ORDINANCE NO. 19-O-36AA

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA
AMENDING CHAPTER 2, ARTICLE I, DIVISION 3 (ETHICS CODE);
DIVISION 4 (ETHICS BOARD); AND ARTICLE VIII (LOBBYIST
REGULATIONS) OF THE CODE OF GENERAL ORDINANCES OF THE
CITY OF TALLAHASSEE; PROVIDING FOR SEVERABILITY;
PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE
DATE

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF
TALLAHASSEE, FLORIDA:

Section 1. A new Section 2-3 is hereby created in the Code of General Ordinances and
shall read as follows:

Sec. 2-3. – Title.
Sections 2-3 through 2-17 shall constitute and be cited as the “City of Tallahassee Ethics
Code.” This ethics code is enacted pursuant to Article VIII, section 2(b), Florida Constitution,
Section 166.021, Florida Statutes, and the Charter of the City of Tallahassee. The purpose of this
code is to provide additional and more stringent ethics standards as authorized by Section
112.326, Florida Statutes. This code shall not be construed to authorize or permit any conduct or
activity that is in violation of Chapter 112, Part III, Florida Statutes.

Section 2. A new Section 2-4 is hereby created in the Code of General Ordinances and
shall read as follows:

Sec. 2-4. – Definitions.
The following words, terms, and phrases, when used in the City of Tallahassee Ethics
Code, Sections 2-3 through 2-17, shall have the meaning ascribed to them in this section, except
where the context clearly indicates a different meaning:

Benefit means anything of value, including but not limited to compensation, reward,
pecuniary gain that is not equally available to similarly situated members of the general public.

City means the City of Tallahassee, Florida.

Compensation means fee, retainer, contract payment, salary, wages, reward, any other
payment of money, or any other consideration of any kind, either monetary or nonmonetary.
"Compensation" does not include reimbursement of actual out-of-pocket expenses.
Covered individual means:

(1) Each public official;

(2) Each employee and each member of a city board, commission, or council who is required by section 112.3145, Florida Statutes, to file an annual financial disclosure, including any employee with purchasing authority exceeding $35,000.00; and

(3) Each employee who is a procurement employee. “Procurement employee” means any city employee who has participated in the preceding twelve months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities, if the cost of such services or commodities exceeds or is expected to exceed $10,000 in any fiscal year.

Ethics Officer, as provided in the Charter of the City of Tallahassee, Section 62, shall report to and be under the exclusive jurisdiction of the ethics board. If the ethics board determines, in its sole discretion, that the Ethics Officer is to be a city employee, such designation shall be only for the purpose of providing administrative services, such as human resources, payroll, and information technology services.

Exemption means to be free of, or excused from, an obligation or duty required of others similarly situated.

Gift means gift as defined in Section 112.312(12), Florida Statutes, as may be amended from time to time.

Indirect Gift means indirect gift as defined in Rule 34-13.310(8), Florida Administrative Code, as may be amended from time to time.

Public official means members of the city commission and commission-appointed aides, mayor and mayor’s appointed assistants and aides, city manager, city attorney, city auditor, city treasurer-clerk, members appointed by the city commission to serve on any advisory, quasi-judicial, or any other board, commission or committee of the City of Tallahassee.

Relative, unless otherwise specified in Ethics Code, means an individual who is related to a public official or employee of the city as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public official or employee of the city or who otherwise holds himself or herself out as or is generally known as the person whom the public official or employee of the city intends to marry or with whom the public official or employee of the city intends to form a household, or any other natural person having the same legal residence as the public official or employee of the city.

CODING: Words in struck through type are deletions from existing language; words underlined are additions.
Resource means information gained principally through one's position with the city and not available to the general public.

Special privilege means economic benefit of any kind that inures to the person and is not equally available to similarly situated members of the general public.

