

A PRACTICAL GUIDE TO THE **CODE OF ETHICS**



Honesty - Integrity - Character

For Employees and Public Officials

Published by
The Palm Beach County
Commission on Ethics

A Practical Guide to the Code of Ethics



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**Employees
and
Public Officials**

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2016 Edition

Introduction

This Guide provides a summary of the provisions of the Code of Ethics. It also contains a complete copy of the Code of Ethics and other documents that may be helpful with understanding your responsibilities under the Code. Please visit our website for detailed information about the Commission on Ethics.

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Ethics Decision Tree



**Does it comply
with the Code
of Ethics?**

(COE staff can assist you
with this determination)



Is it legal?

(Does it violate state
law, or a city/ county
Ordinance?)

Ask First Act Later



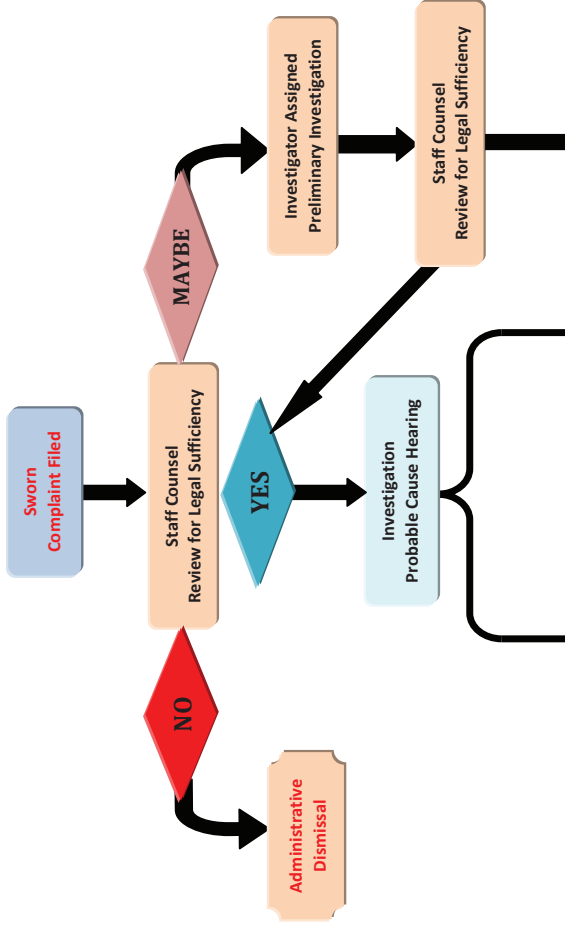
**Does it comply
with
city/county
policy?**

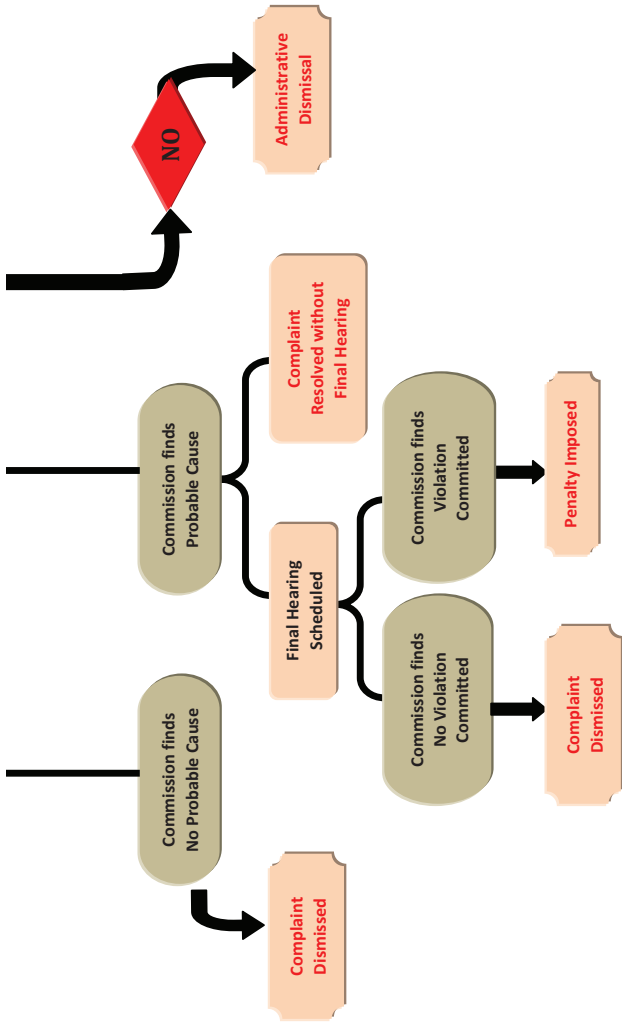
(The Code may not
prohibit it, but
city/county policy may)

