

ARTICLE II. - CODE OF ETHICS

Sec. 10-16. - Applicability.

This article shall be designated as the city code of ethics. The code of ethics shall apply to all city personnel as specified and as defined in this article and shall constitute a minimum standard of ethical conduct and behavior for all city officials, autonomous personnel, consultants, quasi-judicial personnel, advisory personnel, departmental personnel and employees of the city.

(Code 1972, § 2-90(a))

Sec. 10-17. - 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:

- (1) Advisory personnel means the members of those city advisory boards, committees, commissions and agencies whose sole or primary responsibility is to give advice to the city commission and staff.
- (2) Autonomous personnel means the members of boards, committees, commissions and agencies as are entrusted with the day-to-day policy setting, operation and management of certain defined city functions or areas of responsibility, even though the ultimate responsibility for such functions or area rests with the city commission.
- (3) Commissioner means a member of the city commission, including the mayor, as duly constituted from time to time.
- (4) Compensation means any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.
- (5) Consultants means all persons, firms, corporations, partnerships or other business entities who render professional or consulting services to the city, who are not employed by the city and are not persons included in the terms defined in other paragraphs of this section. Such services shall include, but not be limited to, legal, accounting, engineering, landscaping, architectural and land surveying services. Any reference in this section to a person who is a consultant shall also include any firm, corporation, partnership or other business entity which is a consultant.
- (6) Controlling financial interest means ownership, directly or indirectly, of ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, corporation, partnership or other business entity.
- (7) Departmental personnel means the heads of the various city departments and the city attorney and all assistant city attorneys (if such city attorney or assistant city attorneys are employed on a full-time basis directly by the city).
- (8) Employees means salaried personnel employed by the city, not included in the terms defined in subsections (1), (2), (3), (5), (7) and (10).
- (9) Immediate family means the spouse, any parent and any children of the person involved who, at the time in question, reside with such person within a single household.
- (10) Quasi-judicial personnel means the members of the boards and agencies of the city which perform quasi-judicial functions.
- (11) Transact any business means the purchase or sale by the city of specific goods or services for consideration.

(Code 1972, § 2-90(b); Ord. No. 296-02-A, § 1, 11-12-02)

Sec. 10-18. - Prohibition on transacting business with the city.

- (a) No person included in the terms defined in section 10-17(1) through (3) or (7) through (10) shall enter into any contract or transact any business in which the person or a member of the person's immediate family has a financial interest, direct or indirect, with the city or any person or agency acting for the city, and any such contract, agreement or business engagement entered in violation of this section shall render the transaction voidable by the city. Willful violation of this section shall constitute malfeasance in office, and shall effect forfeiture of office or position. Nothing in this section shall prohibit or make illegal the payment of taxes, special assessments or fees and charges for services provided by the city; nor shall anything in this section prohibit or make illegal the purchase of bonds, anticipation notes or other securities that may be issued by the city through underwriters or directly from time to time. Nothing in this section shall prohibit the making or entering into of any contract or transaction which solely creates, defines or specifies the details of the relationship between any person and the city, which relationship is described in section 10-17(1) through (3) or (7) through (10).
- (b) The requirements of this section may be waived for a particular transaction only by the affirmative vote of four-fifths of the city commission, after public hearing. Such waiver may be effected only after a finding by four-fifths of the city commission that:
 - (1) An open-to-all sealed competitive bid has been submitted by any person defined in section 10-17(1), (2) or (10);
 - (2) The bid has been submitted by a person on firm offering services within the scope of practice of architecture, professional engineering, landscaping architecture or registered land surveying as defined by the laws of the state, pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the bid has been submitted by a person defined in section 10-17(1), (2) or (10);
 - (3) The property or services to be involved in the proposed transaction are unique and the city cannot avail itself of such property or services without entering into a transaction which would violate this section, but for the waiver of its requirements;
 - (4) The proposed transaction will be in the best interest of the city.

Such findings shall be spread on the minutes of the city commission. This section shall be applicable only to prospective transactions, and the city may in no case ratify a transaction entered in violation of this section.

- (c) This section shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

(Code 1972, § 2-90(c); Ord. No. 296-02-A, § 1, 11-12-02)

Sec. 10-19. - Further prohibition on transacting business with the city.

No person included in the terms defined in section 10-17(1) through (3) or (7) through (10) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with the city or any person or agency acting for the city, and any such contract, agreement or business engagement entered in violation of this section shall render the transaction voidable by the city. The exceptions contained in section 10-18 also apply to this section.

(Code 1972, § 2-90(d))

Sec. 10-20. - Gifts.

No person included in the terms defined in section 10-17(1), (2), (3), (5), (7), (8) or (10) shall, directly or indirectly (including, but not limited to, through any firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling interest) solicit, accept or receive any gift having a value of twenty-five dollars (\$25.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, where the gift is intended to influence him in the performance of his official duties or was intended as a reward for any official action on his part. No person, firm, corporation, partnership or other business entity shall, directly or indirectly, offer to make any such gift to any person described in this section. The limitation contained in this section shall not apply to ceremonies or social gatherings at which meals are consumed and to which twenty-five (25) or more persons have been invited. Nothing contained in this section shall be deemed to prohibit political contributions specifically authorized by F.S. Chapter 99.

(Code 1972, § 2-90(e); Ord. No. 296-96-A, § 1, 9-10-96)

Sec. 10-21. - Compulsory disclosure by employees of firms doing business with the city.

Should any person included in the terms defined in section 10-17(1) through (3), (7), (8) or (10) be employed by a corporation, firm, partnership or business entity in which he does not have a controlling financial interest, either himself or through a member of his immediate family, and should the corporation, firm, partnership or business entity have substantial business commitments to or from the city or any city agency, or be subject to direct regulation by the city or a city agency, then such person shall file a sworn statement disclosing such employment and interest with the clerk of the city. This section shall not apply to any person that is an employee of a consultant and is not otherwise a person described in section 10-17(1) through (3), (7), (8) or (10).

(Code 1972, § 2-90(f))

Sec. 10-22. - Exploitation of official position.

No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) or (10) shall corruptly use or attempt to use the person's official position or relationship with the city to secure special privileges, exemptions or benefits for the person or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the city commission.

(Code 1972, § 2-90(g); Ord. No. 296-02-A, § 1, 11-12-02)

Sec. 10-23. - Use of confidential information.

No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) and (10) shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position or by virtue of services rendered, except as authorized by the city, nor shall he ever disclose confidential information garnered or gained through his official position with the city, nor shall he ever use such information, directly or indirectly, for his personal gain or benefit.

(Code 1972, § 2-90(h))

Sec. 10-24. - Conflicting employment, outside employment.

(a) No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) or (10) shall accept other employment which would impair his or her independence of judgment in the

performance of his or her public duties. A person covered under this subsection may, if in doubt as to a conflict under this section, request approval as to the other employment from the city commission.

- (b) No person included in the terms defined in section 10-17(7) or (8) shall receive any compensation for his or her services as an officer or employee of the city, from any source other than the city, except as may be permitted by this Code.
- (c) No person included in the terms defined in section 10-17(1) through (3), (5) or (7) through (10) shall accept outside employment, either incidental, occasional or otherwise where city time, equipment or material is to be used or where such employment or any part thereof is to be performed on city time.
- (d) Departmental personnel or employees may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interests of the city and the approval required in subsection (e) is obtained. Provided, however, employees who are in certain positions that are within the general employee's bargaining unit may be approved, at the personnel director's sole discretion, for outside employment on more than an incidental or occasional basis. Such positions may include only those that are not involved in any of the following: twenty-four-hour operations; stand-by coverage obligations; safety sensitive or public safety duties; operation of heavy equipment or public transportation. This subsection shall not be construed to prevent any other person included in the terms defined in section 10-17(1) through (3), (5) and (10) from accepting outside employment.
- (e) Any outside employment by departmental personnel or employees must first be approved in writing by the city manager who shall maintain a complete record of such employment.
- (f) Departmental personnel or employees engaged in any outside employment for any person, firm, corporation or business entity shall file an annual renewal request identifying the outside employer and the nature of the work being done pursuant to same. The request shall be filed with the personnel department no later than noon on January 31st of each year, including the January following the first year that such person held such employment. The city manager or the city commission may require monthly reports from any departmental personnel or any employee for good cause.

(Code 1972, § 2-90(i), (j); Ord. No. 296-03-A, § 1, 9-15-03; Ord. No. 296-04-A, § 1, 5-11-04)

Sec. 10-25. - Prohibited investments.

No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) or (10) shall have personal investments in any enterprise, either by himself or through a member of his immediate family, which creates or will create a substantial conflict between his private interests and the public interests.

(Code 1972, § 2-90(k))

Sec. 10-26. - Certain appearances and payments prohibited.

- (a) No person included in the terms defined in section 10-17(3), (5), (7), (8), or (10) shall appear before the city commission or any city board and make a presentation on behalf of a third party with respect to any license, local business tax, local business tax receipts, contract, certificate, ruling, decision, opinion, rate, schedule, franchise or other benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the city or a city agency, board or commission through the suit in question.
- (b) The requirements of subsection (a) above may be waived for a particular transaction only after full disclosure by the consultant and by affirmative vote of four (4) commissioners, after a factual finding that the proposed transaction will be in the best interest of the city.

- (c) The provisions of subsection (a) shall not apply to any architect, professional engineer, landscape architect or registered land surveyor when the services provided to the city are not subject to the competitive selection requirements of the Consultants' Competitive Negotiations Act.

(Code 1972, § 2-90(l); Ord. No. 296-A, § 1, 5-22-90; Ord. No. 296-B, § 1, 10-15-94; Ord. No. 296-02-A, § 1, 11-12-02; Ord. No. 76-07-A, § 49, 9-11-07)

Sec. 10-27. - Actions prohibited when financial interests involved.

No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) or (10) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest shall include, but not be limited to, a "financial interest" as defined in section 769 of the Second Restatement of the Law of Torts (published by the American Law Institute Publishers) as an investment. This section shall not prohibit any person from taking official action to:

- (1) Promote tourism, development or redevelopment within the city or any portion thereof; or
- (2) Authorize the expenditure of public funds for promoting tourism or development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his immediate family or any business in which he or any member of his immediate family has a financial interest.

(Code 1972, § 2-90(m))

Sec. 10-28. - Acquiring financial interest.

No person included in the terms defined in section 10-17(1) through (3), (5), (7), (8) or (10) shall acquire a financial interest in a project, business entity or property at a time when the person believes or has reason to believe that the financial interest will be directly affected by the person's official actions or by official actions of the city or the city agency of which the person is an officer, consultant or employee.

(Code 1972, § 2-90(n); Ord. No. 296-02-A, § 1, 11-12-02)

Sec. 10-29. - Reserved.

Editor's note— Ord. No. 296-02-A, § 2, adopted Nov. 12, 2002, repealed § 10-29, which pertained to recommending professional services. See the Code Comparative Table.

Sec. 10-30. - Continuing application for two years after city service.

No person included in the terms defined in section 10-17(3), (7) or (8) shall, for a period of two (2) years after his city service or employment has ceased, act as agent or attorney for anyone other than the city in connection with any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the city or one of its agencies is a party or has a direct and substantial interest, and in which he participated personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed in city service.

(Code 1972, § 2-90(p))

Sec. 10-31. - City attorney to render opinions on request.

Whenever any person included in the terms defined in section 10-17(1) through (3), (5), or (7) through (10) is in doubt as to the proper interpretation or application of the code of ethics as to himself, or whenever any person who renders services to the city is in doubt as to the applicability of such ordinances as to himself, he may submit to the city attorney a full written statement of the facts and questions he has. The city attorney shall then render an opinion to such person and shall publish these opinions without the use of the name of the person advised, unless such person requests the use of his name.

(Code 1972, § 2-90(q))

Sec. 10-32. - Amendment.

Pursuant to the terms of Article VII of the Charter, which was approved by referendum, this code of ethics may be amended only by an extraordinary vote of the city commission.

(Code 1972, § 2-90(t))

Charter reference— Standard of ethics, § 7.01.