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## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** ALENA JORQUEZ, SENIOR ASSISTANT TOWN ATTORNEY  
(480) 503-6109, ALENA.JORQUEZ@GILBERTAZ.GOV

**MEETING DATE:** JUNE 5, 2024

**SUBJECT:** CODE OF CONDUCT AND REPEALED ETHICS HANDBOOK

**STRATEGIC INITIATIVE:** N/A

### RECOMMENDED MOTION

No motion recommended.

### BACKGROUND/DISCUSSION

The Subcommittee on Code of Ethics met on January 31, 2024 for the purpose of reviewing the existing Ethics Handbook and Code of Conduct and making further recommendations to the Town council about these policies. The Subcommittee members requested a Study Session be scheduled with the Town Council to discuss their recommendation to repeal the Ethics Handbook and revise the Code of Conduct accordingly.

A Study Session was held on February 20, 2024, to discuss the Subcommittee's recommendations. At the Study Session, the Council determined that they wanted additional time to consider the proposed changes prior to bringing them to a Council meeting for consideration.

Included with this Staff Report are the revisions that, on April 16, 2024, the Council adopted the Code of Conduct and repealed the Ethics Handbook. Specifically,

these revisions incorporated the Ethics Handbook's Gift section, as well as incorporated its complaint process.

Respectfully submitted,

*Alena Jorquez*

Alena Jorquez  
Senior Assistant Town Attorney

**Attachments and Enclosures:**

- 1) Redline of Code of Conduct (showing adopted revisions)
- 2) Repealed Ethics Handbook

**POLICY STATEMENT NO.**

**SUBJECT: Code of Conduct**

**DATE: June 20, 2023 (Rev.  
Nov           , 2023)**

## **POLICY STATEMENT**

<b>SUBJECT: Code of Conduct for Elected Officials and Members of Boards, Commissions, Committees, and Task Forces</b>
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WHEREAS, public trust is built on the actions of members of the Town Council and members of Boards, Commissions, Committees, and Task Forces; and

WHEREAS, Elected and Appointed Public Officials have an obligation to the Town of Gilbert and its residents, businesses, and employees to uphold the highest standard of fairness, civility, and impartiality; and

WHEREAS, the purpose of the Code of Conduct is to establish clear standards of conduct for the members of the Town Council and the members of the Town's Boards, Commissions, Committees, and Task Forces; and

WHEREAS, the requirements of this Code of Conduct are in addition to and are intended to complement the requirements of Town Code, ~~the Ethics Handbook~~, and Arizona state law governing conduct of public officials.

NOW, THEREFORE, the Town of Gilbert Code of Conduct for Elected Officials and Members of Boards, Commissions, Committees, and Task Forces is hereby approved in the form attached hereto, effective as of ~~November 14, 2023~~           .

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Brigette Peterson, Mayor

ATTEST:

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Chaveli Herrera, Town Clerk

**TOWN OF GILBERT**  
**CODE OF CONDUCT FOR ELECTED OFFICIALS AND**  
**MEMBERS OF BOARDS, COMMISSIONS, COMMITTEES, AND TASK FORCES**

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## TOWN OF GILBERT

### CODE OF CONDUCT FOR ELECTED OFFICIALS AND MEMBERS OF BOARDS, COMMISSIONS, COMMITTEES, AND TASK FORCES

Public trust is built on the actions of elected officials and members of Boards, Commissions, Committees, and Task Forces. The public gains confidence when Elected and Appointed Public Officials act fairly and honestly in their decision-making. Common sense guidelines assist the ability of Public Officials to perform their duties with the highest standards of personal ethics, integrity, fairness, and impartiality. Public Officials should observe the following standards in carrying out their duties.

For purposes of this Code of Conduct, “Public Officials” shall mean the Mayor, members of the Gilbert Town Council, and members of Boards, Commissions, Committees, and Task Forces appointed by the Town Council.

The requirements of this Code of Conduct are in addition to and intended to complement the requirements of ~~the Ethics Handbook and~~ state law.

#### **I. General Duties of Elected and Appointed Public Officials**

##### **1. Effort and Preparation**

Public Officials have an obligation to attend meetings and to be prepared. It is expected that Public Officials will review all materials, participate in discussions, and make informed decisions on the merits of issues before them. In order for public meetings to run efficiently, it is expected that Public Officials who have questions about agenda items will reach out to staff prior to meetings in order to allow staff time to respond.

##### **2. Duty to Report**

Public Officials have a duty to create the image and reality of a responsive, accessible, and fair government. Accordingly, Public Officials have a duty to report if they believe that a Public Official has violated a state law, ~~the Ethics Handbook~~, or this Code of Conduct. Moreover, 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 conduct.

##### **3. Personal Interests and Declaring Conflicts of Interest**

Public Officials may occasionally find that they have a personal interest in a matter, even though a conflict of interest would not exist under the conflict-of-interest laws. Public Officials shall adhere to strongly held ethical values and refrain from discussing or voting on a matter when they believe personal interests may preclude them from making a fair and impartial decision. A Public Official who has a conflict of interest (whether actual or perceived) shall declare a conflict prior to discussion of a matter and leave the dais for the duration of the public body’s discussion and vote on that matter.

#### **4. Councilmember Conflicts of Interest Disclosure Procedure**

Prior to a Councilmember (or a relative of a Councilmember)—or any entity in which a Councilmember (or a relative of a Councilmember) has a substantial interest—either (i) submitting a bid for work from the Town or (ii) receiving any compensation outside of their regular salary, reasonable expenses, or other typical benefits, that Councilmember must first submit a Personal Interest Disclosure Form to the Town Clerk. Upon receipt, the Town Clerk shall then post that form to the Town’s website. Consistent with state ~~law and the Code of Ethics Section V(A) (Conflict of Interest)~~[conflicts of interest law](#), Councilmembers are not required to submit a disclosure form for circumstances involving remote interests. For purposes of this Section, the terms “relative”, “remote interest”, and substantial interest” shall have the same meaning set forth in [A.R.S. § 38-502](#).

