 through 38-505, is guilty of a class 6 felony, plus a conviction will automatically forfeit office. A public officer or employee who negligently or recklessly violates the Conflict of Interests Law by failing to disclose a substantial interest or engaging in the activities prohibited by A.R.S. § 38-503 through 38-505, is guilty of a class 1 misdemeanor. Any person affected by a decision of a public agency where a conflict of interests is alleged may bring a civil suit in superior court, which may order equitable relief including attorney's fees to the prevailing party. In addition, any contract made in violation of the law may be voided by action of the city or town.⁵⁸ **WHEN IN DOUBT ABOUT POTENTIAL CONFLICTS, ASK YOUR ATTORNEY!**

PUBLIC RECORDS⁵⁹

Arizona's Public Records Law is an odd paradox. On the one hand, the sweeping language of its core provisions makes the law appear to be straightforward and simple. On the other hand, the hundreds of exceptions in other statutes and judicial decisions can make application of the law rather complex at times. Given this unique blend of simplicity and complexity, you should learn the following basics, but then seek immediate assistance if you directly receive a request for public records.

Simple and Sweeping

Arizona's Public Records Law commands that "[p]ublic records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours."⁶⁰ The law applies to, among others, officers of cities and towns.⁶¹ The definition of "public records" is quite sweeping, so the law reaches not only paper items (including "all books, papers, maps, photographs or other documentary materials"), but also all other information "regardless of physical form or characteristics, including ... items produced or reproduced on film or electronic media."⁶² E-mail generated or maintained on a government e-mail system are public records but purely personal e-mails may be exempted from disclosure.⁶³ Likewise, e-mails on a personal computer relating to official business may also be public records. Use of social media such as Facebook and Twitter may also create public records depending on the subject matter. The recommendation for a social media policy for compliance with the Open Meeting Law applies to the Public Records Law as well. Assume anything you make a record of, in any format, related to your position as a public officer or employee is a public record.

The Arizona Supreme Court has ruled that a public record maintained in an electronic format includes not only the information normally visible upon printing the document but also any

embedded metadata.⁶⁴ The court has also indicated if the record is maintained electronically, in most cases it must be provided in that format.

Sometimes the law specifically details what is a public record. For example, disciplinary records involving public officers or employees of a public body must be open to inspection and copying unless inspection or disclosure of the records or information in the records is contrary to law.⁶⁵ Importantly, if any doubts exist about whether a member of the public can see a particular document, courts have declared that public records are “presumed open to the public for inspection.”⁶⁶

Complex Maze of Exceptions

That presumption of openness, however, is just a presumption and not an absolute rule. Indeed, the Arizona Supreme Court has recognized three sets of exemptions to the sweeping presumption of openness: when confidentiality restrictions apply, when privacy interests of individuals outweigh the public’s right to know, or when the best interests of the government outweigh the public’s right to inspection.⁶⁷

First, Congress and the Legislature have enacted hundreds of confidentiality exceptions to the Public Records Law. Often buried in obscure niches of federal and state statute books, these confidentiality restrictions usually are designed to protect the public at large (*e.g.*, prevent disclosure of the vulnerability of certain facilities to sabotage or attack),⁶⁸ guard the safety of certain individuals (*e.g.*, prevent disclosure of the home addresses and telephone numbers of a long list of public officials including judges, prosecutors, public defenders, peace officers, border patrol agents, code enforcement officers, law enforcement support staff and victims of domestic violence, stalking, or harassment),⁶⁹ and protect against identity theft (*e.g.*, prevent disclosure of social security numbers).⁷⁰ Note that you do not have independent authority to promise that documents will be protected as confidential.⁷¹

Secondly, privacy interests may protect certain information in public records from being released. For example, the Arizona Supreme Court declared that a public teacher’s birth date could be withheld from public inspection, based on the court’s recognition that such personal identifying information could be combined with other information, which in turn could lead to identity theft.⁷²

Finally, a record may be withheld from public inspection when disclosure would be detrimental to “the best interest” of the government. The Arizona Court of Appeals clarified this otherwise broad exemption when it noted that while “public records are presumed open to the public for inspection,” certain records may be withheld if “the public official can demonstrate a factual basis why a particular record ought not be disclosed to further an important public or private interest.”⁷³ Note that the burden is on the public official to prove that the record should be kept from the public rather than on the person seeking the record.

