

## ARTICLE IX. - CODE OF ETHICS

*Footnotes:*

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**Editor's note**— Ord. No. 21-14704 § 2, adopted Sept. 15, 2021, amended Art. IX in its entirety to read as herein set out. Former Art. IX, §§ 2-971—2-983, pertained to similar subject matter, and derived from: Laws of Fla. ch. 59-1598, § 15.3; Laws of Fla. ch. 70-819, § 26; Code 1994, §§ 2-72, 2-461—2-468, 2-471, 2-472; Ord. No. 3034, § 1, adopted July 19, 1978; Ord. No. 98-8304, §§ 1—8, 11, 12, adopted Aug. 5, 1998; Ord. No. 98-8419, §§ 1, 2, adopted Dec. 2, 1998; Ord. No. 99-8538, § 1, adopted May 19, 1999; Ord. No. 03-10256, § 9, adopted Nov. 19, 2003; Ord. No. 12-13070, § 1, adopted Mar. 7, 2012; and Ord. No. 17-13939, § 1, adopted Mar. 15, 2017.

**State Law reference**— Code of ethics, F.S. § 112.311 et seq.

Sec. 2-971. - Title, intent, policy, mission.

- (a) *Title*: Sections 2-971 through 2-984 shall constitute and be cited as the "City of Naples Ethics Code." This ethics code is enacted pursuant to Article VIII, Section 2(b), Florida Constitution, F.S. § 166.021, and the Naples Charter.
- (b) *Intent*: The purpose of the City of Naples Ethics Code ("ethics code") is to provide additional and more stringent ethics standards as authorized by F.S. § 112.326. This ethics code shall not be construed to authorize or permit any conduct or activity that is in violation of F.S. ch 112, pt. III.
- (c) *Policy*: 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 of the City of Naples ordinances, and applicable rules, regulations, and policies.
- (d) *Mission*: The mission of the ethics commission is to ensure the actual and perceived integrity of city government and its decision-making process, to build public confidence in city government, to prevent unethical conduct before it occurs, to address unethical conduct when it does occur, to train and advise city officials and employees in ethical matters, and to serve as the guardian of the public trust.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-972. - Definitions.

The following words, terms and phrases, when used in the City of Naples Ethics Code, sections 2-971 through 2-984, shall have the meaning ascribed to them in this section, except where the context clearly indicated a different meaning:

*Advocate* means a lawyer who prosecutes a case of alleged ethics violations before the ethics commission or hearing officer.

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

*Business associate* means any person or entity engaged in or carrying on a business enterprise with a covered person, as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property.

*Business entity* means any corporation, partnership, limited partnership, company, limited liability company, proprietorship, firm, enterprise, franchise, self-employed individual, association, trust, or political action committee whether fictitiously named or not, doing business in this state.

*City* means the City of Naples, Florida.

*Commission on ethics and government integrity* or *ethics commission* means the commission as provided in the Naples Charter, established in subsection 17.1.

*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.

*Complainant* means the person who had filed a complaint before the ethics commission under this ethics code.

*Covered persons* means covered persons as defined in subsection 17.3(1)(a), Naples Charter.

*Executive director* means the executive director of the office of ethics and government integrity as defined in subsection 17.4(2), Naples Charter.

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

*Financial interest* means direct or indirect ownership of assets or capital stock of any business entity.

*Gifts* means gift as defined in F.S. § 112.312(12), as may be amended from time to time.

*Honorarium* means honorarium as defined in F.S. § 112.3149(1)(a), 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.

*Investigator* means a person who investigates allegations of ethics violations for the ethics commission.

*Lobbyist* means lobbyist as defined in subsection 17.3(1)(b), Naples Charter.

*Office of ethics and government integrity* or *ethics office* means the office established in subsection 17.4, Naples Charter.

*Person* means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

*Principal* means the person that has employed or retained a lobbyist.

*Probable cause* means that the facts and circumstances would lead a reasonable person to believe that an ethics violation has occurred.