**Could this create a
problem for your
public entity or
the people you
serve?**

(Good Government
Standard)

COMPLAINT PROCESS





Evidentiary Standards

Legal Sufficiency (*which must be determined to proceed with the investigation of any complaint*), exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

Probable Cause (*which must be established to proceed to a final hearing on a complaint*) exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to believe that the Respondent may have violated the Palm Beach County Code of Ethics.

Clear and Convincing Evidence (*which must be established for the COE or magistrate to find in a final hearing that a violation has been proven to the requisite level under law*), requires that the evidence submitted must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established. In Re: Davey, 645 So. 2d 398, 404 (Fla. 1994), quoting Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

Commission Framework

The Palm Beach County Commission on Ethics (COE) is comprised of five volunteer members that are appointed by various community “stake holders.” Each Commissioner serves a term of four years. The COE is authorized to interpret and enforce the PBC Code of Ethics, The Lobbyist Registration Ordinance, and the Post-Employment Ordinance.

The five community groups that make appointments to the COE are:

1. The Palm Beach County Association of Chiefs of Police.
2. The Palm Beach County Bar Association, in conjunction with the Palm Beach County Hispanic Bar Association, and the F. Malcolm Cunningham Bar Association.
3. The President of Florida Atlantic University.
4. The Palm Beach County Chapter of the Florida Institute of Certified Public Accounts.
5. The Palm Beach County League of Cities.

Highlights

(THESE HIGHLIGHTS ARE PRESENTED IN A SHORTENED AND PARAPHRASED MANNER AND SHOULD NOT BE RELIED UPON WITHOUT READING THE FULL VERSION OF THE CODE OF ETHICS.)

I. PROHIBITED CONDUCT

This law regulates the way you do your job or use your authority as an official or employee. In addition to preventing the use of one's position to obtain a special financial benefit, the code of ethics fosters transparency.

The jurisdiction of the Commission on Ethics (COE) extends to all county and municipal officials, and employees.

The COE does not have jurisdiction over state officials or employees, judges, the Sheriff, Clerk & Comptroller, Property Appraiser, or any other constitutional officers or their employees.

A. Misuse of public employment

You cannot use your job or position to give a *special* **FINANCIAL BENEFIT** to certain people and/or organizations specifically listed in this section.

What does "SPECIAL FINANCIAL BENEFIT" mean within the code of ethics?

A "**financial benefit**" means anything of value that can be obtained through the exercise of your job or official position, or the promise of such a

benefit. **It does not include employee wages, or stipends paid to officials, or other lawful payments to which you are entitled because of your employment or official position.**

A **“special” financial benefit** has two key things to be considered.

1. It refers to anything of value that is obtained through your official position and that is ***not shared*** with **“similarly situated”** members of the general public.

For a financial benefit to ***not*** be considered “special,” it also requires that the number of people or organizations receiving the benefit is significantly large.

(While there is no absolute test for whether a group of beneficiaries is sufficiently large under this definition, the smaller the group, the more likely the financial benefit is going to be found to be “special,” and thus prohibited. A “rule of thumb” sometimes helpful in this circumstance is the “1% rule.” However, as the percentage grows from 1%, so does the chance that the financial benefit involved will be found to be “special”, and thus must be further evaluated.)

What is the 1% rule?

Where a financial beneficiary of an action represents less than 1% of the overall group of potential beneficiaries (he or she is merely 1 out of 100 that benefit), then there is little chance the financial benefit would be considered “special.”

2. If you know, or should know that your actions as an official or employee will financially benefit anyone listed within this code section differently than others in the same

situation, it would constitute a misuse of your public employment.

Example: A permitting clerk who accepts payment for a building permit from her brother does nothing wrong so long as the fee is no different from the fee charged to a stranger for the same service. If she gave her brother a discount simply because he is her brother, she would likely be committing a misuse of public employment.

B. Corrupt misuse of official position

You may not use your job, property or resource within your trust, to CORRUPTLY secure any special benefit (not just financial), privilege or exemption for *any* person.