Steps to Comply

Public officials should keep the following seven steps in mind to comply with public records requests.

Step One: Properly Maintain Public Records. Arizona law imposes duties on public officers even before they receive a request to produce public records for inspection. For example, the law mandates that “[a]ll officers and public bodies shall maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from the state or any political subdivision of the state.”⁷⁴ Moreover, “[e]ach public body shall be responsible for the preservation, maintenance and care of that body's public records and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to” an authorized document retention policy.⁷⁵

Step Two: Seek Assistance. With the exceptions to the Public Records Law ever evolving and sometimes “hidden” in statute books and judicial decisions, application of Arizona’s Public Records Law can be complex. Therefore, if you ever receive a request for a public record, then the best practice is to seek help immediately from staff members who are more familiar with the law. Staff members, in turn, should contact their legal counsel for guidance to avoid problems.

Step Three: Receiving a Public Records Request. The law allows “any person” to request access to a public record. Importantly, the law does not require people to identify themselves when they are seeking access to public records. Nor do they have to identify why they want to see the record.

Step Four: Act “Promptly.” The law declares that “[a]ccess to a public record is deemed denied if a custodian fails to promptly respond to a request for production of a public record,” although the law does not define precisely what “promptly” means.⁷⁶ Denying access to a public record exposes the public body to liability, so reasonable efforts must be made to provide the requested documents “promptly.”

Step Five: Inspection and Copying. Members of the public actually have rights relating to public records. They have a right to “inspect” those documents, which essentially means they may “examine” or “look at” the requested records.⁷⁷ (A court still may review the withheld documents and order them disclosed.) If a person wants, they are entitled to get “copies, printouts or photographs” of the records, which must be provided “promptly.” As noted above if the records are maintained electronically, they must be provided electronically.

Certain records may contain information that legitimately should be withheld from public inspection. In those situations, the information that is confidential, private or harmful to the best interest of the government should be withheld but the rest of the record should be made available to the person requesting the public record.⁷⁸

Step Six: Recovering Costs. Searching for and making copies of public records costs time and money. The law recognizes two categories of requestors and limits what each may be charged. When a person requests public records for a “commercial purpose” – for example, obtaining lists of names to try to sell insurance – then the public body may charge a “reasonable fee” for both the time searching for the records and the actual cost of the copying.⁷⁹ When, however, the request is not for a commercial purpose, then the public body may charge only for the cost of the copying; it is not authorized to charge for the cost of searching for the records. There is an exception to the right to impose any charge for records and it covers crime victims. A victim of a crime or the immediate family of the victim if the victim is killed or incapacitated is entitled to a free copy of the police report from the investigative law enforcement agency as well as the minute entry or portion of any court proceeding which is necessary for the person to pursue a claimed victim’s right.⁸⁰ There is also an exception for issuing certified copies of public records or searching for them when they are to be used in connection with a claim for a pension, allotment, allowance, compensation, insurance or other benefits to be received from the United States.⁸¹

Note: Because of the First Amendment, requests by journalists are not considered to be for a commercial purpose.

Step Seven: Mailing. The law allows a person to “request that the custodian mail a copy of any public record not otherwise available on the public body’s website to the requesting person. The custodian may require any person requesting that the custodian mail a copy of any public record to pay in advance for any copying and postage charges.”⁸²

Violations

Violations of the Public Records Law come in two forms: “governmental” violations and “personal” violations.