Tallahassee Independent Ethics Board means the board as provided in the Charter of the City of Tallahassee, established in section 2-21 and authorized to process complaints as described in section 2-22. It may also be referred to as the "ethics board" in the Code of General Ordinances.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the city. For the purposes of this definition, a vendor representative includes an owner, director, or manager.

Section 3. Section 2-3 of the Code of General Ordinances is hereby amended and renumbered to Section 2-5 and shall read as follows:

Sec. 2-3, 2-5. – Loyalty oath.

All public officials and employees of the city shall, in addition to the standard loyalty oath sworn by all public employees pursuant to Section 876.05, Florida Statutes, as it may be amended from time to time, swear or affirm the following oath. The oath, which must be in writing and filed in the city's records, shall read as follows:

I, ____________, being employed by or an officer of _______ and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida. I further solemnly swear or affirm that I have a commitment to the public trust, the highest standards of professionalism and ethics, including a commitment to the constant appearance of propriety, always putting public trust first and never allowing personal benefit to affect my decisions and service as a public servant.

Section 4. Section 2-4 of the Code of General Ordinances is hereby amended and renumbered to Section 2-6 and shall read as follows:

Sec. 2-4, 2-6. - Ethical employees and appointees; statement of purpose.

(a) The city's appointed public officials shall take all practical steps to ensure continue the city's current practice of ensuring that only the most ethical individuals are employed or promoted by the city and appointed by the city to its various citizen boards and committees.
(b) This ethics code shall be deemed additional and supplemental to any and all state
and federal laws governing ethical conduct of officials and employees, as well as all local laws,
rules, regulations, and policies.

Section 5. Section 2-5 of the Code of General Ordinances is hereby amended and
renumbered to Section 2-7 and shall read as follows:

Sec. 2-5, 2-7. - Ethics officer.

The independent ethics board, as provided in the Charter of the City of Tallahassee,
appoints and directs the independent ethics officer. The duties of the independent ethics officer
are may be set forth in the by-laws of that ethics board, but shall not be inconsistent with the
Charter or the Code of General Ordinances. Those duties include the following:

(1) Direct the city's ethics functions under the direction of the ethics board;
(2) Advise city elected officials, appointed officials, management, staff, and vendors
on ethical matters;
(3) Investigate and address complaints related to ethics concerning city elected
officials, appointed officials, management, staff, or vendors; all city management and staff shall
cooperate with the ethics officer and make city records available for the conduct of such
investigations;
(4) Monitor information on lobbyists engaged to represent the city, as provided
herein;
(5) Monitor information on lobbyists engaged by citizens to appear before the city to
ensure compliance with the lobbyist regulations in this chapter;
(6) Provide ethics training to the city's elected officials, appointed officials,
management, staff, and vendors;
(7) Create an ethics web page on the city's web site. The ethics web page will contain
links to this ethics code, state and local laws governing ethics, the Florida Ethics Commission,
the ethics and fraud hotline, the supervisor of elections, and the City's Charter, Code of General
Ordinances, and Land Development Code;
(8) Create a guide to the ethics code for distribution to the public;
(9) Administer and ensure compliance with this ethics code; and
(10) Provide an annual report on the city's ethics program to the city commission.

Section 6. Section 2-6 of the Code of General Ordinances is hereby amended and
renumbered to Section 2-8 and shall read as follows:

Sec. 2-6, 2-8. - Misuse of public position.

(a) No public elected or appointed official or employee of the city shall corruptly use
or attempt to use his or her official position or any city property or resource which may be within
his or her trust, or perform or fail to perform, his or her official duties, in a manner which he or
she knows or should know with the exercise of reasonable care will result in to secure a special
privilege, benefit, or exemption for themselves himself or herself or others valued at more than
$25.00.

CODING: Words in struck through type are deletions from existing language; words underlined are additions.
(b) The following definitions shall apply to this section:

**Benefit** means anything of value, including but not limited to compensation, reward, pecuniary gain or resulting effect in a favorable manner or degree different than the manner or degree in which the similarly situated general public is affected.

