

CHAPTER 9

OFFICERS, EMPLOYEES, BOARDS AND COMMISSIONS

OFFICERS AND EMPLOYEES

900. Ethics, Declaration of Policy.

900.1. Our government is a representative democracy. Those who are appointed, hired or volunteer to serve the public as representatives accept a public trust, which they share with those whom they appoint, hire or otherwise enlist to help them serve the public. The public entrusts its power 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. Public trust also requires that government be conducted in an open manner, when appropriate, so that the official actions of public servants may be subject to public scrutiny and so that members of the public have access to information upon which decisions and policies affecting them are made; but public trust also requires that government be conducted in a manner which respects the rights of its constituents to privacy and confidentiality. Public trust also requires that acts which are contrary to the public interest be defined and prohibited; that there be an orderly procedure for raising and addressing ethical questions; that ethical behavior be encouraged and suitably rewarded; and that unethical behavior be discouraged and suitably disciplined through a process which is fundamentally fair.

900.2. It is the responsibility of each public servant to act in a manner which contributes to cultivating public trust in the integrity of government. Public trust in the integrity of government is cultivated when individual public servants act with integrity and when the public is aware that its servants act with integrity. Therefore, dedicated public servants not only act with integrity, but also choose to avoid even lawful activity when the appearance of impropriety would lessen the public's confidence in the integrity of its servants and its system. As a result, sometimes public servants sacrifice opportunities which would be open to them if they were not public servants.

900.3. Most public servants strive to live by these standards most of the time, but because sometimes some do not, some formal policies are necessary. In adopting these formal policies, this community recognizes that:

- (1) public servants are also members of society and, therefore, share the same general personal and economic interests in the decisions and policies of government as all members of the community do; and
- (2) public servants retain their rights to publicly express their views on

matters of general public interest, and to express their opinions on the effect of public actions on their personal or economic interests or rights; and

(3) it is sound public policy for standards of ethical conduct for public servants to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are personal, material and avoidable; and

(4) public servants are entitled to engage in employment, professional or business activities, other than official duties, in order to support themselves and their families and to maintain a continuity of professional or business activity, and are entitled to maintain investments; and

(5) in this community it is possible and reasonable to require public servants to engage in employment, professional or business activities and to maintain investments which do not impede or undermine the integrity of their service to the community.

900.4. Although this chapter is necessary to identify minimum standards below which a public servant's conduct cannot fall without the risk of penalty, it is understood that a healthy ethical environment for the provision of public service cannot be achieved or maintained by mere adherence to minimum standards. Therefore, this chapter also requires that the community provide additional, positive means of encouraging ethical behavior among its public servants. It is also understood that no external activity can replace the internal commitment which motivates those who act ethically. The principal policy which forms the foundation of this chapter is to encourage internal commitment by establishing and maintaining a work environment which supports integrity with pride and enthusiasm.

900.5. A work environment which supports integrity includes public servants who:

(1) recognize that the primary reason they hold a public position is to serve the public; and

(2) recognize that they hold their public position because the public trusts them; and

(3) recognize that the public's trust in government and in them is diminished when any public servant acts unethically; and

(4) recognize that their public service is an opportunity to help restore public trust in their government; and

(5) are fair and impartial, but also courteous and enthusiastic in serving the public and each other in the performance of their duties; and

- (6) are adequately educated in the principles of ethics; and
- (7) are motivated to pursue ethical ideals which always exceed minimum standards and often achieve the highest standards; and
- (8) exemplify ethical conduct; and
- (9) encourage ethical practices which protect, advance and promote the public interest; and
- (10) in speaking about the conduct of those in public service, or in responding to others who speak about it, express approval of positive ethical principles and behavior, and refrain from unjustly disparaging or demeaning those who advocate ethical principles or practice ethical behavior; and
- (11) recognize that the most effective way to eradicate unethical practices is to consistently act ethically themselves, and to consistently react appropriately with respect to the ethical decisions of those with whom they work; and
- (12) exercise sound and independent judgment to act ethically in situations where others around them may be inclined to act unethically; and
- (13) when they observe serious unethical practices, promptly disclose them to appropriate authorities, and encourage others to do the same; and
- (14) make and implement decisions and policies through proper channels of the governmental organization; and
- (15) insure that those for whose performance they are responsible are aware of minimum standards of ethics below which their conduct cannot fall without the risk of disciplinary consequences; and
- (16) when circumstances warrant, appropriately discipline those who are proven to have engaged in unethical behavior. (Ord. 4066, Eff. 12/12/08).

901. Purposes of Chapter.

This chapter is adopted:

- (a) to state principles of ethics which are to be applied in public service; and
- (b) to identify minimum standards of ethical conduct for public

servants; and

(c) to require that public servants engage in ethical practices which always meet minimum standards; and

(d) to encourage public servants to pursue the highest ethical ideals which they can achieve; and

(e) to provide a process by which public servants may identify and resolve ethical issues; and

(f) to inform public servants and the public of the minimum standards to which public servants must adhere; and

(g) to promote public confidence in the integrity of public servants; and

(h) to encourage members of the public to seek employment, to serve on public boards, to assist public servants as volunteers, and to take pride in participating in the governmental process; and

(i) to establish penalties, as appropriate, for public servants who violate the public trust; and

(j) to provide for a just and reasonable balance among the rights of all individuals who are directly affected by the operation of this chapter. (Ord. 4066, Eff. 12/12/08)

902. Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meanings unless the context suggests otherwise. When a right or duty pertains to the holder of a specific position, the same right or duty pertains to any designee to whom the holder of the position may lawfully delegate the right or duty.

902.1. Appointing authority means the County Executive, County Legislature, department director, or any other person or entity who appoints a person to a public position.