“Governmental” violations occur when the government (operating through public officials and employees) fails to comply with the Public Records Law by, for example, refusing to produce public records, purposefully delaying the release of public records, refusing to release records based on speculation that they may contain information that does not need to be produced,⁸³ or overcharging for copies of public records.⁸⁴ The court may award attorney’s fees and other legal costs that are reasonably incurred in any action under the Public Records Law if the person seeking public records has substantially prevailed.⁸⁵ Additionally, “[a]ny person who is wrongfully denied access to public records pursuant to this article (the Public Records Law) shall have a cause of action against the officer or public body for any damages resulting from the denial.”⁸⁶

“Personal” violations occur when, for example, a public officer or employee releases confidential information that is protected from disclosure by statute,⁸⁷ steals or in an unauthorized way removes, secretes, mutilates, or defaces a public record,⁸⁸ or otherwise

“tamper with a public record” by destroying, altering, or falsifying a public record.⁸⁹ The penalties for personal violations can range from removal from office and imposition of civil penalties to being convicted of a class 4, 5, or 6 felony.

Practical Tips

To avoid problems, you might want to keep the following three tips in mind. First, whenever creating documents (including informal writings, such as e-mail, which are subject to the Public Records Law⁹⁰), presume they will be public records available for inspection, copying, and printing on the front page of the local newspaper. Therefore, be as careful with the tone and language of the document as you are with the substantive accuracy of your writing.

Secondly, don't “tamper” with a public record – by destroying it, backdating it, hiding it, altering it (such as erasing or changing portions of it), or otherwise falsifying it. Each of these acts is a crime in Arizona. Redaction of confidential portions of a record may be permissible, but you should consult with your city or town attorney on what is appropriate.

Thirdly, whenever you receive a request for a public record, it is a sound practice to immediately seek help from staff.

INCOMPATIBILITY OF OFFICES

On many occasions, local officials have asked the League whether a public official may hold two or more public offices at one time. In response to these requests, we compiled the following information to help in determining when two or more public offices may be incompatible.

Early Concepts of Incompatible Offices

Arizona's law prohibiting the holding of incompatible offices can be traced, in large part, to early English common law. Offices were said to be incompatible or inconsistent if:

1. The main duties of the two offices could not be carried out with care and ability; or
2. One office is subordinate to and interferes with the other office such that the duties of the two offices cannot be performed at the same time with "impartiality and honesty."

Very few laws, if any, have been based upon the first principle. Apparently, it has been difficult to determine when an individual fails to execute the duties of two public offices with "care and ability." The second principle mentioned above has been the basis for most Arizona law on the incompatibility of public offices.⁹¹

State Laws and Interpretations

From Arizona's Constitution and statutes, and interpretations by the attorney general and the League's general counsel, we have compiled a list of legal provisions focusing on the issue of incompatible public offices.

Arizona State Constitution

1. No member of the Legislature may hold any other office or be employed by the state or any county, city, or town, except a legislator may also be a school board member or a teacher.⁹²
2. Incumbents of a salaried elective office may not "offer" themselves for nomination or election to any salaried local, state, or federal office unless during the final year of their term. However, an incumbent may resign and then run for another office.⁹³
3. Justices of the peace may hold the additional position of police magistrate in incorporated cities and towns.⁹⁴

State Statutes

1. A public official may not hold two salaried public offices at the same time. However, elected officials in the final year of their term of office may offer themselves for nomination to another elected office. The point in time at which an elected official is determined to have offered herself or himself for nomination or election to another public office is upon the filing of nomination papers or upon formal declaration of candidacy for such office, whichever occurs first.⁹⁵
2. Mayors, aldermen, or council members cannot receive any compensation from the city or town during the term of office for which they were elected in addition to the compensation paid to them as elected officials.⁹⁶ As a result, city and town elected officials cannot hold any other paid public office with the city or town. In the opinion of our League general counsel, this provision also prevents a mayor or council member from resigning office and accepting another compensated position with the municipality prior to the end of the term of office for which the person was elected.⁹⁷
3. Public defenders employed by the county may also serve as public defenders for a city or town. State law requires the city or town to reimburse the county for the public defender's services.⁹⁸
4. Members of the State Personnel Board and most state employees cannot be candidates for nomination or be elected to any paid public office, nor may they take part in managing a political party or political campaign.⁹⁹ Certain state employees are exempted

from these restrictions, so we suggest that you discuss individual cases with your city or town attorney.

