

§ 2.64.010 PURPOSE.

A. The Illinois General Assembly has enacted the State Officials and Employees Ethics Act, as amended, (hereinafter the “Act”), which is a comprehensive revision of State statutes regulating ethical conduct, political activities, the solicitation and acceptance of gifts by State officials and employees, and prohibiting sexual harassment.

B. The Act requires all units of local government to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units and prohibiting sexual harassment “in a manner no less restrictive” than the provisions of the Act.

C. The clear intention of the Act is to require units of local government to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations.

D. The clear intention of the Act is to provide units of local government with all authority necessary to implement its requirements on the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable.

(Ord. O-201205-12-027, § 1, passed 5-15-2012)

§ 2.64.020 DEFINITIONS.

For purposes of this Ordinance, the following words and terms shall be given the meaning as defined in this section of this Ordinance.

A. “Appointee” means anyone appointed to a governmental board, commission, committee, or other entity by the McHenry County Board, the Chair of the McHenry County Board, or such other governmental entity adopting this Ordinance and agreeing to be bound by its terms ~~pursuant to § 2.64.040(A)(1) herein.~~

B. “Business day” shall refer to Monday through Friday except for days in which the McHenry County Government Center is closed in observance of designated holidays set by the McHenry County Board or other closures.

C. “Business entity” means the ~~actual~~ organization or any ~~individual person~~ to which a governmental entity subject to this Ordinance has awarded a contract or to which such contract is to be awarded and includes any of the ~~organization’s principals of the organization~~, relatives of the ~~organization’s principals of the organization~~ or the individual, and any other legal entities in which those principals or relatives have a controlling interest or have control over the disbursement of funds of the organization or individual.

D. “Campaign for elective office” means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but “campaign for elective office” does not include activities relating to the support or opposition of any executive, legislative, or administrative action, relating to collective bargaining, or that are otherwise in furtherance of the person’s official duties.

E. “Candidate” means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in § 1-3 of the Election Code (10 Ill. Comp. Stat. 5/1-3).

F. “Collective bargaining” has the same meaning as that term is defined in § 3 of the Illinois Public Labor Relations Act (5 Ill. Comp. Stat. 315/3).

G. “Commission” means an Ethics Commission created by this Ordinance.

H. “Compensated time” means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Ordinance, does not include any designated holidays, vacation periods, personal time, break time, compensatory time off, FMLA, military leave, or any period when the employee is on a leave of absence. With respect to employees whose hours are not fixed, “compensated time” includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

I. “Compensatory time off” means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

J. “Contribution” has the same meaning as that term is defined in § 9-1.4 of the Election Code (10 Ill. Comp. Stat. 5/9-1.4).

K. “Days” means calendar days unless otherwise specified.

L. “*De Minimis*” means trifling, trivial, minimal, or of little significance.

M. “Employee” means:

1. a person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of the County of McHenry with regard to the material details of how the work is to be performed, but not employed by an officer;

2. a person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of another governmental entity adopting this Ordinance and agreeing to be bound by its terms ~~pursuant to § 2-64.040(A)(1)~~ herein with regard to the material details of how the work is to be performed;

3. employee does not include an independent contractor;

4. employee does not include the staffs of the State's Attorney, ~~or the~~ Circuit Clerk, ~~as these staffs are employed by a State officer.~~ Court Administration, the Public Defender, and the Associate and Circuit Judges of the 22nd Judicial Circuit ~~are not subject to this Ordinance as they are exclusively regulated by the Illinois Supreme Court.~~

N. "Employee of an officer" means a person employed by an officer.

O. "Employer" means the County of McHenry.

P. "Frivolous complaint" means a complaint that, when the allegations are taken as true and liberally construed, fails to present even a limited amount of detail; a complaint that lacks an arguable basis either in law or in fact; or, a complaint that is being presented for any improper purpose such as to harass an employee, employee of an officer, or officer. The number of complaints filed may be taken into consideration. A complaint does not have to state a claim in its entirety, legal arguments or citation to legal authority.

Q. "Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to a government employment or the official position of an officer or employee.

R. "Governmental entity" means any legislative, executive, administrative, judicial, or advisory bodies of the State, state universities and colleges, counties, countywide officials, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State or another, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof.

S. "Leave of absence" means any period during which an employee does not receive:

1. compensation for employment,
2. service credit towards pension benefits, and
3. health insurance benefits paid for by the employer.