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

*Quasi-judicial* means the action of a covered person or board, agency, authority, commission or city council to investigate facts, hold hearings, weigh evidence and draw conclusions from them as a basis for their official action, and to exercise discretion of a judicial nature.

*Relative* means an individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, 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, or half-sister or domestic partner.

*Respondent* means the person who is the subject of a complaint and is alleged to have committed an ethics violation.

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

*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.

(Ord. No. 21-14704, § 2, 9-15-2021)

#### Sec. 2-973. - Ethics training.

- (a) *Persons required to receive training.* Every covered person and lobbyist must receive training as determined by the ethics office.
- (b) *Content, timing and frequency of training.* Every covered person and lobbyist is responsible for maintaining a current understanding of, and complying with the relevant provisions of this ethics code and Florida Statutes. The ethics commission will establish the content, timing and frequency of ethics training for covered persons and lobbyists, all of whom will receive an initial training within a specified period of being newly elected, appointed, hired or registered. Requirements, contents and schedules for refresher training will be established. This training will be consistent with and supplement the training requirements for those covered persons subject to F.S § 112.3142, as may be amended from time to time.
- (c) *Certification.* Covered persons and lobbyists shall provide documentation of satisfactory training completion. The ethics commission will maintain a list of currently trained persons. Failure to maintain a required certification is a violation of this section.

(Ord. No. 21-14704, § 2, 9-15-2021)

#### Sec. 2-974. - Ethics guidance.

The ethics commission will provide guidance through informal consultations and formal advisory opinions.

- (1) *Informal consultations.* Any covered person or lobbyist may request an informal consultation with the executive director regarding application of the ethics code to a particular situation. The results of a consultation are not binding and will not be routinely published but will be maintained as required by

law. When the result of a consultation is published by the ethics commission, identifying information will be removed.

- (2) *Formal advisory opinions.* Any covered person or lobbyist may request a formal advisory opinion from the ethics commission by submitting all relevant facts and requesting an opinion regarding a matter that is subject to this ethics code. The opinion will be binding on the ethics commission and the requesting party based upon the facts submitted. The opinion may be relied upon by others until amended or revoked. When the opinion is published by the ethics commission, identifying information will be removed unless the requesting party authorizes the identifying information to be included in the published opinion.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-975. - Conflicts of interest.

- (a) *Misuse of office.* No covered person will use or attempt to use his or her official position or any city property which may be within his or her trust, or perform or fail to perform his or her official duties, or attempt to influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special privilege, benefit, or exemption for himself or herself or any other person.
- (b) *Disclosure of confidential information.* No current or former covered person will disclose or use information that was not available to members of the general public and that was gained by reason of such covered person's official position in a manner which he or she knows or should know with the exercise of reasonable care will result in a special privilege, benefit or exemption for himself or herself or for any other person.
- (c) *Honest services.* No covered person will solicit or accept any benefit to the covered person or his or her relatives or business associates, and no lobbyist or other person will offer or promise any benefit to the covered person or his or her relatives or business associates, based upon any understanding that the vote, official action, or judgment of the covered person would be influenced thereby.
- (d) *Prohibited representations and appearances.*
- (1) Except for the proper discharge of his or her official duties, a covered person may not represent any other person or entity against the city or an independent agency to which board members are appointed by the city.
  - (2) Except for the proper discharge of his or her official duties, a covered person may not appear before any city department, agency, authority, board or commission, except on behalf of the city or on behalf of himself, herself, his or her relatives.
  - (3) The provisions of this subsection apply to department, agency, authority, board, or commission members only for representations or appearances before that covered person's own department, agency, authority, board or commission and to departments, agencies, boards or commissions over which that covered person's department, agency, authority, board, or commission has jurisdiction.
  - (4) Applications for exemptions to this subsection may be submitted to the ethics commission for consideration at a public meeting.

