



## MEMORANDUM

**Prepared By:** Town Clerk

**Item Title:** Understanding the Florida Council-Manager Form of Government

### **INTRODUCTION**

The Council-Manager form of government is the most common governing structure used in Florida cities and counties. It is designed to combine the strong political leadership of an elected governing body (the Town Council) with the strong administrative leadership of an appointed professional manager (the Town Manager). This system is fundamentally rooted in efficiency, non-political administration, and responsiveness to the governing body's policy directives.

### **KEY ROLES & RESPONSIBILITIES**

#### 1. The Elected Council (Policy-Making Branch)

The Council is the legislative body of the municipality. Its primary responsibilities are to set policy, pass local ordinances, adopt the annual budget, and determine the vision and direction of the town.

- **Policy Focus:** Council members are part-time public officials elected by the community. They focus on community representation, responding to citizen needs, and creating long-term strategic goals.
- **Appointment Power:** The Council's single most critical administrative function is the appointment and supervision of the Town Manager.

#### 2. The Appointed Manager (Administrative Branch)

The Town Manager is a full-time, professional administrator appointed by the Council based on education, experience, and executive qualifications, not political affiliation. The Manager is responsible for the day-to-day operations of the municipality.

- **Executive Focus:** The Manager acts as the chief executive officer, carrying out the policies set by the Council.
- **Core Duties:** These duties include preparing the budget, overseeing all municipal departments (e.g., Police, Finance, Public Works), hiring and firing department heads, and providing expert advice to the Council.
- **Accountability:** The Manager serves at the pleasure of the Council and is accountable directly to them for the efficient management of municipal affairs.

### **CHARACTERISTICS & BENEFITS**

Characteristic	Description
Separation of Powers	Clear distinction between legislative (Council) and executive (Manager) functions.
Professional Management	Ensures administrative decisions are based on professional expertise rather than political considerations.
Stability	While Council members may change following elections, the professional Manager provides continuity and institutional knowledge.

## Responsiveness

The Manager is directly responsive to the Council, ensuring administrative execution aligns precisely with the Council's policy goals.

In short, the Town of Juno Beach is under the Council-Manager system, which is designed to provide democratic accountability through the elected Council, coupled with professional, efficient service delivery through the appointed Town Manager.

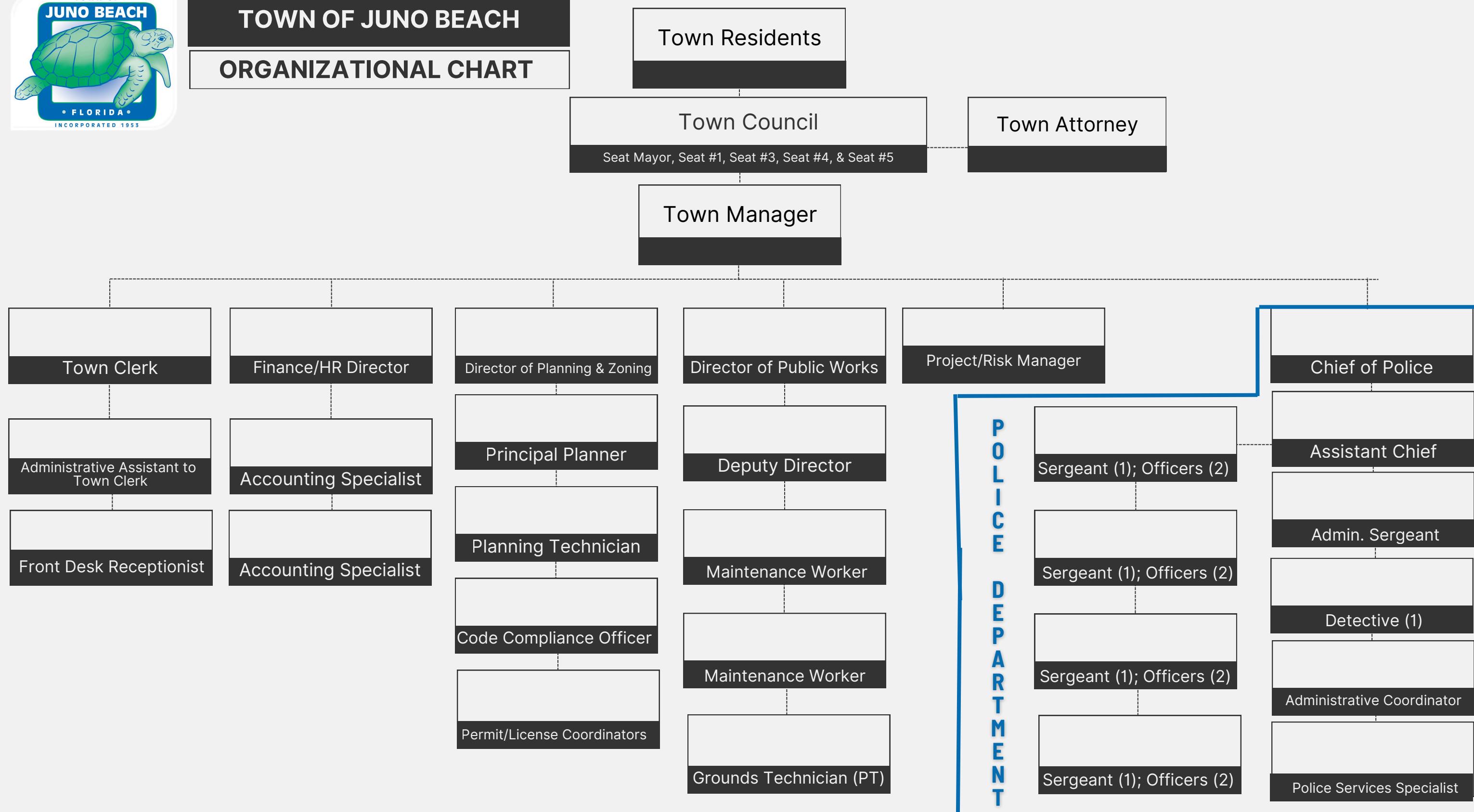
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# **TOWN OF JUNO BEACH**

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## **ORGANIZATIONAL CHART**



## PART I - CHARTER

*Footnotes:*

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**Editor's note**— *Part I contains the Charter of the Town as proposed by Ordinance No. 474, enacted November 29, 1995, and as approved at referendum held March 12, 1996. Formerly, Part I contained the Charter of the Town as enacted by Ord. No. 280, enacted March 6, 1985, and approved at referendum on March 12, 1985, as amended by Ord. No. 430, enacted October 28, 1992. Subsequent amendments will be worked into their proper places and amended or repealed provisions deleted. Subsequent amendments will be reflected by history notes enclosed in parentheses following the sections affected. The absence of such a history note indicates that the provision has not been amended, and is as originally enacted in 1996. The editors have added words and phrases in brackets where desirable to clarify meaning or facilitate use. Any bracketed catchlines or material included by the editor for clarity were not part of the Charter as approved.*

**State Law reference**— *Municipal Home Rule Powers Act, F.S. ch. 166.*

## ARTICLE I. - CORPORATE NAME

[Sec. 1. - Name of municipality.]

The municipality hereby established shall be known as the "Town of Juno Beach."

## ARTICLE II. - TERRITORIAL BOUNDARIES

*Footnotes:*

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**State Law reference**— *Municipal annexation and contraction, F.S. ch. 171.*

[Sec. 1. - Established.]

The corporate boundaries of the town shall remain fixed and established as they exist on the date this Charter takes effect, provided that the town shall have the power to change its boundaries in the manner prescribed by law. The official legal description of the town shall be maintained by the town clerk.

## ARTICLE III. - LEGISLATIVE

Sec. 1. - Form of government; town council; power and composition; qualification; residency.

(a) The town shall operate under the council-manager form of government, as provided herein.

There shall be a town council vested with all legislative powers. The town council shall consist of five (5) members; one of whom shall be the mayor and four of whom shall be councilmembers.

(b) Only electors of the town who have been continuous residents for at least one (1) year immediately preceding the date of filing of their notice of candidacy shall be eligible to hold the office of mayor or councilmember. All candidates for mayor or councilmember shall submit an affidavit prior to qualification for office demonstrating that they meet the residency requirement. As used in this section and for the purpose of completing the affidavit, "residency" shall require: a place of abode within the town where the prospective candidate actually lives. Additionally, the affidavit shall state that the candidate is registered to vote at the candidate's place of abode at the time of qualification. No elector shall qualify for the office of mayor or councilmember if he or she has been convicted or pled nolo contendere to any felony or has been convicted or pled nolo contendere to any crime of fraud or dishonesty including, by way of example, larceny, theft, burglary, forgery, perjury, or embezzlement.

(c) The town council adopts policies and appropriates town funds through its budgetary responsibilities, and its members have fiduciary responsibilities as trustees of public funds.

(Ord. No. 635, § 2, 5-12-2010; Res. No. 2023-03, election of 3-14-23; Charter Amend. of 03-22-2023; Ord. No. 773, § 2, 11-15-2023; Ord. No. 777, § 2, 11-15-2023)

## Sec. 2. - Election and terms.

On a date established by ordinance of the town, a general election shall be held in each year to elect members of the town council. The selection of members of the town council shall be by seats to be known as seats 1, 2, 3, 4 and 5. Commencing with the 2011 general election and continuing thereafter, the councilmembers in seats 1 and 3 shall serve a term of three (3) years. The councilmember in seat 5 shall continue to serve a term of two (2) years. Commencing with the 2012 general election and continuing thereafter, the councilmembers in seats 2 and 4 shall serve a term of three (3) years. Commencing with the 2013 general election and continuing thereafter, the councilmember in seat 5 shall serve a term of three (3) years. Commencing with the 2024 general election and continuing thereafter, councilmember seat 2 shall be redesignated as the seat of "mayor" which shall then and thereafter be an elected office with a two (2) year term. The term of office of the mayor and of a councilmember shall commence upon election and qualification and shall continue until a successor is elected and qualified.