5. A person may not be a candidate for more than one public office if the elections for the offices are held on the same day and the person would be prohibited from serving both positions simultaneously.¹⁰⁰

City Charter Provisions

If you are holding office in a charter city, there may be additional limitations placed on your ability to hold other public offices. We suggest you consult the charter or your city attorney on any such provisions.

Attorney General Opinions

The attorney general has issued a number of opinions on the topic of incompatibility of office. Of particular interest to cities and towns:

1. State employees subject to the State Personnel Commission may not hold the position of city or town council member, if the council position is compensated.¹⁰¹
2. The positions of school board member and council member could be held by the same individual because the school board position was uncompensated.¹⁰²
3. A legislator may not assume an elective office in a charter city during the legislative term for which he or she was elected.¹⁰³
4. The duties of a county supervisor are not inherently inconsistent with the duties imposed on a member of the Arizona Board of Regents.¹⁰⁴

League General Counsel Opinions

The League's general counsel has been requested on a number of occasions to issue opinions on possible instances of incompatible offices. The following is a list of these opinions:

1. One individual in a non-chartered city cannot hold the positions of mayor and city or town magistrate at the same time.¹⁰⁵
2. The compensated positions of city alderman and volunteer fireman could not be held at the same time by one individual because aldermen can only receive the specific compensation designated by law for their service as aldermen.¹⁰⁶

3. A magistrate, during absence from his post, may request another magistrate or justice of the peace from a neighboring city or town to serve in his post. The city or town should, however, adopt an ordinance authorizing this arrangement.¹⁰⁷
4. The general counsel of the League also suggests that the offices of town manager and police magistrate not be held by one individual.

Before an employee accepts another public office, local ordinance provisions and personnel rules and regulations should be consulted. For particular employees there may be departmental regulations that also govern such activities.

NEPOTISM

As a city or town official, you must exercise caution when your relatives are being considered for appointment to offices or positions of employment with the city or town. Arizona's anti-nepotism statute prohibits public officials from appointing their relatives to offices or positions of employment compensated from public funds.¹⁰⁸

Specifically, any executive, legislative, ministerial, or judicial officer cannot appoint or vote for (or even suggest, arrange, or be a party to) the appointment of a relative who is related by blood or marriage "within the third degree" to a paid office or position of employment. Public officers of a city or town subject to this restriction would include mayors, council members, appointed officials, and department heads.

As mentioned above, the law prohibits the appointment of relatives by blood or marriage "within the third degree." To apply this law accurately, there is a method to compute whether a person is related within what is legally defined as the "third degree." In summary, this method of computation would prohibit a public officer from appointing or participating in the appointment of the following in-laws or blood relatives: a husband or wife, brother or sister, parent or child, great grandparents, grandparents, grandchildren, great grandchildren, uncles or aunts, and nephews or nieces.¹⁰⁹ To illustrate, the attorney general found that the wife of a justice of the peace could be appointed by her husband to perform the function of setting bail.¹¹⁰ This opinion was based in part on the fact that the public official's wife was not compensated for these duties. In another attorney general's opinion a justice of the peace could not appoint his wife's sister to a compensated position of clerk without violating this law.¹¹¹

One important question is whether a city or town employee can continue employment after a relative within the third degree has assumed a position on the city or town council or some other position with appointment authority. In addressing a situation of this nature, the general counsel of the League was of the opinion that an employee could continue employment even though a relative was elected to the city or town council.¹¹² However, if a situation arises where the employee's appointment or reappointment is placed before the council, the relative on the council should not participate in any way in that decision.¹¹³

The council-manager form of government or the existence of a merit system also affect the application of the anti-nepotism law because the law does not prohibit the appointment or employment of a relative, but rather governs the participation of the related public official in the decision-making process. If there are questions that relate to nepotism, we suggest that you discuss these with your local city or town attorney. In most instances, questions of nepotism can be clarified quickly due to the precise nature of this law.