902.2. Associated, when used with reference to a business or an organization, includes any business or organization in which a public servant or a public servant's partner in interest is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity, or any business or organization in which a public servant or a partner in interest has a personal interest.

902.3. Benefit means:

(1) anything, 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 non-performance of an official action; or

(2) anything, 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 non-performance of an official action; and

(3) 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, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future.

902.4. Board means any voting body

(1) which is established to participate as a body in some manner in the conduct of the County government, including participation which is merely advisory, whether established by state law, county charter, ordinance, contract, executive action or any other lawful means; and

(2) any part of whose membership is appointed by the County Executive or County Legislature acting on behalf of the County; but the term "board" does not include a board, commission or committee which is the governing body of a separate political subdivision of the State, or whose membership, after appointment, is not subject to any regulation by the County Legislature; nor does it include any County administrative agency, bureau, department, division or office which is administered by individuals rather than by a body.

902.5. Business means an activity, association, commercial entity, corporation, enterprise, firm, franchise, holding company, joint stock company, organization, partnership, receivership, self-employed individual, sole proprietorship, trust or other legal entity established to earn or otherwise obtain money, whether for profit or non-profit, excluding a municipal corporation or governmental entity.

902.6. Business with which a public servant is associated means a business in which any of the following applies:

- (1) The public servant is an owner, partner, director, officer, employee or independent contractor in relation to the business; or
- (2) A public servant's partner in interest is an owner, partner, director or officer; or
- (3) The public servant or a partner in interest is a stockholder of close corporation stock which is worth at least \$5000 dollars at fair market value or which represents more than a 10 percent equity interest; or
- (4) The public servant or a partner in interest is a stockholder of publicly traded stock which represents more than 2 percent equity interest, other than publicly traded stock under a trading account if the public servant reports the name and address of the stockholder; or
- (5) Any business, regardless of ownership or value, by whom or for whose benefit a decision maker is influenced to act in the hope or expectation of obtaining a personal benefit for the public servant or for a partner in interest of the public servant.

902.7. Candidate means an applicant for county employment or for an appointive county position.

902.8. Child means a son or daughter, whether or not the son or daughter is the biological offspring of the legal parent or parents and whether or not the son or daughter is financially dependent on the parent or parents.

902.9. Commission means, when used with the article "the," as in any reference to "the Commission," the Ethics Commission established by the County Charter, unless the context clearly indicates otherwise, or, when used in reference to matters relating to an elected official, the Missouri Ethics Commission, as established by State law.

902.10. Confidential information means information which has been obtained in the course of holding public employment, an independent contract or otherwise acting as a public servant, and which information is not available to members of

the public under the Missouri Open Records Act, chapter 610, RSMo, or other law or regulation and which the public servant is not authorized to disclose, including:

- (1) any written information that could lawfully be excepted from disclosure pursuant to state law, unless the public servant disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure; and
- (2) any non-written information which, if it were written, could be excepted from disclosure under state law, unless the public servant disclosing it is authorized to do so by the state law, or pursuant to some other pertinent law, policy or procedure; and
- (3) information which was obtained in the course of or by means of a record or oral report of a lawful closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing it is authorized by state law to do so, or unless the public servant disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure; however, when such information is also available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

902.11. Compensation means any benefit conferred upon or received by any person in return for services rendered or to be rendered.

902.12. Conflict of interest means not only a personal interest, as defined in this chapter, but also a professional or non-pecuniary interest, such as arises when the County Counselor is precluded from representing one public servant because of the County Counselor's preexisting attorney-client relationship with another public servant.

902.13. Controlled or illegal substance means any drug or other substance, the use of which is regulated by federal or state law, except that within the meaning of this chapter the term does not include any drug or substance which has been lawfully prescribed by an authorized person for the use of a public servant, and which is used by the public servant in accordance with the prescription.

902.14. Decision maker means any public servant or group of public servants empowered to act in a discretionary manner on behalf of the County in any capacity whatsoever, including the making of recommendations. Decision maker includes, but is not limited to, any County agency, bureau, department, division, office, administrator or person who is charged with implementing and administering particular legislation or executive or administrative decisions, and, to the extent this chapter is applicable to them, any volunteer or independent contractor who is empowered to exercise any discretionary power which could influence a public

servant in the performance or nonperformance of an official action. In this chapter, the term "decision maker" is used to represent any and every public servant who could take any discretionary action regarding a matter in which a public servant or a partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

902.15. Decision making means the exercise of any discretionary public power in any capacity whatsoever, including the making of recommendations, by any public servant whose action pertains to a matter in which a public servant or a public servant's partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

902.16. Disclose means, unless the context of this chapter indicates otherwise, to file, with the Commission, or other appropriate authority and the Clerk of the County Legislature, a document, in a form required or authorized under this chapter, signed and sworn to by the public servant who is required to file the document, which informs the public in accordance with the requirements of this chapter of a conflict of interest or a potential conflict of interest, and any other information pertinent to the purpose of filing the document, including the name and address of any person alleged to have a conflict of interest or a potential conflict of interest; or, when this chapter permits, the filing of an accurate copy of the official minutes of a governing body or board which informs the public of the required information. Unless this chapter or a law which supersedes it requires or permits another procedure, information shall be deemed disclosed if any public servant within a reasonable time before any official action is to be taken by the decision maker, files an affidavit with the Clerk of the County Legislature disclosing the nature and extent of the public servant's conflict of interest, and identifying the decision maker(s) who may act on the matter. For purposes of this provision, "within a reasonable time" means within adequate time to allow the Clerk of the County Legislature, acting within the County's normal schedule and procedures for transmitting written documents, to forward the disclosure to the decision maker(s) before whom the matter is pending or may be brought, and within adequate time to allow the decision maker(s) to review the disclosure before taking any official action.