(Ord. No. 637, § 2, 5-12-2010; Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

## Sec. 3. - Mayor.

The mayor shall preside at meetings of the council, shall be recognized as head of town government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of deeds and as the town official designated to represent the town in all agreements with other governmental entities or certifications to other governmental entities. The mayor shall have no administrative duties except as required to carry out the responsibilities herein.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

## Sec. 4. - Annual council officer appointments.

The council shall elect from among its members a vice mayor, and a vice mayor pro tem to serve at the pleasure of the council. Election of the vice mayor and vice mayor pro tem shall be done annually at the first council meeting after the town election. The vice mayor shall act as mayor during the absence or disability of the mayor. The vice mayor pro tem shall preside over council meetings in the absence of the mayor and the vice mayor.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

## Sec. 5. - Compensation and expenses.

The council may determine the annual salary of the mayor and of council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the mayor or councilmembers elected at the next regular election.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

## Sec. 6. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of mayor or of a councilmember shall become vacant upon death, resignation, or removal from office in any manner authorized by law of such mayor or councilmember or if such mayor or councilmember ceases to be an elector of the town or ceases to meet the requirements for candidacy set forth in section 1(b) of this article as determined by the remaining members of the council.
- (b) *Filling of vacancies.* If there is a vacancy on the council, including both the office of mayor or any councilmember seat, the council by a majority vote of the remaining members may choose a successor mayor or councilmember as applicable, to serve until the next regular town election at which time an election shall be held regardless of whether an election of the seats in which the vacancy occurred is scheduled. If the election for the seats in which the vacancy occurred is not scheduled, the election for those seats shall be for the remainder of the term of the seat or seats in which the vacancy occurred. Any elector seeking appointment to the council including both the office of mayor or any councilmember seat, shall meet all of the requirements for election set forth in section 1(b) above and shall complete and submit the required affidavit and ethics commission form 1. The council shall consider such documentation when choosing a successor.
- (c) *Extraordinary vacancies.* In the event that there is a vacancy in all five (5) seats of the council, the governor is authorized to appoint an interim council, such interim council to serve until the next regularly scheduled election. If the governor does not appoint an interim council within sixty (60)

days, the town manager shall schedule a special election at the earliest practicable date.

(Ord. No. 731, § 2, 11-17-2020; Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023; Ord. No. 777, § 2, 11-15-2023)

**State Law reference—** Mandate for establishing procedure for filling vacancies, F.S. § 166.031(6).

Sec. 7. - Council appointed officials.

The council shall appoint a town attorney. The council shall have the power to employ and retain other professional advisors and consultants.

(Ord. No. 732, § 2, 11-17-2020; Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

Sec. 8. - Procedure.

(a) *Meetings.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe. Special meetings may be held on the call of the mayor or of a majority of the members and in the absence of a state of emergency, upon no less than twenty-four (24) hours' notice to each member and the public.

(b) *Rules.* The council shall determine its own rules and order of business.

(c) *Voting.* Voting on ordinances and resolutions shall be recorded. A majority of the council shall constitute a quorum; a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to penalties prescribed by rules of the council. No action of the council, except as otherwise provided in this charter, shall be valid or binding unless adopted by the affirmative vote of the majority of the quorum present. Notwithstanding the foregoing, no ordinance shall be adopted unless by the affirmative vote of at least three (3) councilmembers. In all matters coming before the council for a vote, the mayor shall have the same authority, powers and privileges as all other councilmembers.

(d) *Environmentally sensitive land.* No change to the land use classification or zoning designation of environmentally sensitive land shall be adopted unless by the unanimous vote of all five (5) councilmembers.

(e) *Police department.* No contract or interlocal agreement shall be entered into between the town and a third-party whereby that party assumes the management of or performs the duties and responsibilities of the police department unless the proposed agreement is approved by the affirmative vote of four (4) councilmembers and by a majority of the town electors who vote in a referendum election conducted in accordance with all legal requirements.

(f) *Land development regulations.* Any amendment to the town's land development regulations that increases the permitted height or density within any zoning district shall require an affirmative vote of all five (5) councilmembers.

(g) *Variances.* Any order granting a variance to the permitted height within any zoning district shall require an affirmative vote of all five (5) councilmembers.

(Ord. No. 578, § 2, 12-29-2004; Ord. No. 732, § 2, 11-17-2020; Ord. No. 733, § 2, 11-17-2020; Ord. No. 734, § 2, 11-17-2020; Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023; Ord. No. 774, § 2, 11-15-2023; Ord. No. 775, § 2, 11-15-2023)

**State Law reference—** Procedures for adoption of ordinances and resolutions, F.S. § 166.041; public meetings and records, F.S. § 286.011.

## ARTICLE IV. - ADMINISTRATIVE

### Sec. 1. - Town manager.

There shall be a town manager who shall be the chief executive officer of the municipal corporation. The manager shall be responsible to the council for the administration of all town affairs placed in their charge by or under this charter.

### Sec. 2. - Appointment; removal; compensation.

- (a) *Appointment.* The council shall appoint a town manager by a majority vote of the mayor and all the council members.
- (b) *Removal.* The council may remove the manager by a majority vote of the mayor and all the councilmembers and the manager shall hold office at the pleasure of the council.
- (c) *Compensation.* The compensation of the manager shall be fixed by the council.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

### Sec. 3. - Acting town manager.

By written notification to the town council, the manager shall designate a qualified town executive officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. During absence or disability, the council may revoke such designation at any time and appoint another officer of the town to serve until the manager shall return or such disability shall cease.

(Ord. No. 735, § 2, 11-17-2020)

### Sec. 5 [4]. - Powers and duties of the town manager.

The town manager shall:

- (a)

Appoint, suspend or remove all town employees. The town manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, or office;

- (b) Establish and supervise the administration of all departments and offices of the town, except as otherwise provided by this charter or by law;
- (c) Attend all council meetings and shall have the right to take part in discussion, but may not vote;
- (d) See that all laws, provisions of this charter and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision are faithfully executed;
- (e) Prepare and submit the annual budget, budget message and capital improvements program to the council;
- (f) Submit to the council and make available to the public a complete report on the finances of the town as of the end of each fiscal year.
- (g) Make such other reports as the council may require concerning the operations of town departments and offices;
- (h) Keep the council fully advised as to the financial condition and future needs of the town and make such recommendation to the council concerning the affairs of the town as is deemed advisable;
- (i) Sign contracts on behalf of the town;
- (j) Perform such other duties as are specified in this charter or may be required by the council.

Sec. 7 [5]. - Town clerk.

There shall be a town clerk appointed by the town manager who shall be responsible to the council for the proper administration of all affairs of the town coming under his or her control and to that end the powers and duties of the town clerk are and shall be:

- (a) To attend all official meetings of the council in person or by deputy and keep minutes of its proceedings which, after being approved, shall be recorded in a well bound book and signed by the town clerk.
- (b) To be the custodian of the town seal and of all records and papers of a general or permanent character pertaining to the affairs of the municipality.
- (c) To attest all executory contracts made on behalf of the town as evidence of the authorization of such contracts by the council or town manager; and no executory contracts made on behalf of the town or to which the town is a party shall be valid unless attested by the town clerk or his or her designee.

(d) To preserve, file and index all contracts to which the town is a party.

(Ord. No. 579, § 2, 12-29-2004; Ord. No. 735, § 2, 11-17-2020)

Sec. 7 [6]. - Prohibitions.

(a) *Appointment and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the manager or any subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(b) *Interference with administration.* Except for the purpose of inquiries and investigations, the council or its members shall deal with town officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the council from closely scrutinizing all aspects of town government operations so as to obtain independent information. It is the express intent of this charter, however, that recommendations for improvement in town government operations by individual council members be made to and through the town manager, so that the manager may coordinate efforts of all town departments to achieve the greatest possible savings through the most efficient and sound means available.

ARTICLE V. - QUALIFICATION AND ELECTIONS

*Footnotes:*

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**State Law reference**— *Florida Election Code, F.S. ch. 97 et seq.*

Sec. 1. - Non-partisan election.

All qualifications and elections for the office of mayor and town council member shall be conducted on a non-partisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

Sec. 2. - Qualifications.

Candidates for the office of mayor and town council member shall qualify for such office by the filing of a written notice of candidacy with the town clerk at such time and in such manner as may be provided by law.

(Res. No. 2023-03, election of 3-14-2023; Charter Amend. of 03-22-2023)

## Sec. 3. - Form of ballots.

- (a) *Candidates.* The council by resolution shall prescribe the form of ballot including the method for listing candidates for town council elections and any other town election unless the form of a ballot is prescribed by state law.
- (b) *Charter amendments.* Whenever a charter amendment is to be voted on by the town, the amendment shall be placed on that portion of the ballot following the candidates for town council, if any. The substance of such amendment shall be printed in clear and unambiguous language on the ballot and followed by the word "yes" and also by the word "no." The proposed amendment shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The wording of the substance of the amendment and the ballot title to appear on the ballot shall be embodied in the town ordinance approving such amendment to be placed before the voters. In accordance with Florida law, the substance of the amendment shall be an explanatory statement of the chief purpose of the measure. The ballot title shall consist of a caption by which the measure is commonly referred to or spoken of.

(Ord. No. 580, § 2, 1-12-2005)

## Sec. 4. - General and run-off election.

Whenever a general or a special election is held to fill any elective office in the town, the candidate receiving a majority of the votes cast at such election to fill such office shall be declared to be duly elected; provided that in the event no candidate for a particular elective office shall receive a majority of the votes cast at such election to fill such office, then a run-off election shall be held on such date as is provided by ordinance of the town; provided further that in such event only the names of the two (2) candidates having received the greatest number of votes in the election for such office shall be submitted to the voters and the one receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further, that should two (2) or more candidates receive an equal number of votes to any such office, so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election and the candidate receiving the greatest number of votes at such election shall be declared elected to such office, regardless of whether such candidate received a majority of the votes cast to fill such office at such run-off election.

## Sec. 5. - Unopposed candidate: vacancies in candidacy.

- (a) In the event only one person qualifies as a candidate for a designated seat on the town council to be filled at an election, that seat shall not be listed on the regular town election ballot. In the event a vacancy in candidacy caused by death, withdrawal or removal from the ballot leaves only one remaining qualified candidate, that candidate shall be treated in the same manner as an unopposed candidate. Each unopposed candidate shall be deemed to have voted for him or herself and thereafter declared to be duly elected to such office.
- (b) If the death, withdrawal or removal from the ballot of a qualified candidate occurs after the close of the qualification period leaving no candidates for an open seat with at least twenty (20) days remaining before the election, the qualifying period for that seat shall be reopened for a period of five (5) business days following the date the vacancy occurs and all qualified candidates registering during that period shall be placed on the ballot. The town clerk shall advertise the reopening of the qualification period.
- (c) If the death, withdrawal or removal from the ballot of a qualified candidate occurs after the close of the qualification leaving no candidates for an open seat with less than twenty (20) days remaining before the election, the election for such office shall be delayed for at least thirty (30) and no more than forty-five (45) days at which time the general election for that office shall take place. The town clerk shall advertise notice of the rescheduling of the election and the reopening of the qualifying period. Qualifying shall be reopened for a period of at least ten (10) business days.

(Ord. No. 580, § 2, 1-12-2005)

**State Law reference**— Mandate for establishing procedure for filling vacancies in candidacy, F.S. § 166.031(6).

Sec. 6. - Recall.

The qualified voters of the town shall have the power to recall and remove from office any elected official of the town as provided by general law.

**State Law reference**— Recall of members of governing body, F.S. § 100.361.

## ARTICLE VI. - INITIATIVE AND REFERENDUM

[Sec. 1. - Procedures for initiative and referendum.]

- (a) *General provisions.*
  - (1)

*Initiative.* Electors of the town shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a town election, provided that such power shall not extend to the budget or capital improvements program or any ordinance relating to appropriation of money, levy of taxes, salaries of town officers or employees, annexation of property, the rezoning of property, or the town's adopted comprehensive plan.