**Compensation** means fee, retainer, contract payment, salary, wages, reward, any other payment of money, or any other consideration of any kind, either monetary or nonmonetary. "Compensation" does not include reimbursement of actual out-of-pocket expenses.

**Exemption** means to be free of, or excused from, an obligation or duty required of others similarly situated.

**Resource** means and includes information gained principally through one's position with the city and not available to the general public.

**Special privilege** means economic benefit of any kind that inures to the person and is not equally available to similarly situated persons.

Section 7. Section 2-7 of the Code of General Ordinances is hereby amended and renumbered to Section 2-9 and shall read as follows:

Sec. 2-7. 2-9- Ethics and fraud hotline.

The city's existing fraud hotline shall be expanded to also address ethical concerns, and shall be renamed the ethics and fraud hotline and be operated and maintained by the independent ethics officer. The independent ethics officer shall provide the necessary procedures and policies to govern the effective management of the hotline. Hotline matters which are not within the jurisdiction of the ethics board shall be referred to the appropriate appointed official for review and handling, including any necessary immediate action. Hotline calls that allege a violation of the Ethics Code shall be handled confidentially, in accordance with Section 112.324, Florida Statutes.

Section 8. Section 2-8 of the Code of General Ordinances is hereby amended and renumbered to Section 2-10 and shall read as follows:

Sec. 2-8. 2-10- Financial disclosures for elected officials.

(a) In addition to the standard financial disclosures required by Florida Statutes, the city's elected officials shall make full and public disclosure of their financial interests, consistent with Section 112.3144, Florida Statutes disclose the following information on forms created by the city's treasurer-clerk:

1. Business relationships with city vendors;
2. Business relationships with city employees;
3. Membership on corporate and not-for-profit boards; and
4. Land ownership (in any form, whether located in Florida or another jurisdiction).

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(b) For the purposes of this section, "business relationships" means ownership, either
directly or indirectly in the form of an equitable or beneficial interest, during the disclosure
period, of more than five percent of the total assets or capital stock of a business entity (a
corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc.,
doing business in Florida); and receipt of more than $1,000.00 in gross income from that
business entity during the disclosure period.

(c) The full and public disclosure forms shall be filed with the city's treasurer-clerk at
the same time financial disclosure forms are filed with the state pursuant to Florida Statutes.

(d) Elected officials shall file their state financial disclosure forms and their quarterly
gift disclosure forms with the city's treasurer clerk, in addition to the filing required pursuant to
Florida Statutes.

Section 9. Section 2-9 of the Code of General Ordinances is hereby renumbered to
Section 2-11 and shall read as follows:

Sec. 2–9. 2–11. - Disclosure requirements for lobbyists representing the city.

(a) Any lobbyist or lobbying firm engaged to lobby at the state or federal level on
behalf of the city shall disclose quarterly a complete list of their clients to the city's treasurer-
clerk. If a conflict of interest is identified, the city will address the conflict. The treasurer-clerk
shall develop a procedure whereby the city may waive any identified conflicts of interest.

(b) Information on the city's lobbyists shall be available on the city web page.

Section 10. Section 2-10 of the Code of General Ordinances is hereby amended and
renumbered to Section 2-12 and shall read as follows:

Sec. 2–10. 2–12. - Disclosure of offers of employment to elected officials.

The disclosure requirements contained in section 706.06(D) of the City's Personnel
Policies and Procedures Manual relating to disclosing offers of employment extended by city
vendors shall also apply to the city's elected officials. If an elected official begins negotiation or
enters an arrangement concerning prospective employment with a person or organization that has
a financial interest in a matter in which the elected official has been participating on behalf of the
City, the elected official shall seek an opinion from the City Attorney as to whether a conflict of
interest exists.

Section 11. Section 2-11 of the Code of General Ordinances is hereby renumbered to
Section 2-13 and shall read as follows:

Sec. 2–11. 2–13. - Expanded abstention requirements for elected officials.

