

Chapter 2.64

PROHIBITED GIFTS TO CITY OFFICIALS

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2.64.010 Definitions. As used in this Chapter, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates otherwise:

A. "Board and commission member" shall mean any person duly appointed by the Council to any board or commission of the City as authorized in City Charter Section 9, but shall not include any person who is a duly appointed commissioner of the Delta Housing Authority.

B. "City official" shall mean a Councilmember, an employee or a board and commission member.

C. "Councilmember" shall mean a member of the City Council.

D. "Employee" shall mean each compensated person in the service of the City who is designated as an employee in the City's personnel rules and regulations, but shall not include any person providing services for the City who is considered for federal income tax purposes to be an independent contractor.

E. "Gift" shall mean the transfer of a thing of value by one person to another person without the person transferring the thing of value receiving in return lawful compensation or consideration of equal or greater value from the person receiving the thing of value. However, a "gift" shall not mean anything of value given to a person by a local, state or the federal government as authorized by law.

F. "Person" shall mean any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.

G. "Thing of value" shall mean any tangible or intangible having a market value, including, without limitation, money,

real property, personal property, services, loans of money or property, favors, gratuities, rewards, awards, grants, scholarships, discounts, promises of future employment, honoraria, event tickets, travel, lodging, meals, and the forbearance and forgiveness of debt. (Ord. 1, §1, 2007)

2.64.020 Prohibited gifts. Unless permitted under City Code Section 2.64.030, a City official shall not solicit or accept any gift from any person either directly or indirectly through the City official's spouse or dependent child, which gift the City official knows or which a reasonable person in the City official's position should know under the circumstances, is either:

A. a gift that would tend to improperly influence that City official to depart from the faithful and impartial discharge of his or her public duties; or

B. a gift being solicited or given for the primary purpose of rewarding the City official for an official action he or she has taken. (Ord. 1, §1, 2007)

2.64.030 Permitted gifts. The gift prohibitions of Section 2.64.020 shall not apply to City officials with respect to the following permitted gifts:

A. campaign contributions as authorized by law;

B. a non-monetary award, publicly presented, in recognition of public service;

C. gifts similarly available to the general public;

D. educational scholarships and grants available to members of the general public similarly situated;

E. grants and services provided for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;

F. an occasional, unsolicited gift having a fair market value of twenty-five dollars (\$25) or less;

G. unsolicited informational material, publications or subscriptions related to the City official's performance or his or her official duties;

H. an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

I. payment of or reimbursement for actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar, or other meeting at which the City official is scheduled to participate as a representative of the City or to attend as part of his or her official duties;

J. an occasional, unsolicited opportunity to participate in a business meeting or social function where a meal is served and/or entertainment is provided if the City official's attendance would not be considered extraordinary when viewed in light of the position held by the City official;

K. payment received by a Councilmember for a speech, appearance or publication required to be reported by the Councilmember pursuant to C.R.S. 24-6-203;

L. gifts received by a Councilmember or a board and commission member arising from his or her employment and that is unrelated to his or her official City duties; and

M. gifts received by an employee from the City as authorized in the City's personnel rules and regulations, and any gifts received by an employee arising from his or her non-City employment and that is unrelated to his or her official City duties. (Ord. 1, §1, 2007)

2.64.040 Violations.

A. It shall be unlawful for any City official to violate any provision of this Chapter. Proof of a violation shall be established by a preponderance of the evidence as presented at trial.

B. Any City official determined by the Municipal Court to have violated any provision of this Chapter shall be deemed to have committed a civil infraction and shall be punished by a civil fine not to exceed one thousand dollars (\$1,000). In addition to any civil fine imposed, a judgment in the amount of twice the fair market value of the prohibited gift received shall also be entered by the Municipal Court against the City official. If the City official fails to pay the total judgment amount entered for the civil fine and for twice the fair market value of the prohibited gift within thirty (30) days of the entry of the final judgment, the City may pursue any legal means available to it for the collection of the judgment. (Ord. 1, §1, 2007)