- (2) *Referendum.* Electors of the town shall have power to require reconsideration by the council of any adopted ordinance and if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, provided that such power shall not extend to the budget or capital improvements program or any emergency ordinance or ordinance relating to the appropriation of money, levy of taxes, salaries of town officers or employees, annexation of property, the rezoning of property, or the town's adopted comprehensive plan.
- (b) *Commencement of proceedings.* Any five (5) electors of the town may commence initiative or referendum proceedings by filing with the town clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought [to] be reconsidered.

Promptly after the affidavit of the petitioners committee is filed, the town clerk shall, at the committee's request, issue the appropriate petition blanks to the petitioners committee at the committee's expense.

(c) *Petitions.*

- (1) *Number of signatures.* Initiative and referendum petitions must be signed by electors of the town equal in number to at least fifteen (15) percent of the total number of electors registered to vote at the last regular town election.
- (2) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, and that the circulator believes them to be the genuine signature of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) *Time for filing referendum petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the council of the ordinance sought to be reconsidered.

(d) *Procedure for filing.*

- (1) *Certificate of clerk; amendment.* Within twenty (20) days after the initiative or referendum petition is filed the town clerk shall complete a certificate as to its sufficiency, specify if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail. Grounds for insufficiency are only those specified in subsection (c). If the petitioners committee does not request council review under subsection (2) of this section within the time required, the clerk's certificate shall be a final determination as to the sufficiency of the petition.
- (2) *Council review.* If a petition has been certified insufficient the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate within thirty (30) days of the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.
- (e) *Referendum petitions.* When a referendum petition is filed with the town clerk the ordinance sought to be reconsidered shall remain in effect until:
  - (1) The council repeals the ordinance, or;
  - (2) A vote of the town's qualified electors repealing the ordinance has been certified.

(f) *Action on petitions.*

- (1) *Action by council.* When an initiative or referendum petition has finally been determined sufficient, the council shall consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance within sixty (60) days, a vote of the town's qualified electors on a proposed or referred ordinance shall be held.
- (2) *Submission to voters.* The election shall be held not less than ninety (90) days and not later than one hundred twenty (120) days from the date that the petition was determined sufficient. If no regular town election is scheduled to be held within the period described in this subsection, the council shall provide for a special election, within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Withdrawals of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the town by filing with the town clerk or other official designated by the council a request for withdrawal signed by at least four (4) members of the petitioners committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(g) *Results of election.*

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*Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council; provided, however that the council may amend or repeal an ordinance enacted by initiative only upon the affirmative vote of at least four (4) councilmembers.

(Ord. No. 776, § 2, 11-15-2023)

## ARTICLE VII. - TRANSITION SCHEDULE

### Sec. 1. - Ordinances preserved.

All ordinances in effect upon the adoption of this Charter to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

### Sec. 2. - Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the town shall continue except as modified pursuant to the provisions of this Charter.

### Sec. 3. - Miscellaneous provisions.

- (a) In case any one or more of the sections or provisions of this Charter or the application of such sections or provisions to any situation shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Charter or the application of such sections or provisions as to any other situation and it is intended that this charter shall be construed and applied as if such unconstitutional section or provision had not been included herein.
- (b) As often as the council may deem necessary, but in any event, at least every five (5) years, the terms and provisions of this charter shall be reviewed.

## TOWN OF JUNO BEACH

### *Rules of Procedure and Town Council Protocols*

#### **A. Policy Statement**

It is Juno Beach Town Council (Council) policy that these Rules of Procedure and Protocols shall govern all official Council meetings and generally promote excellence in local government, characterized by effective and efficient meetings, respectful interactions between and among Town Councilmembers, staff, and the public, and thoughtful consideration of the role of public leadership in maintaining the reputation of Juno Beach as a professional council-manager form of local government.

Councilmembers shall conduct official Town business in a manner consistent with their status in the community as leaders, convenors, and collaborators. Committed to modeling civility, honesty, and integrity in their public and private lives, the Town Council embraces ethical, transparent, and accountable governance.

These Rules of Procedure and Town Council Protocols are intended to provide general rules of engagement for the Council while conducting the business of the Town of Juno Beach, FL. It is understood that there will be extenuating circumstances at times that will mean certain protocols will be waived or adjusted. However, it is also understood that such circumstances should be the exception and not the rule.

Any rule or procedure not covered by these Rules or under applicable law shall be decided upon by the Presiding Officer in accordance with Robert's Rules of Order Revised for Deliberative Assemblies (Current Edition, Henry Robert et al). The Town Attorney shall serve as the Parliamentarian and shall advise and assist the Presiding Officer on matters of parliamentary law and on enforcement of procedural rules.

#### **B. Applicability**

These rules shall apply to all public meetings of the Town Council, the Planning and Zoning Board and any other Town board or committee. Additionally, in accordance with Section 286.0114(3) (a-d), Florida Statutes, the right of public participation shall not apply to the following:

1. An official act that must be taken to deal with an emergency situation affecting the public health, safety and welfare if compliance with these rules and policies would cause an unreasonable delay in the ability of the Council, Board, or Committee to act;
2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
3. A meeting that is exempt from Section 286.011, Florida Statutes ("Government in the Sunshine Law"); and

4. An item during which the Council, Board, or Committee is acting in a quasi-judicial capacity, during which different rules and timeframes may be applicable.

### **C. Public Participation Rules**

The Town of Juno Beach welcomes comments from the public, and all members of the public shall be given a reasonable opportunity to make general comments and be heard on items placed on the agenda at any public meeting. Public Comment is intended to foster dialogue in a respectful and civil manner. Any person who makes disrespectful and uncivil remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of a meeting shall, at the discretion of the Presiding Officer, be ordered to yield the floor and may be barred from further participation during that meeting. Public comments are requested to be made with these guidelines in mind.

1. Each speaker shall be given an opportunity to speak for three (3) minutes during the public comment portion of the meeting or to address a particular agenda item. This time may be extended by the Presiding Officer; however, speakers may not yield their allotted time to another speaker.
2. All speakers are recommended to complete a comment card, indicating whether they wish to speak during the public comment portion or address a specific agenda item, and hand the comment card to the Town Clerk. Any person wishing to participate electronically shall contact the Town Clerk no later than noon on the day of the meeting to receive the log in instructions.
3. When called to speak by the Presiding Officer or Town Clerk, the speaker shall step up to one of the podiums. Speakers participating electronically will be notified by the Town Clerk when to begin speaking. Each speaker shall identify him or herself by name and address. The speaker shall state if he or she is speaking on behalf of a group or organization and identify the group or organization.
4. Any person wishing to address an item not on the agenda or on the consent agenda shall speak under the public comment portion of the meeting.
5. Members of the Council, Board, or Committee should either withhold comments or address comments during the Council, Board, or Committee comment portion of the agenda. The Council may request that the Town Manager take action on requests or comments made by members of the public.
6. There is no right to public participation at a Workshop or Work Session. Public participation during such meetings may be permitted at the discretion of a majority vote of the Town Council, Board, or Committee.

#### **D. Decorum Rules**

1. All Town meetings shall be conducted in an orderly and businesslike manner. All participants and attendees shall be treated with respect.
2. Everyone shall adhere to the following norms of civility:
  - a. A person who has the floor shall be permitted to speak without interruption, whether by other participants or attendees, unless addressed by the Presiding Officer pursuant to subsection F below.
  - b. Speakers shall refrain from impertinent or slanderous comments, defined as comments that are immaterial to official Town business, and which tend to impugn the reputation of the person about whom the comment is made.
  - c. A speaker's tone of voice and word choice shall be appropriate for a formal, civic meeting. The use of gratuitous profanity or the making of abusive or threatening comments shall not be tolerated.
  - d. No person shall engage in disruptive behavior, such as calling out from the audience, clapping, booing, or whistling.

#### **E. Enforcement of Procedural Rules**

1. Should the Presiding Officer determine that the Rules of Procedure have been violated, the Presiding Officer may interrupt the meeting and give the violator a verbal warning to cease such conduct. The Presiding Officer may inform the violator that any subsequent violations may result in his or her removal from the meeting.
2. Following the issue of a verbal warning, should the Presiding Officer determine that the Rules of Procedure have again been violated by the same person at the same meeting, the Presiding Officer may direct the violator to leave the meeting. In the event the violator is requested to leave and refuses, the Presiding Officer may recess the meeting and direct Town law enforcement personnel to assist.
3. Any determination by the Presiding Officer regarding enforcement of the Rules of Procedure may be overruled by a majority of the Councilmembers, Boardmembers, or Committee Members present at the meeting.

#### **F. Duties and Responsibilities of the Presiding Officer**

1. The Mayor shall be the Presiding Officer of the Town Council. In case of the absence or inability of the Mayor, the Vice Mayor shall assume the responsibilities of the Presiding Officer, and if both are absent or unable, the Vice Mayor Pro Tem shall preside.

2. The Presiding Officer shall preserve order. The Presiding Officer may call to order any member of the Town Council or any member of the public who may violate any of these rules or otherwise disrupt the orderly proceeding of the meeting. The Presiding Officer shall decide all questions of order subject to a majority vote on an appeal of the decision.
3. The Presiding Officer shall recognize all Councilmembers who seek the floor when entitled to do so.
4. The Presiding Officer will represent the Council and its consensus policies at meetings, conferences, or other occasions involving other governmental entities, agencies, officials or groups, or nongovernmental organizations, departments, agencies or officials, and report back to the Council anything of significance.
5. The Presiding Officer has the power to call for a recess not to exceed ten (10) minutes. Recesses requested by any other Councilmembers require a majority vote of Council.

## **G. General Meeting Procedures (Order of Business)**

1. The order of business for a regular meeting shall ordinarily be:
  1. Call to Order
  2. Pledge Allegiance to the Flag
  3. Additions, Deletions, Substitutions to the Agenda
  4. Presentations
  5. Comments from the Town Manager, the Town Attorney, and Staff
  6. Comments from the Public
  7. Consent Agenda
  8. Council Action/Discussion Items
  9. Comments from the Council
  10. Adjournment
2. The order of business may be revised by a majority vote.
3. Except for matters advertised for public hearing, any matter may be removed from an agenda by the person who placed it on the agenda or by a majority vote.

## **H. Agenda Procedures**

1. Agenda distribution deadline: The deadline for distributing a final agenda with supporting documents shall be no later than 4PM Wednesday, one (1) week prior to the regularly scheduled Town Council meeting.

For all Special Meetings, Workshops, or Work Sessions of the Town Council, the agendas with supporting documents will be distributed one (1) week prior.

2. If a Councilmember wishes to add an item to a future agenda, a majority agreement of the Council is required. If approved, the requesting Councilmember must submit a memorandum and any supporting documentation to staff by the established agenda submittal deadline.
3. Agenda submittal deadline: The deadline for submitting items for inclusion on the agenda shall be no later than 12PM on Monday prior to the agenda distribution deadline.
4. All Agenda items with supporting documentation shall be reviewed and approved as deemed appropriate by the Town Manager or his/her designee.
5. If a Councilmember wishes to share information through a presentation, all related materials must be submitted by Friday at 12PM following the agenda distribution date.

