

ARTICLE IX. CODE OF ETHICS

Sec. 2-201. Title.

This article shall be known as the "Clay County Code of Ethics".

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-202. Definitions.

For purposes of this article, the definitions contained in Chapter 112, Part III, Florida Statutes, shall apply and control, in accordance with the subject matter, unless the text or context of this article provides otherwise. For purposes of this article, the word "shall" is always mandatory and not merely directory. As used in this article, the following terms, phrases, words, and their derivations shall have the meaning given herein, unless the context clearly indicates otherwise:

- (a) *Advisory board* means a collegial body whose entire membership is appointed by the board, the school board or the superintendent, and is charged with the responsibility for advising or making recommendations to the board, the school board or the superintendent, or for issuing final determinations affecting the substantial interests of third parties, exclusive of any collegial body established by act of the Legislature.
- (b) *Board* means the county's board of county commissioners.
- (c) *Charter* means the home rule charter of the county.
- (d) *Conflict* or *conflict of interest* means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.
- (e) *Constitutional officers* mean the county's sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court.
- (f) *County* means Clay County, Florida.
- (g) *County employee* means any person employed by any governmental entity or agency that is subject to this article, regardless of whether the employee is ultimately supervised by the board, its commission auditor, its county attorney, its county manager, the school board, the superintendent, or any of the constitutional officers.
- (h) *County managerial employee* means the board's commission auditor, county attorney and county manager, each of the attorneys under the supervision of the county attorney, and each of the department and division heads under the supervision of the county manager. The term shall also include each of the constitutional officers and any county employee who is actively engaged in selecting contractors or in supervising, overseeing, or vouchering for contract performance.
- (i) *County property* means any real property or tangible or intangible personal property owned by the board, the school board, or the offices of any of the constitutional officers.
- (j) *Gift* means a gift as defined in Chapter 112, Part III, Florida Statutes, and shall include the payment or waiver of initiation fees or other charges for becoming a member or affiliate with any private social club or organization unrelated to the official duties of a public servant, but shall exclude any of the following:
 - (1) Any salary, benefit, service, fee, commission, gift, or expense associated solely with the donee's non-county employment, business, or service as an

employee, official or director of any organization, but only if:

- a. Such non-county employment or economic activity does not create a conflict of interest; and,
- b. All applicable county administrative procedures governing such non-county employment or economic activity are followed.

(2) Any contribution or expenditure reported pursuant to Chapter 106, Florida Statutes, campaign-related personal service provided without compensation by an individual volunteering his or her time, or any other contribution or expenditure by a political party.

(3) Any gift received from a relative, as defined in this article, or any gift received from a person who shares the same permanent legal residence at the time of the gift.

(4) Food, beverage or entertainment accepted when offered gratuitously in the course of a professional or civic meeting or group function at which attendance will assist the public servant in performing his or her official duties.

(5) Gifts given for participation in a program, seminar, or educational conference when such gifts are of nominal commercial value and are either in the nature of a memento traditional to the sponsoring entity or are provided to all participants in the program.

(6) An award, plaque, certificate, or similar personalized item of nominal commercial value given in recognition of the public servant's public, civic, charitable, or professional service.

(7) A rate or terms on a debt, loan, goods, or services, which rate and terms are customary and are at a government rate and terms available to all other similarly situated government employees or officials, or rates and terms which are available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, gender, or national origin.

(k) *Lobbying* means influencing or attempting to influence legislative or quasi-judicial action or non-action for compensation through oral or written communication or an attempt to obtain the good will of a member or employee of the board or of a county advisory board or a quasi-judicial board.

(l) *Lobbyist* means:

(1) Any natural person who, for compensation, seeks, or sought during the preceding twelve (12) months, to influence the governmental decision-making of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding twelve (12) months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

(2) A person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.

(3) Attorneys representing clients in quasi-judicial matters are not considered lobbyists or engaged in lobbying since, as judicial officers, their conduct is regulated exclusively by the judicial branch. However, attorneys representing clients or interests in legislative matters, for compensation, are engaged in lobbying and are subject to the provisions contained in this article.