FINANCIAL DISCLOSURE

State law requires elected officials, including those appointed to elective office, to file an annual financial disclosure statement.¹¹⁴ Since 1984, cities and towns have been required to adopt standards of financial disclosure consistent with the standards imposed for state elected officials.¹¹⁵

The annual financial disclosure statement is due each year on January 31 covering the immediately preceding calendar year. The city or town clerk should make the forms available to meet this filing requirement.¹¹⁶ Candidates for city or town office must file the financial disclosure statement covering the preceding 12-month period when nomination papers are filed.¹¹⁷

The law requires elected public officials to disclose personal financial data including information on members of the “household” (defined as the public official's spouse and any minor child of whom the official has legal custody). Information on business holdings is required under certain circumstances. Property owned by the official or a member of the official's household must also be reported (with certain exceptions).

The report must be filed with the city or town clerk and is available for public inspection. Failure to file or filing a false or incomplete financial disclosure statement, if done knowingly, is a class 1 misdemeanor.¹¹⁸

LIMITS ON ENTERTAINMENT

In 2000, the Legislature extended part of the state’s lobbying laws to prohibit certain entertainment for local officials if paid by compensated lobbyists. The law provides that it is illegal for a compensated lobbyist to offer and for a member of a city or town council (as well as other local governing bodies) to accept “an expenditure or single expenditure for entertainment.”¹¹⁹

Careful attention to these three parts – the giver, the recipient, and the outlawed gift – is important because violations may result in criminal and civil penalties.¹²⁰ As for the giver, the law applies to “a person who for compensation attempts to influence the passage or defeat of

legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf." So even if the people offering entertainment do not call themselves "lobbyists," the law still applies if they are compensated to do any of the things listed. Next, as for the receiver, the law applies in the city and town context to city/town elected officials (whether elected or appointed), but not directly to city or town staff (although local ordinances or policies might).¹²¹

Third, the law prohibits giving or receiving "entertainment," which is defined to mean "the amount of any expenditure paid or incurred for admission to any sporting or cultural event or for participation in any sporting or cultural activity."¹²² As written, the ban prohibits not only receiving tickets to attend a sporting or cultural event, but also having a compensated lobbyist pay for your participation in any cultural or sporting event. In other words, a compensated lobbyist may not offer – and council members cannot accept – tickets to sporting or cultural events (such as baseball, basketball, football, hockey, or soccer, or any other sports at any level – professional, college, or local – or art gallery, ballet, movie, opera, theater, or anything else). Nor may they offer to pay or you allow or accept their payment for your "participation" in "sporting or cultural" activities such as golf, fishing, hunting, bowling, yoga, painting, ballet, or any other activity.

CONCLUSION

Accepting a position as a public official may introduce a number of complex and confusing legal situations into an individual's life. This report has tried to shed some light on selected areas of law that place restrictions and requirements on the activities of public officials in Arizona cities and towns. If the report has raised questions, please do not hesitate to contact the League office. However, we emphasize the importance of consultation with your personal attorney or the city or town attorney on specific questions regarding all of the subjects discussed in this report.