902.17. Domestic partner means an adult, unrelated by blood, with whom an unmarried or separated official or employee* has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

902.18. Employee means a person, other than an elected public officer, employed and paid a wage or salary to work for the County, whether under civil service or not, whether full-time, part-time, or on a contract basis, and including those officially selected but not yet serving; but does not include an independent contractor; and, for purposes of establishing ethical obligations under this chapter

and for no other purpose, the term "employee" includes volunteers, notwithstanding the fact that they are unpaid or paid a stipend.

902.19. Gift means any benefit or thing or act of value which is conveyed to or performed for the benefit of a public servant or a partner in interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed.

902.20. Governing body means the elected officials who comprise the County Legislature, as defined by the Jackson County Charter.

902.21. Immediate family means:

(1) a public servant's spouse or domestic partner or child; and

(2) a public servant's relative by marriage, lineal descent or adoption; and

(3) a public servant's parents, parents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, stepparents, stepbrothers or stepsisters; and

(4) an individual claimed by the public servant or the public servant's domestic partner as a dependent under the United States Internal Revenue Code.

902.22. Interest means any personal benefit accruing to a public servant or the public servant's partner in interest, whether in the public servant's own name or the name of any person or business from which the public servant is entitled to receive any personal benefit, as a result of a matter which is or which is expected to become the subject of an official action by or with the County.

902.23. Loan means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

902.24. Matter means, unless the context of this chapter indicates otherwise, any act, action, agenda item, allegation, application, amendment, auction, bill, business, case, charge, claim, consideration, contract, controversy, decree, deed, deliberation, discussion, hearing, issue, lease, license, measure, offer, order,

ordinance, permit, personnel action, petition, policy, presentation, procedure, privilege, proceeding, project, proposal, proposition, purchase, recommendation, regulation, rental, request, resolution, sale, subject, transaction, use, variance or other discretionary choice pending before a County decision maker when a public servant or a partner in interest has a personal interest in the outcome of the decision, or the decision may result in a personal benefit to a public servant or a partner in interest.

902.25. Ministerial action means an action that a public servant performs in a given set of circumstances in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the public servant's own judgment as to the propriety of the action being taken.

902.26. Negotiating concerning prospective employment means one or more discussions between a public servant and a potential employer other than the County concerning the possibility of the public servant or a partner in interest considering or accepting employment with the employer, in which discussion(s) the public servant responds in a positive way.

902.27. Office means any of the following:

- (1) An elective position within the government of the County; or
- (2) A County Attorney; or
- (3) An appointive County position in which a public servant serves for a specified term, except a position limited to the exercise of ministerial functions or a position filled by an independent contractor; or
- (4) An appointive County position which is filled by the governing body or the executive or administrative head of the County, and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial functions or a position filled by an independent contractor.

902.28. Officer means any person elected or appointed to hold an office, as defined in this code or the Jackson County Charter.

902.29.1. Official action means any act, action, approval, decision, denial, directive, disapproval, inaction, order, performance, nonperformance, recommendation, vote, or other direct result of a public servant's exercise of discretionary authority in connection with the public servant's public position.

902.29.2. Official duty means any official action or ministerial action which a public servant is obligated or authorized to perform by virtue of being a public servant.

902.30. Official records means any minutes, papers, documents, completed forms, or other records maintained by a public agent for the purpose of fulfilling the disclosure requirements of this chapter.

902.31. Organization means, unless the context indicates otherwise, any non-profit business other than an individual or governmental agency.

902.32. Partner in interest means, when used in this chapter in connection with a public servant, as in the phrase "a public servant or a partner in interest" any and all of the following:

(1) a member of the public servant's immediate family defined herein.

(2) anyone whose primary residence is in the official's or employee's home, including non-relatives who are not rent payers or servants.

(3) a business with which the public servant or a member of the public servant's immediate family is associated; or

(4) any other person with whom the public servant or a member of his immediate family is in business, or is negotiating or has an agreement concerning future employment or the future conferring of any personal benefit, whether in the public servant's own name or the name of any business or person from whom the public servant is entitled, or expects to become entitled, to receive any personal benefit, as a result of a contract or transaction which is, or which is expected to become, the subject of an official action by or with the County. The term partner in interest does not imply or require any form of legal partnership or formal agreement.

(5) When used in the phrase "a public servant or a partner in interest," the term "partner in interest" refers only to a partner in interest of the public servant to whom reference is being made, and not to any other person's partner in interest.

902.33. Personal benefit means any benefit which is offered or received, or perceived to be offered or received, for the purpose of influencing the manner in which a public servant performs or refrains from performing an official action, so that

an attempt is made to induce the public servant, or the public servant is induced, to act in favor of some interest other than the public interest on the basis of an expectation or hope that the public servant or a partner in interest of the public servant will obtain some private gain by acting against the public interest; provided, however, that the term "personal benefit" within the meaning of this chapter does not include any of the following, which, although they may benefit individual public servants, are deemed to be primarily public benefits rather than personal benefits:

- (1) payment by the County of salaries, compensation or employee benefits; or payment by an employer or business other than the County of salaries, compensation, employee benefits or pursuant to a contract, when the payment is unrelated to a public servant's status as a public servant and is not made for the purpose of influencing, directly or indirectly, the official action or decision of a public servant; or
- (2) fees, expenses, or income, including those resulting from outside employment, which are permitted and reported in accordance with the policies of the County; or
- (3) authorized reimbursement of reasonable, or actual and necessary expenses; or
- (4) admission, regardless of value, to events to which public servants are invited in their official, representative capacity as public servants; or
- (5) hospitality extended for a purpose unrelated to the official business of the County; or
- (6) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official County business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity; this provision applies only if the County does not also pay the person for the same activity; or
- (7) reasonable gratuities given by a group in appreciation for a public servant speaking or making any presentation before that group; or
- (8) awards publicly presented in recognition of public service, acts

of heroism or for solving crimes; or

(9) gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities; or

(10) anything of value, regardless of the value, when the thing of value is offered to the County, is accepted on behalf of the County, and is to remain the property of the County; or

(11) commercially reasonable loans made in the ordinary course of the lender's business in accordance with prevailing rates and terms, and which do not discriminate against or in favor of an individual who is a public servant because of such individual's status as a public servant; or

(12) complimentary copies of trade publications; or

(13) any unsolicited benefit conferred by any one person or business if the economic value totals less than \$ 50 per calendar year, and if there is no express or implied understanding or agreement that an official action or decision of a public servant will be influenced; or

(14) reasonable compensation for a published work which did not involve the use of the County's time, equipment, facilities, supplies, staff or other resources, if the payment is arranged or paid by the publisher of the work; or

(15) reasonable compensation for a published work which did involve the use of the County's time, equipment, facilities, supplies, staff or other resources, if the payment of the compensation to the public servant is lawfully authorized by a representative of the County who is empowered to authorize such compensation; or

(16) anything of value, if the payment, gift, or other transfer of value is unrelated to and does not arise from the recipient's holding or having held a public position, and if the activity or occasion for which it is given does not involve the use of the County's time, equipment, facilities, supplies, staff or other resources in any manner or degree which is not available to the general public; or

(17) anything of value received as a devise, bequest or inheritance; or

(18) a gift received from a relative within the fifth degree of consanguinity, under the civil law computation method, to the public servant, or the spouse of such a relative; or

(19) a gift received from a spouse of a public servant, or a spouse's relative within the fifth degree of consanguinity to the spouse, under the civil law computation method.

(20) allowance, stipends or reasonable reimbursement for service on Public Boards or Commissions that a Public Servant is required to serve on as a matter of State or Federal Law.

902.34. Personal interest means a direct or indirect interest having value peculiar to a particular individual or group, whether the value is pecuniary or non-pecuniary, which value may accrue to such individual or group or result in such individual or group deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant, and which interest is not shared by the general public; it is to be stressed that the phrase "personal interest of a public servant" includes not only the personal interest of the individual public servant, but also the interest of any partner in interest.

902.35. Public servant means any member of the governing body or of any County agency, board, commission, committee, or other voting body, and any agent, department head, employee, official, supervisor, volunteer, or other person, whether elected or appointed, legally authorized by contract or in any other manner to act in any capacity under the authority of the County.

902.36. Relative means a person who is related to an official or employee as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

902.37. Statement when used in reference to the financial disclosure requirements established by this chapter, means the prescribed form(s) for fulfilling the financial disclosure requirements.

902.38. Volunteer means an individual who is permitted by the County, or by a person authorized to act on behalf of the County, to assist public servants in performing any kind of official duty or action, including actions which are clerical, menial or merely advisory, without any expectation of receiving compensation.

902.39. Voting body means any nonelected County authority, board, commission,

committee, council, or group, regardless of whether its function is administrative, quasi-administrative or quasi-judicial, or any combination thereof, which, in order to take any official action, even if the action is merely advisory, must act as a body on the basis of a vote of some or all of its members. (Ord. 4066, Eff. 12/12/08)

903. Exemptions.

(a) No provision of this chapter shall be construed to prohibit or restrict any County employee from negotiating, entering into or enforcing a collective bargaining agreement between the County and a labor union to which the employee belongs pursuant to state or federal law. No public servant shall be deemed to have a conflict of interest due to any lawful action taken pursuant to a collective bargaining agreement. The mere fact that public servants have entered into a collective bargaining agreement, however, shall not exempt them from any provision of this chapter unless the County is barred by the collective bargaining agreement from adopting the provision in question.

(b) This chapter does not prevent any public servant from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her public duties, provided that the public servant complies with all applicable County requirements, including any requirements imposed by this chapter.

(c) No public servant shall be deemed to have a conflict of interest by virtue of carrying out any contract pursuant to which the public servant directly or indirectly received income or benefits in the form of compensation for the performance of official duties.

(d) Absent any provision to the contrary, a former public servant is not prohibited from entering into a contract to represent the County in any matter.

(e) No public servant shall be deemed to have a conflict of interest by virtue of sharing, directly or indirectly, in the benefit of a lawful County action when the benefit to the public servant is substantially the same as the benefit to the public at large or to a segment of the public to whom the benefit is provided in a nondiscriminatory manner.

(f) This chapter does not prohibit any public servant from taking any action to

approve the lawful payment of salaries, employee benefits, reimbursements of actual and necessary expenses, or other lawful payments which are authorized in accordance with County policies.

(g) This chapter does not prohibit public servants from taking any official action properly within the scope of their duties with respect to any proposal to enact or modify law or public policy.

(h) This chapter does not prohibit communication between an individual or organization and a candidate regarding the candidate's views, record or plans for future action regarding an issue or measure in an attempt to determine a candidate's viewpoints or how the candidate plans to act in the future, if such communication results in an endorsement of the candidate, a decision not to endorse the candidate, or a contribution or expenditure required to be recorded or reported under a state statute.