What does CORRUPTLY mean?

An official act taken with “**wrongful intent**” and for the purpose of receiving *any* benefit, which is “**inconsistent with the proper performance of your public duties.**”

Example: A code enforcement officer parks his personal vehicle on private property beside his home. When the property owner asks him to remove the vehicle, the code enforcement officer threatens the property owner with a code violation. By threatening the property owner, the code enforcement officer is likely committing a corrupt misuse of official position.

C. Contractual Relationships

This section controls contracts you might have in your private capacity that could conflict with your public duties.

Some general rules are:

1. You may not enter into any contract or do business with your public employer;
2. If you own a business, your business may not enter into any contract or do business with your public employer; and
3. Your outside employer may not enter into any contract or do business with your public employer.

(“Ownership” of an outside business means that any combination of you, your spouse/domestic partner, household member, or close relative own at least five percent (5%) of the company, even where you are listed as an “employee” of the business.)

These rules do not include:

1. Your employment contract with your public employer;
2. Any other contract you enter into as part of your official duties with your public employer;
3. Any purchase of goods or services from your municipality/county available to the general public.

D. Exceptions to the contractual relationships prohibition

There are five (5) additional exceptions listed in the Code of Ethics beginning on page 35 of this guide.

E. Travel Expenses

Generally, you cannot accept payment or reimbursement of any travel expenses directly from any *contractor, vendor, service provider, bidder or proposer* doing business with your public employer.

F. Contingent Fee Prohibition

No person can offer, give or accept a contingency fee in exchange for something related to their public employment. This is not applicable in some situations as listed in the Code of Ethics.

What is a CONTINGENCY FEE?

A fee, bonus, commission or nonmonetary benefit as compensation dependant on an action taken or decision made.

G. Honesty in Applications for Positions

No one seeking a contract with a county or municipal government can lie on the application.

H. Disclosure or Use of Certain Information

A public employee cannot disclose or use information gained through their job that is **not available to members of the public.**

GIFT LAW

II. GIFT LAW DEFINITIONS:

- A. **Gift** – Anything of value. State statute and the Florida Administrative Code are used to establish the value of certain gifts.
- B. **Vendor**—A person or entity that sells goods

or services, personal property, or has a pending bid to sell or lease to your public employer.

- C. **Lobbying**—To influence a decision of government or an attempt to obtain the good will of someone in that government.
- D. **Lobbyist**—Someone who is paid to lobby on behalf of someone else.
- E. **Know or should know**—Being aware of a fact or information is to “know”. To have the resources or information available to know the information is “should know”.

Example: I received a gift card in the mail from someone I believe may be a vendor of my public employer. If I don't take the time to find out for sure if the person is a vendor, I may be violating the gift law portion of the code.

Identifying Lobbyists, Principals of lobbyists, and Vendors is your responsibility if you are going to accept gifts or outside employment. However, if you unintentionally violate the gift law prohibitions by not checking first, you may “cure” the violation by returning the gift, or the value/ portion of the gift that is prohibited (over \$100), within 90 days of accepting such a gift.

1. **A Central Lobbyist Registration System (CLRS)** is used by the county, and most municipalities. The CLRS is fully searchable and can be found at:
www.pbcgov.org/plrapplication/asp/PLRSearchPublicView_New.aspx
2. West Palm Beach, Palm Beach Gardens and Riviera Beach do not use the CLRS and may have a list of the lobbyists that lobby their boards. Please contact them for additional

information.


3. Palm Beach County has a vendor database for county vendors only at:
www.pbcgov.com/registeredvendors/.
4. Contact the individual municipalities for their list of vendors.

III. GIFT LAW PROHIBITIONS

- A. You cannot ask for or accept a gift of **any value** in return for, or because of, the way you do your job, including “tips” in most cases.

(There is an exception for certain service related jobs where “tipping” is considered a normal part of their pay within the industry, such as waiter, waitress, bartender, etc.)

- B. You cannot **solicit** gifts of any value from a vendor, lobbyist, principal or employer of a lobbyist doing business with your public employer, if the gift is for the benefit of you, a relative or household member, or a fellow official or employee of your public entity.
- C. You cannot accept or ask for gifts worth more than \$100/year in the aggregate from anyone listed above in B.
- D. The groups listed above in B, may not give gifts worth more than \$100 to a county or municipal employee.
- E. **Gift Law Reporting**
 1. **State reporting individuals** will file their quarterly report with the state and file a copy contemporaneously with the PBC Commission on Ethics.