## **I. Scheduling of Meetings, Workshops, and/or Work Sessions**

1. Regular meetings of the Town Council shall be held on the fourth Wednesday of each month at 5PM in the Council Chambers, Town Center, 340 Ocean Drive, Juno Beach, Florida, unless otherwise specified, and must conclude by 10PM in accordance with Ordinance No. 759.
2. If a regular meeting date falls on a holiday, the meeting shall be held in the same location on either the second Wednesday of the month, or on a date specified and agreed upon by the Town Council.
3. Special Meetings may be held on the call of the Mayor or of a majority of the members and in the absence of a state of emergency. Notice of Special Meetings shall be given to each Council member and to the public at least twenty-four (24) hours in advance except for emergency meetings. If the Mayor or a member of the Town Council is absent from the Town or otherwise beyond reach of actual notice, failure to give such notice shall not prevent the convening of the Special Meeting. The Town Council may act on any matter presented at the Special Meeting unless prohibited by the Town Charter or by rules established by the Town Council. Public participation shall occur consistent with these rules and applicable law. Special meetings shall be held in the Council Chambers at Town Center, 340 Ocean Drive, Juno Beach, Florida, or at such other location within the Town as may be designated in the notice of the meeting, beginning at a time to be specified in the notice of the Special Meeting.
4. Workshops must be approved by a majority vote of the Town Council in order to be scheduled. Council deliberation should remain confined to the matter at hand. No official action may be taken by the Town Council during a Workshop. All Workshops shall be limited to a maximum duration of four (4) hours.
5. Work Sessions require approval by a majority vote of the Town Council and any topic may be discussed during a Work Session. Because Work Sessions are for Councilmembers to discuss particular matters prior to initiating formal action or public engagement, no official

action of the Town Council shall be taken at Work Sessions, and no public participation shall occur unless authorized by majority of the Town Council. All Work Sessions shall be limited to a maximum duration of four (4) hours.

6. Emergency Meetings can be called by the Town Manager or Mayor if in his/her opinion an emergency exists requiring immediate action by the Council. Whenever an Emergency Meeting is called, the Mayor and/or Town Manager shall notify the Clerk, who will inform each Councilmember in writing or verbally of the date, time, and place, as well as the emergency purpose for which it is called; no other business shall be transacted in that meeting. At least twenty-four (24) hours shall elapse between the time the Clerk receives notice of the meeting and the time the meeting is to be held. If because of the nature of the emergency it is not possible to give notice to each Councilmember, or it is impossible to allow twenty-four (24) hours to elapse between the time the Clerk receives notice of the meeting and the time the meeting is held, such failure shall not affect the legality of the meeting if a quorum is in attendance. Reasonable public notice of any Emergency Meeting sufficient to comply with Section 286.011, Florida Statutes, shall be given. In those instances where there is a Town meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to post the notice within the time frames set forth in the Town Code and/or herein, the Town shall be required to post the notice on the Town's website at the earliest practicable time. In the written notice calling the Emergency Meeting, the Town Manager shall include a detailed statement explaining the emergency nature of the meeting.

#### **J. Motions and Debate**

1. With the exception of quasi-judicial matters, items before the Council, Board, or Committee shall be commenced by the presentation by a member of Staff (unless the item is initiated by a Councilmember, Boardmember, or Committee Member), followed by public comment. Once the Presiding Officer closes public comment, public comment shall not be reopened unless the Presiding Officer or a majority of the Council, Board, or Committee votes to do so. After the discussion of the item by the Council, Board, or Committee, the Presiding Officer shall call for a motion. In order for a motion to proceed to discussion, it must receive a second which shall be requested by the Town Clerk. If no second is provided, or if discussion begins prior to a second, the motion is deemed to have failed. Once any discussion on the motion has concluded, the Presiding Officer shall call for a vote on the motion. The Town Clerk will conduct a roll call.
2. The Presiding Officer may make or second a motion only after temporarily passing the gavel to the next highest-ranking officer of the Council, Board, or Committee. If that individual is absent, the gavel shall be passed to the highest-ranking officer. Once the motion has been seconded, the Presiding Officer shall resume his or her role by reclaiming the gavel.
3. When engaging in discussion, each Councilmember, Boardmember, or Committee Member shall be allotted three (3) minutes to address the item under consideration. Following this, a motion must be made and seconded before further discussion may

proceed. A Councilmember, Boardmember, or Committee Member shall address the Presiding Officer and await recognition before speaking again on an item.

4. Motions may be withdrawn and modified by the maker (with the consent of the member who seconded the motion) at any time prior to a vote. During the discussion of a motion, a Councilmember, Boardmember, or Committee Member may make a motion to amend. If the motion to amend is seconded, the Council, Board, or Committee shall first vote on the motion to amend and then vote on the original motion (as may be amended).
5. No member of the Council, Board, or Committee who is present at any meeting at which an official action is taken may abstain from voting except when there is a possible conflict of interest pursuant to Chapter 112, Florida Statutes, or the Palm Beach County Code of Ethics. In such cases, the Councilmember, Boardmember, or Committee Member shall comply with all applicable disclosure requirements.
6. A motion that receives a tie vote fails. The failure of a motion in the negative (such as a motion to deny) shall not constitute an approval.
7. Any member of the Town Council on the prevailing side may move to reconsider any action of the Town Council provided that new relevant information is presented to the Town Council and the motion is made at the following Town Council meeting. No motion to reconsider shall be made more than once on any subject or matter.

## **K. Town Council Code of Conduct**

Goal Statement: The Code of Conduct describes the way members of the Town Council should treat each other, members of Town staff, constituents, and others when representing the Town of Juno Beach. *The Code of Conduct represents aspirational goals that guide Councilmembers toward the highest principles of governance. Although this Code does not represent a body of enforceable rules, the Code should be considered by Councilmembers when arriving at an ethical course of action and course of behavior – each of which should be worthy of the public’s trust in government and the high office to which each Councilmember has been entrusted.*

The consistent theme through this Code of Conduct is respect. Elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each Councilmember and others through words and actions is the “North Star” that guides Councilmembers to do the right thing, even in difficult situations.

### **A. Guiding Principles and Commitments**

To promote public trust and faith in local government, Councilmembers agree to abide by the guiding principles and commitments contained herein.

### **B. Public Meeting Decorum**

Councilmembers will:

1. Prepare in advance for all Council meetings by reviewing agenda materials, including speaking with community members, and becoming familiar with issues. Preparation includes taking advantage of opportunities to meet with the Town Manager and staff to ask questions and/or request additional information to support informed decision making and efficient public meetings.
2. Embrace a philosophy of “no surprises,” including alerting the Town Manager in advance of important questions planned to be asked during a meeting so that staff can be prepared to provide the Council and public the desired information at the Council meeting.
3. Request the floor from the Presiding Officer before speaking, excepting Points of Order, and refrain from interrupting or otherwise disturbing another Councilmember who has the floor.
4. Honor and respect the role of the Presiding Officer in maintaining order.
5. Refrain from personal attacks, comments, or innuendo directed toward other Councilmembers, Town staff, or members of the public.
6. Respect the Autonomy of Appointed Boards and Committees: Councilmembers should refrain from speaking in meetings of other Town boards or committees. These appointed bodies are entrusted with the responsibility of providing independent recommendations for Council consideration.
7. Fully participate in all Council meetings, either in person or via Zoom, and practice civility, professionalism, and respect in all discussions and debates.
8. Councilmembers shall ensure that all comments pertain to the topic under discussion and focus on the facts of a decision, including any applicable legal parameters.
9. Make the public feel welcome, avoiding any form of disrespect toward an individual participating in a public meeting. To that end, members of the Town Council will:
  - a) Actively listen to speakers;
  - b) Ask for clarification with the consent of the Presiding Officer, but avoid debate and argument with members of the public; and
  - c) Be mindful of one’s tone and body language.
10. Refrain from using cellular phones or any other type of audible device in a manner that would be disruptive to other members of the Council or members of the public.

#### C. Conduct Outside of Public Meetings

To support trust and confidence in local government, adhere to the professionalism standards mandated by the council-manager form of government, and promote the dissemination of official public information that is clear, consistent, and accurate, Councilmembers recognize and value the importance of maintaining the following standards of conduct and communication protocols.

Councilmembers will:

1. Not make derogatory personal comments about other Councilmembers, Town Staff, members of the public, or members of any Town-related board, through the dissemination of written materials, including newsletters, blogs, or similar.
2. Curate any personal newsletter, blog, or similar, such that content excludes statements that may be perceived as insulting or demeaning, sarcastic, defamatory, or disparaging to others. Any personal newsletter, blog, or similar must contain a statement that these are the opinions of the writer only and not intended to be the official opinion of the Town or Council.
3. Avoid contemporaneous communications in order not to violate the Sunshine Law. If an individual Councilmember nonetheless sends an email to the Council as a whole, no Councilmember will use “reply all,” but may direct a private response to the Town Manager and/or Town Attorney.
4. Recognize that their official Town e-mail is the appropriate mechanism for communicating by email with members of the public and further understand that they are personally responsible for maintaining records of all communications that are conducted on a platform other than their Town e-mail, including all text messages.
5. Will not make any official statements, representations, or inquiries to any public or private agency on behalf of the Town Council without specific authorization from the Council.
6. Members of the Town Council will be free to take public positions on local, county, state, and federal political issues. Similarly, members of the Town Council have the option to endorse candidates for local, county, state, and federal office.
7. Comply with the following prohibitions set forth in Article IV, Section 6 of the Town Charter:
  - a. Appointment and removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the manager or any subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss

with the manager anything pertaining to the appointment and removal of such officers and employees.

- b. Interference with administration. Except for the purpose of inquiries and investigations, the Council or its members shall deal with town officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the Council nor its members shall give orders to any such officer or employee either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the Council from closely scrutinizing all aspects of town government operations so as to obtain independent information. It is the express intent of this charter, however, that recommendations for improvement in town government operations by individual Councilmembers be made to and through the Town Manager, so that the manager may coordinate efforts of all town departments to achieve the greatest possible savings through the most efficient and sound means available.
8. Direct non-routine questions or requests of Town staff to the Town Manager and he/she will direct staff, as may be appropriate. Any commentary on staff performance or personnel issues shall only be directed to the Town Manager without a copy to staff. In communicating directly with Town staff, Councilmembers should:

  - a. Avoid directing new staff work or assignments – requests to create or modify work products should first be directed through the Town Manager, without a copy to staff.
  - b. Avoid the impression of supervisory tone, e.g., critiquing professional skills or abilities would not be appropriate.
  - c. Avoid using one's position to influence staff actions, decisions, work products, work prioritization, etc.

9. The Town Manager may seek a Council consensus at a regular meeting prior to initiating staff response to any Councilmember's request involving substantial staff time to complete, or if the request deviates from prior Council direction. Routine operational questions may be presented directly to staff.