T. "Officer" means a person who holds, by election or appointment, including an appointee, an office created by statute or ordinance, regardless of whether the officer is

compensated for service in his or her official capacity. The State's Attorney, ~~and the Circuit Clerk, are not subject to this Ordinance as they are State, not County, officers.~~ Court Administration, the Public Defender, and the Associate and Circuit Judges of the 22nd Judicial Circuit are not subject to this Ordinance. ~~as they are exclusively regulated by the Illinois Supreme Court. However, the State's Attorney, the Circuit Clerk, and the Chief Judge may adopt this Ordinance pursuant to § 2.64.040(A)(2) herein and, therefore, become an officer pursuant to this definition.~~

U. "Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:

1. relating to the support or opposition of any executive, legislative, or administrative action,
2. relating to collective bargaining, or
3. that are otherwise in furtherance of the person's official duties.

V. "Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under § 9-3 of the Election Code (10 Ill. Comp. Stat. 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

W. "Principals" shall mean any of the officers of a business entity and any person or entity with a seven and a half percent (7.5%) or greater ownership interest in the entity.

X. "Probable cause" means facts that would lead a reasonable person to believe that the respondent was committing or had committed the violation.

Y. "Prohibited political activity" means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, or planning the solicitation of, a campaign contribution or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

6. Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.

7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

8. Initiating for circulation, preparing, circulating, reviewing, signing or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

10. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

12. Campaigning for any elective office or for or against any referendum question.

13. Managing or working on a campaign for elective office or for or against any referendum question.

14. Serving as a delegate, alternate, or proxy to a political party convention.

15. Participating in any recount or challenge to the outcome of any election.

Z. “Prohibited source” means any person or entity who:

1. is seeking official action:

a. by an officer or

b. by an employee, or by the officer or another employee directing that employee;

2. does business or seeks to do business:
 - a. with the officer or
 - b. with an employee, or with the officer or another employee directing that employee;
3. conducts activities regulated:
 - a. by the officer or
 - b. by an employee, or by the officer or another employee directing that employee; or
4. has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

5. who is a candidate.

AA. “Relative” means any person related to the individual as spouse (including any analogous relationship recognized by law), parent, child, brother, sister, grandparent, grandchild, first cousin, aunt, uncle, great aunt, great uncle, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister; the parent or grandparent of the individual’s spouse (including any analogous relationship recognized by law) and the individual’s fiancé or fiancée; or household member.

(Ord. O-201205-12-027, § 2, passed 5-15-2012)

§ 2.64.030 PROHIBITED POLITICAL ACTIVITIES.

A. No employee, employee of an officer, or an officer shall intentionally perform any prohibited political activity during any compensated time, as defined herein, that is more than *de minimis* in the context of the activity. No officer, candidate, or employee shall intentionally use any property or resources of the County of McHenry in connection with any prohibited political activity that is more than *de minimis* in the context of the use.

B. At no time shall any employee, employee of an officer, ~~or~~ an officer, or candidate intentionally require any other employee, employee of an officer, or an officer to perform any prohibited political activity:

1. as part of that employee, employee of an officer, or officer’s duties,
2. as a condition of employment, or

3. during any compensated time off (such as holidays, vacation or personal time off).

C. No employee, employee of an officer, or an officer shall be required at any time to participate in any prohibited political activity in consideration for that employee, employee of an officer, or an officer being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any employee, employee of an officer, or an officer be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

D. Nothing in this Section prohibits activities that are permissible for an employee, employee of an officer, or an officer to engage in as part of his or her official duties, or activities that are undertaken by an employee, employee of an officer, or an officer on a voluntary basis that are not prohibited by this Ordinance.

E. No person either:

1. in a position that is subject to recognized merit principles of public employment or

2. in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

(Ord. O-201205-12-027, § 3, passed 5-15-2012)

§ 2.64.040 GIFT BAN.

A. Except as permitted by this Section, no employee, employee of an officer, an officer, his or her spouse (including any analogous relationship recognized by law), nor his or her household members at the behest of the employee, employee of an officer, or an officer shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. Except as permitted by this Section, no relative of an employee, relative of an employee of an officer, nor relative of an officer shall, at the behest of the employee, employee of an officer, or officer, intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

B. The following exceptions do not violate the gift ban:

1. Opportunities, benefits, and services available on the same conditions as for the general public.
2. Anything for which the employee, employee of an officer, an officer, or his or her relative pays the fair market value.
3. Any contribution that is lawfully made under the Election Code or activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and educational fact finding missions that are short term in nature and directly related to one's job or duties.
5. Ordinary and necessary travel expenses for a meeting to discuss business directly related to one's job or duties.
6. A gift from a relative.
7. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her relative, and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:
 - a. the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
 - b. whether, to the actual knowledge of the recipient, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
 - c. whether, to the actual knowledge of the recipient, the individual who gave the gift also at the same time gave the same or similar gifts to other employees, employees of an officer, officers, or their relatives.
8. Food or refreshments not exceeding \$75 per person in value on a single calendar day and not to exceed \$500 per person in any twelve-month period; provided that the food or refreshments are:
 - (1) consumed on the premises from which they were purchased or prepared or
 - (2) catered.

b. For the purposes of this Section, “catered” means food or refreshments that are purchased ready to consume which are delivered by any means.

9. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an employee, employee of an officer, or an officer), if the benefits have not been offered or enhanced because of the official position or employment of the employee, employee of an officer, or an officer, and are customarily provided to others in similar circumstances.

10. Intra-governmental and inter-governmental gifts. For the purpose of this Act, “intra-governmental gift” means any gift given to an employee, employee of an officer, or an officer from another employee, employee of an officer, or an officer, and “inter-governmental gift” means any gift given to an employee, employee of an officer, or an officer by an employee, employee of an officer, or an officer of another governmental entity. There is no expectation or requirement that an employee, employee of an officer, or an officer give a gift to any other employee, employee of an officer, or an officer or an employee, employee of an officer, or an officer of another governmental entity. This exemption does not apply to any employee, employee of an officer, or an officer who is a candidate.

11. Bequests, inheritances, and other transfers at death.

12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

C. Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

D. An employee, employee of an officer, an officer, or his or her relative does not violate this Ordinance if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to a charity that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(Ord. O-201205-12-027, § 4, passed 5-15-2012)

§ 2.64.050 PROHIBITION ON SEXUAL HARASSMENT.

A. All persons have a right to work in an environment free from sexual harassment. No employee, employee of an officer, or an officer shall sexually harass any person, regardless of any employment relationship or lack thereof while acting within the scope of their employment, during compensated time, or while on the property of the County of McHenry.

B. Sexual harassment, according to the Equal Employment Opportunity Commission and the Illinois Department for Human Rights, and for purposes of this Ordinance, consists of unwelcome sexual advances, requests for sexual favors, other verbal, nonverbal, or physical acts of a sexual or sex-based nature, where:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an employee, employee of an officer, or an officer's employment;
2. an employment decision affecting an employee, employee of an officer, or an officer is based on that employee, employee of an officer, or officer's acceptance or rejection of such conduct; or
3. such conduct interferes with an employee, employee of an officer, or an officer's work performance or creates an intimidating, hostile, or offensive working environment.

C. Sexual harassment can occur between men and women or between members of the same gender. This behavior is unacceptable in the workplace itself and in other work-related settings such as business trips, court appearances, and business-related social events.

D. Harassment affects the victim and other employees as well. Each incident of harassment contributes to a general atmosphere in which everyone suffers the consequences. Sexually-oriented or sex-based conduct has no legitimate business purpose. Where such conduct is directed by a supervisor (or someone in a higher management position) toward a subordinate, the former will be held to a higher standard of accountability because of the degree of control and influence he or she has or is perceived to have over the employment conditions and benefits of the subordinate.

E. *Prohibited Conduct.* Prohibited acts of sexual harassment can take a variety of forms ranging from subtle pressure for sexual activity or contact to physical contact. At times the offender may be unaware that his or her conduct is offensive or harassing to others. Examples of conduct which could be considered sexual harassment include, but are not limited to:

1. persistent or repeated unwelcome flirting, pressure for dates, sexual comments, or touching;
2. sexually suggestive jokes, gestures, or sounds directed toward another or sexually oriented or degrading comments about another;
3. preferential treatment of an employee, employee of an officer, or an officer, or a promise of preferential treatment to an employee, employee of an officer, or an officer, in exchange for dates or sexual conduct; or the denial or threat of denial of employment, benefits, or advancement for refusal to consent to sexual advances;
4. the open display of sexually oriented pictures, posters, calendars, reading materials, or other material offensive to others; and

5. retaliation against an employee, employee of an officer, or an officer for reporting or complaining about sexually harassing conduct.

§ 2.64.060 ETHICS ADVISOR AND TRAINING.