(i) Actions which might otherwise be alleged to constitute a conflict of interest shall be deemed to comply with this chapter and not to be a conflict of interest if:

(1) before acting, the public servant requested and received a written opinion from the County Counselor or a formal ethics opinion or a confidential advisory opinion from the Commission in accordance with the procedures established in this chapter; and

(2) the material facts, as stated in the request for an opinion, are true and complete; and

(3) the actions taken were consistent with the opinion. (Ord. 4066, Eff. 12/12/08)

904. Who is Covered.

This chapter applies to all public servants, as the term is defined in this chapter, except licensed attorneys at law acting in the course and scope of their duties as such, who are subject to the rules of professional conduct promulgated by the Supreme Court of Missouri. (Ord. 4066, Eff. 12/12/08)

905. Duties.

(a) No public servant or former public servant shall divulge to any unauthorized person confidential information acquired in the course of holding his or her position in advance of the time prescribed by the governing body, administrators, or other applicable law for its release to the public.

(b) All public servants shall respond fully and truthfully to any inquiries by the

County Counselor or the Commission in connection with the investigation of an alleged or potential violation of this chapter. All public servants shall cooperate fully in any investigation by the County Counselor or the Commission, and shall locate, compile and produce for them such information as they may request, unless the information requested is exempt from disclosure under other applicable law.

(c) All public servants have a general duty to report any ethical violations of this chapter of which they have actual knowledge. Any person may report a violation of this chapter to any County officer or employee, who shall forward the report to a public servant whose specific official duties include the receipt and further processing of such reports. (Ord. 4066, Eff. 12/12/08)

906. Conflict of Interests and Personal Benefits Prohibited.

(a) Except as otherwise permitted under applicable federal, state, and local laws and policies, including the County's procurement policies, no public servant shall have a personal interest in any official action. If a law or policy permits a public servant to have such an interest, in seeking the opportunity to further that interest, or in furthering the interest if the opportunity is obtained, the public servant who has the interest shall comply fully with all procedures required under the applicable laws or policies, and shall not, under any circumstances, gain or attempt to gain any advantage not shared by virtue of being in a public position.

(b) No person, including any vendor, contractor, business, or board of the County, shall offer, give, or receive any personal benefit to any public servant by virtue of their official position.

(c) No public servant nor partner in interest of that public servant shall solicit from any person, directly or indirectly, any personal benefit, regardless of value, or the promise of receiving a personal benefit in the future, in exchange for the performance or non-performance of an official act.

(d) No current or former public servant shall intentionally use or disclose confidential information gained in the course of, or by reason of, his or her official position or activities in any way that could result in the receipt of any personal benefit for the public servant, for a partner in interest of that public servant, or for any other person, if the information is not public information or

if the public servant has not been authorized to communicate the information to the public. This provision shall not:

(1) prohibit the disclosure of any such information to incumbent public servants to whom the information may be pertinent; or

(2) prevent any public servant from reporting violations of this chapter or other illegal acts to the proper authorities; or

(3) prohibit the disclosure of any such information the disclosure of which is required by law.

(e) Any public servant who has or may have a conflict of interest shall disclose it.

(f) Any public servant who believes that any other public servant has a conflict of interest in any agenda item before a governmental body shall disclose such interest to the County Counselor. (Ord. 4066, Eff. 12/12/08)

907. Complicity.

No person shall, directly or indirectly, aid, abet, agree with, assist, encourage, or solicit any public servant or a public servant's partner in interest to violate any provision of this chapter or to participate in any way in a violation of a provision of this chapter with or by another person. (Ord. 4066, Eff. 12/12/08)

908. Deliberation Prohibited.

Except as otherwise provided by law, no public servant shall, in such capacity, participate in the discussion, debate or deliberation, or otherwise take part in the decision-making process on any agenda item before the County Legislature in which the public servant or a partner in interest has a conflict of interest.

(a) A public servant, in addition to disqualifying himself or herself from participation in any decision regarding the pecuniary or employment interest of a partner in interest, shall make known the existence of the relationship and the interest by filing, in writing, with the Clerk of the County Legislature an affidavit disclosing the relationship and the nature and extent of the conflict of interest involved. (Ord. 4066, Eff. 12/12/08)

909. Duty to Leave Meeting.

To avoid the appearance of impropriety, after any public servant is determined to have a conflict of interest or a potential conflict of interest in any matter, and once all questions relating to the conflict of interest have been answered to the satisfaction of the decision maker, the public servant shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the public servant may remain in the area of

the room occupied by the general public. If a public servant who has a conflict of interest in a matter is present as a member of a body which is to consider the matter, the public servant shall leave his or her regular seat as a member of the body, and not return to it until deliberation and action on the matter is completed.

Nothing herein shall require members of voting bodies to leave their seats while action is taken regarding any item contained on a "consent agenda" on which there is no deliberation, the public servant's conflict has been disclosed, and the public servant abstains from voting on the item which is the subject of the conflict. (Ord. 4066, Eff. 12/12/08)

910. Public Contracts.

(a) The County is prohibited from entering into any contract with a business in which a public servant or a public servant's partner in interest has a controlling interest involving services or property of a value in excess of \$ 1,000.00

(b) Any public servant who has or may have a personal interest in any contract shall disclose such interest immediately upon becoming aware of the contract, prior to the first of any of the events set forth in (1), (2), (3), and (4) below:

(1) The solicitation of a contract; or

(2) The bidding of a contract; or

(3) The negotiation of a contract; or

(4) The approval by the County of a contract.

(c) Any contract entered into in violation of this section may be voided by the County in an action commenced within five years of the date on which the Commission, or the department or officer acting for the County in regard to the allocation of funds from which such payment is derived, knew or should have known that a violation of this section occurred. This section does not affect the application of any state statute.

(d) Mandatory Provision in Independent Contracts.

When the County contracts with any person to act on behalf of the County as

an independent contractor, the contract shall include a provision which binds the independent contractor, as a condition of accepting the contract, to comply with the applicable provisions of this chapter. Any question about whether provisions are applicable, including the financial disclosure provisions, may be resolved by a written opinion of the County Counselor or by a decision of the Commission. The County Executive, if the County Executive deems it necessary or appropriate to do so, may adopt policies or guidelines to further define the circumstances under which certain provision will or will not apply to independent contractors.

(e) Mandatory Provision in Volunteer Agreements.

Any person who serves as a volunteer on behalf of the County shares in receiving the public's trust, and shares in the responsibility to contribute to creating and maintaining an ethical working environment. Volunteers serve without the expectation of receiving any compensation from the County, and it is improper for any volunteer to seek any compensation from any person served by the volunteer in the capacity of volunteer. Volunteers, unless expressly authorized by a public servant empowered to grant such authorization, are prohibited from acting as volunteers in any matter in which they have or may have a personal interest or in connection with which they expect or hope to receive any personal benefit. Prior to serving as a volunteer, and as a condition of serving as a volunteer, each volunteer shall sign an agreement, prepared by or under the supervision of the County Counselor, which includes a provision which binds the volunteer to comply with the applicable provisions of this chapter. Any question about whether provisions are applicable, including the financial disclosure provisions, may be resolved by a written opinion of the County Counselor or by a decision of the Commission. The County Executive, if the County Executive deems it necessary or appropriate to do so, may adopt policies or guidelines to further define the circumstances under which certain provisions will or will not apply to volunteers. (Ord. 4066, Eff. 12/12/08)

911. Commission Disclosure of Conflict of Interest or Potential Conflict of Interest.

(a) If any member of the Commission has or may have a conflict of interest in any matter before the Commission, such member shall not appear before the Commission, discuss, debate, deliberate about, act upon, vote upon or otherwise participate in or influence the decision-making process pertaining to the matter in which the member has a conflict of interest. All questions relating to a conflict of interest of any Commission member shall be resolved before the Commission engages in any consideration of the merits of any matter in which a special interest is involved.

(b) If the County Counselor or any Assistant County Counselor has or may have a conflict of interest in any matter before the Commission, or if any

attorney who is responsible for performing any functions on behalf of the Commission is precluded from doing so because of a legal conflict of interest (such as that arising from the representation of a party whose legal position is averse to that of the Commission) which cannot be resolved by the County Counselor's Office internally by screening or some other method, the attorney shall disclose the personal interest, or the nature of the conflict, to the Commission. If the Commission determines that the attorney has a personal interest in the matter, or if the County Counselor determines that the County Counselor's Office cannot resolve the conflict in a manner which will allow the County Counselor's Office to perform its duties properly in the matter, then the County Counselor may engage the services of outside counsel for the Commission upon terms and conditions approved by the County Legislature. (Ord. 4066, Eff. 12/12/08)

912. Unauthorized Outside Employment.

(a) The purposes of the policies governing unauthorized outside employment are:

- (1) To prevent conflicts of interest;
- (2) To prevent conflicts of loyalty;
- (3) To prevent abuses regarding dual compensation, payment for work not done, or unlawful gifts of public funds; and,
- (4) To prevent excessive loss of efficiency in the performance of public service.

(b) Public Servants in General.

A public servant shall not accept any employment, nor enter into any contract, nor perform any service for compensation that results in a financial conflict of interest or a conflict of loyalties which would affect the performance of the public servant's official duties.

(c) Employees.

- (1) An employee of the County may be self employed or may take occasional or part-time jobs if, in the opinion of his or her department head, there is no conflict with working hours, the employee's efficiency in his or her County work, or other interests of the County.

(2) Before engaging in outside employment, employees shall have the written approval of their department heads.

(3) Employees who hold director level positions shall notify the County Executive prior to creating, contracting with, or being employed by any business other than the County. The County Executive shall provide written approval or disapproval of the notification within a reasonable time.

(4) All requests for approval of outside employment shall state the type and place of employment, the hours of work and the employer's name and address.

(5) County employment shall remain the employee's first priority and if at any time the outside employment interferes with an employee's job requirements or performance for the County, the employee shall be required to modify the conditions of the outside employment or terminate either the outside employment or the County employment.

(d) County Counselor and Assistants.

Neither the County Counselor nor any Deputy or Assistant County Counselor shall engage in any unauthorized private practice of law for compensation during the period in which that person holds office. To the extent they may be authorized to engage in the private practice of law, they shall comply with the state laws governing the professional conduct of lawyers, and any violation of those laws while they are acting as attorneys for the County shall also be deemed to be a violation of this chapter. After the date of the adoption of this chapter, the County shall impose adherence to this chapter, and specifically to this provision, as a condition of employment of any County Counselor, or Deputy or Assistant County Counselor who is hired thereafter. (Ord. 4066, Eff. 12/12/08)

913. Other Abuses or Misuses of Position.

(a) No public servant shall hold any other office, elected or appointed, in any other governmental entity, when the duties of such office are incompatible with or have the appearance of being incompatible with the proper discharge of the public servant's duties with the County. For purposes of this chapter, the holding of any office, elective or appointive, with any other governmental entity is hereby prohibited in any one of the following circumstances:

(1) where one office is subordinate to the other; or

(2) where one office carries the power of removal of the other; or

(3) where the occupancy of both offices is prohibited by the County Charter or by other provision of law.

(b) No public servant shall intentionally act, or create the appearance of acting, on behalf of the County by making any policy statement, or by promising to authorize or to prevent any future official action of any nature, when such public servant is not authorized to make such a statement.

(c) No public servant shall falsely represent his or her personal opinion to be the official position of the County, and no public servant shall falsely represent his or her personal opinion to be the official position of any County administrators. This subsection shall not apply to the professional opinions of County officers or employees rendered in the course of performing their duties, provided that such opinions are clearly identified as professional opinions.

(d) No public servants shall use or attempt to use their official positions improperly to unreasonably request, grant, or obtain in any manner any unlawful or unwarranted privileges, advantages, benefits or exemptions for themselves, or others, and no public servants shall use, or attempt to use, their positions to avoid the consequences of illegal acts for any person; nothing in this provision shall be construed to prohibit or discourage any public servant from performing any official duty or action zealously and enthusiastically.

(e) All public servants have a fiduciary duty to use County fiscal and human resources in a manner which advances the public interest, and to refrain from using County resources for their personal benefit; therefore, public servants are prohibited from using County resources in any manner which violates any applicable law or policy, and are expressly prohibited from using any County resource to obtain any personal benefit.

(f) Except as otherwise provided by law, no public servant who is a member of a voting body which is empowered to vote on a matter in which the public servant or a public servant's partner in interest has an interest shall discuss, debate, deliberate, participate in, vote upon or act otherwise act upon, a matter relating to any business in which the public servant or a partner in interest has a conflict of interest.

(g) No public servant shall suppress any public document, record, report or any other public information available to the general public because it might tend to unfavorably affect the public servant's private financial, personal, or political interest.

(h) Nepotism—Influence in an Official Action Prohibited.

No public servant shall participate by means of approval, deliberation, disapproval, recommendation or other means of exerting the public servant influence in an official action to hire, promote, discipline, layoff, receive a pay increase, or take any other personnel action regarding any employee or prospective employee who is a relative or partner-in-interest of the public servant.

(i) Approval of Merit System Commission Required.

No relative or partner-in interest of a county legislator, the County Executive, a department head or director under the County Executive, the Human Resources Director, the Prosecuting Attorney, the Sheriff, the County Counselor, the Medical Examiner, the Public Administrator, the Legislative Auditor, the Director of Human Relations and Citizen Complaints, the members of the Human Relations and Citizen Complaints Commission, and the members of the Board of Equalization shall be employed with Jackson County unless the employment of the person is approved by the Merit System Commission.

(j) Approval by the Legislature Required.

No relative or partner-in-interest of a member of the Merit System Commission shall be employed with Jackson County unless the employment of that person is approved by the County Legislature.

(k) Employment Before Election or Appointment.

If any relative or partner-in-interest of a public servant is elected or appointed to an office described in (j) and (k) of the this section, the public servant may retain his or her employment without having the approval of the Merit System Commission or the County Legislature.

(l) Except as otherwise provided by law, no public servant who is a member of a board which is empowered to vote shall discuss, debate, publicly deliberate about, participate in, vote or otherwise act upon, any contract, the making of loans or grants of public funds, the granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation, supervision or profit-making activity relating to any business with which the public servant is associated, or any business with which any partner-in-interest of the public servant is associated.

(m) When a public servant, in the course of carrying out his or her duties, has been offered or is discussing future employment with a business that is presently dealing with the County concerning matters within the public servant's current official duties, that person should disclose such possible future employment to the County Executive.

(n) No public servant shall represent a person for compensation, beyond the salary and other compensation or reimbursement to which the public servant is entitled for the performance of his or her official duties, before the County Legislature, a County board, department, or employee, except:

(1) in a contested case which involves a party other than the County, and the interests represented by the public servant are the County's interests, are essentially the same as the County's interests, or are not averse to the County's interests; or

(2) in a matter that involves only ministerial action by a County department; or

(3) when the representation is by a public servant acting within the scope of his or her official duties; or

(4) when the representation is merely for the purpose of obtaining information on behalf of a person or business and the public servant receives no compensation for the representation beyond the salary and other compensation or reimbursement to which the public servant is entitled for the performance of his or her official duties. Ord. 4066, Eff. 12/12/08)

914. Candidates, Honesty in Applications for Positions.

No person seeking to become an employee, contractor, volunteer or appointee to any public position shall make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment or service with the County or in connection with a work-related contract or service of any County public servant. (Ord. 4066, Eff. 12/12/08)

915. Post Employment Activities.

No former public servant:

(a) may, during the twelve months following the date on which he or she ceases to be a public servant, may, for compensation, make any formal or informal appearance before, or negotiate with, any decision maker in connection with any matter which might give rise to a judicial or quasi-judicial proceeding and which was under the public servant's responsibility as a public servant within twelve months prior to the date on which he or she ceased to be a public servant. However, nothing in this provision precludes the public servant from representing or advocating on behalf of either the county or other governmental entity, whether for compensation or not.

(b) may, for compensation, act on behalf of any party, other than the County, or other governmental entity in connection with any matter in which the former public servant participated personally and substantially as a public servant and which might give rise to a judicial or quasi-judicial proceeding involving the County;

(c) shall use or continue to use any former official County title, including use on business cards or stationary, following termination of employment with the County. (Ord. 4066, Eff. 12/12/08)

916. Jackson County Ethics Commission, General.

(a) The Jackson County Ethics Commission is created by article XII, section 5 of the Jackson County Charter.

