

ARTICLE X. COLLIER COUNTY ETHICS*

***Editor's note:** Ord. No. 2004-05, §§ 1--10, amended art. X, §§ 2-2051--2-2060, in its entirety. Formerly, said article pertained to similar subject matter as enacted by Ord. No. 2003-53.

Sec. 2-2051. Title and citation.

This article shall be known and cited as the "Collier County Ethics Ordinance."

(Ord. No. 03-53, § 1, 9-23-03; Ord. No. 04-05, § 1)

Sec. 2-2052. Scope.

This article shall apply to all public servants of the Collier County Board of County Commissioners, which includes public officials, whether elected or appointed, and all county employees.

(Ord. No. 03-53, § 2, 9-23-03; Ord. No. 04-05, § 2)

Sec. 2-2053. Statement of policy.

It is the public policy of Collier County that public servants work for the benefit of the citizens of Collier County. It is the responsibility of each public servant to act in a manner that contributes to ensuring the public's trust in its government. In particular, to always be honest with the public they serve, and to be good stewards of the tax dollars entrusted to them. To this end, an individual covered by this article shall (1) not use his or her position as a public servant for unlawful gain or enrichment, (2) avoid conduct that gives the appearance of impropriety in the performance of his or her public duties, and (3) not accept any items of value if the public servant knows or reasonably should have known that it was given with the intent to reward or influence him or her in the performance or nonperformance of his or her public duties. The statement of policy and general standards of conduct set forth in this section are not subject to the penalties provided for in this article.

(Ord. No. 03-53, § 3, 9-23-03; Ord. No. 04-05, § 3)

Sec. 2-2054. Findings.

(a) The report submitted to the Collier County Board of County Commissioners ("board") on September 15, 1998, by the Ad Hoc Ethics Standards Review Committee ("committee"), recommended the adoption of a local ethics code.

(b) The board finds that the legislative intent and declaration of policies set forth in F.S. § 112.311, sets forth a laudable philosophy regarding the purpose, scope and application of ethics laws in relation to county officers and employees. Moreover, the board also finds, based on the committee's report, that additional, more stringent requirements are needed with regard to lobbyists, gifts, and post-county employment restrictions in order to promote and protect the public trust in its local government.

(c) F.S. § 112.326, authorizes the board to impose more stringent standards of conduct and disclosure requirements, beyond those specified in Chapter 112, Part III, Florida Statutes, upon its own officers and employees provided that said standards of conduct and disclosure requirements do not otherwise conflict with Chapter 112, Part III, Florida Statutes.

(d) F.S. § 125.69(1), provides, in pertinent part, that violations of county ordinances shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. The board further finds that an efficient and effective method for the determination of allegations of violations of the additional more stringent ethical standards set forth in this article is through local enforcement thereof.

(e) F.S. § 112.313(13), authorizes the board to adopt an ordinance establishing post-employment restrictions for certain designated county employees.

(f) The board finds that preservation of the integrity of the governmental decision-making process is essential to the continued functioning of an open government. Therefore, in order to preserve and maintain the integrity of the process and to better inform the citizens of efforts to influence legislative branch action, the board finds it appropriate to require public registration and disclosure of the identity of certain persons who attempt to influence actions of the board or actions of any of the county's quasi-judicial boards.

(g) F.S. § 112.3148(2)(b), authorizes the board to establish a local registration process for lobbyists. The board finds that such a registration process serves to promote and protect governmental integrity as well as to foster open government. The board further finds that such a public registration process for lobbyists may assist to promote full compliance by lobbyists with the lobbyist gift reporting requirements set forth in F.S. § 112.3148.

(h) 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 F.S. § 112.3148. Specifically, the board finds that a zero gift limit, rather than \$100.00 as set forth by F.S. § 112.3148, should be enacted in order to better promote and preserve the integrity of the governmental decision-making process.

(i) The board finds that additional gift prohibitions are necessary for public officials prohibiting the receipt of any gift or any other thing of monetary value from anyone who the public official knows or reasonably should know is any way attempting to affect the official actions, business or finances of the county or from anyone that has an interest that may be substantially affected by the performance or nonperformance of duties of a public official. The board further finds that prohibitions are necessary in regard to gifts between official superiors and subordinate public officials in order to preserve the ethical integrity of the performance of public service by county human resources.