A. The McHenry County Director of Human Resources shall serve as the Ethics Advisor for the County. When the McHenry County Director of Human Resources is unable to serve as the Ethics Advisor for the County, the County Administrator shall serve.

B. The Ethics Advisor shall provide guidance to the employees, employees of officers, and officers of the County of McHenry concerning the interpretation of and compliance with the provisions of this Ordinance and State ethics laws.

C. All employees, employees of officers, and officers subject to this Ordinance must complete, within six (6) months after the adoption of any amendment to this ~~amended~~ Ordinance, or within three (3) months of newly becoming an employee, employee of an officer, or officer, whichever is later, an Ethics Ordinance Training, whether computer-based or otherwise, and no less than every two years thereafter. The County Administrator, or his or her designee, shall be responsible for ~~overseeing any computer-based~~ the training program for McHenry County officers, employees of officers, and employees.

(Ord. O-201205-12-027, § 5, passed 5-15-2012)

§ 2.64.070 ETHICS COMMISSION.

A. *Composition and Meetings of the Commission.* There is hereby created a commission to be known as the Ethics Commission of McHenry County (hereinafter the "Commission").

1. The Commission shall be comprised of five (5) members appointed by the Administrative Services Committee with the advice and consent of the McHenry County Board. No employee, employee of an officer, officer, nor any relative of an employee, employee of an officer, or officer shall be appointed as a member of the Commission.

2. All commissioners shall be appointed to ~~three-five-year~~ terms. Commissioners may be reappointed to serve subsequent terms.

3. The commissioners shall choose a chair and vice chair from their number at their first meeting in odd numbered years. In the event of a vacancy in the chair position or if the chair is absent, unavailable or otherwise incapacitated, the vice chair shall serve in the capacity of the chair and exercise the authorities of the chair until the

chair returns to service or a new chair is chosen by the Commissioners at the next meeting.

4. Meetings shall be held at the call of the chair or any three (3) commissioners. A quorum shall consist of three (3) commissioners, and official action by the commission shall require the affirmative vote of three (3) members.

5. The Administrative Services Committee, with the advice and consent of the McHenry County Board, may remove a commissioner in case of incompetence, neglect of duty, or malfeasance in office after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than ten (10) days' notice. Vacancies shall be filled in the same manner as original appointments.

B. Powers and Duties of the Commission.

1. The Commission shall have the following powers and duties:

a. To promulgate procedures and rules governing the performance of its duties, the exercise of its powers, and notice to parties.

b. To receive written, signed, and verified complaints (stating that the statements set forth in the complaint are true and correct or that the statements are believed to be true upon information and belief), filed within one (1) year of the alleged violation, supported by relevant affidavits and all other documents, books, papers, or tangible evidence.

c. To receive any written response from employees, employees of an officer, or officers alleged to have violated this Ordinance.

d. The Chair of the Commission, or in the absence of the Chair, the Vice Chair, shall dismiss a complaint *sua sponte* at any time if the complaint does not set forth facts that when taken as true and liberally construed are sufficient to legally state a claim under this Ordinance; if the conduct involves a person not bound by this Ordinance; if the complaint is deemed frivolous; or if the complaint is not written, signed, verified, and filed within one (1) year of the alleged violation.

e. To notify the employee, employee of an officer, or officer that he or she may have a Fifth Amendment right against self-incrimination.

f. To request and receive any other documents, books, papers, or tangible evidence from any member of the public for purposes of determining whether there is probable cause that an officer or employee has violated the provisions of this Ordinance.

g. To request and receive additional documents, books, papers, or tangible evidence from officers or employees.

h. To conduct hearings, including allowing both parties the opportunity to present testimony and evidence, and deliberations on complaints.

i. To appoint a hearing officer which is an attorney licensed to practice law in the State of Illinois.

j. To request the attendance of witnesses.

k. To close to the public any meeting of the Commission to the extent authorized by the Open Meetings Act.

l. To determine that there is probable cause of a violation of § 2.64.030 Prohibited Political Activities of this Ordinance and refer the complaint and supporting documentation to the State's Attorney. In addition, the Commission may refer the complaint and supporting documentation to the McHenry County Sheriff.

m. To determine that there is probable cause of a violation of § 2.64.040 Gift Ban of this Ordinance and may refer the complaint and supporting documentation to the State's Attorney.