ENDNOTES

1. To read the state statutes on the Open Meeting Law see A.R.S. § 38-431 through 38-431.09.
2. A.R.S. § 38-431.09.
3. A.R.S. § 38-431.01(G). The Open Meeting Law information from the attorney general's office can be accessed at www.azag.gov and on the city/town website. The Arizona ombudsman - citizens' aide office also produces a helpful publication on the requirements of the Open Meeting Law. It can be accessed at www.azoca.gov.
4. A.R.S. § 38-431.01(A). The Open Meeting Law grants the public the right to attend and listen to a public body's deliberations and proceedings. See Attorney General Opinions I83-049 and I84-133. This includes the right to know exactly how each individual council member votes on an issue. A superior court has ruled that a secret ballot procedure used to select the mayor from the common council violates the Open Meeting Law. See *Mohave County Attorney v. Common Council of the City of Kingman* (No. SA-140, June 14, 1983).
5. A.R.S. § 38-431(4).
6. A.R.S. § 38-431.09.
7. Attorney General Opinion I07-013.
8. A.R.S. § 38-431(6).
9. For a discussion of the applicability of the Open Meeting Law to advisory committees and special boards created by political subdivisions see Attorney General Opinions I92-007 and I07-001.
10. A.R.S. § 38-431.02(A).
11. A.R.S. § 38-431.02(A)(4).
12. A.R.S. § 38-431.02(F).
13. A.R.S. § 38-431.02(C).
14. A.R.S. § 38-431.02(B).
15. A.R.S. § 38-431.02(E).
16. A.R.S. § 38-431.02(D),(J).
17. A.R.S. § 38-431.05(B)(4).
18. A.R.S. § 38-431.02(H).
19. A.R.S. § 38-431.09. The Open Meeting Law does not specifically prohibit a public body from considering agenda items in an order different from that appearing on the agenda. However, when changing the order of discussion, it must be done in a way that is not designed to deny any member of the public the opportunity to listen to the discussion of any agenda item. See Attorney General Opinion I83-56.
20. A.R.S. § 38-431.02(I).

21. A.R.S. § 38-431.02(H).
22. A.R.S. § 38-431.02(K).
23. A.R.S. § 38-431.01(H).
24. A.R.S. § 38-431(2).
25. A.R.S. § 38-431.03(C).
26. A.R.S. § 38-431.03(D). See also *Johnson v. Tempe Elementary School Dist. Governing Board*, 199 Ariz. 567, 20 P.3d 1148 (court of appeals dismissed a public body’s appeal as improper when the public body instructed its attorney in an executive session to file an appeal but then failed to confirm that instruction in public with a proper formal vote).
27. A.R.S. § 38-431.03(A)(1). The other exceptions are also set forth in A.R.S. § 38-431.03(A).
28. Only legal advice, not policy discussions, may be discussed. See *City of Prescott v. Town of Chino Valley*, 166 Ariz. 480, 803 P.2d 891.
29. See *Tanque Verde Unified School Dist. v. Bernini*, 206 Ariz. 200, 76 P.3d 874 (affirming that a public body violated the Open Meeting Law by conducting a site selection process in an executive session).
30. A.R.S. § 38-431.01(B).
31. A.R.S. § 38-431.01(C).
32. A.R.S. § 38-431.01(D).
33. A.R.S. § 38-431.03(B).
34. A.R.S. § 38-431.01(F).
35. A.R.S. § 38-431(4).
36. Attorney General Opinion I05-004 (“Board members must ensure that the board’s business is conducted at public meetings and may not use e-mail to circumvent the OML (Open Meeting Law) requirements. ... While some one-way communications from one board member to enough members to constitute a quorum would not violate the OML, an e-mail by a member of a public body to other members of the public body that proposes legal action would constitute a violation of the OML.”).
37. Arizona Agency Handbook § 7.5.2 produced by the Arizona attorney general’s office. (“Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions.... Splintering the quorum can be done by meeting in person, by telephone, electronically, or through other means to discuss the topic that is or may be presented to the public body for a decision.”)
38. A.R.S. § 38-431.05(A).
39. Attorney General Opinion I08-001.
40. A.R.S. § 38-431.07(A).
41. A.R.S. § 38-431.01(I).