(j) Collier County Office of the County Administrator, Administrative Procedure, Instruction 5311(F) (Code of Ethics/Standards of Conduct), restricts Collier County employees from receiving gifts or other items of value in connection with the performance of official duties. Said restrictions exist separate and independent from the provisions of this article and Part III, Ch. 112, Florida Statutes.

(k) Nothing in this article shall be construed to chill, restrict or prohibit the free exercise of any citizen's constitutional rights, including, but not limited to, the right to petition his or her county government or exercise his or her rights of free speech.

(Ord. No. 03-53, § 4, 9-23-03; Ord. No. 04-05, § 4)

Sec. 2-2055. Definitions.

(a) For the 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 and/or context of this article provides otherwise.

Advisory board member means any person appointed by the board of county commissioners to any county board, committee or authority which has any final decision-making authority. Such boards include, but are not limited to:

- Airport authority
- Collier County Code Enforcement Board
- Collier County Planning Commission
- Contractors licensing board
- Library advisory board
- Public vehicle advisory committee
- Utility authority

County employee shall mean any employee of Collier County, regardless of whether the employee is ultimately supervised by the board of county commissioners, the county manager, the county attorney, the airport authority or the executive director of the airport authority.

County managerial employee shall mean the county manager, assistant and/or deputy county manager, county attorney, chief assistant county attorney and all division administrators, and department and authority directors of Collier County Government. Also included in this definition are those county employees actively engaged in selecting contractors or in supervising, overseeing, or vouchering for contract performance.

Gift shall have the definition contained in Chapter 112, Part III, Florida Statutes, with the following additions and exceptions:

(1) Additions:

a. Initiation fees.

(2) Exceptions:

"Gift" shall not include:

a. Salary, benefits, services, fees, commissions, gifts, or expenses associated solely with the donee's non-county employment, business, or service as an employee, official or director of a corporation or organization. However, for purposes of this exemption from the definition of "gift" in this article, public servants may only engage in such non-county employment or economic activity if: (1) such non-county employment or economic activity does not create a conflict of interest as defined by F.S. § 112.312(8), i.e., a situation in which regard for a private interest tends to lead to disregard of a public duty or interest; and (2) all applicable county administrative procedures governing such non-county employment or economic activity are followed.

b. Contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party.

c. Gifts received from relatives, as defined in this section, or gifts received from a person who shares the same permanent legal residence at the time of the gift. However, no public servant shall participate in the selection of a vendor or the approval of a contract if that employee has received a gift 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.

d. Food or beverage accepted when (i) offered free in the course of a professional or civic meeting or group function at which attendance is desirable because it will assist the person in performing his or her official duties; or (ii) provided to all panelists or speakers when a person is participating as a panelist or speaker in a program, seminar, or educational conference.

In addition to all other circumstances where this article allows public servants to accept food and beverages, and notwithstanding any other section of this article or personnel manual to the contrary, public officials and all county employees may accept food or beverage as mentioned above in this subsection and consumed at a single sitting or event only if the costs for said food or beverage do not exceed the rate for the appropriate per diem allowance for said meal as provided in Chapter 112, Florida Statutes. If, under circumstances beyond the control of the donee, the costs exceed the per diem rate, the donee may accept said food or beverage but shall file a written disclosure statement within five working days of the acceptance with the county manager on a form provided by the county manager.

The value of food or beverages, for purposes of this subsection, shall be the price that the consuming public would be expected to pay for the same item(s).

e. Unsolicited advertising or promotional material such as pens, pencils, notepads, calendars, and other items of nominal commercial value may be accepted from individuals or entities that are not currently in a contractual relationship or reasonably likely to seek a contractual relationship with Collier County. Unsolicited job-related literature may be accepted as well.

f. Gifts given for participation in a program, seminar, or educational conference when such gifts are:

1. Of nominal commercial value, and
2. In the nature of a remembrance traditional to the particular sponsoring entity, or
3. Provided to all participants in the program.

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

h. 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, sex, or national origin.

i. Food or beverage items when offered as a customary courtesy to all attendees at any business meeting or business activity at which attendance by the public servant(s) in question is required or appropriate for purposes of performing county job duties or county responsibilities, provided that such food or beverage items would have a reasonably estimated value of no more than \$4.00 to any member of the consuming public. By way of example, such food and beverage items may include a cup of coffee, a soda, bottled water, cookies or donuts.

