

ORDINANCE 2011-06

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, PROVIDING FOR MORE STRINGENT STANDARDS OF ETHICAL CONDUCT THAN THOSE SET FORTH IN §§ 112.311 - 112.326, FLORIDA STATUTES CONCERNING VOTING CONFLICTS, GIFTS, MISUSE OF POSITION, DISCLOSURE OF INFORMATION, DOING BUSINESS WITH ONE'S AGENCY, CONFLICTING EMPLOYMENT, AND ACCEPTANCE OF TRAVEL EXPENSES, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission of the City of Lake Wales desires to impose, in some instances, more stringent ethical standards than those set forth in the Code of Ethics found within the Florida Statutes ; and

WHEREAS, the City Commission desires that the more stringent standards apply to members of the City Commission as well as to all other elected and appointed officials of the City; and

WHEREAS, it is the intent of the City Commission that the more stringent standards also apply to all employees of the City;

NOW THEREFORE, the City of Lake Wales, by and through its City Commission, does hereby adopt the following provisions to be known as the Lake Wales Conflict of Interest and Code of Ethics Ordinance.

Section 1. Chapter 1, General Provisions, of the Lake Wales Code of Ordinances is hereby amended to read as follows.

ARTICLE I. In General.

Secs. 1-18 — 1-20. Reserved.

ARTICLE II. Conflict of Interest and Code of Ethics.

Sec. 1-21. Applicability.

This Article shall be applicable to the elected officials of the City and shall constitute a minimum standard of ethical conduct and behavior. This Ordinance shall apply to appointed municipal officials and officers of the City, as well as to employees of the City, as indicated by the text.

Sec. 1-22. Definitions.

For the purposes of this Article, the following definitions shall apply:

(a) The term "City Commissioner" shall refer to the Mayor and the members of the City Commission as duly constituted from time to time.

(b) The term "appointed officials and officers" shall include the City Manager, City Attorney, City Clerk, and all other members of Boards, Commissions, or other advisory bodies appointed by the City Commission from time to time.

(c) The term "employees" shall refer to all personnel employed by the City, other than those set forth in the preceding subparagraph.

(d) The term "compensation" shall refer to any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.

(e) The term "controlling financial interest" shall refer to ownership, directly or indirectly of ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest in ten (10) percent or more of a firm, partnership, or other business entity.

(f) The term "gift" shall refer to 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.

(g) The term "immediate family" shall refer to the spouse, parents, stepparents, children, and stepchildren of the person involved.

Sec. 1-23. Prohibitions.

(a) **VOTING CONFLICTS:** No elected official shall vote or participate in any way in a transaction or matter presented to the City Commission which would or might directly benefit the entity seeking assistance, financial or otherwise, from the City, if said elected official will have any decision making authority or participate in the decision making process as to how such benefit will or may be utilized by the entity which may request any such benefit from the City.

Any elected official to which the foregoing prohibition applies or may apply shall absent himself or herself from the Commission meeting during the discussion of the subject item and shall not vote on or participate in any way concerning said matter.

(b) **GIFTS:** No City Commissioner, appointed official or officer, or employee shall either solicit or demand any gift. It is also unlawful for any person or entity to offer, give or agree to give a City Commissioner, appointed official or officer, or employee any gift for or because of:

- 1) An official public action taken or to be taken, or which could be taken;
- 2) A legal duty performed or to be performed, or which could be performed, or
- 3) A legal duty violated or to be violated or which could be violated.

A City Commissioner, appointed official or officer, or employee shall be prohibited from accepting a gift of any value from a person or entity transacting business with the City.

Exceptions to the above rule include: political contributions specifically authorized by state law; gifts from relatives or members of one's household; awards for professional or

civic achievement; materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature; gifts solicited by a City Commissioner, appointed official or officer, or employee on behalf of the City in performance of his or her official duties for use solely by the City in conducting its official business; gifts solicited by a City Commissioner on behalf of any nonprofit organization where neither the Commissioner nor the Commissioner's immediate family receives any compensation as a result of the solicitation.

(c) **MISUSE OF POSITION:** No City Commissioner, appointed official or officer, or employee shall use or attempt to use his or her official position to secure privileges, exemptions, or other benefits for himself, herself or others except as may be specifically permitted by other Ordinances and Resolutions previously adopted or to hereafter be adopted by the City Commission.

(d) **DISCLOSURE OF INFORMATION:** No City Commissioner, appointed official or officer, or employee shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the City, nor shall he or she use such information, directly or indirectly, for his or her personal gain.

(e) **DOING BUSINESS WITH ONE'S AGENCY:** No City Commissioner shall enter into any contract or transact any business in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with the City of Lake Wales and any such contract, agreement or business engagement entered into in violation of this section shall render the transaction voidable.

No City Commissioner shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or she or any member of his or her immediate family has a controlling financial interest, direct or indirect, with the City of Lake Wales and any such contract, agreement or business engagement entered into in violation of this section shall render the transaction voidable.

The requirement of this section may be waived for a particular transaction only by an affirmative vote of a super majority of the entire City Commission, after public hearing. Such waiver may be effected only after findings by a super majority of the entire City Commission that:

- 1) An open-to-all sealed competitive bid has been submitted, or
- 2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying pursuant to the Consultants' Competitive Negotiation Act, or
- 3) The property or services to be involved in the proposed transaction are unique and the City cannot avail itself of such property or services without entering a transaction which would violate this section but for waiver of these requirements, or
- 4) The property or services to be involved in the proposed transaction are being offered to the City at a cost of no more than 80% of the fair market value based on a certified appraisal paid for by the provider, and

5) The proposed transaction will be in the best interest of the City.

The requirements of this section shall continue to apply to a person who has served as a City Commissioner for a period of eighteen (18) months following the date on which service as a City Commissioner ceases.

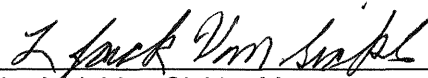
(f) **CONFLICTING EMPLOYMENT:** No City Commissioner shall accept employment which would impair his or her independence of judgment in the performance of his or her public duties.

(g) **ACCEPTANCE OF TRAVEL EXPENSES:** No City Commissioner shall accept, directly or indirectly, any travel expenses from any City contractor, vendor, service provider, bidder or proposer. The City Commission may waive the requirements of this section by a super majority vote.

Section 2: The provisions of this Ordinance are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 3: This Ordinance shall become effective immediately upon adoption.

CERTIFIED AS TO PASSAGE AND ADOPTION this 15th day of March, 2011.



L. Jack Van Sickle, Mayor
City of Lake Wales, Florida

Attest:



City Clerk

Prepared by:
Albert C. Galloway, Jr.
City Attorney
Albert C. Galloway, Jr., P.A.
P.O. Box 3339
Lake Wales, FL 33859-3339