

CODE OF ETHICS FOR APPOINTED COMMITTEES

So as to provide for a code of ethics for members of appointed committees to: provide for the creation of an independent Board of Ethics on an as-needed basis; provide for the powers and duties of said Board; provide that a member of said committee be subject to reprimand or censure for ethical violation(s); provide for judicial review.

Section I. Intent.

A. It is essential to the proper administration and operation of appointed committee members that they be, and give the appearance of being, independent and impartial; that their position not be used for private gains; and that there be public confidence in the integrity of all members.

Section II. Definitions.

A. Appointed Committees - persons appointed to various municipality committees by elected officials.

B. Board of Ethics - the entity created by Section VI of this code.

C. City - any incorporated municipality within Lowndes County.

D. Contract - any claim or demand against, or any lease, account, or agreement with any person, whether express or implied, executed or executory, verbal or in writing.

E. County - Lowndes County.

F. Complaint - a written sworn statement filed according to Section V of this code, containing specific allegations of misconduct by a member; provided, however, such allegations must be filed within six months after the complaining party knew, or should have reasonably known, of the alleged misconduct.

G. Confidential Information - any information which, by law or practice, is not available to the public.

H. Ethics - moral principles, pertaining to right and wrong in conduct.

I. Governing Authority - officials of a political unit holding powers to make and enforce laws.

J. Interest - any direct pecuniary benefit, which is not a remote interest, held by or accruing to a member of the appointed committee or to a member of the Board of Ethics. A member of the appointed committee or a member of the Board of Ethics shall be deemed to have an interest in transactions involving:

1. Any person in the member's immediate family (ie.the second ascending and/or descending generation).

2. Any person with whom a contractual relationship exists whereby the member may receive any payment or other benefits unless the member is receiving a benefit for goods or services in the normal course of business for which the member has paid a commercially reasonable rate.

3. Any business in which the member is a director, officer, employee, or shareholder, except as otherwise provided herein; or

4. Any person of whom the member is a creditor, whether secured or unsecured.

K. Investigating Committee - appointed to conduct a thorough search in an attempt to learn the facts about a complaint. See Sec. V.

L. Official Action or Act - any vote by members of appointed committees.

M. Thing of Value - has monetary or material worth or value in-kind.

N. Transaction - the activities carried on by members of the appointed committees.

Section III. Prohibitions; Exceptions

No member serving on a committee who has been appointed by a governing authority shall:

A. By conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of official acts.

B. Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself/herself or another person in exchange for his/her vote, or favorable consideration on a matter before the Committee, Board, or Authority.

C. Subparagraph B of this paragraph shall not apply in the case of:

1. An award publicly presented in recognition of public service.

D. Disclose or otherwise use confidential information acquired by virtue of his/her position for his/her or another person's private gain.

E. Use his/her position to attempt to secure privileges that are not available to the general public.

F. Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of the appointed member.

G. Draw a per diem from the City/County to attend a seminar, convention, or conference without attending such meeting, unless such per diem is refunded.

H. Draw travel expense monies from the City/County to attend a meeting without refunding any unused travel expense monies to the City/County.

I. Use government property of any kind for other than officially approved activities, nor shall he/she direct employees to use such property for these purposes.

J. Use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself/herself or persons having an interest.

Section IV. Disclosure of Conflicts of Interest.

If any Board member has an interest in an agenda item which requires a vote by the Board, that Board member should make an open statement to that effect before the agenda item is discussed and then excuse yourself from the discussion and voting.

Section V. Complaint; Contents thereof; Filing of same; and Investigation Committee.

Any person having a complaint against any member of an appointed committee or board for an alleged ethics violation shall file in writing a verified complaint setting forth the particular facts and circumstances which constitute the alleged violation against that member. The complaint shall be filed with the chairperson of that committee or, in the event the complaint is against the chairperson, the vice chairperson shall receive the complaint. Upon receipt of a complaint, the person receiving the complaint shall appoint an investigating committee within 14 working days. This committee will consist of two (2) members from the committee whose member is being investigated, along with the City/County attorney or chief elected official of the municipality from which the member being investigated was appointed. The investigating committee will determine whether the complaint sets forth sufficient facts and circumstances so as to warrant the establishment of a Board of Ethics. The evidence is to be disclosed in an open meeting (included in minutes), the discussion can take place in a closed meeting but decisions from the closed meeting are to be held in an open meeting (included in minutes).

In the event the complaint does not set forth sufficient facts to constitute an alleged violation and is found unjustified, frivolous, or patently unfounded, it shall be dismissed and the complainant notified immediately. In the event the complaint is found to state sufficient facts to warrant the establishment of an Ethics Board, a Board shall be immediately established as provided herein.