(a) The city's elected officials shall abstain from voting on any measure before the
city commission if, under a duty of "reasonable inquiry," the elected official knew or should have
known that the measure would inure to his/her special private gain or loss.
Section 12. Section 2-12 of the Code of General Ordinances is hereby renumbered to
Section 2-14 and shall read as follows:

Sec. 2-12. 2-14. - Ethics training for elected officials, aides to elected officials, appointed
officials, employees, and members of citizen boards or committees.

(a) The ethics officer shall manage and coordinate ethics training for elected officials,
aides to elected officials, appointed officials, employees, and members of citizen boards or
committees as follows:

(1) For elected officials, an initial comprehensive ethics training course within
60 days of taking office, with refresher ethics training on an annual basis;

(2) Training for elected officials and aides shall include this ethics code, and
statutory requirements for voting conflicts, gift bans, campaign contribution limits, and
restrictions on campaigning within government buildings;

(3) Filing of documentation in personnel files indicating compliance with
ethics training requirements;

(4) Ethics training shall be offered to candidates seeking election to the city
commission;

(5) For appointed officials and city employees, each shall complete an in-
depth ethics training course within 180 days of employment, and every three years thereafter,
with at least a one-hour refresher ethics course in the years in which employees are not required
to attend an in-depth course. Appointed officials, executives, senior managers and supervisors
shall complete additional targeted or level-appropriate ethics training, as determined by the
ethics officer.
(6) Members of quasi-judicial and other citizen-staffed advisory boards and advisory committees shall complete annual ethics training, with quasi-judicial board members undergoing additional training commensurate with their decision-making capacity. When possible, web-based training will be utilized.

(b) The independent ethics officer shall include an evaluation and report on the effectiveness of these training programs as part of the annual ethics report presented to the city commission.

Section 13. Section 2-13 of the Code of General Ordinances is hereby amended and renumbered to Section 2-15 and shall to read as follows:

Sec. 2-13, 2-15. - Solicitation or acceptance of gifts.

(a) No elected or appointed official covered individual shall knowingly, directly or indirectly accept or solicit a gift of any value from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lessee of city property, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the city, or from any potential vendor or lessee that is currently engaged in procurement or negotiations with the city or a bid protest.

(b) No elected or appointed official shall directly or indirectly accept a gift with a value of greater than $100.00 in the aggregate for the calendar year from any person or business entity that recipient knows, or should know with the exercise of reasonable care, is a vendor, lessee of city property, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the city, or from any potential vendor or lessee that is currently engaged in procurement or negotiations with the city or a bid protest.

(e) (b) For the purpose of this section, the prohibitions of subsection 2-13(a) 2-15(a) do not apply if the gift is not for the personal benefit of the covered individual, another covered individual, or his or her relative, as defined in section 2-3, elected or appointed official, another individual required to file financial disclosure, or a member of the immediate family of a reporting individual (parent, spouse, child, or sibling).

(c) For the purpose of this section, the prohibitions of subsection 2-15(a) do not apply to gifts solicited or accepted by a covered individual from a relative, as defined in section 2-3, even if the relative is a lobbyist or a vendor.

Section 14. Section 2-14 of the Code of General Ordinances is hereby amended and renumbered to Section 2-16 and shall read as follows:

Sec. 2-14, 2-16. - Penalties.