#### **L. Amendment or Waiver of Rules**

These Rules of Procedure may be amended or waived by a majority vote, provided that no such amendment shall conflict with any applicable provision of Florida Law, the Town Charter, or an ordinance of the Town.

**TOWN OF JUNO BEACH PROCEDURES FOR  
CONDUCT OF QUASI-JUDICIAL HEARINGS**

1. Definitions:

- A. *Applicant* - the owner of record, or owner's agent, or any person with a legal or equitable interest in the property that is the subject of the proceeding.
- B. *Council* - The Town Council, Planning and Zoning Board, or any other Board to which this policy is made applicable.
- C. *Ex parte Communications* - any written or oral communication with the Council members other than those made on the record at the time of the hearing and site visits to the property as set forth in Section 4(C) below.
- D. *Interested Person* - any person, natural or corporate, who owns property within three hundred (300) feet of the property that is the subject of the application or any person, natural or corporate, who will suffer a negative effect to a protected interest as a result of the quasi-judicial application where such interest exceeds in degree the general interest of the community or public at large.
- E. *Participants* - those members of the general public other than the Applicant or an Interested Person who attends a public hearing for the purpose of being heard on a particular application.
- F. *Relevancy* - In order to be relevant, the evidence submitted must strengthen or weaken the application by supporting or disproving factual assertions contained in the application or be directly related to the application. The Council shall determine the relevancy of the evidence.

2. General Standards:

- A. Ex Parte Communications Between Council Members and Public. Members of the Town Council and the Planning and Zoning Board shall not engage in private oral or written communications with the Applicant or the Applicant's agents prior to the completion of the quasi-judicial hearing. Notwithstanding the foregoing, members of the Town Council and the Planning and Zoning Board may privately meet with the Applicant or the Applicant's agents prior to the completion of the quasi-judicial hearing when accompanied by a member of Town Staff.
- B. Town Staff Report. The staff report on the case and all supporting materials shall be sent to the Council members and be available to the general public at least five (5) business days prior to the hearing on the case.
- C. Appearances and Evidence.
  - (1) Persons claiming to represent a group or organization must demonstrate proof of membership of that group and proof that the person representing the group has actual authority to do so.
  - (2) All participants must state their name, address, and the party they represent at the time they wish to speak.

3. Communications Between Council and Town Staff

- A. Councilpersons may communicate with Town staff including discussions relative to the staff report and recommendations. Staff may answer questions and render opinions.
- B. The Town Attorney may render legal opinions when requested by the Council members, but shall not advocate one party's position over another, except to the extent necessary to respond fully to a legal question.

4. Ex-Parte Communications.
  - A. Written Communications. All written communications received by the Council members concerning an application or pending case shall be deemed public information if made a part of the record prior to final action on the matter.
  - B. Oral Communications. Except as limited by Section 2(A) above, oral communication may be permitted and shall be deemed public information provided the substance of the communication and with whom the communication took place is divulged and made part of the record prior to final action in the matter.
  - C. Inspection of Property. Members of the Council may physically inspect the property. Such investigation or site visits shall be disclosed and made a part of the record prior to final action on the matter.
5. Town Staff File. All written communications shall be included in the file maintained by staff and available for public inspection. Any written communication received by staff shall be reported as part of the oral staff report. The staff report, any petitions or other submissions from the public, and all other documents pertaining to the case shall also be kept in the file and available for public inspection. During its presentation, staff shall offer all such written communications into evidence, subject to any objections imposed by participants.
6. Disclosure. At the public hearing at which a vote is to be taken on the matter, a Council person who has received an ex parte communication, conducted an investigation, received expert opinions, or has physically inspected the property, shall summarize for the record the substance of the communication, the person making the same, the nature of the investigation, substance of the expert opinion or the date of the inspection.
7. Basis of Decision. All decisions by the Council shall be based on the record of the evidence presented to the Council at the hearing on the case, which shall include staff testimony of all witnesses, and other evidence presented. Strict rules of evidence shall not apply, but evidence must be relevant to the issues before the Council.
8. Public Presentations. Prior to any quasi-judicial proceeding before the Planning and Zoning Board or Town Council, the Applicant shall conduct two public presentations for all major projects. For the purposes of this section, a major project includes all new commercial developments, multi-family residential developments, mixed-use developments, and planned unit developments.
9. Interested Persons. Any Interested Person desiring to become a party to quasi-judicial proceeding shall provide written notice to the Planning and Zoning Department which notice shall, at a minimum, set forth the Interested Person's name, address, e-mail address and telephone number and indicate how the person qualifies as an Interested Person for the proceeding at issue. The filing of notice with the Planning and Zoning Department shall serve as notice of the Interested Person's request to appear at the applicable quasi-judicial proceeding to testify, present evidence, bring forth witnesses, and cross-examine witnesses. The required notice must be received by the Planning and Zoning Department no later than the close of business (5:00 p.m.) five (5) business days prior to the hearing. The Department, in consultation with the Town Attorney, shall verify that the person seeking designation as an Interested Person satisfies the requirements for such status and shall provide written confirmation. In the event that multiple Interested Persons seeking to become a party in a quasi-judicial proceeding share the same protected interest and are members of the same community or association, the Town shall recognize the community or association as the Interested Party absent a compelling reason for each Interested Person to be recognized as a separate party.
10. Conduct of Hearing. The order of appearance at the hearing shall be as follows:
  - A. Council members shall summarize the substance of any ex parte communication; including the identity of the person, group, or entity with whom the communication took place;

- B. The Town Staff shall present its reports and offer its file into evidence.
- C. The Applicant shall present its case and/or respond to or refute any ex parte communication;
- D. Interested Persons shall present their case and/or respond to or refute any ex parte communication.
- E. Participants shall present their case and/or respond to or refute any ex parte communications.
- F. Cross-examination of the witnesses;
- G. Council discussion and decision.

Testimony may be subject to cross-examination, upon request, by the Applicant, Interested Persons, the designated representative of the Participants and the Town staff. The Applicant or its representative, Interested Persons or their representative, and the designated representative of the Participants wishing to cross-examine witnesses must reserve that right at the beginning of their presentation. Council members may interpose questions at any time during the conduct of the hearing.

11. Testimony Under Oath or Affirmation.

The Applicant, Interested Persons, witnesses and all Participants asking to speak shall be sworn collectively at the beginning of the hearing.

12. Cross Examination

- A. The Applicant, Interested Persons, Participants, and all witnesses are subject to cross-examination during the hearing.
- B. The cross-examination of the Applicant, Interested Persons, witnesses and Participants shall be limited to five (5) minutes by the individual conducting the cross-examination for the adverse party.
- C. The scope of the cross-examination shall be limited to the facts alleged by the participant, witness, or applicant in relation to the application.
- D. The cross-examination cannot be designed to merely harass, intimidate, or embarrass the participants, applicant, or witnesses.
- E. The Mayor or presiding officer will determine the scope of the cross-examination on his or her own initiative, or when the individual being questioned objects to the cross-examination for going beyond the scope of the facts alleged by the individual.
- F. The Mayor or presiding officer may defer to the Town Attorney to determine the scope of the cross-examination.
- G. The Mayor or presiding officer may direct the party conducting the cross-examination to stop a particular line of questioning that is not relevant and beyond the scope of the facts alleged by the individual being cross-examined.
- H. If the party conducting the cross-examination continuously violates directions from the Mayor or presiding officer to end a line of questioning deemed irrelevant and merely designed to harass, intimidate, or embarrass the individual, the Mayor or presiding officer may terminate the cross-examination.
- I. The purpose of cross-examination is not to debate a particular matter or issue but is permitted for the sole purpose of testing the credibility of a witness or the particular weight a particular piece of evidence should be given.

13. Time Limits.
  - A. Applicant - Up to thirty (30) minutes.
  - B. Interested Person - Up to thirty (30) minutes.
  - C. Participants -
    - i. members of the public - three (3) minutes each speaker.
    - ii. speakers representing a group of six (6) or more in attendance at the meeting - five (5) minutes each speaker.
    - iii. speakers representing an organization - five (5) minutes each speaker.
  - D. Participants shall be given one opportunity to present their evidence and/or comments and must present their testimony at that time. Multiple opportunities for the same participant to speak and a debate style format are not permitted.
  - E. Expert Witnesses - ten (10) minutes.
  - F. At the discretion of the Mayor or presiding officer, the time allowed for any testimony may be extended.
14. Record of the Case. All evidence admitted at the hearing, Town staff reports, and the adopted resolution, ordinance or minutes setting forth the decision of the Council shall be maintained in a file constituting the record of the case. The record shall be kept in custody of the appropriate staff at all times during the pendency of the case, except that any member of the public may examine the file in the appropriate Town Staff Office.
15. Applicability. These rules shall apply to all site specific rezonings, special exception and variance proceedings and at any time the Town Council or Planning and Zoning Board sits in a quasi-judicial or an appellate capacity, including administrative appeals.
16. Rehearing/Reconsideration and Appeal. A final determination of the Town Council or the Planning and Zoning Board acting in its quasi-judicial capacity is subject to judicial review in a court of competent jurisdiction within thirty (30) days of the Council or Commission's rendition of its written determination. The Council or Board may only entertain a request for rehearing or reconsideration of a previously entered quasi-judicial order prior to the filing of a petition for writ of certiorari challenging the order or prior to the expiration of the thirty (30) day appeal period, whichever first occurs.

# FLORIDA COMMISSION ON ETHICS



GUIDE  
to the  
SUNSHINE AMENDMENT  
and  
CODE of ETHICS  
for Public Officers and Employees

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**2025**

# State of Florida

## COMMISSION ON ETHICS

**Luis M. Fusté, Chair**  
Coral Gables

**Tina Descovich, Vice Chair**  
Indialantic

**Paul D. Bain**  
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Tallahassee

**Linda Stewart**  
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**Kerrie Stillman**  
*Executive Director*  
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Tallahassee, FL 32317-5709  
[www.ethics.state.fl.us](http://www.ethics.state.fl.us)  
(850) 488-7864\*

\*Please direct all requests for information to this number.

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## I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

## **II. ROLE OF THE COMMISSION ON ETHICS**

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

## **III. THE ETHICS LAWS**

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission

on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

#### **A. PROHIBITED ACTIONS OR CONDUCT**

##### **1. *Solicitation and Acceptance of Gifts***

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec. 112.3148, Fla. Stat.]

**However**, notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than \$100 that formerly were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and employees of

the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. *Unauthorized Compensation*

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. *Misuse of Public Position*

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. *Abuse of Public Position*

Public officers and employees are prohibited from abusing their public positions in order to obtain a disproportionate benefit for themselves or certain others. [Article II, Section 8(h), Florida Constitution.]

5. *Disclosure or Use of Certain Information*

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position, for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

6. *Solicitation or Acceptance of Honoraria*

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to \$5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

**B. PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS**

1. *Doing Business With One's Agency*

- a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or

services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

- b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. *Conflicting Employment or Contractual Relationship*

- a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]
- b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]
- c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. *Exemptions*—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

- a) When the business is rotated among all qualified suppliers in a city or county.
- b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter

the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

- c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.
- d) When an emergency purchase must be made to protect the public health, safety, or welfare.
- e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.
- f) When the aggregate of any such transactions does not exceed \$500 in a calendar year.
- g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.
- h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).
- i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.
- j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of

the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. *Additional Exemptions*

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.]