Lobbying shall mean, for compensation: influencing or attempting to influence legislative or quasi-judicial action or non-action through oral or written communication or an attempt to obtain the

good will of a member or employee of the Board or of a Collier County Advisory Board or a quasi-judicial board.

Lobbyist shall mean:

- (1) Any natural person who, for compensation, seeks, or sought during the preceding 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 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) A person who registers with the board as a lobbyist pursuant to this article.
- (4) 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.

Nominal commercial value means anything with a value of less than \$50.00 in the marketplace.

Principal shall mean the person, firm, corporation, or other entity that has employed or retained a lobbyist.

Procurement employee 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.

Public official means members of the board of county commissioners, advisory board members, and county managerial employees.

Public servant includes all public officials and all county employees, as defined in this article.

Relative, as used in this article, is 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.

Reporting individual means any public servant, who is required by law, pursuant to Article II, Section 8 of the State Constitution or F.S. § 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

(Ord. No. 03-53, § 5, 9-23-03; Ord. No. 04-05, § 5)

Sec. 2-2056. Standards of conduct.

- (a) A public servant shall not accept a gift, directly or indirectly, if he or she knows or reasonably should have known that it 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 additional and more stringent standards of conduct and disclosure requirements than those specified in F.S. § 112.3148:

(1) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a political committee or a committee of continuous existence, as defined in F.S. § 106.011, or from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist. However, such a gift may be accepted by such person 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) A political committee or a committee of continuous existence, as defined in F.S. § 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(3) The prohibitions set forth in this section 2-2056 at (c)(1) and (c)(2) above are not intended to and shall not prevent a reporting individual or procurement employee who is a declared candidate for elective public office from accepting campaign contributions to the extent allowed by state or federal law.

(d) The following gift prohibitions for public officials are enacted as additional and more stringent standards of conduct than those specified F.S. § 112.3148:

(1) Public officials shall not solicit or accept, directly or indirectly, any fee, compensation, gift, gratuity, favor, food, entertainment, loan, or any other thing of monetary value, from anyone who the public official knows or reasonably should know:

a. Has, or is seeking to obtain, contractual or other business or financial relations with the county department or board with which the public official is affiliated.

b. Conducts or represents a person or entity that conducts operations or activities that are regulated by the county department or board with which the public official is affiliated.

c. Is seeking zoning, permitting, or inspection approval from the county department or board with which the public official is affiliated.

d. Has interests that may be substantially affected by the performance or non-performance of duties of the county public official.

e. Is in any way attempting to affect the official actions of the county public official.

This paragraph is not intended to prohibit a public official from obtaining a loan from a financial institution at a rate and terms available to all other similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.

(e) No public official shall solicit a contribution from another person for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from a subordinate public official.

(f) No public servant shall solicit a contribution from another person for a gift to a supervisor, make a donation as a gift to a supervisor, or accept a gift from an employee he or she supervises, except as provided in subsection (g).

(g) Nothing in this section shall prohibit donations or giving gifts of nominal commercial value made between or amongst public servants on a special occasion or an established holiday. A special occasion, as contemplated in this section, includes those times when it has been regarded as customary to give a gift, such as a birthday, a wedding, the birth of a child or a grandchild, an adoption, a graduation, a promotion, permanent departure from the workplace or community, hospitalization, the loss of a loved one, retirement, or other similar occurrences. Nor does this paragraph prohibit public servants from participating in fund-raising activities for charitable purposes.

(h) This section does not apply to items of value excepted out of the definition for a gift.

(Ord. No. 03-53, § 6, 9-23-03; Ord. No. 04-05, § 6)

Sec. 2-2057. Lobbyist registration and disclosure requirements.

(a) All lobbyists shall before engaging in any lobbying activities, register with the clerk to the board located at the board minutes and records department. Every lobbyist required to so register shall register quarterly on a calendar year basis on forms prepared by the clerk; pay an annual nonrefundable registration fee of \$25.00; and state under oath or by written declaration in accordance with F.S. § 92.525, his or her name, business name and address, and the name and business address of each person or entity that has employed said registrant to lobby, as of the date of said registration. If, subsequent to the registration, the registrant ceases to act as a lobbyist, the registrant may file a request, on a form provided by the clerk, to not be listed as a lobbyist. In the event that the registrant neither withdraws nor re-registers, the registrant shall be placed on a "lobbyist status unknown" list for a period of 12 months from the expiration of the quarterly registration.