Section VI. Board of Ethics; Appointments; Duties and Powers.

A. Upon receipt of a complaint found by the investigating committee to warrant the establishment of an Ethics Board, said committee shall inform City manager, County manager, or chief elected official of the municipality from which the member being investigated was appointed, within ten (10) working days that an Ethics Board shall be formed, and the Ethics Board shall be established in the following manner:

1. The Board of Ethics shall be composed of five (5) members as provided in paragraph 2. Each member shall have been a resident of the County/City for at least one year and shall remain a resident while serving as a member of the Board of Ethics. No person shall serve as a member of the Board of Ethics if the person has, or has had within the immediately preceding one year any interest in any contract, transaction, or official action of the committee in which that member is in question.

2. The chairperson of the Board of Ethics shall be appointed by the City manager, County manager, or the chief elected official of the municipality from which the member being investigated was appointed. Two members shall be appointed by members of the committee whose member is under investigation and two members by the Board.

3. The members of the Board of Ethics shall serve without compensation. The governing authority who appointed the committee whose member is being investigated, shall provide a meeting place, supplies, personnel, and equipment necessary for it to carry out its duties and responsibilities.

B. The constituted Board of Ethics shall have the following duties and powers:

1. To establish procedures, rules and regulations governing its internal organization and conduct of its affairs;

2. To hold a hearing within sixty (60) days after the receipt of complaint. Failure to hold a hearing within the specified time shall result in dismissal of the complaint as to the transaction and shall prevent refileing if a complaint arises in the same incident for at least a period of six months;

3. To prescribe forms, approved by the City/County

attorney, for the disclosure required in this ordinance and to make available to the public information disclosed as provided in Section V;

4. To receive and hear complaints of violations of the standards required by this ordinance;

5. To make such investigation and response to complaint as it deems necessary to determine whether any person has violated any provisions of this ordinance;

6. To hold such hearings and make such inquiries as deemed necessary to investigate and rule upon any complaint;

7. To report its findings to the committee from which the member being investigated serves;

C. Upon completion of the hearing and disposition of the complaint as hereinafter set forth, the Board of Ethics shall be dissolved. Under no circumstances shall the serving on a Board of Ethics for the hearing of a complaint prohibit any citizen from being reappointed or again appointed to a Board of Ethics for the purpose of hearing additional and other complaints.

Section VII. Service of Complaint; Establishment of Hearing; and Disposition of Complaint.

The Board of Ethics appointed as hereinabove set forth shall cause the complaint to be served on the member of the appointed committee or board in which complaint is alleged against as soon as practicable. Service shall be by personal service or be certified mail, return receipt requested. A hearing shall be held within 60 days after the Board of Ethics has been formed. The Board of Ethics shall conduct the hearing in accordance with the procedures and regulations it establishes but, under all circumstances, the hearing shall include the taking of testimony and the cross-examination of witnesses. The decision of the Board of Ethics shall be rendered to the City manager, County manager, or the chief elected official of the municipality from which the member being investigated was appointed, the investigating committee, and the affected person not less than five working days after completion of the hearing.

Section VIII. Penalty and Member Rights.

A. Any member of a committee who knowingly violates any provision of the Code of Ethics provided for in this ordinance shall be subject to reprimand or censure by the committee on which he/she serves.

B. At any hearing held by the Ethics Committee, the member who is adversely affected shall have the right to written notice of the allegations at least ten working days before a hearing, to be

represented by counsel, to hear and examine the evidence and witnesses against the member, and to present evidence and witnesses in opposition or in extenuation.

Section IX. Appeals.

A. Any member so charged with a violation or the complainant adversely affected by these findings of the Board of Ethics may obtain judicial review of such decision as provided in this section.

B. An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of the County within which the City/County is located, within 30 days after the decision of the Board of Ethics becomes final.

C. The effective date of the final decision of the Board of Ethics shall be postponed pending judicial review provided for in this paragraph.

D. The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, testimony, evidence, exhibits, and other papers presented to or considered by the Board of Ethics and the findings and decision of the Board of Ethics. As to alleged procedural irregularities, evidence may be taken independently by the Court.

E. If the court finds no error, it shall affirm the decision of the Board of Ethics. If it finds that such action was:

1. Arbitrary or capricious;
2. A denial of a statutory right;
3. Contrary to constitutional right, power, privilege, or immunity;
4. In excess of statutory jurisdiction, authority, purposes, or limitation;
5. Not in accord with the procedures or procedural limitations of this section or otherwise required by law;
6. An abuse or clearly unwarranted exercise of discretion, unsupported by substantial evidence when the record is considered as a whole; or
7. Otherwise contrary to law, then the Court shall hold unlawful and set aside the decision of the Board of Ethics.

F. The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.