

**THE CITY OF CORAL GABLES
OFFICE OF THE CITY ATTORNEY
BIENNIAL 2015
BOARDS & COMMITTEES ETHICS SEMINAR**



**CORAL GABLES' CONFLICT OF INTEREST & CODE OF ETHICS
CITY CODE ARTICLE V**

Sec. 2-222. Designation.

This article shall be designated and known as the "City of Coral Gables Conflict of Interest and Code of Ethics Ordinance." This article shall be applicable to all city personnel as defined below, and shall also constitute a standard of ethical conduct and behavior for all autonomous personnel, quasijudicial personnel, advisory personnel and departmental personnel. The provisions of this article shall be applied in a cumulative manner.

Sec. 2-223. Declaration of policy.

Our government is a representative democracy. Those who are elected, appointed, hired, volunteer or campaign to serve the public as representatives accept a public trust. The public entrusts its powers and resources to its servants to use only in the public interest. Public trust requires public servants to fulfill their public duties faithfully and honestly, and to subordinate any personal interest which conflicts with the public interest. The city adopts the following ordinance to provide for specific guidelines for minimum ethical standards for public servants, officials and employees.

Sec. 2-224. Purposes of article.

The purpose of this article is to:

1. State principles of ethics that are to be applied to municipal public servants, beyond those required by the state and this article;
2. Inform public servants and the public of the minimum standards to which public servants and vendors must adhere;
3. Promote public confidence in the integrity of public servants;
4. Encourage members of the public to seek public office or employment, to serve on public boards, to assist public servants as

volunteers and to take pride in participating in the governmental process;

5. Establish certain fair campaign practices; and
6. Establish penalties, as appropriate, for public servants who violate the public trust.

Sec. 2-225. Definitions.

For the purposes of this article, the following terms, phrases and words shall have the meanings given herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given the meaning provided under either the county ethics ordinances or state ethics statutes and if no meaning is provided, then their common and ordinary meaning unless the context suggests otherwise.

Advisory personnel means the members of those city advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city commission such as the landscape beautification advisory board, library advisory board, traffic advisor board, board of adjustment, planning and zoning board and parks and recreation advisory board.

Autonomous personnel means the members of autonomous authorities, boards and agencies, such as the code enforcement board, the retirement board and the construction regulation board.

Benefit means anything:

1. Having a monetary value in excess of \$100.00;
2. Regardless of its monetary value, perceived or intended by either the one who offers it or the one to whom it is offered to be sufficient in value to influence a public servant in the performance or nonperformance of an official action; or
3. Regardless of its monetary value, which, under the circumstances, a reasonably prudent person in the position of the public servant to whom the thing is or may be offered would recognize as being likely to be intended to influence the public servant in the performance or nonperformance of an official actions.

The term "benefit" includes, but is not limited to, a valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future.

Candidate means an individual who is a candidate for elective municipal office, as defined in the city Charter, or an applicant for an appointive municipal position.

Commissioners means the mayor and the members of the city commission.

Compensation means any money, gift, favor, thing of value or financial benefit conferred, or to be conferred, in return for services rendered or to be rendered.

Contribution is:

1. A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value.
2. A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.
3. The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.
4. The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Controlling financial interest means ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm, partnership, or other business entity at the time of transacting business with the city.

Departmental personnel means the city clerk, the city manager, department heads, the city attorney, and all assistants to the city clerk, city manager and city attorney, however titled.

Employees means all persons, other than an elected public officer, employed and paid a salary to work for the city, whether full-time, part-time, or on a contract basis, and all volunteers notwithstanding the fact that they are unpaid. This article shall apply to independent contractors who perform services for the city as contract inspectors.

Immediate family means the spouse, parents, children, brothers and sisters of the person involved.

Quasi judicial personnel means the members of the encroachment committee, planning and zoning board, the board of adjustment, the code enforcement board and such other individuals, boards and agencies of the city as perform quasi judicial functions.