(e) *Prohibited employment.*

- (1) No covered person will solicit, have or hold any employment or contractual relationship with any individual or business entity which is doing business with, or routinely seeks zoning, permitting, or inspection approval from the department, agency, board or commission of the city with which the covered person is affiliated. Excluded from this provision are those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the city.
- (2) No covered person will solicit, have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between the covered person's private interests and the performance of the covered person's public duties or that would impede the full and faithful discharge of the covered person's public duties.

(f) *Post-employment restrictions.*

- (1) No elected officer or city managerial employee shall personally represent, for compensation, another person, group, or business entity before the governmental body 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.
- (2) An elected officer or city managerial employee is prohibited from engaging in or having an employment or contractual relationship with any person or business entity, or their representative, if such elected officer or city managerial employee, within two years immediately preceding the vacancy from elected office or termination/resignation from employment, personally or substantially participated in a recommendation or decision relating to any contracting or zoning approvals sought or received by any such person or business entity. Such prohibition on an employment or contractual relationship shall be for a period of two years after the vacancy from elected office or termination/resignation from employment, as applicable, of such elected officer or city managerial employee.
- (3) By majority vote of city council, the post-employment restrictions may be waived. Request for waiver must be made by the specific city managerial employee involved, appear on an advertised regular agenda of city council, and be approved by majority vote of council.

(g) *Anti-nepotism.* A covered person may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the city over which the covered person exercises jurisdiction or control any individual who is a relative of the covered person.

- (1) Approval of budgets shall not constitute "jurisdiction or control" for the purposes of this provision.
- (2) For appointment to advisory boards, this provision applies only to such boards with land-planning or zoning responsibilities.
- (3) This provision shall not apply to Persons serving in a volunteer capacity who provide emergency medical, firefighting, educational, or police services. Volunteers may receive, without losing volunteer status, reimbursements for the costs of any training relating to the provision of volunteer emergency medical, firefighting, educational, or police services and payment for any incidental expenses relating to those services that they provide.

(h) *Bids and contracts.*

- (1) *Required contract language.* Except as otherwise prohibited by law, all contracts with persons or businesses providing construction or professional services to the city shall contain one or more contractual provisions specifically waived by the city council, which:
  - a. Provide assurances to the city that the contracting person or entity will not employ or offer to employ any elected officer or city managerial employee who in any way deals with, coordinates on, or assists with the construction or professional services provided, for a period of two years after termination of all provisions of the construction or professional services contract;
  - b. Provide restrictions on the ability of the person or business entity contracting with the city to also provide services for compensation to another party other than the city on the same subject matter, same project, or scope of services without city council approval; and
  - c. Provide covenants that the contracting person or other entity will not disclose or use information not available to members of the general public and gained by reason of such person or business entity's contractual relationship with the city for the special gain or benefit of the contracting person or entity, or for the special gain or benefit of any other person or business entity, except as specifically contemplated or authorized by the contract.
- (2) *Damage provision.* In addition to the penalty provided for in section 1-15, a contract with a person or business entity providing construction or professional services to the city shall, except as otherwise prohibited by law or specifically waived by the city council, contain a damages provision which shall require a payment of damages for violation of subsection (a)(1) of this section in an amount equal to any and all compensation which is received by the former elected officer or city managerial employee from the contracting person or entity, or an amount equal to the former employee's last two years of gross compensation from the city, whichever is greater.
- (i) *Financial interests and investments.* No covered person will have a material investment in any enterprise, either himself, herself, or through a relative, which will create a conflict or appearance of conflict between his or her private interests and the public interest. No covered person will participate in any official action directly or indirectly affecting a business entity in which he or she or any relative has a financial interest. No covered person will acquire a financial interest in a project, business entity or property at a time when he or she believes or has reason to believe that the said financial interest will be materially affected by his or her official actions or by official actions by the city agency of which he or she is an official, officer, employee or contract staff.
- (j) *Voting conflicts.* No covered person will vote in an official capacity upon any measure which would inure to such covered person's or relative's or business associate's benefit or loss of benefit.
  - (1) Such covered person will, upon discovery of such conflict, publicly state to the assembly the nature of his or her interest in the matter from which the covered person is abstaining from voting. The covered person will be required to abstain during discussion of the matter and to abstain from voting.
  - (2) Within five days after the abstention occurs, such covered person will disclose the nature of the covered person's interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who will incorporate the memorandum in the minutes.
  - (3) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the covered person will make the disclosure orally at the next meeting after it

becomes known that a conflict exists. The covered person will file a written memorandum disclosing the nature of the conflict within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting, which will be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum will become a public record upon filing, will immediately be provided to the other members of the department, agency, authority, board or commission; and will be read publicly at the next meeting held subsequent to the filing of this written memorandum.

- (4) No covered person will absent himself or herself from a meeting or portion of a meeting for the purpose of avoiding disclosure of a conflict or to avoid voting on a measure where there is no conflict, appearance of a possible conflict, or basis for recusal.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-976. - Gifts, honoraria, solicitations and loans.

(a) *Prohibited receipt of gifts:*

- (1) Covered persons will not solicit or accept, directly or indirectly, any compensation from anyone who the covered person knows or reasonably should know:
  - a. Has, or is seeking to obtain, contractual or other financial relationships with the city department, agency, authority, board or commission with which the covered person is affiliated or oversees;
  - b. Conducts or represents a person or entity that conducts operations or activities that are regulated by the city department, agency, authority, board or commission with which the covered person is affiliated;
  - c. Is seeking zoning, permitting, or inspection approval from the city department, agency, authority, board or commission with which the covered person is affiliated; or
  - d. Has interests that may be substantially affected by the performance or nonperformance of duties of the covered person.
- (2) No person will promise or offer a gift to a covered person which would cause a violation of this subsection.
- (3) Provision of any of the benefits prohibited utilizing a third party to avoid the restrictions of this subsection is a violation of this section.
- (4) This section does not prohibit a covered person from accepting a gift of nominal value; or accepting food or beverage on the same basis as offered to all attendees at a professional, business, civic or panel function which the covered person is attending in an official capacity, or if without cost to attendees up to an estimated value of \$100.00.

(b) *Honoraria and related expenses:* No covered person may:

- (1) Accept an honorarium, fee or prohibited gift from a lobbyist or principal or vendor for a written article, address, oral presentation, lecture, panel discussion, or other presentation.
- (2) Request or receive any reimbursement of related travel expenses in an amount that is inconsistent with prevailing city reimbursement policies, if any.

(c) *Solicitations:* A covered person will not solicit a gift to or from another covered person. This subsection

does not prohibit:

- (1) A gift of nominal value made on a special occasion such as marriage, birth of a child, illness, or retirement.
- (2) Fundraising for someone undergoing significant hardship such as major illness, bereavement, loss of housing, or other major disruption, with the approval of the recipient's supervisor.
- (3) Participation in fundraising activities for charitable purposes or governed by the Florida Election Code as defined in F.S. § 97.011.
- (d) *Loans*: No covered person will directly or indirectly lend or borrow more than \$250.00, to or from another covered person in the first covered person's department, agency, authority, board or commission. This subsection is not applicable to lending between relatives.

(Ord. No. 21-14704, § 2, 9-15-2021)

#### Sec. 2-977. - Disclosures.

(a) *Ex parte communications*:

- (1) The purpose of this subsection is to entitle covered persons and citizens to all of the benefits available pursuant to the authority of F.S. § 286.0115. This subsection applies only to quasi-judicial matters and specifically does not apply to legislative matters.
  - (2) An ex parte disclosure shall be sufficient to remove the presumption of prejudice from the ex parte communication, which at a minimum includes:
    - a. The identity of the person, group, or entity with whom the communication took place;
    - b. A summary of the subject of the communication, in sufficient detail to allow persons who have opinions contrary to those expressed in the ex parte communication a reasonable opportunity to refute or respond to the communication, which detail may be established in whole or part by the inclusion of any written or electronic form of the communication;
    - c. That the disclosure be made prior to or at the quasi-judicial hearing; and
    - d. That the disclosure becomes a part of the records of the quasi-judicial hearing.
  - (3) Compliance with an ordinance or a procedure of the city governing ex parte disclosure, which ordinance or procedure is otherwise consistent with this subsection, shall constitute compliance with this section.
- (b) *Voting conflicts*: Required disclosure of a conflict of interest resulting in a voting abstention by any covered person will be submitted to the executive director.
- (c) *Financial disclosures*: A copy of any required financial disclosure of a covered person will be submitted to the executive director.
- (d) *Honest applications*: A person seeking to become an official, employee or appointee of the city, or seeking to enter into a contract to provide goods or services to the city, will not make any statement that is knowingly false, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or services to the city. Material misrepresentations under this



subsection, whenever confirmed, may result in disqualification for the position or contractual relation sought; or if already elected, appointed or hired, may result in removal from the position or voiding of the contract.

- (e) *Disclosures of property and business ownerships:* Applications and petitions for permitting for land use or for uses or activities requiring city approval shall include a complete list of property owners and business owners that will utilize the property. If the property owner or business owner is an entity other than an individual, the application or petition shall contain a disclosure of all individuals who have a material interest in the entity. Inaccurate disclosure or non-disclosure are subject to the penalties set out in this ethics code.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-978. - Whistleblower procedures.

- (a) *Purpose:* Consistent with the State of Florida's Whistleblower's Act, F.S. § 112.3187 et seq., as may be amended from time to time ("Whistleblower Act") it is the intent of the city to prevent departments, agencies, boards, commissions or independent contractors from taking retaliatory action against a person who properly reports violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the city to prevent departments, agencies, boards, commissions or independent contractors from taking retaliatory action against any person who properly discloses to an appropriate official alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of a department, agency, authority, board, commission, public officer, or employee.
- (b) *Appropriate local official:* Pursuant to this section, the commission on ethics and governmental integrity shall be deemed an "appropriate local official" for whistleblower information disclosure purposes as defined in F.S. § 112.3187(6) for any city employee or other person seeking the protections afforded by F.S. § 112.3187 who has otherwise complied with all the requirements of this statute.
- (c) *Procedures:* The ethics commission shall establish policies and procedures to implement the Whistleblower Act.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-979. - Lobbying.

- (a) *Intent and purpose:* The operation of open and responsible government requires that the fullest opportunity must be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on the actions and decisions of the city. In order to preserve and maintain the integrity of this process and to better inform citizens of the efforts to influence city governance, it is necessary to require the public disclosure of the identity, expenditures, and activities of lobbyists.
- (b) *Registration, reporting and regulation:* The ethics commission shall establish policies and procedures governing lobbyist registration, reporting and regulation.
- (c) *Registration fees:* [Reserved.]

- (d) *Expenditure disclosure:* The ethics commission shall establish policies and procedures governing the disclosure of lobbying expenditures.
- (e) *Contingency fees:* No lobbyist may, in whole or in part, pay, give, or receive, or agree to pay, give, or receive, a contingency fee related to lobbying activities covered by this article.
- (f) *Excluded persons:*
  - (1) None of the provisions of this section apply to persons, including fact or expert witnesses, representing an employer, principal or client during a publicly noticed quasi-judicial hearing or comprehensive plan hearing provided they identify the employer, principal or client at the hearing.
  - (2) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.
  - (3) Any person who only appears for the purpose of self-representation without compensation or reimbursement, whether direct or indirect to express support of or opposition to any item, shall not be required to register as a lobbyist.
  - (4) None of the provisions of this section apply to unpaid officers and directors of associations created pursuant to F.S. chs. 718, 719 or 720, or to voluntary community associations serving similar purposes.
- (g) *Penalties:* Corrective actions and penalties for confirmed violations of the lobbying provisions of this ethics code may include one or more of the following:
  - (1) A letter of advice;
  - (2) A letter of reprimand;
  - (3) A requirement for training in state and local ethics;
  - (4) Fines for a first offense of not more than \$250.00 per incident, to be deposited in the city's general fund;
  - (5) Fines for subsequent offenses of not more than \$1,000.00 per incident, to be deposited in the city's general fund;
  - (6) For more than one offense in a 12-month period, prohibition of lobbying for up to 12 months; or
  - (7) For repeated offenses, a suspension of the principal or lobbyist from doing business with the city for up to 12 months.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-980. - Complaints, investigations and hearings.

- (a) *Complaints:* The specifications for ethics commission procedures for complaint handling shall include:
  - (1) The right of any person to file a complaint with the ethics commission.
  - (2) To be acted on by the ethics commission, a complaint must:
    - a. Be in a format prescribed by the ethics commission,
    - b. Specifically allege one or more violations of the Naples or State of Florida ethics codes within the ethics commission's jurisdiction,
    - c. Include any referenced supporting documentation in possession of the complainant,

- d. Be based substantially upon the personal knowledge of the complainant, and
  - e. Be signed, dated and affirmed to by the complainant.
- (3) The executive director, or if so directed the ethics commission's legal counsel, will determine the legal sufficiency of all complaints.
- a. A complaint is legally sufficient if a complaint meets the requirements of this section.
  - b. If the complaint does not meet the requirements of this section, the executive director will notify the complainant specifying the reason(s) why the complaint was not deemed legally sufficient.
  - c. Legal sufficiency will be determined within 30 days of the receipt of a complaint by the ethics commission, unless an extension of time is granted for good cause by the ethics commission.
  - d. Upon determination that the complaint is legally sufficient, the executive director will promptly notify the complainant and respondent in writing of the complaint and that the complaint has been determined to be legally sufficient.
- (4) The ethics commission may promulgate further rules and procedures consistent with this article and Florida Statutes regarding the process for handling complaints.
- (b) *Specifications for ethics commission procedures for investigations:* A preliminary investigation of a legally sufficient complaint shall be performed to determine whether there is probable cause that a violation has occurred.
- (1) If the ethics commission determines that there is no probable cause that a violation has occurred, the ethics commission will dismiss the complaint and issue a report to the complainant and the respondent with its findings.
  - (2) If the ethics commission determines that there is probable cause that a violation has occurred, the ethics commission will promptly notify the complainant and the respondent of the finding.
  - (3) If probable cause is found, but the ethics commission finds that the alleged violation was both minor and unintentional, then the ethics commission may close the complaint by providing the respondent with a letter of advice, and issuing a public report summarizing the facts of the violation, the ethics commission's findings and a copy of the letter of advice.
  - (4) The ethics commission may utilize the authorities granted in section 17.1(6) of the Naples Charter in any investigation and may seek enforcement in a court of competent jurisdiction.
  - (5) The ethics commission may promulgate further rules and procedures consistent with this article and Florida Statutes regarding its investigations.
- (c) *Specifications for ethics commission procedure for hearings:* The ethics commission shall establish rules and procedures for public hearings of alleged ethics violations consistent with requirements for quasi-judicial hearings.
- (d) *Cooperation and non-interference:* No person will interfere, obstruct or attempt to interfere or obstruct without valid legal basis any investigation or hearing conducted by the ethics commission.
- (1) Covered persons and lobbyists shall cooperate with the ethics commission in the exercise of the ethics commission's responsibilities and none shall refuse to answer questions or produce records related to his or her official duties during an ethics commission investigation or hearing.
  - (2) Any violation of this subsection shall be a violation of this ethics code.