5. *Legislators Lobbying State Agencies*

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. *Additional Lobbying Restrictions for Certain Public Officers and Employees*

A statewide elected officer; a member of the legislature; a county commissioner; a county officer pursuant to Article VIII or county charter; a school board member; a superintendent of schools; an elected municipal officer; an elected special district officer in a special district with ad valorem taxing authority; or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office. [Art. II Sec 8(f)(2), Fla. Const. and Sec. 112.3121, Fla. Stat.]

7. *Employees Holding Office*

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

*8. Professional and Occupational Licensing Board Members*

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

*9. Contractual Services: Prohibited Employment*

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

*10. Local Government Attorneys*

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

*11. Dual Public Employment*

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

**C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES**

**1. *Anti-Nepotism Law***

A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute “jurisdiction or control” for the purposes of this prohibition. This provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

**2. *Additional Restrictions***

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

**D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS**

**1. *Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers***

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. *Lobbying by Former State Employees*

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

- a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.
- b) serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. *6-Year Lobbying Ban*

For a period of six years after vacation of public position occurring on or after December 31, 2022, a statewide elected officer or member of the legislature shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature or any state government body or agency. [Art. II Sec 8(f)(3)a., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department. [Art. II Sec 8(f)(3)b., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby for compensation on issues of policy, appropriations, or procurement before his or her former agency or governing body. [Art. II Sec 8(f)(3)c., Fla. Const. and Sec. 112.3121, Fla. Stat.]

4. *Additional Restrictions on Former State Employees*

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

**5. *Lobbying by Former Local Government Officers and Employees***

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

**E. VOTING CONFLICTS OF INTEREST**

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

#### **F. DISCLOSURES**

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. *FORM 1 - Limited Financial Disclosure*

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

- 1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is

for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.

- 3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, local boards of trustees and presidents of state universities, and members of the Florida Prepaid College Board.

LOCAL OFFICERS include:

- 1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.
- 3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
- 4) Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other

political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$35,000 for the local governmental unit.

- 5) Members of governing boards of charter schools operated by a city or other public entity.
- 6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

- 1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
- 2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.
- 3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.

- 4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.
- 5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
- 6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$35,000.
- 7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

**What Must Be Disclosed:**

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

**When to File:**

CANDIDATES for elected local office must file FORM 1 or a verification of filing in EFDMS together with and at the same time they file their qualifying papers. Candidates for City Council or Mayor must file a Form 6 or a verification of filing in EFDMS.<sup>1</sup>

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<sup>1</sup> During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

File with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

Beginning January 1, 2024, all Form 1 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name or organization on the Commission's website.

2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the

issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

File with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

Beginning January 1, 2024, all Form 2 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable on the Commission's website.

4. *FORM 6 - Full and Public Disclosure*

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of a city council and candidates for these offices<sup>2</sup>; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); members of the Florida Housing Finance Corporation Board and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

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<sup>2</sup> During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Officials must file FORM 6 annually by July 1 with the Commission on Ethics.

Beginning January 1, 2023, all Form 6 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name and organization on the Commission's website.

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. *FORM 6F - Final Form 6 Full and Public Disclosure*

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. *FORM 9 - Quarterly Gift Disclosure*

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics no later than the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more

than \$100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. *FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses*

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than \$100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. *FORM 30 - Donor's Quarterly Gift Disclosure*

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than \$100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee: a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between \$25 and \$100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

#### **IV. AVAILABILITY OF FORMS**

Beginning January 1, 2024, LOCAL OFFICERS and EMPLOYEES, and OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file FORM 1 annually must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

ELECTED CONSTITUTIONAL OFFICERS and other officials who must file Form 6 annually, including City Commissioners and Mayors<sup>3</sup>, must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

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<sup>3</sup> During the pendency of ongoing litigation, the Commission on Ethics is enjoined from enforcing the Form 6 requirement for mayors and elected members of municipal governing bodies, and they will have to file a CE Form 1 ("Statement of Financial Interest").

## V. PENALTIES

*A. Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics*

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$20,000<sup>4</sup>, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

*B. Penalties for Candidates*

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed \$20,000\*, and triple the value of a gift received from a political committee.

*C. Penalties for Former Officers and Employees*

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed \$20,000\*, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

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<sup>4</sup> Conduct occurring prior to May 11, 2023, is subject to a recommended civil penalty of up to \$10,000. [Ch. 2023-49, Laws of Florida]

*D. Penalties for Lobbyists and Others*

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to \$5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift or honorarium or fail to comply with the gift reporting requirements for gifts worth between \$25 and \$100, may be penalized by a fine of not more than \$5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined \$50 per day per report for each day the report is late, up to a maximum fine of \$5,000 per report.

*E. Felony Convictions: Forfeiture of Retirement Benefits*

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

*F. Automatic Penalties for Failure to File Annual Disclosure*

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25 for each day late the form is filed after September 1, up to a maximum penalty of \$1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

The Commission must undertake an investigation of a public officer or employee who accrues the \$1,500 maximum fine and currently holds their filing position to determine if the failure to file was willful. If the Commission finds a willful failure to file, the only penalty that can be recommended, by law, is removal from office.

## **VI. ADVISORY OPINIONS**

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

### *A. Who Can Request an Opinion*

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

### *B. How to Request an Opinion*

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

### *C. How to Obtain Published Opinions*

All of the Commission's opinions are available for viewing or download at its website: [www.ethics.state.fl.us](http://www.ethics.state.fl.us).

## **VII. COMPLAINTS**

### *A. Citizen Involvement*

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

As of June 21, 2024, the Commission on Ethics may only investigate complaints that are "based upon personal knowledge or information other than hearsay."<sup>5</sup> In compliance with the new law, ethics complaints that are not "based upon personal knowledge or information other than hearsay" cannot be investigated and will be dismissed.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at [www.ethics.state.fl.us](http://www.ethics.state.fl.us). The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can download a complaint form (FORM 50) from the Commission's website: [www.ethics.state.fl.us](http://www.ethics.state.fl.us), or contact the Commission office at the address or phone number shown on the inside front cover of this booklet.

### *B. Referrals*

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

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<sup>5</sup> Ch. 24-253, § 6, Laws of Fla. (codified at § 112.324(1)(a), Fla. Stat. (2024)).

C. *Confidentiality*

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. *How the Complaint Process Works*

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that

there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented, or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

*E. Dismissal of Complaints At Any Stage of Disposition*

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

*F. Statute of Limitations*

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a

complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

## **VIII. EXECUTIVE BRANCH LOBBYING**

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at [www.floridalobbyist.gov](http://www.floridalobbyist.gov). Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration  
Room G-68, Claude Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1425  
Phone: 850/922-4990

## **IX. WHISTLE-BLOWER'S ACT**

In 1986, the Legislature enacted a “Whistle-blower’s Act” to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

## **X. ADDITIONAL INFORMATION**

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida’s ethics laws. The “Sunshine Amendment” is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at [www.ethics.state.fl.us](http://www.ethics.state.fl.us).

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

## **XI. TRAINING**

Constitutional officers, elected municipal officers, commissioners of community redevelopment agencies (CRAs), commissioners of community development districts, and elected local officers of independent special districts are required to receive a total of four hours training, per calendar year, in the areas of ethics, public records, and open meetings. The Commission on Ethics does not track compliance or certify providers. Officials indicate their compliance with the training requirement when they file their annual Form 1 or Form 6.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff.

## **PUBLIC RECORDS**

*Selections from the 2025 Florida Government in the Sunshine Manual, Vol. 47, Office of the Florida Attorney General*

### **SCOPE OF THE PUBLIC RECORDS ACT**

Florida's Public Records Law, Ch. 119, F.S., provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. In the absence of a statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate or formalize knowledge. Access to public records has been described as a “cornerstone of our political culture.” *In re Report & Recommendations of Judicial Mgmt. Council of Fla. on Privacy & Elec. Access to Court Records*, 832 So. 2d 712, 713 (Fla. 2002).

Section 119.011(2), F.S., defines “agency” to include: any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

A right of access to records is also recognized in Art. I, s. 24, Fla. Const., which applies to virtually all state and local governmental entities, including the legislative, executive and judicial branches of government. The only exceptions are those established by law or by the Constitution.

Section 119.011(12), F.S., defines “public records” to include: all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge. *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980). All such materials, regardless of whether they are in final form, are open for public inspection unless the Legislature has exempted them from disclosure. *Wait v. Florida Power & Light Company*, 372 So. 2d 420 (Fla. 1979). Exemption summaries are found in Appendix D.

The term “public record” is not limited to traditional written documents. As the statutory definition states, “tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission” can all constitute public records. *And see National Collegiate Athletic Association v. Associated Press*, 18 So. 3d 1201 (Fla. 1st DCA 2009), *review denied*, 37 So. 3d 848 (Fla. 2010) (“public records law is not limited to paper documents but applies, as well, to documents that exist only in digital form”). *Cf. Church of Scientology Flag Service Org., Inc. v. Wood*, No. 97-688CI-07 (Fla. 6th Cir. Ct. February 27, 1997), available online in the Cases database at the open government site at [myfloridalegal.com](http://myfloridalegal.com) (physical specimens relating to an autopsy are not public records because in order to constitute a “public record” for purposes of Ch. 119, “the record itself must be susceptible of some form of copying”).

Clearly, as technology changes the means by which agencies communicate, manage, and store information, public records will take on increasingly different forms. Yet, the comprehensive scope of the term “public records” will continue to make the information open to public inspection unless

exempted by law.

Article I, s. 24, Fla. Const., establishes a constitutional right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted pursuant to Art. I, s. 24, Fla. Const., or specifically made confidential by the Constitution. *See State ex rel. Clayton v. Board of Regents*, 635 So. 2d 937 (Fla. 1994) (“[O]ur Constitution requires that public officials must conduct public business in the open and that public records must be made available to all members of the public.”); and *Rhea v. District Board of Trustees of Santa Fe College*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013) (“A citizen’s access to public records is a fundamental constitutional right in Florida”).

## WHAT RECORDS ARE INCLUDED

### EMAIL

E-mail messages made or received by agency officers and employees in connection with official business are public records and subject to disclosure in the absence of an exemption. AGOs 96-34 and 01-20. *See Rhea v. District Board of Trustees of Santa Fe College*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013), noting that “electronic communications, such as e-mail, are covered [by the Public Records Act] just like communications on paper.” *Cf.* s. 668.6076, F.S., requiring agencies that operate a website and use electronic mail to post the following statement in a conspicuous location on the agency website: “Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.”