42. A.R.S. § 41-1376.01.
43. A.R.S. § 38-502(9).
44. Compare A.R.S. § 38-502(11) (“substantial interest”) and 38-502(10)(“remote interest”); see also Attorney General Opinion I85-052.
45. A.R.S. § 38-502(11). See also Attorney General Opinion I03-005.
46. A.R.S. § 38-503(C). See also Attorney General Opinions 70-5, 79-067, 79-133, I06-002; General Counsel Opinion May 17, 1979, and letter dated October 23, 1984 from attorney general to Town of Parker.
47. A.R.S. § 38-503(C)(2).
48. Attorney General Opinion I85-067.
49. A.R.S. § 38-504(A).
50. A.R.S. § 38-504(B).
51. A.R.S. § 38-505.
52. A.R.S. § 38-504(C).
53. State Bar Ethics Opinion No. 74-28.
54. See *Gomez v. Superior Court*, 149 Ariz. 223, 717 P.2d 902.
55. A.R.S. § 38-503(A), (B).
56. A.R.S. § 38-508.
57. A.R.S. § 38-507.
58. A.R.S. § 38-506 and A.R.S. § 38-511.
59. See also Arizona Agency Handbook prepared by the attorney general’s office (www.azag.gov) and Arizona Public Records Law prepared by the office of the Arizona ombudsman-citizens’ aide (www.azoca.gov).
60. A.R.S. § 39-121.
61. A.R.S. § 39-121.01(A).
62. A.R.S. § 41-151.18.
63. *Griffis v. Pinal County*, 156 P.3d 418, 215 Ariz. 1 (2007).
64. *David Lake v. City of Phoenix*, 218 P.3d 1004, 222 Ariz. 547 (2009).
65. A.R.S. § 39-128.
66. *Carlson v. Pima County*, 141 Ariz. 487, 687 P.2d 1242, 1246.
67. *Carlson v. Pima County*, 141 Ariz. 487, 687 P.2d 1242, 1246.
68. A.R.S. § 39-126.
69. A.R.S. §§ 11-483, 16-153, 39-123(A).
70. 42 U.S.C. § 405(c)(ii), (viii)(l), and A.R.S. § 44-1373.

71. *Moorehead v. Arnold*, 637 P.2d 305, 130 Ariz. 503 (Ariz. App. 1981).
72. *Scottsdale Unified School Dist. v. KPNX Broadcasting*, 191 Ariz. 297, 955 P.2d 534 and *Judicial Watch, Inc. v. City of Phoenix*, (Ariz. App. Div. 1, 2011) 228 Ariz. 393, 267 P.3d 1185.
73. *Star Publishing Co. v. Pima County Attorney's Office*, 891 P.2d 899, 181 Ariz. 432 (Ariz. App. 1994).
74. A.R.S. § 39-121.01(B).
75. A.R.S. § 39-121.01(C).
76. A.R.S. § 39-121.01(D)(1), (E). See also *Phoenix New Times, L.L.C. and John Dougherty v. Joseph M. Arpaio*, 217 Ariz. 533, 177 P.3d 275; *West Valley View, Inc. v. Maricopa County Sheriff's Office*, 165 P3d. 203, 216 Ariz. 225 (Ariz. App. Div. 1 2007) and *Congress Elementary School Dist. No. 17 of Yavapai County v. Warren* (Ariz. App. Div. 1 2011) 227 Ariz. 16, 251 P.3d 395.
77. A.R.S. § 39-121.01(D)(1).
78. *Carlson*, 687 P.2d at 1243-1246 (“a practical alternative to the complete denial of access would be deleting specific personal identifying information, such as names”); *see also Cox Arizona Publications v. Collins*, 175 Ariz. 11, 852 P.2d 1194, 1198 (finding that the county attorney violated the Public Records Law by withholding public records without offering to redact portions and producing the rest for inspection).
79. A.R.S. § 39-121.03 (explaining what may be charged for commercial copies).
80. A.R.S. § 39-127.
81. A.R.S. § 39-122.
82. A.R.S. § 39-121.01(D)(1).
83. *Star Publishing Co. v. Pima County Attorney's Office*, 181 Ariz. 432, 891 P.2d 899.
84. *Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332.
85. A.R.S. § 39-121.02(A),(B). *Democratic Party of Pima County v. Ford* (Ariz. App. Div. 2, 2012) 228 Ariz. 545, 269 P.3d 721.
86. A.R.S. § 39-121.02(C).
87. A.R.S. §§ 39-124, 13-2401.
88. A.R.S. § 38-421.
89. A.R.S. §§ 13-2407.
90. Attorney General Opinion I05-04 at 10 (“E-mails that board members or staff generate pertaining to the business of the public body are public records. [citations omitted] Therefore, the e-mails must be preserved according to a records retention program and generally be made available for public inspection.”).
91. McQuillin on Municipal Corporations Volume 3, Section 12.67. See also Attorney General Opinion 76-41.