- 
2. *All other employees* who receive any gift worth more than \$100 must file an annual gift disclosure report with the COE no later than Nov. 1 for the period of Oct. 1 through Sept. 30 of each year.
 3. There are **exceptions** to the county gift law requirements for non-state reporting individuals and some gifts do not need to be reported. The full list of exceptions can be found in the Code on pages 44-50 of this Guide.
 4. Some gifts *must be reported* but may be accepted with special provisions. The full list can be found in the Code on pages 48 & 49 of this Guide in Subsections "i" and "j".
 5. If you do not receive a gift that you are required to report, you DO NOT have to file a gift form for that period.

F. Solicitations of Contributions on Behalf of a Non-Profit Charitable Organization

You may solicit funds from anyone on behalf of charities, including vendors and lobbyists, so long as they do not have a pending application or award of any nature before your public employer.

Any solicitation from these sources must be disclosed on a "Solicitation Log" (even where they do not contribute), and filed within 30 days of the solicitation, or the date the event is held. The log is available on the COE website.

IV. NEPOTISM

Officials or employees who are authorized to ap-

point, employ, promote, or advance anyone in the agency may not do so if that person is a relative, spouse, or domestic partner, nor may they advocate for these things.

V. NONINTERFERENCE WITH COMMISSION ON ETHICS AND INSPECTOR GENERAL

Public employees shall not retaliate against, interfere with, obstruct, or attempt to do any of the above toward or against anyone or any investigation that involves the COE or IG.

VI. PALM BEACH COUNTY COMMISSION ON ETHICS

A. The Commission on Ethics

The COE is an independent body that

1. Interprets and enforces the Code of Ethics;
2. Provides advisory opinions; and
3. Provides training for employees and officials.

B. The COE will hear cases involving violations of the Code of Ethics

1. A violation of the Code of Ethics can result in
 - a. A public reprimand.
 - b. A fine of up to \$500.
 - c. Restitution.
 - d. Other disciplinary action by the public employer.
 - e. Contracts, permits, or any other government approvals may be rescinded or declared void.
2. The COE may refer willful violations to

VII. ADVISORY OPINIONS

Anyone under the jurisdiction of the Code of Ethics may ask for an advisory opinion so long as the circumstances described in the request apply to them personally.

No person may request an advisory opinion concerning circumstances that do not apply to them personally, with the exception of a licensed attorney representing the interests of a client, or the interests of a specific governmental board, or its members.

VIII. OTHER RULES, CODES AND STATUTES

Public officials/employees are required to adhere to state law, the Code of Ethics, and applicable municipal codes. In addition, they may be subject to various county, municipal and departmental policies and procedures. It is the responsibility of every official/employee to adhere to the appropriate rules and codes adopted by the public entity.

Quick Reference to Advisory Board Conflicts, Disclosures and Waivers

Board Type		Contract Oversight?		Code Requirement
Purely Advisory	+	YES	=	Waiver
Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	YES	=	Prohibited

What Type of Board do you serve? Purely Advisory or Not Purely Advisory

Most governments create other boards to assist in various decision making processes. They are generally referred to as advisory boards, though some of them are not purely advisory. What's the difference?

- A **purely advisory board** is authorized only to make recommendations to some other board, like the governing body, or perhaps a government administrator or hearing officer.
- A board that is **not purely advisory** is authorized to make final decisions. A final decision does not go to any other any other arm of the government. These decisions can be challenged only in circuit court. Some boards have both functions. We use the

term “purely” to emphasize that a board with any measure of final decision making authority is not purely advisory. Your staff liaison can answer any question you have regarding the nature of your board.

Does your board have Contract Oversight?

If you, your employer, or your own business has a contract with the government that created your board, you must determine whether your board will have anything to do with this contract. If your board will play any role in the oversight, regulation, management, or policy-setting recommendations regarding this contract, then your board exercises contract oversight for the purposes of this chart. The same considerations apply if you already serve on a board and you, your employer, or you own business seeks to contract with the government. There are four (4) exceptions. Pages 36-37 list the types of contracts that are not subject to the requirements of this chart. These exceptions for elected or appointed “officials” DO NOT include the part-time employment exception which applies only to employees.

What does the Code require? There are three possible outcomes in the chart.