(m) *Nominal commercial value* means anything with a value of less than fifty dollars (\$50.00) in the marketplace.

(n) *Principal* means the person, firm, corporation, or other entity that has employed or retained a lobbyist.

(o) *Public official* means any member of the board or a county advisory board, and any county managerial employee.

(p) *Public servant* means any board member, any school board member, the commission auditor, the county attorney, the county manager, the constitutional officers, and the superintendent. The term also refers to the deputies and employees of the foregoing officials.

(q) *Purchasing agent* means any county employee who actively participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities.

(r) *Relative* means one who is related to another by blood, marriage, or adoption. The following relationships are included in this definition: husband, wife, parent, child, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, step grandparent, step grandchild, half brother, and half sister.

(s) *Reporting individual* means any public servant who is required by law, pursuant to Article II, Section 8 of the State Constitution or Section 112.3145, Florida Statutes, to file full or limited disclosure of his or her financial interests.

(t) *School board* means the school board of the county's school district.

(u) *State* means the State of Florida.

(v) *State code* means the code of ethics set forth in Chapter 112, Part III, Florida Statutes.

(w) *Superintendent* means the superintendent of schools of the county's school district.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-203. Scope.

This article shall apply to all public servants and to the deputies and employees of all such public servants.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-204. Statement of policy.

It is the policy of the county that public servants work for the benefit of the citizens of the county. To this end, all public servants should meet a high standard of ethics. It is the responsibility of each public servant to act in a manner that promotes public trust and confidence in government. In particular, public servants should be honest with the public, be good stewards of the assets and fiscal resources entrusted to them, not use their positions for unlawful gain, and avoid creating the appearance of impropriety.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-205. Findings.

- (a) The state code sets forth standards of conduct and disclosure requirements for all public officers and employees in the state, including constitutional officers and employees.
- (b) Section 112.326, Florida Statutes, permits the board to impose more stringent standards of conduct and disclosure requirements, beyond those specified in the state code, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions thereof.
- (c) Section 112.313(13), Florida Statutes, authorizes the board to adopt an ordinance establishing post-employment restrictions for certain designated county employees.
- (d) On November 7, 2006, the electors of the county approved an amendment to the Charter creating new Section 2.2:E thereof, which requires that the board enact by ordinance a code of ethics to supplement statutory and administrative standards of conduct currently in place.
- (e) Pursuant to its authority under Section 112.326, Florida Statutes, the board finds that more stringent requirements are needed with regard to the value of gifts that may be provided by lobbyists to public officers and employees beyond the standards set forth in Section 112.3148, Florida Statutes. Specifically, the board finds that a zero gift limit, rather than the one hundred dollar (\$100.00) gift limit set forth in Section 112.3148, Florida Statutes, should be enacted in order to better promote and preserve the integrity of the governmental decision-making process.
- (f) Pursuant to its authority under Section 112.326, Florida Statutes, and the requirements of Section 2.2:E of the Charter, the board has determined to enact a code of ethics that supplements the state code with respect to the solicitation and acceptance of gifts from lobbyists and post-employment restrictions. The board further finds that such a code of ethics is needed in order to promote the public's confidence and trust in its local government.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-206. Gifts.

- (a) No public servant shall accept any gift, directly or indirectly, if he or she knows or reasonably should have known that the gift was given with the intent to reward or influence him or her in the performance or nonperformance of his or her public duties.
- (b) No public servant shall participate in the selection of a vendor or the approval of a contract if that employee has received a gift, directly or indirectly, from someone representing the vendor or a contracting party, including gifts from relatives. Furthermore, no public servant shall participate in permitting or inspection decisions if that employee has received a gift from the permit or inspection applicant/potential recipient or the applicant/potential recipient's principal, including gifts from relatives.
- (c) The following provisions regarding gifts from lobbyists are enacted as more stringent standards of conduct and disclosure requirements than those specified in Section 112.3148, Florida Statutes:
 - (1) No reporting individual, purchasing agent, or any person acting on the behalf of a reporting individual or purchasing agent may knowingly accept, directly or indirectly, any gift from a political committee or a committee of continuous existence, as defined in Section 106.011, Florida Statutes, or from a lobbyist who lobbies the reporting individual's or purchasing agent's agency. However, such a gift may be accepted on

behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

(2) The following persons and entities are prohibited from giving gifts to a reporting individual, purchasing agent, or any person acting on behalf of a reporting individual or purchasing agent:

- a. A political committee or committee of continuous existence, as defined in Section 106.011, Florida Statutes;
- b. A lobbyist who lobbies the reporting individual's or purchasing agent's agency; and
- c. A partner, firm, employer, or principal of a lobbyist or any person acting on behalf of a partner, firm, employer, or principal of a lobbyist.