(a) Where based on a sworn complaint, any violation of the city’s ethics code, including but not limited to, failure to file financial disclosures for elected officials, failure to file
disclosure requirements for lobbyists representing the city, failure to file disclosure of offers of employment to elected officials or violation of any requirement of this ethics code, constitutes grounds for, and may be punished by, one or more of the following:

1. Oral reprimand;
2. Written reprimand;
3. Written letter of instruction;
4. Corrective action, including but not limited to restitution by the individual found to have committed a violation, when the person or a third party has received a pecuniary benefit as a result of the person's violation, and recommendation by the ethics board to the city to take action against the individual consistent with the city's employee disciplinary policy;
5. Referral to appropriate agency, including but not limited to, law enforcement;
6. Fine not to exceed $1,000.00 per violation;
7. Additional ethics training at the violator's expense;
8. Community service in the form of educating the public on the importance of ethical leadership;
9. For late filing of full financial disclosures required by Section 2-10 of this code, for elected officials form EB1, $25.00 per day for each day late with a maximum fine of $1,000.00.

(b) The board may choose to impose no sanctions based upon mitigating circumstances or upon recognition that a public finding of an ethics violation imposes sufficient penalty. First time violations will usually be in this category.

(c) All civil penalties collected shall be deposited into the City of Tallahassee General Fund.

(d) The board may also order the payment of investigative costs, paid to third parties but not general overhead costs, provided they do not exceed $1,000.00 per violation, in addition to the penalties in subsection (a) above.

(e) The board may also order disgorgement of any pecuniary benefits received because of the violation committed.

(f) A sworn complaint is not required to report a matter on the ethics and fraud hotline established by section 2-7 of this Code. Upon its own initiative and after proper notice and an opportunity to be heard, the ethics board may order, where it has jurisdiction over the complainant, or recommend, where it lacks jurisdiction over the complainant, investigative costs.
be paid to the City of Tallahassee General Fund by a complainant for filing a complaint in which
the ethics board finds by a preponderance of the evidence that, when initially presented to the
ethics board, the complainant knew that a complaint was not supported by the material facts
necessary to establish a violation of the ethics code or that the complainant showed a reckless
disregard for the truth as to whether the complaint was supported by the material facts necessary
to establish a violation of the ethics code. Where the ethics board lacks jurisdiction over the
complainant, the City may proceed to file the appropriate cause of action in a court of competent
jurisdiction for the waste of government resources.

Section 15. Section 2-17 is hereby created in the Code of General Ordinances and shall
read as follows:

Sec. 2-17. – Disclosure or use of non-public information.

A public official or employee of the city shall not disclose or use information that is not
available to members of the public and that was gained by reason of his or her official position,
except for information relating exclusively to governmental practices, for the covered
individual’s personal gain or benefit or for the personal gain or benefit of any other person or
business entity.


Section 17. Section 2-22 of the Code of General Ordinances is hereby amended and
shall read as follows:

Sec. 2-22. - Board complaint processing.

(a) After a sworn complaint of violation of the city's ethics code has been filed and the independent ethics board determines that there is probable cause to believe that a violation of the city code of ethics has occurred and orders a public hearing of the complaint, any public hearing shall be conducted by an administrative law judge with the state division of administrative hearings. The administrative law judge shall provide a recommended order to the ethics board containing findings of fact, conclusions of law, and recommended penalty or disposition within 30 days of the date of hearing, unless otherwise agreed by the parties in writing. The administrative law judge shall use a clear and convincing standard of proof for findings of fact and shall have all of the powers of administrative law judges enumerated in F.S. § 120.569.

(b) Where an ethics complaint is concurrently filed with the independent ethics board and filed with and/or being considered by a federal, state, or local law enforcement agency or the state ethics commission, the independent ethics board shall suspend action on the complaint until the conclusion of the law enforcement agency or state ethics commission review, order or proceedings.

(c) No action may be taken on a complaint filed more than five (5) years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. Where the allegations are the subject of a personnel, criminal or
administrative proceeding or where the complainant is required to exhaust his or her
administrative remedies prior to filing a complaint, the statute of limitations shall be tolled until
the termination of said proceeding or the exhaustion of administrative remedies.

