ORDINANCE NO. 1833

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA AMENDING SECTION 2.03.540 OF THE BOZEMAN MUNICIPAL CODE RELATED TO GIFTS, GRATUITIES AND FAVORS AND AMENDING SECTION 2.03.600 BOZEMAN MUNICIPAL CODE AUTHORIZING REMOVAL OF APPOINTED OFFICIALS FOR FAILURE TO ATTEND CHARTER REQUIRED ETHICS TRAINING.

WHEREAS, Section 7.01(b) of the Bozeman City Charter establishes an independent Board of Ethics and the duties and powers of the Board of Ethics are established in 2.03.600, Bozeman Municipal Code (BMC) and include the authority to regularly evaluate all significant aspects of the administration and implementation of the City’s Code of Ethics; and

WHEREAS, over the course of several public meetings the Board of Ethics reviewed proposed revisions to 2.03.540, BMC, related to gifts, gratuities and favors and voted on May 23, 2012 to forward to the City Commission revisions to 2.03.540 set forth in this Ordinance; and

WHEREAS, the Board of Ethics voted on May 23, 2012 to forward to the City Commission the revisions to 2.03.600 set forth in this Ordinance for the purpose of ensuring compliance with the Charter requirement for all officials to attend the annual ethics training by specifically providing a list of those who fail to attend and authorizing removal of appointed officials for failure to attend the required ethics training.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

That Section 2.03.540 of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 2.03.540. - Gifts, gratuities and favors.

A. Legislative Intent. The intent of this section is to further implement the declaration of policy set forth in 2.03.460 and establish specific standards of conduct related to gifts, gratuities, and
favors that are provided to a person because of a person’s employment or official position with the City. These standards recognize legitimate governmental interests exist that allow an employee or official to accept a gift, gratuity or favor in limited circumstances without such acceptance being considered the use of public office for private gain. These interests include but are not limited to establishing effective relationships with citizens, acceptance of professional and community awards for public service, and attending public events in an official capacity. At the same time, these standards make it clear that each public officer and employee holds such office or employment as a public trust.

B. No official or employee shall accept a gift, gratuity, or favor from any person or entity, except as authorized by law.

1. That would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;

2. That the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken; or

3. Has a value of $100 or more for an individual.

C. An employee or official may accept a gift, gratuity, or favor that has a value greater than $25 but less than $100 for an individual only if such gift, gratuity or favor:

1. complies with 2.03.540.B.1 and 2; and

2. is provided incidental to and in conjunction with a public event where the official or employee’s attendance is in fulfillment of their official duties.

D.

1. An employee or official may accept a gift, gratuity, or favor that has a value greater than $25 but less than $100 for an individual only if such gift, gratuity or favor that complies with 2.03.540.B.1 and 2 and is provided incidental to and in conjunction with a public event where the official or employee’s attendance is in fulfillment of their official duties.

2. An employee or official may accept payment or reimbursement from a person or entity for necessary expenses such as travel, lodging, meals, and registration fees in excess of $100 if the expense is incurred while representing the City and the reimbursement would not violate 2.03.540.B.1 and 2. Reimbursement or payment for educational activities in excess of $100 is permissible if the payment or reimbursement does not place or appear
to place the official or employee under obligation, clearly serves the public good, and is
not lavish or extravagant.

E. Upon the acceptance of a gift, gratuity, favor or award pursuant to 2.03.540.C the recipient
shall file a disclosure statement with the Board of Ethics. Such disclosure statement shall
indicate the gift, its estimated value, the person or entity making the gift, the relationship to the
employee or official, and the date of the gift. The disclosure statement is a public record.

F. A gift, gratuity, or favor does not include:

1. Items or services provided an employee or official in their private capacity and without
relationship to their employment or official position;

2. A prize received upon a random drawing at an event where the official or employee
attends in their capacity as an employee or official, the drawing is open to all
attendees, and receipt of the prize does not place the official or employee under
obligation; or

3. An award publically presented to an employee or official in recognition of public
service; and

4. Compensation for officiating at a ceremony.

Section 2

That Section 2.03.600.A.14 of the Bozeman Municipal Code shall be amended to read as
follows:

2.03.600. – Duties and powers of the board.

A.

1. In coordination with the city attorney, city manager, and other appropriate city personnel,
arrange for the conduct of an annual workshop training and education, which shall serve as an
orientation for new board members and an opportunity for experienced members to explore
specific issues in depth.

a. Attendance at this workshop training shall be made a condition of service as a member
of the board, and, before taking office, board members shall commit themselves to attend it.

b. The City Clerk shall forward to the Commission annually a list of officials who fail to take the training required under this section and the Charter. The Commission may remove an official for failing to take the required training.

Section 3

Repealer.
All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4

Savings Provision.
This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 5

Severability.
That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 6

Codification.
This Ordinance shall be codified as indicated in Section 1 – 2.

Section 7

Effective Date.
This ordinance shall be in full force and effect thirty (30) days after final adoption.
PROVISIONALLY PASSED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 25th day of June, 2012.

SEAN A. BECKER
Mayor

FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 6th of August, 2012. The effective date of this ordinance is September 4, 2012.

SEAN A. BECKER
Mayor

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney

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