Transact any business means the purchase or sale by the city of specific goods or services for consideration and to submitting a bid, a proposal in response to a RFP, a statement of qualifications in response to a request by the city, or entering into contract negotiations for the provision on any goods or services, whichever first occurs.

Vendor means a person whether individually or through a corporation, who transacts business with the city, or has been approved by the city commission to transact business with the city, or is listed on the city manager, procurement department or other city department's approved vendor list.

Sec. 2-226. Gifts.

- a. *Gift defined.* The term "gift" means the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.
- b. *Exceptions.* The provisions of subsection (a) of this section shall not apply to:
 1. Political contributions specifically authorized by state law;
 2. Gifts from relatives or members of one's household, unless the person is a conduit on behalf of a third party to the delivery of a gift that is prohibited under subsection (c) of this section;
 3. Awards for professional or civic achievement;
 4. Material such as books, reports, periodicals or pamphlets either solely informational or of an advertising nature.
- c. *Prohibitions.* A person described in section 2-225 shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the terms defined in section 2-225, to accept or agree to accept from another person or entity, any gift for or because of:
 1. An official public action taken, or to be taken, or which could be taken, or an omission or failure to take a public action;
 2. A legal duty performed or to be performed, or which could be performed, or an omission or failure to perform a legal duty;
 3. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in section 2-225; or
 4. Attendance or absence from a public meeting at which official action is to be taken.
- d. *Disclosure.* All advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, immediate family, and quasi judicial personnel shall disclose any gift, or series of gifts from any person or entity, having a value in excess of \$100.00. The disclosure shall be made by filing a copy of the disclosure form required by F.S. ch. 112 for "local officers" with the city clerk simultaneously with the filing of the form with the city clerk, the county clerk and the secretary of state.

Sec. 2-227. Exploitation of official position prohibited.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasijudicial personnel shall use or attempt to use an official position to secure special privileges or exemptions for that person or others except as may be specifically permitted by other ordinances and resolutions previously adopted or hereafter adopted by the city commission.

(Ord. No. O-2003-5, § 1(2-506), 1-21-2003; Ord. No. O-2004-49, § 1(2-506), 12-14-2004)

Sec. 2-228. Prohibition on use of confidential information.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasijudicial personnel shall accept employment or engage in any business or professional activity which one might reasonably expect would require or induce one to disclose confidential information acquired by reason of an official position, nor shall that person in fact ever disclose confidential information garnered or gained through an official position with the city, nor shall that person ever use such information, directly or indirectly, for personal gain or benefit.

Sec. 2-229. Conflicting employment prohibited.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasi judicial personnel shall accept other employment which would impair independence of judgment in the performance of any public duties.

Sec. 2-230. Prohibition on outside employment.

- a. No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasi judicial personnel shall receive any compensation for services as an officer or employee of the city from any source other than the city, except as may be permitted as follows:
 1. *Generally prohibited.* No full-time city employee 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.
 2. *When permitted.* A full-time city employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the city or any of its departments and the approval required in subsection (a)(3) of this section is obtained.
 3. *Approval of department head required.* Any outside employment by any full-time city employee must first be approved in writing by the employee's department head or the city manager where the employee is a department head who shall maintain a complete record of such employment.
- b. All full-time city employees engaged in any outside employment for any person, firm, corporation or entity other than the city, or any of its agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done and any amount of money or other consideration received by the employee from the outside

employment. City employee reports shall be filed with the city clerk no later than 12:00 noon on July 1 of each year. The reports shall be available at a reasonable time and place for inspection by the public. The city manager may require monthly reports from individual employees or groups of employees for good cause.

Sec. 2-231. Prohibited investments.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasi judicial personnel or through a member of their immediate family shall have personal investments in any enterprise which will create a substantial conflict between private interests and the public interest.

Sec. 2-232. Certain appearances and payment prohibited.