92. Arizona Constitution, Article IV, Part 2, Section 5; Attorney General Opinion 77-221.
93. Arizona Constitution, Article XXII, Section 18. See also A.R.S. § 38-296 and Attorney General Opinion 82-001.
94. Arizona Constitution, Article VI, Section 32. Justice of the peace and magistrate courts are not courts of record and would not be subject to the restriction of Article VI, Section 28 of the Constitution.
95. A.R.S. § 38-296.
96. A.R.S. § 9-304.
97. General Counsel Opinion August 17, 1988.
98. A.R.S. § 11-585.
99. A.R.S. § 41-752.
100. A.R.S. § 38-296.01.
101. Attorney General Opinion 71-32-L. The attorney general further opined that the state personnel commission's jurisdiction extends to all state offices and positions except those specifically exempted by law. See also A.R.S. § 41-752.
102. Attorney General Opinions 72-20-L and 80-061.
103. Attorney General Opinion 77-221.
104. Attorney General Opinion 80-019; see also Attorney General Opinions 59-30, 75-2-L, and 77-216.
105. General Counsel Opinion December 10, 1965.
106. General Counsel Opinion November 2, 1966.
107. General Counsel Opinion May 26, 1970.
108. A.R.S. § 38-481.
109. See *Graham County v. Buhl*, 76 Ariz. 275, 263 P.2d. 537, and Attorney General Opinion 77-115.
110. Attorney General Opinion 63-75-L.
111. Attorney General Opinion 63-9. See also Attorney General Opinions 54-26, 65-6-L.
112. General Counsel Opinions June 24, 1968 and January 19, 1977. See also Attorney General Opinion 78-71.
113. See Attorney General Opinion 77-138.
114. A.R.S. Title 38, Chapter 3.1, Article 1.
115. A.R.S. § 38-545.
116. See League Municipal Election Manual for forms.
117. A.R.S. § 38-543.
118. A.R.S. § 38-544.

119. A.R.S. § 41-1232.08(B).
120. Attorney General Opinion I00-031.
121. League General Counsel Opinion January 15, 2001.
122. A.R.S. § 41-1231(5).

**TOWN OF GILBERT
PUBLIC OFFICER DISCLOSURE**

Name of Public Officer: _____

The matter or decision under consideration by the public body:

DISCLOSURE OF INTEREST

A conflict of interest exists if you or a relative has a pecuniary or proprietary interest, directly or indirectly, in this matter. A "relative" includes your spouse; children and grandchildren; parents and grandparents; brothers and sisters, as well as their spouses; and your spouse's parents, brothers, sisters and children.

To avoid any possible conflict of interest under A.R.S. 38 - 501 et seq., I will refrain from participating in any manner in the matter identified above.

Date

Signature of Public Officer

Describe the interest held by you or your relative:

DISCLOSURE OF BIAS OR PREJUDICE

Bias or prejudice exists if you have strong feelings of bias for or against either a party of an issue of fact in this matter, or strong feelings of bias due to facts which you have learned which are outside those presented to the Council; and these feelings will influence your decision regardless of the evidence.

I am biased or prejudiced for or against either a party or an issue of fact in the matter identified above and I am unable to render a fair and impartial decision based exclusively on the evidence presented. Therefore, I will refrain from participating in any manner in the matter identified above.

Date

Signature of Public Officer

Describe the bias or prejudice you hold in this matter: