

ORDINANCE G-6422

AN ORDINANCE AMENDING PHOENIX CITY CODE CHAPTER 2, ARTICLE II, SECTION 2-52(B) TO ADD COMPLIANCE WITH ALL APPLICABLE LAWS TO THE ETHICS POLICY; AND ESTABLISHING A NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY BY ADDING NEW PHOENIX CITY CODE CHAPTER 2, ARTICLE II, SECTION 2-54; AND REFERRING AN AMENDMENT TO PHOENIX CITY CHARTER CHAPTER XVII (THE RECALL) TO PERMIT REMOVAL OF AN ELECTED OFFICIAL FROM OFFICE FOR A VIOLATION OF THE CITY OF PHOENIX ETHICS, GIFT, CONFLICT OF INTEREST, OR NON-DISCRIMINATION AND ANTI-HARASSMENT POLICIES.

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

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

- B. *Ethics policy.* It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its elected officials, employees, board members, and volunteers. Accordingly, all City elected officials, employees, board members, and volunteers must maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, COMPLY WITH ALL APPLICABLE LAWS, and never use their City position or power for improper personal gain.

SECTION 2. Phoenix City Code Chapter 2, Article II, Section 2-54 is added to

read as follows:

**SEC. 2-54. CITY OF PHOENIX NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY.**

- A. *DEFINITIONS.* THE FOLLOWING DEFINITIONS APPLY TO THIS SECTION. THE PLURAL OF THE WORD OR PHRASE INCLUDES THE SINGULAR, AND THE SINGULAR INCLUDES THE PLURAL.
1. *BOARD MEMBER* MEANS A MEMBER OF A CITY OF PHOENIX BOARD, COMMITTEE, COMMISSION, OR TASK FORCE.
  2. *ELECTED OFFICIAL* MEANS A PERSON ELECTED OR APPOINTED AS MAYOR OR AS COUNCIL MEMBER OF THE CITY OF PHOENIX.
  3. *TERM OF OFFICE* FOR AN ELECTED OFFICIAL MEANS THE PERIOD THAT RUNS FROM THE DATE AN ELECTED OFFICIAL IS DEEMED A QUALIFIED CANDIDATE FOR A CITY OF PHOENIX OFFICE AND CONTINUES UNINTERRUPTED THROUGH THE DATE THE ELECTED OFFICIAL VACATES THE OFFICE. *TERM OF OFFICE* FOR A BOARD MEMBER MEANS THE PERIOD THAT RUNS FROM THE DATE OF THE BOARD MEMBER'S INITIAL OATH OF OFFICE AND CONTINUES UNINTERRUPTED THROUGH THE DATE THE BOARD MEMBER VACATES THE OFFICE. *TERM OF OFFICE* FOR A VOLUNTEER MEANS THE PERIOD THAT RUNS FROM THE FIRST DATE A VOLUNTEER PROVIDES SERVICES TO THE CITY OF PHOENIX AND CONTINUES UNINTERRUPTED THROUGH THE LAST DATE THE VOLUNTEER PROVIDES SERVICES TO THE CITY OF PHOENIX.
  4. *VOLUNTEER* MEANS A PERSON, OTHER THAN A BOARD MEMBER, WHO PROVIDES SERVICES TO THE CITY OF PHOENIX WITHOUT ANY EXPRESS OR IMPLIED PROMISE OF COMPENSATION, AND SERVES AS A HEARING OFFICER, INTERN, EXTERN, CONTRACTOR, VENDOR, OR OTHERWISE SERVES IN THE ADMINISTRATIVE OFFICES OF AN ELECTED OFFICIAL, THE CITY MANAGER, OR A CITY OF PHOENIX DEPARTMENT OR FUNCTION HEAD. A BLOCK WATCH CAPTAIN IS NOT A VOLUNTEER FOR PURPOSES OF THIS POLICY.
- B. *NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY.* WHEN ACTING IN THE COURSE AND SCOPE OF THEIR DUTIES DURING THEIR TERM OF OFFICE, CITY OF PHOENIX ELECTED OFFICIALS, BOARD MEMBERS, AND VOLUNTEERS MUST NOT BY WORDS OR

CONDUCT HARASS OR DISCRIMINATE AGAINST ANY PERSON BASED ON THE PERSON'S RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, ETHNICITY, AGE, SEXUAL ORIENTATION, MARITAL STATUS, GENDER, GENDER IDENTITY OR EXPRESSION, OR DISABILITY. IN ADDITION, CITY OF PHOENIX ELECTED OFFICIALS, BOARD MEMBERS, AND VOLUNTEERS MUST NOT RETALIATE AGAINST ANY PERSON WHO MAKES A COMPLAINT OF DISCRIMINATION OR PARTICIPATES IN THE INVESTIGATION OF A COMPLAINT.

- C. *FILING OF A COMPLAINT.* ANY PERSON WHO IS AGGRIEVED BY A VIOLATION OF THE NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY BY AN ELECTED OFFICIAL, BOARD MEMBER, OR VOLUNTEER MAY FILE WITH THE CITY CLERK A WRITTEN COMPLAINT ALLEGING SPECIFIC VIOLATIONS OF THE POLICY THAT OCCURRED DURING THE TERM OF OFFICE OF THE ELECTED OFFICIAL, BOARD MEMBER, OR VOLUNTEER. UPON RECEIPT OF A COMPLAINT, THE CITY CLERK WILL ASSIGN A MATTER NUMBER TO THE COMPLAINT. FOR THE PERIOD THAT BEGINS WITH THE ASSIGNMENT OF THE MATTER NUMBER BY THE CITY CLERK THROUGH FINAL ACTION BY COUNCIL IN OPEN SESSION, THE COMPLAINT WILL BE REFERENCED SOLELY BY MATTER NUMBER, AND THE COMPLAINT, INVESTIGATION AND ANY PROCEEDINGS RELATED TO ITS EVALUATION MUST REMAIN CONFIDENTIAL.
- D. *CONSIDERATION OF A COMPLAINT.* WITHIN FIVE DAYS OF RECEIVING A COMPLAINT, THE CITY CLERK WILL FORWARD THE COMPLAINT TO THE CITY ATTORNEY. IF THE COMPLAINT CONTAINS ALLEGATIONS AGAINST AN ELECTED OFFICIAL OR BOARD MEMBER, THE COMPLAINT WILL BE PLACED ON THE COUNCIL'S NEXT AVAILABLE EXECUTIVE SESSION AGENDA. IF THE COMPLAINT CONTAINS ALLEGATIONS AGAINST A VOLUNTEER, THE CITY MANAGER WILL TAKE ALL FURTHER ACTION RELATED TO THE COMPLAINT.
- E. *ELECTED OFFICIAL PARTICIPATION.* IF A COMPLAINT IS FILED BY OR AN ELECTED OFFICIAL IS NAMED AS A PARTY IN A COMPLAINT, THE ELECTED OFFICIAL MUST NOT PARTICIPATE IN ANY COUNCIL DISCUSSION OR VOTE RELATED TO THE COMPLAINT. HOWEVER, AN ELECTED OFFICIAL WHO FILES OR IS NAMED IN A COMPLAINT MAY DEFEND AND RESPOND TO ALLEGATIONS IN THE COMPLAINT AND FULLY PARTICIPATE IN ANY INVESTIGATION OF THE COMPLAINT.
- F. *INITIAL EVALUATION BY THE COUNCIL.* COUNCIL MEMBERS WHO DID NOT FILE AND ARE NOT NAMED IN THE COMPLAINT AGAINST AN ELECTED OFFICIAL OR BOARD MEMBER WILL INITIALLY EVALUATE THE COMPLAINT IN EXECUTIVE SESSION TO PROVIDE DIRECTION ON WHETHER THE ALLEGATIONS IN THE COMPLAINT:

1. ARE FACIALLY SUFFICIENT IN WHOLE OR IN PART TO WARRANT INVESTIGATION; OR
2. ARE FACIALLY INSUFFICIENT TO WARRANT INVESTIGATION AND ARE THEREFORE SUBJECT TO DISMISSAL. THE COUNCIL'S DISMISSAL OF THE COMPLAINT IS NOT SUBJECT TO REVIEW; OR
3. MAY INVOLVE A CRIME, IN WHICH CASE THE PARTICIPATING COUNCIL MEMBERS MAY REFER THE COMPLAINT TO THE PROPER AUTHORITY FOR INVESTIGATION AND PROSECUTION. IF THE COUNCIL REFERS THE COMPLAINT TO ANOTHER AUTHORITY FOR CRIMINAL INVESTIGATION OR PROSECUTION, THE COUNCIL MUST STAY ALL ACTION RELATED TO THE COMPLAINT UNTIL THE CRIMINAL INVESTIGATION AND ANY RELATED PROCEEDINGS ARE RESOLVED.

IF THE PARTICIPATING COUNCIL MEMBERS FAIL TO PROVIDE DIRECTION RELATING TO SUBSECTIONS (F)(1) THROUGH (3) OF THIS SECTION, THE COMPLAINT IS DEEMED DISMISSED.

- G. *INVESTIGATION OF A COMPLAINT.* UPON A DETERMINATION THAT A COMPLAINT AGAINST AN ELECTED OFFICIAL OR BOARD MEMBER WARRANTS INVESTIGATION, THE PARTICIPATING COUNCIL MEMBERS MAY REFER THE COMPLAINT FOR INVESTIGATION BY A QUALIFIED LAW FIRM. THE IDENTITIES OF THE COMPLAINANT AND THE ELECTED OFFICIAL, BOARD MEMBER, OR VOLUNTEER NAMED IN THE COMPLAINT MUST REMAIN CONFIDENTIAL UNTIL FINAL ACTION ON THE COMPLAINT BY THE PARTICIPATING COUNCIL MEMBERS (FOR AN ELECTED OFFICIAL OR BOARD MEMBER) OR CITY MANAGER (FOR A VOLUNTEER).
- H. *INVESTIGATION REPORT.* AFTER THE INVESTIGATION OF A COMPLAINT CONCLUDES, THE INVESTIGATOR WILL PREPARE A WRITTEN REPORT WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW RELATING TO THE COMPLAINT. A REPORT RELATING TO A COMPLAINT AGAINST AN ELECTED OFFICIAL OR BOARD MEMBER WILL BE PROVIDED TO THE PARTICIPATING COUNCIL MEMBERS FOR SUCH ACTION AS THE PARTICIPATING COUNCIL MEMBERS DEEM APPROPRIATE. THE REPORT WILL BE AVAILABLE FOR PUBLIC INSPECTION UNDER THE ARIZONA PUBLIC RECORDS ACT AFTER FINAL COUNCIL ACTION IN OPEN SESSION.
- I. *CONSIDERATION OF AN INVESTIGATION REPORT.* THE INVESTIGATION REPORT RELATING TO A COMPLAINT AGAINST AN ELECTED OFFICIAL OR BOARD MEMBER WILL BE PLACED ON THE AGENDA OF THE NEXT AVAILABLE MEETING OF THE FULL COUNCIL

AND MAY BE HEARD IN EXECUTIVE SESSION AS PROVIDED BY LAW. BY THE AFFIRMATIVE VOTE OF THREE-FOURTHS OF THE PARTICIPATING COUNCIL MEMBERS, THE COUNCIL MAY CONCLUDE THAT AN ELECTED OFFICIAL HAS VIOLATED THE POLICY AND IMPOSE THE ACTIONS OR CIVIL SANCTIONS PERMITTED BY THIS SECTION OR DISMISS THE COMPLAINT. IF LESS THAN THREE-FOURTHS OF PARTICIPATING COUNCIL MEMBERS VOTE TO IMPOSE ACTIONS OR CIVIL SANCTIONS OR TO DISMISS THE COMPLAINT, THE COMPLAINT IS DEEMED DISMISSED.

- J. *SANCTIONS.* BY THE AFFIRMATIVE VOTE OF THREE-FOURTHS OF THE PARTICIPATING COUNCIL MEMBERS, THE COUNCIL MAY IMPOSE ANY OF THE FOLLOWING ACTIONS OR CIVIL SANCTIONS FOR A VIOLATION OF THE NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY BY AN ELECTED OFFICIAL: CENSURE; A MAXIMUM CIVIL SANCTION IN THE AMOUNT OF \$2,500.00 FOR EACH VIOLATION; OR, IF APPROVED BY QUALIFIED CITY OF PHOENIX ELECTORS, REMOVAL FROM OFFICE. BY A MAJORITY VOTE, THE COUNCIL MAY IMPOSE ANY OF THE FOLLOWING ACTIONS OR CIVIL SANCTIONS FOR VIOLATION OF THE NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY BY A BOARD MEMBER: CENSURE, A MAXIMUM CIVIL SANCTION IN THE AMOUNT OF \$2,500.00 FOR EACH VIOLATION, OR REMOVAL. PHOENIX CITY CODE SECTION 1-5 DOES NOT APPLY TO AN ACTION UNDER THIS SUBSECTION.
- K. *REMOVAL OF BOARD MEMBER.* COMPLIANCE WITH THIS SECTION IS NOT REQUIRED FOR THE COUNCIL TO ACT UNDER PHOENIX CITY CODE SECTION 2-51.

SECTION 3. An amendment to Phoenix City Charter Chapter XVII (The Recall) to permit the removal of a council member from office by an affirmative vote of three-fourths of council members for the council member's violation of the City of Phoenix ethics, gift, conflict of interest, or non-discrimination and anti-harassment policies shall be submitted to the qualified City of Phoenix electors for their approval or rejection at the next citywide election held according to law.

PASSED by the Council of the City of Phoenix this 27<sup>th</sup> day of February,  
2018.

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Greg Stanton  
MAYOR

ATTEST:

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Cris Meyer City Clerk

APPROVED AS TO FORM:

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Daniel L. Brown Acting City Attorney

REVIEWED BY:

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Ed Zuercher City Manager

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