(The exceptions and waiver requirements can be found in Sec. 2-443(e) of the Code of Ethics

- A **waiver** will require the governing body, upon full disclosure of the contract at a public meeting, to waive the conflict. If you were appointed by the entire governing body, a majority plus one is required. If you were appointed by only one board member,

that board member alone can waive the conflict.

- **Disclosure** requires only that the existence of the contract is made public. This should occur either at the time of your appointment, or when the subject contract is approved.
- If the chart indicates “**prohibited**” for your situation, you must decline the appointment or terminate the contract. If the possibility of the contract occurs after you have been appointed, you must resign from the board or withdraw the offer to contract with the government.

*Created by Leonard W. Berger,
Chief Assistant County Attorney
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Code of Ethics

(Revised September 22, 2015)

Sec. 2-441. Title; statement of purpose.

This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is enacted pursuant to Florida Constitution, Article VIII, section 1(g), Florida Statutes, ch. 125, and the Charter of Palm Beach County. The Municipalities located within Palm Beach County are subject to the provisions of this code of ethics pursuant to referendum. The purpose of this code is to provide additional and more stringent ethics standards as authorized by Florida Statutes, §112.326. This code shall not be construed to authorize or permit any conduct or activity that is in violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed additional and supplemental to any and all state and federal laws governing ethical conduct of officials and employees, as well as all local laws, rules, regulations and policies.

Officials and employees in the public service shall be conscious that public service is a public trust, shall be impartial and devoted to the best interests of the people of Palm Beach County, and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.

Nothing herein shall abridge employees' constitutional right to collective bargaining.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-442. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings as-

cribed to them in this section, except where the context clearly indicates a different meaning:

Advisory board shall mean any advisory or quasi-judicial board created by the board of county commissioners, by the local municipal governing bodies, or by the mayors who serve as chief executive officers or by mayors who are not members of local municipal governing bodies.

Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

Domestic partner is an adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive committed relationship and maintains a mutual residence.

Financial benefit includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

Household member includes anyone whose primary residence is in the official or employee's home, including non-relatives who are not rent payers or employees of the head of the household.

Inspector general shall mean the office established in article XII of this chapter.

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer

that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

"Lobbyist" shall not include:

- (1) Any employee, contract employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
- (2) Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.
- (3) Any expert witness who is retained or employed by an employer, principal or client to provide only scientific, technical or other specialized information provided in agenda mate-

rials or testimony only in public hearings, so long as the expert identifies the employer, principal or client at the hearing.

- (4) Any person who lobbies only in his or her individual capacity for the purpose of self-representation and without compensation.
- (5) Any employee, contract employee, or independent contractor of the Palm Beach County League of Cities, Inc., lobbying on behalf of that entity.

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county. The term also includes contract personnel and contract administrators performing a government function, and chief executive officer who is not part of the local governing body. The term "official" shall mean members of the board of county commissioners, a mayor, members of local municipal governing bodies, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

Outside employer or business includes:

- (1) Any entity, other than the county, the state, or any other federal, regional, local, or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which

he or she receives compensation for services rendered or goods sold or produced. For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses; or

- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For purposes of this definition, an "ownership interest" shall mean at least five (5%) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.
- (3) The term outside employer or business shall not apply to an employee who is employed by a certified bargaining agent solely to represent employees.

Palm Beach County Commission on Ethics means the commission established in section 2-254 et seq. to administer and enforce the ethics regulations set forth herein, and may also be referred to as the "commission on ethics" in this article.

Persons and entities shall be defined to include all natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and all other organizations.

Relative unless otherwise specified in this article, means an individual who is related to an official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, hus-

band, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the official or employee or who otherwise holds himself or herself out as or is generally known as the person whom the official or employee intends to marry or with whom the official or employee intends to form a household, or any other natural person having the same legal residence as the official or employee.

Transaction shall refer to the purchase or sale by the county or municipality of goods or services for a consideration.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-443. Prohibited conduct.

- (a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special finan-

cial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;
- (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
- (5) A customer or client of the official or employee's outside employer or business;
- (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner—"substantial" for these purposes shall mean at least ten thousand dollars (\$10,000) and shall not include forms of indebtedness, such as a mortgage and note, or a loan between the official or employee and a financial institution;
- (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

- (b) ***Corrupt misuse of official position.*** An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.
- (c) ***Disclosure of voting conflicts.*** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of

the general public, as set forth in subsections (a)(1) through (7).

- (d) ***Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public. This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.
- (e) ***Exceptions and waiver.*** The requirements of subsection (d) above may be waived as it per-

tains to advisory board members where the advisory board member's board is purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. No waiver shall be allowed where the advisory board member's board is not purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. Waiver may be affected by the board of county commissioners or by the local municipal governing body as applicable upon full disclosure of the contract or transaction prior to the waiver and an affirmative vote of a majority plus one (1) of the total membership of the board of county commissioners or the local municipal governing body as applicable. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after full disclosure of the contract or transaction at a public hearing, by the appointing person. In addition, no official or employee shall be held in violation of subsection (d) if:

- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
 - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
 - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade

the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

- c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
- (2) An emergency purchase or contract which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
 - (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
 - (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.
 - (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to prevent an employee from seeking part-time employment with an outside employ-

er who has entered into a contract for goods or services with the county or municipality as applicable provided that:

- a. The employee or relative of the employee does not work in the county or municipal department as applicable which will enforce, oversee or administer the subject contract; and
- b. The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the county or municipality as applicable; and
- c. The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
- d. The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
- e. The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
- f. The employee has obtained a conflict of interest waiver from the chief administrative officer and the employee's department head of the county or municipality based on a finding that

no conflict exists. The employee shall submit the request for waiver in writing and under oath. The request for the waiver shall be signed by the employee under oath or affirmation on an approved form provided by the commission on ethics. The document shall contain written acknowledgment of compliance with the provisions of subsection (5)a. through (5)e. of this subsection, together with such pertinent facts and relevant documents that support such waiver. A waiver under this subsection must be approved by both the employee's supervisor and chief administrative officer of the county or municipality. The county or municipality shall record such waiver in the employee's personnel file and shall submit a copy of the waiver and all related documents to the commission on ethics. The commission on ethics in its discretion may elect to review, comment on, or investigate any waiver. The commission on ethics review or investigation shall not delay an employee's ability to take the part time employment.

- g. *Official law enforcement overtime or extra duty details.* The provisions of subsection (d) shall be waived for outside employment when that employment consists of a certified police agency uniformed external security or extra duty detail, contracted or administered by the police agency as applicable. For the purpose of this

subsection, all records of external, extra duty or overtime security details, including supervisor approval, identity of contracting parties, and including time, date and manner of detail shall be maintained by the individual contracting or administrating police agency, records of which shall be accessible to the public subject to state public records disclosure exemptions.

- (f) ***Accepting travel expenses.*** No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer as applicable. The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership.
- (g) ***Contingent fee prohibition.*** No person shall, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person shall, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: an ordinance, resolution, action or de-

cision of the board of county commissioners or local municipal governing body as applicable, any employee authorized to act on behalf of the board of county commissioners or local municipal governing body as applicable, the county administrator or municipal administrator as applicable, or any action or decision of an advisory board or committee. This prohibition does not apply to real estate brokers when acting in the course of their profession as regulated by Florida Statutes, §§475.001-475.5018, as may be amended. Nothing in this section may be construed to prohibit any salesperson from engaging in legitimate government business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company provided such compensation or commission is ordinary and customary in the industry. Nothing in this section may be construed to prohibit an attorney from representing a client in a judicial proceeding or formal administrative hearing pursuant to a contingent fee arrangement.

- (h) ***Honesty in applications for positions.*** No person seeking to become an official or employee, or seeking to enter into a contract to provide goods or services to the county or municipality as applicable, may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or services to the county or municipality as applicable.
- (i) ***Disclosure or use of certain information.*** A current or former official or employee shall not disclose or use information not available to members of the general public and gained by

reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-444. Gift law.

- (a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection (a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement

opportunity that has been published by the county or a municipality.

- (b) (1) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence or advice, shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is a member of that advisory board. For the purposes of this subsection (b)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.
- (c) No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall

knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist where the gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee. No advisory board member or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice, where the gift is for the personal benefit of the advisory board member, another advisory board member, or an official, or any relative or household member of the official or employee.