#### **5. Abstaining from Voting**

A Public Official, whether elected or appointed, shall not abstain from voting on a matter unless that Public Official has declared a conflict of interest or has declared a personal interest in a matter.

#### **6. Attendance**

It is the responsibility of Public Officials to attend all public meetings in order to fairly conduct the business of Gilbert. Members of Boards, Commissions, Committees, and Task Forces should notify both their chairperson and the staff liaison if they are unable to attend a public meeting.<sup>1</sup>

#### **7. Discrimination and Harassment**

The conduct Public Officials shall be free from discrimination at all times. In addition, Public Officials shall strive to create an environment—whether with their fellow Public Officials, Town staff, or the public—that is productive and free from discrimination, intimidation, or hostility. Discrimination or harassment of any sort—verbal, physical, or visual—is prohibited. Public Officials shall refrain from making inappropriate comments to staff, other Public Officials, or members of the public.

#### **8. Political Activities**

Public Officials shall not engage in political campaigning at public meetings or within Town facilities (whether for elected office, ballot issues, or otherwise). Public Officials may participate in public forums and debates at Town facilities in the same manner and to the same extent as those facilities are provided for rent to the general public. Public Officials shall not use public resources for political campaigning or for ballot measures. *See* A.R.S. § 38-504.

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<sup>1</sup> Except for members of committees or the Redevelopment Commission and except for any absence occasioned by active duty in the United States Armed Forces or serious illness, if any member of a Board or Commission is absent for three consecutive meetings or absent from 50% of meetings during any six-month period, or fails to attend any required training, that member’s office shall be automatically vacated. *See* Town Code Section 1-205(b).

## **9. Travel**

When traveling on Town business, Public Officials shall conduct themselves professionally as representatives of the Town of Gilbert. Public Officials are entitled to be reimbursed for actual and necessary expenses during travel, as set forth in the travel guidelines applicable to Town employees. Public Officials shall utilize Town staff for assistance in travel plans and expense reports.

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

Public Officials shall not use Town equipment or Town facilities for private purposes, except to the extent that they are available to the public. Town-assigned electronic devices and accounts shall be used only for Town business or for minor personal use (so long as it is used in a way that does not interfere with Town business). Town devices and accounts may not be used for private business or for any campaign purpose. All written correspondence (in any form) pertaining to public business must be retained in accordance with the Town's records management program and Arizona law.

## **11. Annual Training**

Public Officials shall participate annually in open meeting law, public records law, ethics, public meeting protocols, civil discourse, code of conduct, and conflict of interest training provided by Town staff.

# **II. Elected and Appointed Public Officials Conduct with Each Another**

## **1. Use of Formal Titles**

During public meetings, Public Officials should refer to one another formally (such as Mayor, Vice Mayor, Councilmember, Chairperson, Boardmember, etc.) followed by the individual's last name.

## **2. Use of Civility and Decorum in Discussions and Debate**

Difficult questions, tough challenges to a particular point of view, and criticism of ideas are legitimate elements of free democracy in action. This does not allow, however, Public Officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments in public meetings or otherwise. No shouting or physical actions that could be construed as threatening or demeaning will be acceptable. If a Public Official is personally offended by the remarks of another Public Official during a public meeting, the offended Public Official may call for a point of order that challenges the other Public Official to justify or apologize for the language used.

## **3. Honor the Role of the Chairperson in Maintaining Order**

It is the responsibility of the Chairperson of a public meeting to keep the comments of Public Officials and the public on track during public meetings. Public Officials should honor efforts by the Chairperson to focus discussion on agenda items. If there is disagreement about the Chairperson's actions, those objections should be voiced politely and with reason, following the applicable rules of procedure.

Public officials should show great respect for the Chairperson during public meetings and always seek recognition before speaking, which practice will both set the example for those members of the public who want to speak and contribute to orderliness of meetings. To enhance the flow or discussion at work or study sessions, the Chairperson may be flexible on recognition formalities.

#### **4. Demonstrate Effective Problem-Solving Approaches**

Public Officials have a public forum to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole. This public forum should be used in the most effective and beneficial manner.

### **III. Elected and Appointed Public Officials Conduct with Town Staff**

Under the council-manager form of government, the Town Council appoints a Town Manager, who directs the day-to-day operations of all employees. Councilmembers must respect the role of the Town Manager and shall work only through the Town Manager.

Public Officials shall not expressly or implicitly give orders or direction to staff. *See* Town Code Sec. 1-44. Public Officials must also be careful to not expressly or unintentionally influence the decisions or recommendations of staff members by intervening directly on behalf of a particular constituent or organization on a pending matter outside of public meetings. Members of Boards, Commissions, Committees, and Task Forces shall work through their staff liaisons.

#### **1. Treat all Staff as Professionals**

Clear, honest communication that respects the abilities, experience, and dignity of each staff member is expected. Poor behavior towards staff is not acceptable.

#### **2. Limit Contact to Specific Town Staff**

Questions of Town staff and/or requests for additional background information shall be directed to the Town Manager, Town Clerk, Town Attorney, Assistant Town Managers, or Department heads.

Requests for follow-up or directions to staff should be made through the Town Manager. When in doubt about what staff contact is appropriate, Public Officials should ask the Town Manager for direction. Materials supplied to a Public Official in response to a request will be made available to all members of the public body so that all have equal access to information.

#### **3. Undue Influence**

Public Officials should not interfere with the Town Manager's authority by giving orders or explicit directions or requests (whether public or private) to any subordinates of the



Town Manager. Public Officials shall not attempt to exert influence on the Town Manager concerning the hiring or removal of Town staff.

**4. Do Not Disrupt Town Staff from their Job**

Public Officials should not disrupt Town staff while they are in meetings, on the phone, or busy doing their job functions in order to have their individual needs met.

**5. Never Publicly Criticize an Individual Employee**

Public Officials should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee’s manager. Comments about staff performance should only be made to the Town Manager.

**6. Do Not get Involved in Administrative Functions**

Public Officials should not interfere with the execution of the Town Manager’s powers and duties, or order—directly or indirectly—the appointment by the Town Manager of any person to an office or employment or removal therefrom. Public Officials may not give orders to any subordinate of the Town Manager, Town Clerk, Town Attorney, or Presiding Judge, either publicly or privately.

Public officials approve the annual budget for the Town, and the Town Manager determines the allocation of Town resources to various departments in order to maintain professional, well-run Town functions.

Nothing in this section shall be construed as prohibiting Public Officials from fully and freely discussing with or suggesting to the Town Manager anything pertaining to Town affairs or the interests of the Town.

**7. Do Not Attend Meetings with Town Staff unless Requested by Authorized Staff**

Even if a Public Official does not say anything, a Public Official’s presence in a staff meeting may imply support, show partiality, intimidate staff, and hamper staff’s ability to do their job objectively.

**8. Limit Requests for Staff Support**

Requests for additional staff support, beyond the currently assigned staff, even in high-priority or emergency situations, should be made only to the Town Manager.

**9. Do Not Solicit Political Support from Staff**

Public Officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc.) from Town staff while on duty. Town staff may, as private citizens, support

political candidates, but all such activities must occur outside of Town facilities and without the use of Town resources of any kind.

#### **IV. Elected and Appointed Public Officials Conduct with the Public**

##### **1. In Public Meetings**

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect should be evident on the part of Public Officials toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

###### **a. Be Welcoming to Speakers and Treat Them with Kindness**

For many citizens, speaking in front of a public body is a new experience. Under such circumstances, many are nervous. Public Officials are expected to treat citizens with respect during public meetings. Comments and non-verbal expressions should be appropriate, respectful, and professional. Personal attacks or questioning people's motives or character should always be off-limits. Instead, questions by Public Officials to speakers should seek to clarify or expand information.

###### **b. Embrace Diverse Points of View**

Public Official often deal with difficult policy challenges. Public Officials should create a culture of tolerance for differing points of view and allow as many perspectives as possible.

###### **c. Be Fair and Equitable in Allocating Public Comment Time to Individual Speakers**

In accordance with Town Code, the Chairperson will determine and announce time limits on speakers at the start of the public hearings and communications from citizens to ensure everyone's right to be heard is accomplished in a safe environment for all. If many speakers are anticipated, the Chairperson may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

Speakers should only address the public body when making comments. A speaker may only speak once during a public hearing or communications from citizens unless the public body requests additional clarification. After the close of the public hearing or communications from citizens, no more comments from the public should be accepted unless the Chairperson reopens public comment for a limited and specific purpose.

###### **d. Active Listening**

Public Officials should actively listen to and be attentive to speakers. Public Officials holding hearings in the Council Chambers should turn on the microphone so that the Chairperson is aware they would like to speak.

**e. Avoid Debate and Argument with the Public during Public Hearings**

If needed, only the Chairperson should interrupt a speaker during a presentation. However, a Public Official can ask the Chairperson for a point of order if the speaker is off the topic or exhibiting behavior or language the Public Official finds disturbing.

**f. Follow Rules of Procedure in Conducting Public Meetings**

The Town Attorney and Town Clerk are available to answer questions about the rules of procedure. Final rulings on rules of procedure are made by the Chairperson, subject to the appeal of the public body.

**2. In Unofficial Settings**

**1. Make No Promises on Behalf of the Public Body**

Public Officials will frequently be asked to explain an official action by the public body or to give their opinion about an issue as they meet and talk with constituents in the community. Public Officials should not make overt or implicit promises of specific official action or promise Town staff will take any particular action.

**V. Elected and Appointed Public Officials Conduct with Public Agencies**

**1. Be Clear about Representing the Town or Personal Interests**

If a Public Official appears before another governmental agency or organization, the Public Official must clearly state whether the statement reflects a personal opinion or is the official position of the Town.

**2. Representation of the Town on Outside Boards or Agencies**

Councilmembers serving on outside boards and commissions or before outside agencies should keep the Town Council informed about issues pertinent to the Town. While representing the Town on outside boards and commissions or before outside agencies, Councilmembers should support the Town's official positions on issues and should not further personal viewpoints that are inconsistent with official Town positions.

Public Officials must inform the Town Council of their involvement in an outside organization if that organization is or may become involved in any issue before the Town. If an individual Public Official publicly represents or speaks on behalf of another

organization whose position differs from the Town’s official position on any issue, the Public Official must withdraw from participating in any matter in the conflicting issue.

### **3. Correspondence should be Equally Clear about Representation**

Public Officials do not lose their First Amendment rights by virtue of becoming elected or appointed. However, Public Officials who decide to engage in social media, write Letters to the Editor or news articles, or make other public statements shall explicitly advise that their views do not necessarily reflect the views of the Town or their public body.

Town letterhead shall be used only when the Public Official is representing and speaking on behalf of the Town or within the Public Official’s official capacity.

### **4. Threats of Legal Action**

If someone threatens legal action or has filed a lawsuit against the Town, its officials, or employees, Public Officials should not communicate with that person (or that person’s attorney or other representative) about the subject matter of the claim.

## **VI. Town Council Conduct with Boards, Commissions, Committees, and Task Forces**

### **1. Members of Boards, Commissions, Committees, and Task Forces Serve the Community, Not Individual Councilmembers**

The Town Council appoints individuals to serve on Boards, Commissions, Committees, and Task Forces for their experience, background, and perspective. Members of Boards, Commissions, Committees, and Task Forces do not report to individual Councilmembers. Councilmembers should not threaten such members with removal if they disagree about an issue, position, or decision. Appointment and re-appointment to Boards, Commissions, Committees, and Task Forces is at the purview of the Town Council.

### **2. Limit Contact with Board, Commission, Committee, and Task Force Members**

Councilmembers shall not contact a member of a Board, Commission, Committee, or Task Force to lobby on behalf of an individual, business, or developer. However, Councilmembers may contact members of Boards, Commissions, Committees, and Task Forces in order to clarify a position taken by a member or its public body. Councilmembers may respond to inquiries from members of Boards, Commissions, Committees, and Task Forces, and all communications should be for informational purposes only.

### **3. Attending a Board, Commission, Committee, or Task Force Meeting**

Councilmembers may attend a Board, Commission, Committee, or Task Force meeting. However, Councilmembers should be sensitive to the way their participation—especially if it is on behalf of or opposed to an individual, business, or developer—could be viewed as unfairly affecting the process. Councilmembers should seriously consider the impact

of making a comment at a Board, Commission, Committee, or Task Force meeting, and any comment should be clearly made as individual opinion and not as a representation of the Town Council.

#### **4. Be Respectful of Diverse Opinions**

A primary role of Boards, Commissions, Committees, and Task Forces is to represent many points of view in the community and provide the Town Council with advice based on a full spectrum of concerns and perspectives. Councilmembers must be fair and respectful of all members of Boards, Commissions, Committees, and Task Forces.

#### **5. Keep Political Support Out of Public Forums**

Board, Commission, Committee, and Task Force members may offer political support to a Councilmember but may not do so in a public meeting, while conducting official duties, or through the use of Town resources.

### **VII. Elected and Appointed Public Officials Conduct with the Media**

#### **1. Contact with the Media**

Public Officials should notify the Town Manager's Office and/or appropriate staff when contacted by the media and/or when they are speaking on behalf of Town programs or initiatives to the media.

When communicating with the media, Public Officials shall clearly differentiate between personal opinions and the official position of the Town. Letters to the editor of papers or publications, addresses at public meetings, participation in radio, television, or podcast programming should include a disclaimer that the views expressed do not represent the official position of the Town but rather are the Public Official's personal opinion.

Public Officials can reach out to the Digital Media & Marketing Deputy Director or other appropriate members of the Office of Digital Government team for media assistance related to Town Matters and/or to receive media training.

#### **2. Discussions Regarding Staff Members**

Public Officials shall not discuss personnel issues or other matters regarding individual staff members with the media. Any issues pertaining to Town staff shall be addressed directly with the Town Manager.

#### **3. Media Inquiries about Claims or Litigation**

Media inquiries regarding pending or potential litigation involving the Town shall be referred to the Town Attorney's Office.

## VIII. Economic Development Confidentiality

Companies exploring opportunities for expansion and growth in the Town at times require that information that is shared with the Town and its officials be subject to non-disclosure agreements (or confidentiality requirements) in order to protect their economic interests. Elected and Appointed Public Officials shall not disclose any information concerning economic development that is confidential or otherwise subject to non-disclosure.

## IX. Code of Conduct Complaints

### 1. Complaint Process

Complaints alleging violations of the Code of Conduct may only be filed by Elected or Appointed Public Officials or Town staff within 30 days of the alleged misconduct as provided herein. Town staff may only file complaints regarding allegations of violations of the Code of Conduct that relate to interactions with or treatment of Town staff. Complaints by Public Officials shall be made in writing to the Town Clerk, and complaints by Town staff shall be made in writing to the Town Manager. Complaints must identify the specific provision of the Code of Conduct that has been allegedly violated. Complaints alleging violations of the Code of Conduct shall be treated fairly and expeditiously.

Upon receipt of a complaint, the Town Clerk shall provide a copy to the Public Official whom the Complaint is made against, the Town Council, the Town Manager, and the Town Attorney. Within seven calendar days of receipt of a complaint, the Town Clerk shall schedule an in-person meeting with the Complainant, the Public Official who the complaint was filed against, the Town Attorney, the Town Manager, and either the Mayor or Vice-Mayor. The purpose of the meeting is for the parties to discuss the complaint, address the Complainant's concerns, and provide guidance/training when appropriate.

It shall be ~~an ethical~~ a violation of this Code of Conduct for a Public Official to refuse to meet, cooperate, or make himself or herself available for the in-person meeting. In such event, the Town Clerk shall notify the Town Council of the Public Official's refusal to participate, and the Town Council may impose penalties and sanctions authorized by ~~the Ethics Handbook~~ this Section or the Town Code. If an accused Public Official believes a Code of Conduct complaint was filed by another Public Official for an improper purpose, that Public Official may bring a Code of Conduct complaint against the Public Official who filed the complaint.