(3) Notwithstanding the provisions of this paragraph, a person otherwise prohibited under this paragraph from giving or receiving a gift may give a gift to a reporting individual or procurement employee, who may receive the same, if the gift is intended to be transferred to a governmental entity or a charitable organization.

(d) This section does not prohibit public servants from participating in fund-raising activities for charitable purposes.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2.207. Post-employment restrictions.

(a) No county managerial employee employed by the board shall personally represent another person or entity for compensation before the board or any of its divisions, departments, agencies, or committees for a period of two (2) years following vacation of office, resignation of employment, or termination of employment, as applicable, except for the purposes of collective bargaining. No county managerial employee whose employer is or was one (1) of the constitutional officers shall personally represent another person or entity for compensation before such employer or any of such employer's divisions, departments, agencies, or committees for a period of two (2) years following vacation of office, resignation of employment, or termination of employment, as applicable, except for the purposes of collective bargaining.

(b) For a period of two (2) years following vacation of office, resignation of employment, or termination of employment, as applicable, except for the purposes of collective bargaining, no county employee employed by the board shall personally represent another person or entity for compensation before the board or any of its divisions, departments, agencies, or committees on a matter in which he or she had material personal involvement during such employment. For a period of two (2) years following vacation of office, resignation of employment, or termination of employment, as applicable, except for the purposes of collective bargaining, no county employee whose employer is or was one (1) of the constitutional officers shall personally represent another person or entity for compensation before such employer or any of such employer's divisions, departments, agencies, or committees on a matter in which he or she had material personal involvement during such employment.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-208. Complaints.

(a) Any complaint originating under this code regarding an elected official shall be forwarded

without comment or action to the appropriate state agency for such action as deemed necessary by that agency. Any complaint originating under this code regarding any county employee or county managerial employee shall be referred to the agency that employs said employee for such action as deemed necessary by that agency.

(b) Pursuant to Section 119.071(2)(c)(1), Florida Statutes, any complaint under this code that is referred to a criminal justice agency may be exempt from public records disclosure until such time as the agency handling the complaint determines that the complaint no longer comprises active criminal investigation information. This section shall not be construed to expand the scope of any exemption to Florida's public records law.

(c) Nothing in this code shall diminish the rights of law enforcement officers set forth in Section 112.532, Florida Statutes.

(d) Any complaint originating under this code regarding a deputy sheriff appointed under Section 30.07, Florida Statutes, shall be referred to the county's sheriff for investigation pursuant to the procedures set forth in Section 112.532, Florida Statutes.

(e) Pursuant to Section 112.533(2)(a), Florida Statutes, any complaint filed under this code with a law enforcement agency against a law enforcement officer and all information obtained pursuant to the agency's investigation of such complaint shall be confidential and exempt from the provisions of Section 119.07(1), Florida Statutes. Such information shall remain confidential until the investigation ceases to be active or until the agency head, or the agency head's designee, provides written notice to the officer who is subject to the complaint that the agency has concluded the investigation. This section shall not be construed to expand the scope of any exemption to Florida's public records law.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-209. Severability.

Should any word, phrase, sentence, subsection or section of this article be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection, or section so held shall be deemed severed from this article, and all remaining provisions of this article shall remain in full force and effect.

(Ord. No. 2007-37, § 1, 6-26-07)

Sec. 2-210. Preemption.

In the event any provision of this article conflicts with any provision of state law, any other ordinance or code of the county, or any rule of a government agency subject to the provisions of this article, the more restrictive provision shall apply.

(Ord. No. 2007-37, § 1, 6-26-07)