- (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer, partner or director of the principal or employer entity, or any employee of a principal or employer who is not an officer, partner or director, provided that the employee knows or should know with the exercise of reasonable care that the principal or employer employs a lobbyist.
- (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:
 - (1) An official public action taken or to be taken, or which could be taken;

- (2) A legal duty performed or to be performed or which could be performed; or
 - (3) A legal duty violated or to be violated, or which could be violated by any official or employee.
- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.
- (1) *Gift reports for officials and employees indentified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, §112.3148, as may be amended. When a state reporting individual files a gift report with the state, a copy of each report shall also be filed contemporaneously with the county commission on ethics.
 - (2) *All other officials and employees who are not reporting individuals under state law.*
 - a. *Personal gifts.* All officials and employees who are not reporting individuals under state law are not required to report gifts in excess of one hundred dollars (\$100) so long as those gifts are given to the official or employee by a personal friend or coworker and the circumstances demonstrate that the motivation for the gift was the personal or social relationship rather than an attempt to obtain the goodwill or otherwise influence the official or employee in the performance of his or her official duties. Factors to be considered in de-


termining whether a gift was motivated by a personal or social relationship may include but shall not be limited to: whether the relationship began before or after the official or employee obtained his or her office or position; the prior history of gift giving between the individuals; whether the gift was given in connection with a holiday or other special occasion; whether the donor personally paid for the gift or sought a tax deduction or business reimbursement; and whether the donor gave similar gifts to other officials or employees at or near the same time. If the personal friend or co-worker is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or municipality as applicable, then the official or employee shall not accept a gift in excess of one hundred dollars (\$100) in accordance with subsections (a)(1) and (b)(1).

- b. *All other gifts.* All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year. All officials or

employees who are not reporting individuals under state law and who do not receive a gift in excess of one hundred dollars (\$100) during a given reporting period shall not file an annual gift disclosure report. The annual gift disclosure report shall be created by the county commission on ethics and shall be in a form substantially similar in content as that required by state law.

- (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift. In determining the value of the gift, the recipient of the gift may consult, among other sources, Florida Statutes, §112.3148, and the Florida Administrative Code as may be amended.

- (1) Exceptions. The provisions of subsection (g) shall not apply to:
- a. Political contributions specifically authorized by state or federal law;
 - b. Gifts from relatives, domestic partners, and dependents named on the official's or employee's latest federal income tax return, or one's household member;
 - c. Awards for professional or civic achievement;

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- d. Materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
 - e. Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose;
 - f. Publicly advertised offers for goods or services from a vendor under the same terms and conditions as are offered or made available to the general public;
 - g. Inheritance or other devise;
 - h. Registration fees and other related costs associated with educational or governmental conferences, meetings or seminars and travel expenses either properly waived or inapplicable pursuant to section 2-443(f), provided that attendance is for governmental purposes, and attendance is related to their duties and responsibilities as an official or employee of the county or municipality;
 - i. A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable,

provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or admission must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2);

- j. Expenditures made in connection with an event sponsored by a non-profit organization funded in whole or in part with public funds whose primary function is to encourage and attract tourism or other business opportunities for the benefit of Palm Beach County or the municipalities as applicable, provided the sponsor organization does not employ a lobbyist, and further provided that the invitation to the event is made by a representative of the sponsor organization and the representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2).
- (h) Solicitation of contributions on behalf of a non-profit charitable organization.

- (1) Notwithstanding the prohibition on gifts as outlined in subsections (a) and (b), the solicitation of funds by a county or municipal official or employee for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect special financial benefit to the official or employee or to the person or entity being solicited. The solicitation by an official or employee as contemplated herein, is expressly prohibited if made to any person or entity with a pending application for approval or award of any nature before the county or municipality as applicable.
- (2) To promote the full and complete transparency of any such solicitation, officials and employees shall disclose, on a form provided by the commission on ethics, the name of the charitable organization, the event for which the funds were solicited, the name of any person or entity that was contacted regarding a solicitation or pledge by the official or employee, and the amount of the funds solicited or pledged if known. The form shall be completed legibly and shall be filed with the commission on ethics. The form shall be filed within thirty (30) days from the occurrence of the event for which the solicitation was made, or if no event, within thirty (30) days from the occurrence of the solicitation.
- (3) Officials and employees may not use county or municipal staff or other county

or municipal resources in the solicitation of charitable contributions described in this subsection.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-445. Anti-nepotism law.