(b) Quarterly registration shall be required and shall initially commence on April 2, 2007. Thereafter, quarterly registration shall occur every three months. Quarterly registration is required regardless of whether there is any change in employers of the lobbyist. The lobbyist may indicate "no change" if appropriate. Initial registration by a lobbyist may occur at any time during the calendar year provided that it occurs prior to the lobbyist engaging in any lobbying activity.

(c) The registration fee required by this section shall be maintained by the clerk to the board and shall be deposited into a separate fund to be expended for the purpose of administering and maintaining the lobbyist registration list as well as to cover other related costs. Lobbyists shall not be charged a fee for filing the form for removal from the lobbyist list.

(d) The following persons shall not be required to register as lobbyists:

- (1) Any public officer, employee or appointee who appears in his or her official capacity.
- (2) Law enforcement personnel conducting an investigation.
- (3) Any person who only appears in his or her individual capacity for the purpose of

self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support or opposition to any item.

(4) Any person who only appears as a representative of a neighborhood association without special compensations or reimbursement for their appearance, whether direct, indirect or contingent, to express support or opposition to any item.

(5) Attorneys representing clients before a quasi-judicial body.

(e) The clerk to the board shall keep accurate and complete records regarding lobbyist registration including an up-to-date list of all lobbyist registrations, lobbyists withdrawals from the list and a "lobbyist status unknown" list.

(f) A registration form that is not renewed within 20 calendar days of the end of each quarter of the calendar year, shall expire and may not thereafter be relied upon by the lobbyist for lobbying activities. In such a case, the lobbyist must renew his or her registration and pay the nonrefundable annual fee in order to continue engaging in lobbying activities.

(g) The validity of any action or determination of the board or of any county personnel, board or committee, shall not be affected by failure of any lobbyist to comply with the provisions of this section.

(h) All lobbyists shall disclose and make known the name or identity of the principal(s) by whom they are employed whenever they engage in lobbying activities as such activities are defined in this section.

(Ord. No. 03-53, § 7, 9-23-03; Ord. No. 04-05, § 7; Ord. No. 2007-24, § 1)

Sec. 2-2058. Post-employment restrictions.

(a) No county managerial employee shall personally represent another person or entity for compensation before the board of county commissioners or any of its divisions, departments, agencies, or boards for a period of two 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 years following vacation of office, resignation of employment, or termination of employment, as applicable, except for the purposes of collective bargaining, no county employee shall personally represent another person or entity for compensation before the board of county commissioners or any of its divisions, departments, agencies, or boards on a matter in which he or she had material personal involvement during his or her period of county employment.

(Ord. No. 03-53, § 8, 9-23-03; Ord. No. 04-05, § 8)

Sec. 2-2059. Supplemental provisions.

This article sets forth more stringent supplemental standards of conduct in addition to the requirements of Chapter 112, Part III, Florida Statutes, entitled "Code of Ethics for Public Officers and Employees." This article shall not be construed to authorize or permit any conduct or activity that is in violation of Chapter 112, Part III, Florida Statutes. In the event of a conflict between the provisions of this article and Chapter 112, Part III, Florida Statutes, the more restrictive/stringent provisions shall apply.

It shall be the duty of each commissioner and of all county managerial employees and reporting individuals to become familiar with the Collier County Ethics Ordinance. To this end, the human resources director shall annually distribute to each such person a current copy of the "Florida

Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Employees" (or similar Florida Commission on Ethics publication) and a copy of this article. The specific duties set forth in this section of this article regarding familiarity with the ethics rules and distribution of informative materials shall not be subject to the penalties set forth in this article.

(Ord. No. 03-53, § 9, 9-23-03; Ord. No. 04-05, § 9)

Sec. 2-2060. Penalties.

Pursuant to F.S. § 125.69, a person who violates any provision of this Ordinance shall be subject to prosecution in the name of the state in the manner as misdemeanors are prosecuted; and, upon conviction, such person shall be punished by a fine not to exceed \$500.00 or by imprisonment in the Collier County Jail not to exceed 60 days or by both such fine and imprisonment.

(Ord. No. 03-53, § 10, 9-23-03; Ord. No. 04-05, § 10)