- a. No commissioner, departmental personnel, or employees shall appear before any city board or agency and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall the person receive any compensation or gift, directly or indirectly, for services rendered to a third person, who has applied for or is seeking some benefit from the city or a city agency, in connection with the particular benefit sought by the third person. Nor shall the 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 through the suit in question.
- b. No advisory personnel, autonomous personnel or quasijudicial personnel shall appear before the city commission or agency on which the person serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive any compensation or gift, directly or indirectly, for services rendered to a third party that has applied for or is seeking some benefit from the city commission or agency on which the person serves in connection with the particular benefit sought by the third party. Nor shall the person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the city commission or agency on which such person serves through the suit in question. This section shall not prohibit architects serving without compensation on the board of architects from submitting plans on behalf of a client so long as such members make known their representation of the applicant and disqualify themselves from speaking or voting or otherwise participating on such application. However, once an application has been submitted to the city for board of architects review, no person serving on the board, either directly or through an associate or their firm, may be retained by any person, including the applicant, to represent, appear, or make a presentation on

behalf of the applicant or any other party on the specific matter being considered by the board.

- c. No advisory personnel, autonomous personnel or quasijudicial personnel, after deliberating, considering, ruling or recommending on an application filed with the board or committee upon which they serve, shall appear before a higher board or the city commission to testify as an affected party. However, this section shall not prohibit the chairperson of a city from appearing before the city commission to provide the board's recommendation.

Sec. 2-233. Actions prohibited when financial interests involved.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasijudicial personnel shall participate in any official action directly or indirectly affecting a business in which that person or any member of the immediate family has a financial interest. A financial interest is defined in this subsection to include, but not be limited to, any direct or indirect interest in any investment, equity, or debt.

Sec. 2-234. Acquiring financial interests.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasijudicial personnel 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 may be directly affected by official actions or by official actions by the city or city agency of which the person is an official, officer or employee.

Sec. 2-235. Recommending professional services.

No advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employees, or quasijudicial personnel may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the city or any of its agencies, provided that a recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other city officials, officers or employees.

Sec. 2-236. Continuing application after city service.

- a. No commissioner, departmental personnel or employees shall, for a period of two years after his city service or employment has ceased, lobby any city official (meaning advisory personnel, autonomous personnel, commissioner, departmental personnel, employees, or quasijudicial personnel), in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which the city or one of its agencies is a party or has any interest whatever, whether direct or indirect. Nothing contained in this

- subsection shall prohibit any individual from submitting a routine administrative request or application to a city department or agency during the two-year period after their service has ceased.
- b. The provisions of subsection (a) of this section shall not apply to persons who become employed by governmental entities, 501(c)(3) nonprofit entities, educational institutions or entities, and who lobby on behalf of those entities in their official capacities.
 - c. The provisions of this subsection shall apply to all persons described in subsection (a) of this section whose city service or employment ceased after the effective date of the ordinance from which this article is derived.

Sec. 2-237. City attorney to render opinions on request.

Whenever any advisory personnel, autonomous personnel, candidate, commissioner, departmental personnel, employee, or quasijudicial personnel is in doubt as to the proper interpretation or application of this conflict of interest and code of ethics article, or whenever any person who renders services to the city is in doubt as to the applicability of the article, that person may submit to the city attorney a full written statement of the facts and questions. The city attorney shall then render an advisory nonbinding opinion to such person and shall publish these opinions without use of the name of the person advised unless the person permits the use of a name. Binding opinions may be sought from the county ethics commission.

Sec. 2-238. Proceedings by the county commission on ethics and the state commission on ethics.

Upon the request by the city, the county commission on ethics and the state commission on ethics may abate proceedings on any complaint, which is filed by the same complainant against the same respondent, and involving substantially identical facts, until the city completes its proceedings on the complaint. The ethics commission may also refer complaints to the city for review of any violation filed with the ethics commission.

The city shall promptly notify the county commission on ethics and the state commission on ethics when it learns that a substantially identical complaint has been filed with either of those agencies and request that their proceedings be abated until the conclusion of the city's proceedings.

Sec. 2-239. Penalties and personnel action.

The city manager may take personnel action and may enter into stipulations and settlements as are just and in the best interest of the citizens of the city. Contracts awarded in violation of this article may be voided by the city commission. Any administrative or commission approval obtained may also be voided by the city commission.

Sec. 2-240. Fair campaign practices.

- a. Any person, who is the principal of a vendor to the city who contributes to the campaign of a candidate or the campaign committee of a candidate for the office of mayor or city commissioner shall file a disclosure form with the office of the city clerk within 20 days of making said contribution. The term "principal" shall encompass all individuals who meet the provisions of the term "controlling financial interest." The date of the contribution shall be the earlier of either the date of the contribution check or the date of deposit of said check in the campaign fund. The disclosure form shall require, at a minimum, the name and address of the individual making the contribution, the name of the company which has a contract with the city, and the amount of the contribution, as well as the name of the candidate or campaign committee to whom the contribution was made.
- b. A fine of \$500.00 shall be imposed on every person that violates this prohibition, and fails to correct such violation within 20 calendar days of notification by the city clerk. Each act of soliciting, giving or receiving a contribution in violation of this subsection shall constitute a separate violation. All contributions received by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

Sec. 2-241. Procedure on complaint of violation.

- a. *Legally sufficient complaint.* An investigation of an alleged violation of any ethics provisions of the city Code, by any person included in the terms defined in [section 2-225](#), except the city commission, city manager, assistant city manager, city clerk, city attorney and their immediate family, shall be initiated upon receipt by the city manager of a written complaint which alleges the elements of a violation, is based substantially upon the personal knowledge of the complainant and signed under oath or affirmation by the complaining person, and is legally sufficient to state a possible violation of this chapter. Within five days after receipt, the city manager shall send a copy of a complaint to the alleged violator. The city attorney shall make the determination of legal sufficiency within 20 days. If the complaint is determined to be legally insufficient, the city attorney shall state the reasons for the finding in writing and report the determination to the complainant, the alleged violator, or respondent, and the city commission.
- b. *Complaints against mayor, commissioner or city officials.* A complaint against a commission member, city manager, assistant city manager, city clerk, city attorney and their immediate family shall be referred to the commission on ethics and public trust.
- c. *Prospective jurisdiction.* Any alleged violation committed before the effective date of the ordinance from which this article is derived, shall be governed by the applicable city, county, and state code of ethics ordinances, conflict of interest ordinances or lobbyist registration and reporting ordinances in effect at the time of the alleged violations.

- d. *Personnel proceeding.* Where an employee of the city of is alleged to have violated a law within the purview of this article, and based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the city, the city attorney and city manager shall stay consideration of a complaint until the conclusion of the personnel proceeding.
- e. *Statute of limitations.* No action may be taken on a complaint filed more than one year after the violation is alleged to have accrued.
- f. *Termination of proceeding.* A proceeding on a complaint shall terminate in the event the respondent dies in office, leaves office for any reason or is permanently separated from employment with the city, or enters into a settlement agreement with the city manager.
- g. *Appeal and judicial review.* An aggrieved respondent may appeal an adverse finding of a violation to the city commission. Review by the city commission shall be on the record and limited to determining whether the:
 - 1. Respondent was afforded procedural due process;
 - 2. Findings of fact are supported by substantial competent evidence; and
 - 3. Conclusions are correct as a matter of law. An aggrieved respondent must first exhaust its right to an appeal to the city commission before seeking review by the circuit court for the county. Review by the circuit court shall be pursuant to the Florida Rules of Appellate Procedure.

Sec. 2-242. Applicability.