- (e) *Exemptions from public record:* Complaints, records relating to complaints or to any preliminary investigation by the ethics commission or its agents including records of related proceedings of the ethics commission, or discussion of or action on referrals to other authorities, are confidential and exempt from disclosure under 119.07(1) and § 24(a), Art. I of the state Constitution. The exemptions in this subsection 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 ethics commission determines that it will not investigate the referral; or
  - (4) The ethics commission determines that probable cause exists to believe that a violation has occurred.
- (f) *Frivolous complaints:* If the ethics commission determines a complainant filed a complaint that was known to be, or should have been known to be, frivolous at the time of filing, the ethics commission may order the complainant to pay reasonable expenses, including attorney's fees and costs, incurred by the ethics commission and the respondent. However, expenses may only be ordered by the ethics commission to be paid at a hearing: (i) to determine whether the complaint was frivolous; and (ii) if determined to be frivolous upon a second hearing to determine the amount of reasonable expenses. Upon the finding of a second frivolous complaint, the ethics commission may refuse to accept further complaints from the complainant for up to three years.
- (g) *Matters subject to other jurisdictions:* If a matter based upon substantially the same set of facts is the subject, or likely to become the subject, of another proceeding or an ongoing investigation in a different jurisdiction, including, but not limited to, personnel action, law enforcement investigation, Florida State Ethics Commission or judicial proceedings, then the ethics commission may stay its proceedings until the other proceeding or investigation has been completed. The outcomes in the other proceeding or from the other investigation may be considered, but do not bind the ethics commission's proceedings under this article. At any time, the ethics commission may refer matters before it to other authorities and then stay its proceedings.

(Ord. No. 21-14704, § 2, 9-15-2021)

#### Sec. 2-981. - Penalties and remedies.

- (a) A willful and corrupt violation of this ethics code subjects the violator to the criminal penalties set out in the ordinances of the city. Additionally, any covered person who willfully and corruptly violates this ethics code shall be guilty of malfeasance in office or position and the ethics commission may recommend removal of such person from office or position.
- (b) In addition to any other penalty, violation of this ethics code with the knowledge, express or implied, of the person contracting with, making a sale to or purchase from the city, may render the contract, sale or purchase voidable by the city council.
- (c) A finding of a violation of this ethics code by the ethics commission may include one or more of the following actions or penalties:
  - (1) A letter of advice;
  - (2) A letter of reprimand;
  - (3) A requirement for training in state and local ethics;

- (4) Referral to an appropriate agency, including but not limited to law enforcement;
- (5) A fine of up to \$500.00 per violation, to be deposited in the city's general fund;
- (6) For an employee, referral to the city manager for appropriate discipline as determined by the city manager;
- (7) For any member of city council, the city manager, the city clerk, the city attorney, the city physician or any appointed member of a department, board, agency, authority or commission covered by the ethics code, referral to city council;
- (8) When the ethics commission determines that the person or entity has received a pecuniary benefit as a result of a violation of the ethics code, referral to city council for consideration of restitution of the amount of the pecuniary benefit, to be deposited in the city's general fund.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-982. - Severability.

The provisions of this ethics code are severable and if any of its provisions shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-983. - Article supplemental to state law; conflicts with state law.

This ethics code is a supplement and addition to the requirements of F.S. ch. 112, part III (F.S. § 112.311 et seq.), entitled "Code of Ethics for Public Officers and Employees." This ethics code shall not be construed to authorize or permit any conduct or activity which is in violation of F.S. ch. 112, part III. In the event of a conflict between the provisions of this ethics code and F.S. ch. 112, part III, the more restrictive provisions shall apply.

(Ord. No. 21-14704, § 2, 9-15-2021)

Sec. 2-984. - Liberal construction.

It is intended that the provisions of this ethics code be liberally construed to accomplish the purpose and intent of this ethics code, except where such liberal construction is specifically prohibited by law.

(Ord. No. 21-14704, § 2, 9-15-2021)

Secs. 2-985—2-1000. - Reserved.