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the county or municipality as applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official. An individual may not be appointed, employed, promoted, or advanced in or to a position in the county or a municipality if such appointment, employment, promotion, or advancement has been advocated by an official, serving in or exercising jurisdiction or control over the county or municipality as appropriate, who is a relative or domestic partner of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative or domestic partner of the individual is a member. However, this section shall not apply to appointments to boards other than those with land planning or zoning responsibilities in those municipalities with less than thirty-five thousand (35,000) population. This section does not apply to persons serving in a volunteer capacity who provide emergency medical, fire-fighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide. Mere approval of budg-

ets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

- (1) For the purposes of this section, "official" means any official or employee in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the county or municipality as applicable.
- (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-446. Ethics training.

- (a) Officials and employees, as public servants, are considered stewards of the public trust and should aspire to the highest level of integrity and character. Officials and employees shall be informed of their ethical responsibilities at the start of their public service, and shall receive updates and training materials on ethics issues throughout the span of their public service. The county administrator or municipal administrator as applicable shall establish by policy a mandatory training schedule for all officials and employees which shall include mandatory periodic follow-up sessions. This policy may also address ethics training for entities that receive county or municipal funds as applicable.

- (b) The commission on ethics shall develop and deliver, or contract with other entities to develop and deliver, training programs. The commission on ethics shall coordinate and cooperate with all affected county or municipal entities, departments, agencies, boards, councils and commissions to ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-447. Noninterference.

It shall be a violation of this article for any person:

- (a) to retaliate against, punish, threaten, harass, or penalize any person for communicating, cooperating with, or assisting the commission on ethics or the inspector general; or
- (b) to interfere, obstruct or attempt to interfere or obstruct without valid legal basis any investigation conducted by the commission on ethics or the inspector general.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

Sec. 2-448. Administration, enforcement and penalties.

- (a) The commission on ethics shall be empowered to review, interpret, render advisory opinions, and enforce this code of ethics pursuant to the procedures established in the county commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to advisory opinions rendered shall extend to all county and municipal officials and employees, and all other persons and entities required to comply with the provisions of this code and the county lobbyist registration ordinance, including but

not limited to lobbyists, their employers and principals, and contractors and vendors.

- (b) A finding by the commission on ethics of a violation of any part of this article shall subject the person or entity to public reprimand, a fine of up to five hundred dollars (\$500), or both. The commission on ethics may also order the person or entity to pay restitution when the person or entity or a third party has received a pecuniary benefit as a result of the person's violation.
- (c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit conferred by the county or municipality as applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may be rescinded or declared void by the board of county commissioners or the local municipal governing body as applicable.
- (d) The commission on ethics may in its discretion refer willful violations of sections 2-443, 2-444(a), 2-444(b), 2-444(c), 2-444(e), or 2-447 to the state attorney. Pursuant to Florida Statutes, §125.69, a person who violates the sections of the article set forth in this section 2-448(d) shall be subject to prosecution in the name of the state in the same manner as first degree misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed one (1) year, or both.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11)

TOP TEN ETHICS RULES

1. ALWAYS... ASK FIRST, ACT LATER

GIFTS

2. You may not accept more than \$100 per year in gifts from a lobbyist, principal or employer of a lobbyist or person or entity that does business with your employer.
3. Gifts from persons or entities which total more than \$100 per year, other than those prohibited above, must be reported on a form. There are 11 gift exceptions. Immediately refuse or return gifts which are prohibited.

USE OF OFFICIAL POSITION

4. You may not use your official position to give a special financial benefit to yourself, broadly defined family members, an outside employer or business and other defined entities, or "corruptly" use your authority for any person's benefit.
5. You may not contract with, or do business with, your employer. There are 5 exceptions.
6. Travel expenses, given by persons or entities who are vendors or bidding to be vendors of your governmental employer are prohibited unless waived by your governing body, or unless they are from another governmental entity.

OUTSIDE EMPLOYMENT

7. Generally, subject to your employer's rules, you may work for an outside employer that does not do business with your county or municipal employer. It may even be permissible to work part-time for an outside employer that does do business with your employer, if certain conditions are met.

VOTING CONFLICTS

8. Officials and advisory board members may not participate in and vote on matters which give a special financial benefit to themselves, or those within in a chain of relationship(s).

MISCELLANEOUS

9. You may not use "inside information" to benefit yourself or others. You must be honest in statements made on your employment application. If you have hiring authority, or the ability to advocate to one who does, you may not hire, or promote the hiring of, a broadly defined family member.
10. The Code of Ethics imposes other restrictions on lobbyists, advisory board members and the activities of certain employees after they leave employment.