The requirements of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance shall not be applicable to the City of Coral Gables except as provided in the city's Code of Ethics Ordinance.

Sec. 2-243. Lobbying.

- a. *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:

Expenditure: A payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying.

Lobbyist: An individual, corporation, partnership, or other legal entity employed or retained, whether paid or not, by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat, or modifications of (a) any ordinance, resolution, action or decision of any city commissioner; (b) any action, decision, recommendation of the city manager, any city board or committee, including but not limited to quasijudicial, advisory board, trust, authority, or council; or (c) any action, decision or recommendation of city personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed

by the city commission, or a city board or committee, including but not limited to quasijudicial, advisory board, trust, authority, or council.

Person: Any individual, corporation, partnership or other legal entity or an agent or employee thereof.

Principal: The person which has employed or retained the services of a lobbyist.

- b. *Registration.* All lobbyists shall, before engaging in lobbying activities, register annually with the city clerk. Every person required to so register shall:
1. Register on a form prepared by the city clerk;
 2. Pay an annual registration fee of \$150.00; and
 3. State under oath the name and business address of the registrant; the name and business address of each principal which has employed or retained the registrant to lobby; the specific issue for which he/she has been employed or retained to lobby and the existence of any direct or indirect business association, partnership, or financial relationship with any employee of the city.

Any change to any information originally filed shall require that he/she file an amendment to the registration forms, although no additional fee shall be required for such amendment. He/she has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs. Separate annual registration shall be required for each principal represented on each specific issue. Such issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing number. No additional fee shall be required for each issue.

Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.

The registration fees required by this section shall be deposited by the city clerk for the purpose of recording, transcribing, administration, and other costs incurred in maintaining these records for availability to the public.

The city clerk shall waive the fee requirements of this section upon a finding of financial hardship, based upon the sworn statement of the applicant.

- c. *Exceptions to registration.* The following shall not be required to register under this section:
1. Any public official or city staff discussing matters relevant to their official duties;
 2. Any person who only appears in his individual capacity for the purpose of self-representation without compensation or reimbursement, whether direct or indirect, to express support of or opposition to any item, including but not limited to those who are members of homeowner or neighborhood associations;

3. Any person requested to appear before the city commission, city board, committee, or any member thereof, or the city manager or city staff in a quasijudicial proceeding or any agent, attorney, officer or employee or such person;
4. Any person under contract with the city who communicates with any public official or city staff regarding issues related only to the performance of their services under contract; and
5. Any person who has been designated and is so recognized by the city as a representative of a collective bargaining unit composed of city employees; foreign dignitary appearing in his/her official capacity; a person who owns, publishes or is employed by a newspaper, periodical, radio station, or other bona fide news media; a person who merely appears before, the mayor, city commission, city board or committee, the city manager or city staff in an individual capacity for the purpose of self-representation.

d. *Reporting requirements.*

1. On October 1 of each year, lobbyists subject to the registration requirements of this section shall submit to the city clerk a signed statement under oath as provided herein listing the full name and business address of the lobbying entity; name of each of the entity's lobbyists; and all expenditures for the preceding calendar year with regard to the specific issue on which the lobbyist has been engaged to lobby. A statement shall be filed even if there have been no expenditures during the reporting period.
2. The city clerk shall keep a current list of registered lobbyists and the reports required under this section which shall be open to the public for inspection.

e. *Investigation of violations and penalties.* The office of the city clerk shall submit a report to the city attorney and city commission as to those lobbyists who have failed to comply with the registration and/or the annual filing requirement of this section. The office of the city attorney shall investigate any person engaged in lobbying activities which is reported to be in violation of the registration or reporting requirements. A report of the city attorney's findings shall be provided to the city commission and to the alleged violator. If the city commission finds that a person is in violation of this section, that person may be reprimanded, suspended or prohibited from lobbying before the city commission, a city board, a city committee, or members thereof, city manager or city staff for a period not to exceed two years.