Similarly, e-mails sent by city commissioners in connection with the transaction of official business are public records subject to disclosure even though the e-mails contain undisclosed or “blind” recipients and their e-mail addresses. AGO 07-14. *Cf. Butler v. City of Hallandale Beach*, 68 So. 3d 278 (Fla. 4th DCA 2011) (affirming a trial court order finding that a list of recipients of a *personal* e-mail sent by mayor from her personal computer was not a public record).

The Legislature has enacted exemptions for certain email addresses. *See e.g.*, ss. 655.057(5) (exemption for “personal identifying information” of certain officers and directors which are received by the Office of Financial Regulation pursuant to an application for authority to organize a new state bank or trust company); 197.3225, F.S. (taxpayer’s email address held by a tax collector for the purpose of sending certain tax notices); 215.5587(1)(b) (email address submitted by applicant to Department of Financial Services as part of the My Safe Florida Home Program); and 28.47(5)(b), F.S. (email addresses submitted to clerk of court or property appraiser for the purpose of registering for a recording or notification service).

Like other public records, e-mail messages are subject to the statutory restrictions on destruction of public records. *See* s. 257.36(6), F.S., stating that a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the Division of Library and Information Services (division) of the Department of State. Thus, an e-mail communication of “factual background information” from one city council member to another is a public record and should be retained in accordance with the retention schedule for other records relating to performance of the agency’s functions and formulation of policy. AGO 01-20.

## SOCIAL MEDIA POSTINGS

The Attorney General's Office has stated that the placement of material on a city's Facebook page presumably would be in connection with the transaction of official business and thus subject to Ch. 119, F.S., although in any given instance, the determination would have to be made based upon the definition of "public record" contained in s. 119.011(12), F.S. AGO 09-19. To the extent that the information on the city's Facebook page constitutes a public record, the city is under an obligation to follow the public records retention schedules established in accordance with s. 257.36(6), F.S. *Id. And see* AGO 08-07 (city council members who post comments and emails relating to the transaction of city business on a privately owned and operated website "would be responsible for ensuring that the information is maintained in accordance with the Public Records Law"); and *Bear v. Escambia County Board of County Commissioners*, 2022 WL 602266 (N.D. March 01, 2022) (messages on a county commissioner's privately owned and maintained social media accounts which involved his interactions with the public on matters of county concern and which involved his duties as a commissioner were public records).

The determination as to whether a list or record of accounts which have been blocked from posting to or accessing an elected official's personal Twitter feed is a public record involves mixed questions of law and fact which cannot be resolved by the Attorney General's Office. Inf. Op. to Shalley, June 1, 2016. However, "if the tweets the public official is sending are public records [because they were sent in connection with the transaction of official business] then a list of blocked accounts, prepared in connection with those public records 'tweets,' could well be determined by a court to be a public record." *Id.*

## TEXT MESSAGES

A public official or employee's use of a private cell phone to conduct public business via text messaging "can create an electronic written public record subject to disclosure" if the text message is "prepared, owned, used, or retained . . . within the scope of his or her employment or agency." *O'Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1040-1041 (Fla. 4th DCA 2018). *Accord City of Sunny Isles Beach v. Gatto*, 338 So. 3d 1045 (Fla. 3d DCA 2022), noting that a "city commissioner's text messages may be a public record," although a private communication by a municipal official "falls outside the definition of public record." For more information on personal records created or received by public officials on government or private devices, please see the discussion of that topic on pages 133-135.

In order to comply with the requirements of the Public Records Act, "the governmental entity must proceed as it relates to text messaging no differently than it would when responding to a request for written documents and other public records in the entity's possession—such as emails—by reviewing each record, determining if some or all are exempted from production, and disclosing the unprotected records to the requester." *O'Boyle v. Town of Gulf Stream*, at 1041. *And see* the discussion on pages 166-167 regarding the entity's responsibility to conduct a reasonable search to locate text messages that have been requested from the governmental entity, including those located on private accounts or devices.

The retention periods for text messages and other electronic messages or communications "are determined by the content, nature, and purpose of the records, and are set based on their legal, fiscal, administrative, and historical values, regardless of the format in which they reside or the method by which they are transmitted." *See* General Records Schedule GS1-SL available online at [dos.myflorida.com/library-archives](http://dos.myflorida.com/library-archives). Stated another way, it is the content, nature and purpose of the

electronic communication that determines how long it is retained, not the technology that is used to send the message. *See also* Inf. Op. to Browning, March 17, 2010, advising that the same rules that apply to e-mail should apply to electronic communications including SMS communications (text messaging), MMS communications (multimedia content), and instant messaging conducted by government agencies.

Palm Beach County  
Code of Ethics:  
*A Practical Guide*



*Honesty - Integrity - Character*

Published by  
The Palm Beach County Commission on Ethics



# Palm Beach County

## Code of Ethics:

### *A Practical Guide*

**2025 Edition**



*Honesty - Integrity - Character*



## Introduction

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This guide provides a summary of the provisions of the Palm Beach County 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 of Ethics. Please visit our website for detailed information about the Palm Beach County Commission on Ethics (COE).

## Connect with Us

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**Visit: [www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)**

**Call: 561-355-1915**

**Email: [ethics@pbc.gov](mailto:ethics@pbc.gov)**

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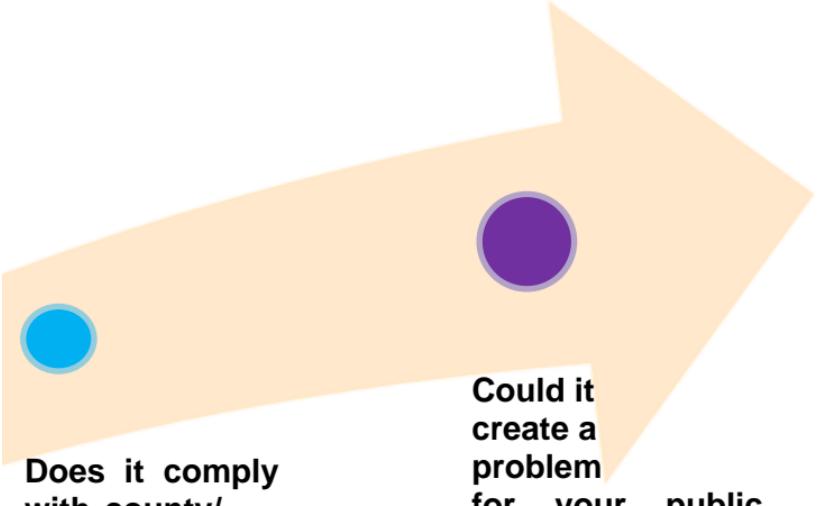
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# Ethics Decision Tree





## **Does it comply with county/ municipal policy?**

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The Code may not prohibit it,  
but county/municipal policy  
may.

## **Could it create a problem for your public employer or the people you serve?**

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Good Government Standard

# Evidentiary Standards

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**Legal Sufficiency** (*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 COE, purportedly committed by an individual within the authority of the COE, 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 Commission on Ethics within two years of the alleged violation.

**Probable Cause** (*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 to believe that the Respondent may have violated the Palm Beach County Code of Ethics.

**Clear and Convincing Evidence** (*must be established for the 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

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

The five community groups that appoint Commissioners to the COE are:

1. **The Palm Beach County Association of Chiefs of Police**, which appoints a former law enforcement official with experience investigating white collar crime or public corruption.
2. **The Palm Beach County Bar Association, the Palm Beach County Hispanic Bar Association, and the F. Malcolm Cunningham Bar Association**, which appoints an attorney with experience in ethics regulation of public officials and employees.
3. **The President of Florida Atlantic University**, who appoints a faculty member who has taught professional legal ethics.
4. **The Palm Beach Chapter of Association of Certified Fraud Examiners or the Palm Beach Chapter of the Florida Government Finance Officers Association** on a rotating basis, which appoint a CPA or financial officer with forensic auditing or government accounting experience.
5. **The Palm Beach County League of Cities**, which appoints a former elected official or former manager of a governmental entity within the county.



# Highlights

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**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.**

The jurisdiction of the Commission on Ethics (COE) extends to all officials and employees who work for Palm Beach County and all the municipalities located within Palm Beach County. The COE also has limited jurisdiction over all vendors, lobbyists, principals, and employers of lobbyists that lobby or sell to Palm Beach County or its municipalities.

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

The Code of Ethics fosters integrity in public service by outlining clear expectations for ethical behavior among public officials and employees.

- **Sec. 2-443: PROHIBITED CONDUCT**

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This section regulates the way you do your job or use your authority as an official or employee.

- **Misuse of public office or employment**

You cannot use your job or position to give a special financial benefit to the specified people and/or organizations listed in Sec. 2-443(a)(1-7) of the Code. The full list is on pages 26-27 of this guide.

***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, stipends paid to officials, or other lawful payments to which you are entitled because of your employment or official position.

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

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.

For a financial benefit to **not** be considered “special,” it 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 considered 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.”**

***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 from the action), then there is little chance the financial benefit would be considered

“special.” 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.

***Example: A permit clerk who accepts payment for a building permit from her brother does nothing wrong so long as the fee is the same as 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 be committing a misuse of public employment.***

- **Corrupt misuse of official position**

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

***What does CORRUPTLY mean?***

An official act done 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 near his home on someone’s private property. 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 in such a manner, the code enforcement officer is committing a corrupt misuse of official position.***

- **Contractual relationships**

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

*The three 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.

**“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.**

3. If you work a second job, your outside employer may not enter into any contract or do business with your public employer.

*The contractual relationships prohibition does not include:*

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

There are five additional exceptions listed in the Code of Ethics beginning on page 29 of this guide. It should be noted the part-time employment exception only applies to employees; it does not apply to elected or appointed officials.

- **Accepting 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.

- **Contingent fee prohibition**

No person can offer, give, or accept a contingency fee in exchange for something related to their public employment. A contingency fee is a fee, bonus, commission, or nonmonetary benefit as payment dependent on an action taken or decision made. There are exceptions to this prohibition listed on page 33 of this guide.

- **Honesty in applications for positions**

No one seeking to become an employee or official or seeking a contract with a county or municipal government can lie on the application.

- **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**.

- **Sec. 2-444: GIFT LAW**

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- **Gift Law Definitions**

**Gift**—Anything of value. State statute and the Florida Administrative Code are used to establish the value of certain gifts.

**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.

**Lobbying**—To influence a decision or attempt to obtain the good will of someone in government.

**Lobbyist**—Someone who is paid to lobby on behalf of someone else.

**Principal**—The person or entity a lobbyist represents, including a lobbyist's employer, for the purpose of lobbying.

**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 think may be a vendor of my public employer. If I don't take the time to inquire 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. \*\*\*

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:

<https://secure.co.palm-beach.fl.us/LRS/Registry/SearchRegistry.aspx>

2. Three municipalities (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:  
<https://www.pbcgov.org/pbcvendors>.
4. Contact the individual municipalities for their list of vendors.

#### ▪ **Gift Law Prohibitions**

- 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.)**

- You cannot solicit gifts of any value from a vendor, lobbyist, or 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.
- You cannot accept gifts worth more than \$100 per calendar year in the aggregate from a vendor, lobbyist, or principal or employer of a lobbyist doing business with your public employer.
- A vendor, lobbyist, or principal or employer of a lobbyist doing business with the county or a municipality may not give gifts worth more than

\$100 in the aggregate per calendar year to a county or municipal employee or official.