If the Town Clerk receives more than two complaints against a Public Official within a 180-day period alleging a violation of the same section of this Code of Conduct for unrelated allegations of misconduct, the Town Clerk shall include the complaints as an administrative item on the agenda of the next regularly scheduled Town Council meeting ~~so that~~ for consideration. By the affirmative vote of five members, the Town Council ~~can determine whether or not the complaints should be handled as an Ethics Complaint under~~

~~the Ethics Handbook~~ may do one of the following: (i) sustain the complaints; (ii) direct the Town Attorney to assign an outside investigator to investigate the complaints; (iii) make its own findings with regard to the complaints; (iv) dismiss the complaints; or (v) take any other action on the complaints. If there are less than five affirmative votes to take an action on the complaint or if no action is taken, the complaint shall be deemed dismissed with prejudice, and the complaint may not be refiled or reconsidered.

~~If an accused Public Official believes a complaint was filed by another Public Official for an improper purpose, that Public Official may bring an ethics complaint against the Public Official who filed the complaint, as outlined in the Ethics Handbook.~~

## 2. Investigation

If the Town Council directs the Town Attorney to assign an outside investigator to investigate the complaints, the Town Attorney shall promptly assign an independent investigator (the "Investigator") to investigate the complaints. As part of the investigation, the Investigator shall interview the Public Official and any other witness or other party that the Investigator deems appropriate. Once the investigation is complete, the Investigator shall promptly prepare a report containing findings and conclusions. The Investigator shall send the report to the Town Clerk, who shall include the report as an administrative item on the agenda of the next regularly scheduled Town Council meeting.

It shall be a violation of this Code of Conduct for a Public Official to refuse to meet, cooperate, or make himself or herself available to the Investigator. In such event, the Investigator shall report the Public Official's refusal to participate in the investigation to the Town Clerk, which report shall be included as an administrative item on the agenda of the next regularly scheduled Town Council meeting. The Town Council may impose penalties and sanctions on the Public Official as authorized by this Section or the Town Code.

## 3. Town Council Review

The Town Council shall review the investigative report at the next regular Town Council meeting. By the affirmative vote of five members, the Town Council may (i) accept the report and recommendations in whole or in part; (ii) send the complaint back to the Investigator for further investigation; (iii) make its own findings with regard to the complaint; (iv) dismiss the complaint; or (v) take any other action on the complaint. A Councilmember who is the subject of a complaint shall not vote on any matter relating to the complaint but may explain his or her actions prior to any vote by the Council. A Councilmember who has filed a complaint against another Councilmember shall not participate in any discussion about the complaint and shall not vote on any matter relating to the complaint. If there are less than five affirmative votes to take an action on the complaint or if no action is taken, the complaint shall be deemed dismissed with prejudice, and the complaint may not be refiled or reconsidered. If, by the affirmative

vote of five members, the Town Council determines that a violation has occurred, the Town Council may impose penalties in accordance with this Section.

#### 4. Penalties and Sanctions

It is the intent of the Town Council to first educate, and only where necessary, discipline Elected and Appointed Public Officials who violate this Code of Conduct. Discipline shall be progressive, from the least to the most punitive measures, unless the Town Council (i) believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense; or (ii) does not believe the penalty would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a matter, including the intent of the Public Official who is accused of wrongdoing. The Town Council, by the affirmative vote of five members, may impose any, or a combination of, the following sanctions on Public Officials whose conduct does not comply with the guidelines and standards contained in this Section:

1. Finding of violation but no sanction imposed;
2. Mandatory ethical training;
3. Letter of Warning;
4. Formal censure (a strong statement of disapproval for a member's behavior);
5. Letter of Reprimand (official rebuke of the Public Official's behavior);
6. Imposition of a \$500.00 fine;
7. Loss of funding privileges;
8. Removal of any position or assignment to which the member has been appointed by the Mayor or Town Council; and
9. Removal of Office (only for Members of Boards, Commissions, Committees, and Task Forces)<sup>2</sup>.

<sup>2</sup> Pursuant to state law, the Town Council does not have authority to remove one of its own members. Instead, Councilmembers may be removed by recall.



**POLICY STATEMENT NO. 2023-02**

**SUBJECT: Ethics Handbook**

**DATE: June 20, 2023**

## **POLICY STATEMENT**

**SUBJECT: Ethics Handbook for Elected Officials and Members of Boards, Commissions, Committees, and Task Forces**

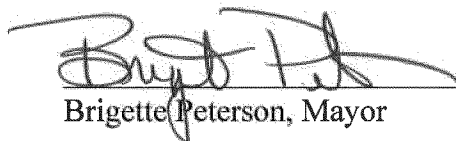
WHEREAS, the Gilbert Town Council values trust, honesty, personal responsibility, professionalism, service, and accountability; and

WHEREAS, the members of the Town Council and its Boards, Commissions, Committees, and Task Forces have an obligation to the Town of Gilbert and its residents, businesses, and employees to uphold the highest standard of ethics; and

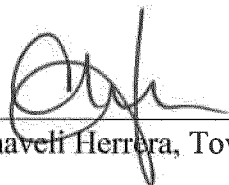
WHEREAS, the purpose of this Ethics Handbook is to establish standards of ethics for the members of the Town Council and members of the Town's Boards, Commissions, Committees, and Task Forces in order to maintain public confidence in the integrity of Gilbert's Public Officials and to instill public trust through the actions, words, and deeds of Gilbert's Public Officials; and

WHEREAS, the requirements of this Ethics Handbook are in addition to and are intended to complement the requirements of the Town Code, the Code of Conduct, and Arizona state law.

NOW, THEREFORE, the Town of Gilbert Ethics Handbook for Elected Officials and Members of Boards, Commissions, Committees, and Task Forces is hereby approved in the form attached hereto, effective as of August 21, 2023.

  
\_\_\_\_\_  
Brigette Peterson, Mayor

ATTEST:

  
\_\_\_\_\_  
Chaveli Herrera, Town Clerk

**TOWN OF GILBERT**

**ETHICS HANDBOOK FOR ELECTED OFFICIALS AND  
MEMBERS OF BOARDS, COMMISSIONS, COMMITTEES, AND TASK FORCES**

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It is the policy of the Town of Gilbert to uphold, promote, and demand the highest standards of ethics from all of its Public Officials—whether elected to the Town Council or appointed to a Board, Commission, Committee, or Task Force. Accordingly, Public Officials shall maintain the utmost standards of honesty, integrity, fairness, impartiality, respect, and loyalty in carrying out their public duties, avoid any improprieties in their roles as Public Officials, comply with all applicable laws, and never use their position improperly or for personal gain.

For purposes of this Ethics Handbook, “Public Officials” shall mean the Mayor, members of the Gilbert Town Council, and members of Boards, Commissions, Committees, and Task Forces.

This Ethics Handbook has been created by the Town Council to ensure that all Public Officials have clear guidance for carrying out their responsibilities and to instill public trust. The requirements of this Ethics Handbook are in addition to and are intended to complement the requirements of the Code of Conduct and state law governing conduct of Public Officials.

## **Section I: Ethics Standards**

### **A. General**

Elected and Appointed Public Officials are often called upon to make decisions that adversely affect constituents, whether the public in general, individual residents, or businesses. Balancing diverse constituent interests versus the needs of the general public is a difficult task, often resulting in disappointment or anger. While Public Officials cannot always appease everyone in carrying out their official duties, Public Officials must adhere to high ethical standards in serving the Town. Maintaining public trust is critical in order for the Town and the Town Council to operate efficiently.

A certain amount of detail is required in any ethics handbook so that it serves as a clear guide. However, at the core of ethical behavior are basic standards that Public Officials must use to reach a level of conduct that strives to be beyond reproach. Treating others as you would have them treat you is always a good ethical test. Another standard is to reflect on how your actions or decisions might be viewed by persons you serve.

### **B. Honesty and Integrity**

Honesty and integrity shall be the primary values in all issues. The public trust in the Town Council and its Boards, Commissions, Committees, and Task Forces can be a reality only when Public Officials are honest and truthful.

### **C. Fairness, Impartiality, and Respect**

All matters and citizens shall be treated with fairness, impartiality, and respect. Elected and Appointed Public Officials have an obligation to treat all citizens fairly, such as having an open mind on issues presented and being willing to listen to different points of view. In reviewing, discussing, and deciding matters, Public Officials have an obligation to be accessible, open, and clear, not only with other members of the Town Council and its Boards, Commissions, Committees, and Task Forces but also to the citizens and business representatives who appear before them. The public is entitled to communicate with their Public Officials and understand the

position of the Town Council and its Boards, Commissions, Committees, and Task Forces on public issues.

#### **D. Loyalty**

Elected and Appointed Public Officials have the obligation to put the interests of the community as a whole over all personal considerations and make the community's best interest their primary concern. The goal should be what is in the best interest for the broadest public good of the Town of Gilbert, consistent with constitutional and other legal protections for individual rights and property interests.

#### **E. Gifts**

Elected and Appointed Public Officials must consider ethical principles, including the conflicts of interest laws, before accepting anything of value that is being provided due to their status as Public Officials—whether a gift, favor, benefit, meal, travel, ticket, etc. Public Officials may not accept or offer a favor or anything of value that could be viewed as an effort to improperly influence the outcome of any matter that may come before a public body.

On at least a bi-annual basis, Public Officials shall disclose to the Town Clerk in writing anything received with a value in excess of \$50.00 (the disclosure must include the date received, the identity of the providing party, and the description and value of the benefit received). A gift that is donated by a Public Official to the Town or a bona fide charity within six months of receipt does not have to be disclosed to the Town Clerk.

Public Officials may accept tickets to attend fundraising events; however, Public Officials may not use Town funds to participate in any fundraising activities (such as raffles or auctions).

### **Section II: Ethics Complaint Process**

Subject to the limitations provided herein, a person who believes an Elected or Appointed Public Official in her or his official capacity has violated the guidelines and standards contained in Section I of this Ethics Handbook may file a complaint with the Town Clerk identifying the following:

1. The Complainant's name, address, email address, and phone number;
2. The name of the Public Official who is the subject of the complaint;
3. The nature of the alleged violation, including the specific provision of Section I of the Ethics Handbook allegedly violated;
4. A statement of facts constituting the alleged violation and the date on which or period of time in which the alleged violation occurred;
5. Documents or other materials in the Complainant's possession that are relevant to the allegation; and

6. A list of any witnesses (if any), what they may know, and their contact information, if known.

Any complaint that does not contain the above requirements will not be considered.

The filing of complaints shall be subject to the following limitations:

1. Complaints may only be filed by Councilmembers, members of Boards, Commissions, Committees, and Task Forces, Town employees, Town residents, owners of real property located in the Town, businesses located in the Town, and any person who is directly aggrieved by alleged misconduct by a Public Official.
2. Anonymous complaints will not be considered.
3. Complaints must be filed with the Town Clerk within 30 calendar days of the alleged misconduct. Notwithstanding the foregoing, if, within 2 weeks of the date of the alleged misconduct, a Complainant makes a public records request to the Town Clerk about the subject matter of the misconduct, the Complainant shall have one calendar week after fulfillment of the public records request to file a complaint.
4. Complaints alleging violations of state law or any other conduct not contained in the ethical guidelines and standards contained in Section I of this Ethics Handbook will not be considered.
5. If an accused Public Official believes a complaint was filed for an improper purpose, that Public Official may bring an ethics complaint against the filer if the person who filed the complaint is another Public Official.

Any complaint that does not satisfy these limitations will not be considered.

Upon receipt of a complaint, the Town Clerk shall promptly provide a copy to the Public Official whom the Complaint is made against, the Town Council, and the Town Attorney. The Town Attorney shall then promptly contact Arizona State University College of Law or similar neutral body such as the American Arbitration Association to select an independent mediator (the "Independent Mediator"). Complaints alleging violations of this Ethics Handbook shall be treated fairly and expeditiously.

## **A. Complaint Process**

### **1. Mediation**

Within seven calendar days of selection, the Independent Mediator shall schedule an in-person mediation, and the mediation shall be completed within 30 calendar days of selection, unless extended for good cause by the Independent Mediator. The Independent Mediator shall serve as the mediator, and the participants shall be limited to the Complainant (and complaint's attorney if applicable), the Public Official who the complaint was filed against (and the Public Official's attorney if applicable), the

Town Attorney (whose role shall be limited to representing the Town and not any Public Official), and the Independent Mediator.

If the Complainant refuses to meet or make himself or herself available for the mediation, the Independent Mediator shall dismiss the complaint with prejudice, and the complaint (and the subject matter thereof) may not be refiled or reconsidered. In such event, the Town Clerk shall notify the Town Council of the administrative dismissal of the complaint. It shall be an ethical violation for a Public Official to refuse to meet, cooperate, or make himself or herself available for the mediation. In such event, the Independent Mediator shall report the Public Official's refusal to participate to the Town Clerk, which report shall be included as an administrative item on the agenda of the next regularly scheduled Town Council meeting. The Town Council may then impose penalties and sanctions on the Public Official, as authorized by this Handbook or the Town Code.

## **2. Ethics Investigation**

If the Complainant is not satisfied with results of the mediation, the Complainant may—within seven calendar days after the day of mediation—request in writing that the Town Clerk submit the complaint to the Town Attorney. The Town Attorney shall then promptly contact Arizona State University College of Law or similar neutral body such as the American Arbitration Association to assign an independent ethics reviewer (the “Independent Ethics Reviewer”) to handle the complaint as provided below.

If the Complainant does not make a written request to the Town Clerk within seven calendar days after the day of the mediation, the complaint shall be deemed dismissed with prejudice, and the complaint may not be refiled or reconsidered. In such event, the Town Clerk shall notify the Town Council of the administrative dismissal of the complaint.

### **1. Initial Evaluation by the Independent Ethics Reviewer**

A complaint shall be initially evaluated by the Independent Ethics Reviewer. If the Independent Ethics Reviewer determines that the allegations in the complaint:

- (i) Are outside the jurisdiction of the Ethics Handbook;
- (ii) Are not facially sufficient to warrant investigation;
- (iii) Are not well grounded in law or fact;
- (iv) Are made for an improper purpose; or
- (v) Do not otherwise warrant additional investigation,

the Independent Ethics Reviewer shall make a recommendation to the Town Council through the Town Clerk to dismiss the complaint, which recommendation shall be included as a public hearing item on the agenda of the next regularly scheduled Town Council meeting.

### **2. Investigation**

The Independent Ethics Reviewer shall investigate the complaint, including determining whether to appoint an independent investigator to assist in carrying out an investigation. Any appointment of an independent investigator shall be made by and through the Town Attorney's Office and paid out of the budget of the Town Attorney's Office.

It shall be an ethical violation for a Public Official to refuse to meet, cooperate, or make himself or herself available to the Independent Ethics Reviewer or the investigator, if any. In such event, the Independent Ethics Reviewer shall report the Public Official's refusal to participate in the investigation to the Town Clerk, which report shall be included as an administrative item on the agenda of the next regularly scheduled Town Council meeting. The Town Council may impose penalties and sanctions on the Public Official as authorized by this Handbook or the Town Code.

### **3. Ethics Report**

Once the investigation is complete, the Independent Ethics Reviewer shall promptly prepare (or cause to be prepared) a report containing findings and recommendations (if any). The Independent Ethics Reviewer shall send the ethics report and recommendations to the Town Clerk, who shall include the report as an administrative item on the agenda of the next regularly scheduled Town Council meeting for Town Council for consideration.

### **Section III: Town Council Review**

The Town Council shall review the ethics report and recommendations at the next regular Town Council meeting. By the affirmative vote of five members, the Town Council may (i) accept the report and recommendations in whole or in part; (ii) send the complaint back to the Independent Ethics Reviewer for further investigation; (iii) make its own findings with regard to the complaint; (iv) dismiss the complaint; or (v) take any other action on the complaint. A Councilmember who is the subject of a complaint shall not vote on any matter but may explain his or her actions prior to any vote by the Council. If there are less than five affirmative votes to take an action on the complaint or determine that an ethics violation has occurred, the complaint shall be deemed dismissed with prejudice, and the complaint may not be refiled or reconsidered. If, by the affirmative vote of five members, the Town Council determines that an ethics violation has occurred, the Town Council may impose penalties in accordance with this Ethics Handbook.

### **Section IV: Penalties and Sanctions**

It is the intent of the Town Council to first educate, and only where necessary, discipline Elected and Appointed Public Officials who violate this Handbook. Discipline shall be progressive, from the least to the most punitive measures, unless the Town Council (i) believes progressive discipline does not provide the appropriate sanction because of the gravity of the offense; or (ii) does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving a matter, including the intent of the Public Official who is accused of wrongdoing. The Town Council, by the affirmative vote of five

members, may impose any, or a combination of, the following sanctions on Public Officials whose conduct does not comply with the guidelines and standards contained in this Handbook:

1. Finding of ethical violation but no sanction imposed;
2. Mandatory ethical training;
3. Letter of Warning;
4. Formal censure (a strong statement of disapproval for a member's behavior);
5. Letter of Reprimand (official rebuke of the Public Official's behavior);
6. Imposition of a \$500.00 fine;
7. Loss of funding privileges;
8. Removal of any position or assignment to which the member has been appointed by the Mayor or Town Council; and
9. Removal of Office for Members of Boards, Commissions, Committees, and Task Forces<sup>1</sup>.

## **Section V: State Laws**

In addition to the ethical requirements contained in Section I in Ethics Handbook, Elected and Appointed Public Officials are subject to the requirements of state law. State law provides remedies for allegations of violations of state law. Consequently, complaints alleging violations of state law will not be accepted or considered as part of the ethics complaint process set forth in this Ethics Handbook.

### **A. Conflicts of Interest**

Elected and Appointed Public Officials must be constantly on guard against conflicts of interest. As a result, Public Officials shall not be involved in any activity which conflicts with their responsibilities to Gilbert or its residents, businesses, or interests. The citizens of Gilbert have a right to expect independence and fairness toward all groups without favoring individuals or personal interests.

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 A.R.S. §38-502(10), or (ii) or when the Public Official has an interest that results in the Public

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<sup>1</sup> Pursuant to state law, the Town Council does not have authority to remove one of its own members. Instead, Councilmembers may be removed by recall.



Official not being able to act impartially on a matter before the Public Body. For purposes of the conflict-of-interest laws, "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.

If a Public Official believes that a conflict of interest (or even a possible conflict) exists, then that Public Official should disclose the fact as soon as possible by filing a statement with the Town Clerk setting forth the nature of the conflict of interest. Where a conflict has been declared, a Public Official should not participate in any manner (by discussing, questioning, or voting) in that matter and should leave the dais for the duration of the discussion and vote. Public Officials should declare possible conflicts when necessary to avoid any appearance of impropriety.

Complaints alleging violations of the conflicts-of-interest laws may be filed with either the Office of the Arizona Attorney General at <https://www.azag.gov/complaints/public-monies> or a law enforcement agency or may be addressed through a private citizen lawsuit.

### **B. Open Meeting Laws**

The Arizona Open Meeting Law (A.R.S. § 38-431 et. al) require that all meetings of public bodies be conducted openly, after proper public notice has been given. The intent of the Open Meeting Laws is to assure that the public's business is conducted in public. Elected and Appointed Public Officials shall comply with the Open Meeting Laws and shall not attempt to circumvent the requirements of the Open Meeting Laws. Practices such as polling other Public Officials to reach a decision outside of public meetings is prohibited. Use of Town staff or others to promote discussion among other members of the Public Body to circumvent the purposes of the Open Meeting Laws is also prohibited.

Public Officials should be careful to avoid situations which may result in a serial meeting. A discussion among less than a quorum may lead to a violation of the Open Meeting Laws if a quorum is eventually involved in that discussion. For example, if three members of the Town Council discuss a matter that is either pending before the Council or may come before the Council for discussion or action, and one of those members subsequently discusses that matter with another member of the Council, a serial meeting may have been held in violation of the Open Meeting Laws. Serial meetings may occur through conversations, written correspondence, e-mail, texts, or any other means of communications. In order to avoid serial meetings from occurring, it is a good practice for a Public Official who desires to talk to another Public Official about a matter that could come before the Public Body to first ask whether that Public Official has had any contact with any other Public Official about the matter. Open Meeting Laws are found in A.R.S. §§ 38-431 to 431.09 and in Town Code Sections 1-88 and 1-204.

Complaints alleging violations of the open meeting law may be filed directly with the Office of the Arizona Attorney General at <https://www.azag.gov/complaints/omlet>.

### **C. Public Records Law**

Arizona law requires public bodies (including Elected and Appointed Public Officials) to maintain records reasonably necessary to provide an accurate accounting of their official activities and of any government funded activities. Under Arizona law, any record that has a substantial nexus to

government activity is considered a public record and is presumed to be subject to disclosure. Public Officials shall maintain all records associated with their official duties, whether those records are created and stored on Town-issued devices and accounts or on personal devices and accounts. Public Officials should be careful when using personal devices and accounts while conducting business on behalf of the Town because doing so could open up those personal devices and accounts to public records requests. Public records laws are found in A.R.S. §§ 39-121 to 121.03.

Complaints alleging violations of public records laws may be addressed through a private citizen lawsuit.

#### **D. Disclosure of Confidential Information**

The Town of 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 by law. Arizona law provides that, during a person's service with the Town and for two years thereafter, Public Officials, whether elected or appointed, may not disclose, or use confidential information without appropriate authorization. *See* A.R.S. § 38-504(B). Public Officials shall not disclose confidential, privileged, or protected information, unless authorized by the majority vote of a quorum of the Council or required by law. Public Officials shall not use confidential, privileged, or protected information to advance the financial or other private interest of themselves or others. Types of confidential information include, without limitation, information protected by the Executive Session privilege, attorney-client privilege, work-product privilege, and information not readily available to the public and only known to them due to their roles as Public Officials.

Complaints alleging violations of disclosure of confidential information may be filed with either the Office of the Arizona Attorney General at <https://www.azag.gov/complaints/public-monies> or a law enforcement agency or may be addressed through a private citizen lawsuit.

#### **Section VI: Council-Initiated Investigations**

Where permitted by law, the Town Council may meet in Executive Session to discuss potential violations of conflicts of interest, open meeting laws, public records laws, executive session laws, or improper disclosure of confidential information. In such event, the Town Council may initiate an investigation and/or report the potential violation to the Attorney General's Office or other appropriate authority.