Ordinance No. 17-O-45

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING CHAPTER 2, ARTICLE I, DIVISION 3, ETHICS CODE, AND DIVISION 4, ETHICS BOARD, OF THE CODE OF GENERAL ORDINANCES OF THE CITY OF TALLAHASSEE; ADDING PROVISIONS RELATING TO THE ETHICS CODE AND ETHICS BOARD; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Section 2-6 is hereby added to Chapter 2, Article I, Division 3, Ethics Code, of the Code of General Ordinances and shall read as follows:

Section 2-6. Misuse of public position.

(a) No elected or appointed official 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, to secure a special privilege, benefit, or exemption for themselves or others valued at more than $25.

(b) The following definitions shall apply to this section:

(1) Special Privilege means economic benefit of any kind that inures to the person and is not equally available to similarly situated persons.

(2) 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.

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

(4) 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.

(5) Resource means and includes information gained principally through one’s position with the city and not available to the general public.
Section 2. Section 2-8 of Chapter 2, Article I, Division 3, Ethics Code, of the Code of General Ordinances is hereby amended and shall read as follows:

Section 2-8. Financial Disclosures for elected officials.

(a) In addition to the standard financial disclosures required by Florida Statutes, the city's elected officials shall 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).

(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 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 3. A new Section 2-13 is hereby added to Chapter 2, Article I, Division 3, Ethics Code, of the Code of General Ordinances and shall read as follows:

Section 2-13. Solicitation or Acceptance of Gifts.

(a) No elected or appointed official shall knowingly 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 one hundred dollars ($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

CODING: Words in struck through type are deletions from existing language; words underlined are additions.
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.

(c) For the purpose of this section, the prohibitions of Section 2-13(a) do not apply if the gift
is not for the personal benefit of the 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).

Section 4. Section 2-14 of Chapter 2, Article I, Division 4, Ethics Board, is hereby
moved under Division 3, Ethics Code, and amended to read as follows

Sec. 2-14. 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;
(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 financial disclosures 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, not to exceed $1,000.00 per
violation, in addition to the penalties in (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.
Sections 2-15 – 2-20. Reserved.

Section 5. Section 2-13 of Chapter 2, Article I, Division 4, Ethics Board, is hereby renumbered as follows:

Section 2-13  2-21. Terms of office for ethics board members.

(a) The initial terms of office for the members of the ethics board shall be as follows:

(1) Seat 1—Appointed by the city commission. Three-year term from January 1, 2015 through December 31, 2017;

(2) Seat 2—Appointed by the Chief Judge for the Second Judicial Circuit. Two-year term from January 1, 2015 through December 31, 2016;

(3) Seat 3—Appointed by State Attorney for the Second Judicial Circuit. One-year term from January 1, 2015 through December 31, 2015;

(4) Seat 4—Appointed by the President of Florida State University. Three-year term from January 1, 2015 through December 31, 2017;

(5) Seat 5—Appointed by the President of Florida A & M University. Two-year term from January 1, 2015 through December 31, 2016;

(6) Seat 6—Appointed by the ethics board. One-year term from January 1, 2015 through December 31, 2015;

(7) Seat 7—Appointed by the ethics board. Two-year term from January 1, 2015 through December 31, 2016.

(b) Following the initial term of each member, the term of office of new members or reappointed members shall be three years, commencing January 1 and ending December 31.

(c) No member shall be eligible to serve more than two consecutive full terms. The initial term for each member appointed for one year or two years as outlined above shall not be considered a full term. There shall be a minimum separation of three years between appointments after a member serves two consecutive full terms.

Section 6. Section 2-22 is hereby added to Chapter 2, Division 4, Ethics Board, and shall read as follows:

Section 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. Section 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.

Section 7. Conflict with Other Ordinances and Codes. All ordinances or parts 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 8. 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 9. Effective Date: This Ordinance shall take effect immediately upon final passage.
INTRODUCED in the City Commission on the 6th day of December, 2017.

PASSED by the City Commission on the ______ day of ______________, 2018.

CITY OF TALLAHASSEE

By: ________________________________
Andrew D. Gillum
Mayor

ATTEST:

APPROVED AS TO FORM:

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

By: ________________________________
Lewis E. Shelley
City Attorney