- 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 vendors, lobbyists, or principals or employers of lobbyists 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.
- If you unintentionally violate the gift law prohibitions by accepting a prohibited gift, the violation may be corrected by returning the gift, or paying back the amount that exceeds \$100, within 90 days of accepting the prohibited gift.

#### ▪ **Gift Law Reporting**

1. ***State reporting individuals*** will file their quarterly report with the state and then file a copy within 10 days with the COE.
2. ***All other employees (non-state reporters)*** who receive any gift worth more than \$100 must file an annual gift disclosure with the COE no later than January 31 for the period of January 1 through December 31 of the prior 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 on page 40 of this guide.

4. Some gifts may be accepted with special provisions but *must be reported* on a gift form. The full list can be found on page 41 of this guide.

- **Sec. 2-445: NEPOTISM**

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Officials or employees who are authorized to appoint, 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.

- **Sec. 2-446: NONINTERFERENCE**

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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 the Office of Inspector General.

- **PALM BEACH COUNTY COMMISSION ON ETHICS**

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- The COE is an independent agency that:
  - interprets and enforces the Code of Ethics;
  - provides advisory opinions; and
  - provides training for employees and officials.
- The COE hears cases involving violations of the Code of Ethics.
  1. A violation of the Code of Ethics can result in:
    - a. A letter of instruction.
    - b. A public reprimand.

- c. A fine of up to \$500.
- d. Restitution.
- e. Other disciplinary action by the public employer.
- f. Contracts, permits, or any other government approvals may be rescinded or declared void.

2. The COE may refer willful violations to the State Attorney's Office.

- **ADVISORY OPINIONS**

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

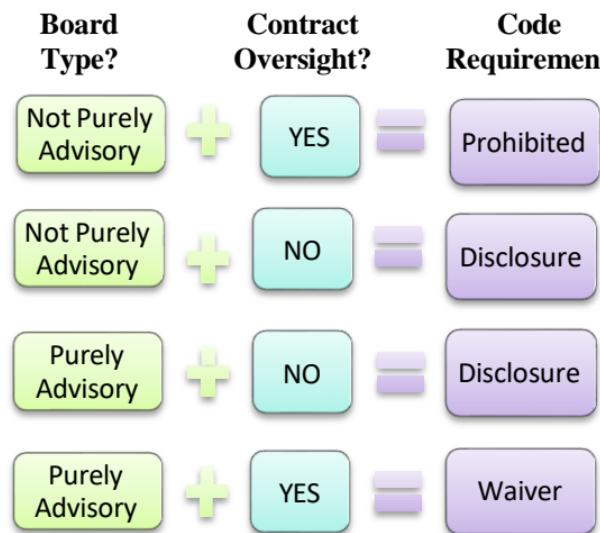
No person may request an advisory opinion concerning circumstances that do not apply to them personally, with the exception of a licensed attorney representing the interests of a client, or the interests of a specific governmental board or its members.

- **OTHER RULES, CODES, AND STATUTES**

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Public officials and employees are required to adhere to state law, the Palm Beach County 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 and employee to adhere to the appropriate rules and codes adopted by their public entity.

# CONTRACTUAL RELATIONSHIPS PROHIBITION FOR ADVISORY BOARD MEMBERS: CONFLICTS, DISCLOSURES, AND WAIVERS



## What type of board do you serve?

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 only authorized 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 only be challenged in circuit court.
- Some boards have both functions. The term “purely” is used 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 the business you own has a contract with the government that created the board you serve on (or will serve on), you must determine whether the board will have anything to do with the contract.

If your board will play any role in the oversight, regulation, management, or policy-setting recommendations regarding this contract, then the board exercises **contract oversight**. The same considerations apply if you already serve on a board and you, your employer, or your business seeks to enter into a contract with the government.

There are four exceptions to the contractual relationship prohibition listed on pages 29-31 of this guide. It should be noted that the part-time employment exception does not apply to advisory board members.

## **What does the Code require?**

- 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 either decline the appointment or terminate the contract. If the possibility of the contract occurs after you have been appointed, you must either resign from the board or withdraw the offer to contract with the government.

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

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(Revised July 1, 2021)

## **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 ascribed 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.

***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 of these, 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.

***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 materials 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 volunteers of the county or the municipalities located within the county when such volunteers exercise discretionary police, fire, or parking enforcement department authority. The term "employee" also includes the chief executive officer of the county or any municipality, who is not part of the local governing body. If the county or municipality utilizes and contracts for "privatized" chief administrative officers or chief executive officers, then the person providing such services, or the officers, directors, and employees of any entity providing such services, shall be considered the employees of the county or municipality that he or she serves. However, it shall not include local government attorneys as defined in Florida Statutes §112.313, or attorneys who render contracted services to the county or municipality that are limited in scope to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. 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.

**Principal** shall mean the person or entity a lobbyist represents, including a lobbyist's employer, for the purpose of lobbying.

**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, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, step-brother, 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 or to 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. Currently sells goods or services shall mean the period of time of an actual transaction or contract between a vendor and the government entity if such transaction or contract exceeds \$500. Where no formal contract exists for the sale or lease of goods and services, it shall include the period of time from the point the government entity orders or otherwise agrees to

purchase goods and services from a vendor, to the point that all obligations on the part of both the vendor and the government entity have been satisfied by delivery of the goods and/or services by the vendor, and payment has been received for those goods and services by the vendor, and where no other obligations by either party concerning the purchase of the goods and/or services remain unsatisfied. However, it shall not include any warranty period provided by the vendor once payment for the goods and services has been received and the goods and services have been delivered, even where an obligation to provide warranty service on the part of the vendor shall exist.

(Ord. No. 2011-011, §1(Exh. 1), 5-17-11, 6-15-21)

### **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, or attempt to do any of these things, in a 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, 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 organization of which he or she (or his or her spouse or domestic partner) is an officer or director. However, this sub-section shall not apply to any official or employee who is required to serve on the board of directors of any organization solely based on his or her official position (ex-officio), regardless of whether he or she has voting rights on the board, and who receives no financial compensation for such service on the board of directors, and otherwise has no personal ownership interest in the organization.

(b) ***Corrupt misuse of official position.*** An official or employee shall not use or attempt to 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 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 pertains 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 employer 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 decision 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, 6-15-21)*

## **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, sells, or leases to the county or a municipality as applicable, 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, or should know with the exercise of reasonable care, 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, 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, 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, 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 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, another official or employee, 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 identified 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, including, but not limited to, the state's definition of gift, exceptions thereto, and gift valuations. The county code of ethics' definition of gift and exceptions thereto shall not be used by reporting individuals to complete and file state gift reporting disclosures. When a state reporting individual files or is required to file a gift report with the state, a copy of each report shall also be filed with the county commission on ethics no later than ten (10) days after the report is filed with the state. Failure to file a State of Florida Quarterly Gift Disclosure Form with the county commission on ethics within the required timeframe shall be a violation of this section.

(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 determining 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 January 31 of each year for the previous calendar year (January 1 through December 31). 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. The county code of ethics' definition of gift and exceptions thereto shall be used by non-state-reporting individuals in completing and filing annual gift disclosure reports required by this section.

(g) Exceptions. For the purposes of this section, the following shall not be considered a gift:

- (1) Political contributions specifically authorized by state or federal law;
- (2) 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;
- (3) Awards for professional or civic achievement;
- (4) Materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
- (5) 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;
- (6) 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;
- (7) Inheritance or other devise;
- (8) 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;

(9) 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);

(10) Expenditures made in connection with an event sponsored by a nonprofit 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.

*(Ord. No. 2011-011, §1(Exh. 1), 5-17-11, 6-15-21)*

### **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, firefighting, 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 budgets 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, 6-15-21)

### **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, employees, and local government attorneys as defined in Florida Statutes §112.313, 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, 6-15-21)

### **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 and their employees.
- (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 or hearing officer 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 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 when deemed appropriate. 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 may 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, 6-15-21)*



## **NOTES**

# TOP 10 ETHICS RULES

## for Public Officials and Employees

### 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.

## Roberts Rules of Order – Simplified

### Guiding Principles:

- Everyone has the right to participate in discussion if they wish, before anyone may speak a second time.
- Everyone has the right to know what is going on at all times. Only urgent matters may interrupt a speaker.
- Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., “I move that we add a coffee break to this meeting”). After being recognized by the president of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. If there is no second, the matter is not considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

### How to do things:

**You want to bring up a new idea before the group.**

After recognition by the president of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

**You want to change some of the wording in a motion under discussion.**

After recognition by the president of the board, move to amend by

- adding words,
- striking words or
- striking and inserting words.

**You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.**

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

**You want more study and/or investigation given to the idea being discussed.**

Move to refer to a committee. Try to be specific as to the charge to the committee.

**You want more time personally to study the proposal being discussed.**

Move to postpone to a definite time or date.

**You are tired of the current discussion.**

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3<sup>rds</sup> vote.

**You have heard enough discussion.**

Move to close the debate. Also referred to as calling the question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3<sup>rds</sup> vote.

**You want to postpone a motion until some later time.**

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3<sup>rds</sup> vote. A majority is required to table a motion without killing it.

You believe the discussion has drifted away from the agenda and want to bring it back.  
"Call for orders of the day."

You want to take a short break.  
Move to recess for a set period of time.

You want to end the meeting.  
Move to adjourn.

You are unsure the president of the board announced the results of a vote correctly.  
Without being recognized, call for a "division of the house." A roll call vote will then be taken.

You are confused about a procedure being used and want clarification.  
Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The president of the board will ask you to state your question and will attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.  
Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.  
Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3<sup>rds</sup> vote is required.

### **Unanimous Consent:**

If a matter is considered relatively minor or opposition is not expected, a call for unanimous consent may be requested. If the request is made by others, the president of the board will repeat the request and then pause for objections. If none are heard, the motion passes.

- You may INTERRUPT a speaker for these reasons only:**

- o to get information about business –point of information to get information about rules– parliamentary inquiry
- o if you can't hear, safety reasons, comfort, etc. –question of privilege
- o if you see a breach of the rules –point of order
- o if you disagree with the president of the board's ruling –appeal
- o if you disagree with a call for Unanimous Consent –object

Quick Reference					
	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Rescinded
Main Motion	✓	✓	✓	Majority	✓
Amend Motion	✓	✓		Majority	✓
Kill a Motion	✓			Majority	✓
Limit Debate	✓		✓	2/3 <sup>rds</sup>	✓
Close Discussion	✓			2/3 <sup>rds</sup>	✓
Recess	✓		✓	Majority	
Adjourn (End meeting)	✓			Majority	
Refer to Committee	✓	✓	✓	Majority	✓
Postpone to a later time	✓	✓	✓	Majority	✓
Table	✓			Majority	
Postpone Indefinitely	✓	✓	✓	Majority	✓