n. To determine that there is a violation by clear and convincing evidence after a hearing of §§ 2.64.0460 Gift Ban, 2.64.050 Prohibition on Sexual Harassment of this Ordinance and issue recommendations for disciplinary actions and impose fines in accordance with § 2.64.80 Penalties of this Ordinance. The Commission may contract with an attorney licensed to practice law in the State of Illinois to investigate and prosecute before the Commission alleged violations of §§ 2.64.040 Gift Ban and 2.64.050 Prohibition on Sexual Harassment of this Ordinance.

o. To determine, or conduct a hearing to determine, whether any person has intentionally obstructed or interfered with an investigation conducted under this Ordinance by the Commission, or who knowingly filed a false or frivolous complaint and impose a penalty or refer the matter to the State's Attorney's office.

2. The powers and duties of the Commission are limited to matters clearly within the purview of this Ordinance.

(Ord. O-201205-12-027, § 6, passed 5-15-2012)

§ 2.64.080 PENALTIES.

A. *Penalties for a § 2.64.030 Prohibited Political Activities Violation.* An employee, employee of an officer, or officer who intentionally violates any provision of § 2.64.030 Prohibited Political Activities of this Ordinance,

1. is guilty of a Class A misdemeanor and may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty-four (364) days and may be fined in an amount not to exceed \$2,500 if prosecuted by the State's Attorney. A violation of § 2.64.030 Prohibited Political Activities of this Ordinance shall be prosecuted as a criminal offense by the State's Attorney by filing in the circuit court an information or sworn complaint charging such offense. The prosecution shall be under and conform to the rules of criminal procedure.

2. In addition to any other penalty, whether criminal or civil, that may be applicable and subject to any limitations imposed by law or employment agreement(s), including but not limited to collective bargaining agreements and employment contracts, an employee may be subject to discipline or discharge by his or her employer and an employee of an officer may be subject to discipline or discharge by said officer.

B. *Penalties for a § 2.64.040 Gift Ban Violation.* An employee, employee of an officer, or officer who intentionally violates any provision of § 2.64.040 Gift Ban of this Ordinance,

1. is guilty of a business offense, may be prosecuted by the State's Attorney, and may be fined in an amount of not less than \$1,001 and not more than \$5,000 if prosecuted by the State's Attorney.

2. In addition to any other penalty, whether criminal or civil, that may be applicable and subject to any limitations imposed by law or employment agreement(s), including but not limited to collective bargaining agreements and employment contracts, an employee may be subject to discipline or discharge by his or her employer and an employee of an officer may be subject to discipline or discharge by said officer.

C. *Penalties for Violations of §2.64.040 Gift Ban or 2.64.050 Prohibition on Sexual Harassment.* An employee, employee of an officer, or officer who violates any provision of §2.64.040 Gift Ban or § 2.64.050 Prohibition on Sexual Harassment of this Ordinance:

1. may be fined in an amount not to exceed \$5,000 per offense, with each violation being a separate offense, by the Ethics Commission.

2. In addition to any other penalty, whether criminal or civil, that may be applicable and subject to any limitations imposed by law or employment agreement(s), including but not limited to collective bargaining agreements and employment contracts, an employee may be subject to discipline or discharge by his or her employer and an employee of an officer may be subject to discipline or discharge by said officer.

D. In addition to any other penalty, whether criminal or civil, that may be applicable and subject to any limitations imposed by law or employment agreement(s) including but not limited to collective bargaining agreements and employment contracts, an employee may be subject to discipline or discharge by his or her employer and an employee of an officer may be subject to discipline or discharge by said officer.

E. *Penalties for False ~~Reports~~ or Frivolous Complaints.*

1. Any person who intentionally makes a false ~~report~~ or frivolous complaint alleging a violation of any provision of this Ordinance to the Ethics Commission, the local enforcement authorities, the State's Attorney or any other law enforcement official is guilty of a Class A misdemeanor and may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred sixty-four (364) days, and may be fined in an amount not to exceed \$2,500 if prosecuted by the State's Attorney.

2. The Commission may levy an administrative fine of up to \$5,000 against any person who violates this Ordinance, who intentionally obstructs or interferes with an investigation conducted under this Ordinance by the Commission, or who ~~intentionally knowingly makes files~~ a false or frivolous, ~~or bad faith allegation complaint.~~

(Ord. O-201205-12-027, § 7, passed 5-15-2012)

§ 2.64.090 SEVERABILITY CLAUSE.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. O-201205-12-027, § 8, passed 5-15-2012)