(d) For purposes of conducting any preliminary investigations to determine probable
cause, the ethics board shall have the power to:

(1) Subpoena alleged violators or witnesses within its jurisdiction as provided
in Section 61 of the City Charter and as otherwise provided by law;

(2) Subpoena evidence held by alleged violators or witnesses within its
jurisdiction as provided by Section 61 of the City Charter and as otherwise provided by law;

(3) For subpoenas of persons or evidence outside of its jurisdiction, the ethics
board may make application to any court of competent jurisdiction to order a witness to appear
before the ethics board to provide evidence or give testimony relevant to the matter at hand.

(4) Take testimony under oath.

(e) Pursuant to Section 112.324, F.S., all hotline calls that allege a violation of the City’s
Ethics Code and all complaints, whether sworn and filed with or initiated by the Board, and all
records relating to them, are confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I
of the State Constitution.

(f) Pursuant to Section 112.324, F.S., any portion of a proceeding conducted by the
Board to consider a hotline call that alleges a violation of the City’s Ethics Code or any
complaint, whether sworn and filed with or initiated by the Board, is exempt from s. 286.011,
F.S., s. 24(b), Art. I of the State Constitution.

(g) The exemptions in paragraphs (e)-(f) apply until:

(1) The complaint is dismissed as legally insufficient;

(2) The alleged violator requests in writing that such records and proceedings be
made public;

(3) The Board determines that it will not investigate the referral; or

(4) The Board determines, based on such investigation, whether probable cause
exists to believe that a violation has occurred.
Section 18. Section 2-345 of the Code of General Ordinances is hereby amended and shall read as follows:

Sec. 2-345. - Compliance; penalties.

(a) The city’s ethics officer City Treasurer-Clerk shall monitor lobbyists for compliance with this section, and shall develop procedures for suspension of lobbyists until compliance is attained. The ethics officer City Treasurer-Clerk will alert the city commission to any instances of non-compliance, and will inform the city commission of any need to institute progressive penalties for repeat offenders. The Ethics Officer may serve as a point of contact for a complaint regarding a failure of a lobbyist to register but shall have no oversight role regarding registration.

(b) The penalties for an intentional violation of this article shall be those specified in enforced as a civil violation under section 1-7 of this Code. There shall be a fine of $1,000 for the 1st violation, a fine of $2,500 for a 2nd violation within any 3-year period, a fine of $5,000 for a 3rd violation within any 3-year period, and a suspension from lobbying the city for a period not to exceed three (3) years for a 4th violation within any 3-year period.

Section 19. Section 2-346 is hereby created in the Code of General Ordinances and shall read as follows:

Section 2-346. Review of Final Order

Any final order of the ethics board imposing civil penalties as provided for in Section 2-16 of this General Code of Laws may be reviewed by the circuit court within 30 days of issuance of the order in the manner as authorized for review of quasi-judicial board decisions.

Section 20. Section 2-347 is hereby created in the Code of General Ordinances and shall read as follows:

Section 2-347. Honest Services

(a) It shall be a violation of this Code for an elected or appointed official to engage in a bribery or kickback scheme or artifice which contravenes the official’s duty to provide loyal service and honest governance for the residents of the City of Tallahassee.

(b) This section shall be construed, to the extent possible, in accordance with the standards and intent set forth under Section 838.016(1), Florida Statutes. Bribery, where an elected or appointed official was paid for a particular decision or action, is a violation of this section.

(c) Any elected or appointed official convicted of violation of this section shall be punished by a fine of not more than $5,000.


Section 22. Conflict with other ordinances and codes. All ordinances or parts of ordinances of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.
Section 23. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 24. Effective date. This ordinance shall become effective January 1, 2020.

INTRODUCED in the City Commission on the _____ day of ________________, 2019.

PASSED by the City Commission on the _____ day of ________________, 2019.

CITY OF TALLAHASSEE

By: __________________________
    John E. Dailey
    Mayor

ATTEST: APPROVED AS TO FORM:

By: __________________________
    James O. Cooke, IV
    City Treasurer-Clerk

By: __________________________
    Cassandra K. Jackson
    City Attorney