(b) The County Legislature shall provide such staff support for the Commission as the County Legislature determines to be necessary for the Commission to fulfill its duties. The County Counselor is designated to be the legal advisor for the Commission, except that the County Counselor is not authorized to represent the Commission in any legal action if doing so would create a conflict which would prevent the County Counselor from also representing the County Executive or County Legislature. If a conflict should arise, the County Counselor shall provide for alternative representation. (Ord. 4066, Eff. 12/12/08)

917. Ethics Commission, Duties and Powers.

(a) The Commission has the following powers and duties:

(1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this code;

(2) To identify who will serve as legal custodian of the Commission's records, and who will accept, file, maintain and administer, in accordance with all applicable laws, any information related to the purposes of this chapter; and

(3) To prepare and provide forms for complaints and for annual, applicant, and transactional disclosure statements;

(4) To render, index, and maintain on file opinions and advisory opinions;

(b) Opinions of the Commission shall be filed with the Clerk of the County Legislature and are open to public inspection. To the extent permitted by law, confidential opinions and any records obtained or filed in connection with requests for confidential opinions, whether the records are written, tape recorded, videotaped, or otherwise recorded shall be kept confidential; and confidential advisory opinions rendered shall be closed in whole to public inspection. Confidential opinions, summaries of them, or open references to them shall be drafted in such a way as not to reveal confidential information.

(5) To review, index, maintain on file, and dispose of sworn complaints, and to make notifications and conduct investigations;

(6) To conduct investigations and hearings, apply and recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings. In order to do so, the Commission may:

(i) when it deems it appropriate, request the County Counselor for assistance in compelling the production of documents and witnesses to assist the Commission in the conduct of any investigation or hearing, as pursuant to article XII, section 7 of the Charter; and,

(ii) when circumstances make it necessary to do so, request the retention of outside legal counsel and other experts as needed after solicitation of recommendations from the County Counselor and, when required, obtain approval from the County Executive for a contract for services as applicable and

as approved as to form by the County Counselor.

(7) To respond, as it deems appropriate, to requests for confidential advisory opinions;

(8) To render and publish formal opinions on any matter within the scope of the Commission's authority which it may deem appropriate; the Commission may initiate opinions on its own motion or upon request; any formal opinion shall be in writing;

(9) To prepare and publish special reports, technical studies, and recommendations to further the purposes of this chapter.

(10) To provide training and education to officials, employees, and those doing business with the county;

(i) within one year from the effective date of this chapter, submit to the County Executive for approval and promulgation, an ethics handbook for the use of all public servants and the public; the Department of Human Resources shall document that each County officer and employee receives a copy of the handbook and acknowledges receipt of the handbook in writing; and

(ii) in coordination with the County Counselor and Director of Human Resources and other appropriate County personnel, participate in a training session, which shall serve as an orientation for new Commission members and an opportunity for experienced members to explore specific issues in depth; attendance at this workshop shall be made a condition of service as a member of the Commission, and, before taking office, Commission members shall commit themselves to attend it.

(11) To, no later than 1 July of each year, submit an annual report to the County Executive concerning its action in the preceding year and recommending any legislative or administrative actions regarding the County's policies and practices which the Commission believes would or could enhance the ethical environment in which public servants work; and,

(12) To establish a process for systematically and regularly evaluating all significant aspects of the administration and implementation of this chapter, which shall include an annual review of

the full scope of operations of the Commission and its procedures, and which shall insure that the both the public and all public servants are provided a reasonable opportunity, and are encouraged, to participate in the process.

(c) At the request of a person, the County Counselor may render an informal opinion with respect to the prospective conduct of such person. An informal opinion need not be written, and may be provided directly to the requestor of such opinion. Nothing in this chapter shall be construed to prohibit a request for an informal opinion by any public servant from the County Counselor regarding a potential conflict of interest. Neither a request for an informal opinion, nor the making of a statement concerning a potential conflict of interest made by a member of the County Legislature in the course of abstaining from voting or making a motion of self-recusal, shall create a presumption or inference that a public servant actually has a personal interest in the matter about which the opinion was requested; if the County Counselor declines to render an informal opinion, nothing shall preclude the person requesting the opinion from requesting the Commission for an opinion. (Ord. 4066, Eff. 12/12/08)

918. Commission Action, Who May Request.

(a) Any person may file a complaint with the Commission and/or may request of the Commission an ethics opinion, whether a formal opinion or a confidential advisory opinion.

(b) Any request for Commission action shall be in writing, and shall be signed by the person making the request. (Ord. 4066, Eff. 12/12/08)

919. Commission's Power, Limitations.

The Commission does not have the authority to reverse or otherwise modify a prior action of the County Executive, the County Legislature, or an officer or employee of the County. If the Commission finds a prior action of the County Executive, the County Legislature, officer or employee to have been in violation of this chapter, the Commission may advise the appropriate party or parties that the action should be reconsidered. Upon such advice by the Commission, the action may be reconsidered by the appropriate person or public body. If the Commission determines an existing County contract to be in violation of this chapter, after such determination and advice from the Commission, the County may void or seek termination of the contract if

legally permissible. The Commission may refer a matter to the County Counselor for review and consideration for appropriate action. Upon completion of review and consideration, the County Counselor's Office shall report its findings to the Commission. (Ord. 4104, Eff. 6/2/09)

920. Complaints, Hearing Procedure.

(a) Any person may file a verified, written complaint, signed and sworn, with the County Counselor alleging a violation of Article XII of the Jackson County Charter or this chapter.

(b) A complaint shall specify the provisions of the Jackson County Charter or this chapter alleged to have been violated and facts alleged to constitute the violation.

(c) Upon receipt of such a complaint, but in any event not later five (5) business days after receipt, the County Counselor shall acknowledge receipt to the complainant(s), and forward the complaint simultaneously to the Commission and, the respondent or respondents. The notice must include a copy of the complaint, a statement indicating the commission meeting date and time when the matter will be addressed and the commission's Rules of Procedure.

(d) At the next regular meeting, or within thirty (30) days, whichever is sooner, following receipt of the complaint, the Commission shall review and consider the complaint and, if a hearing is to be held, shall within 14 days set a date certain for the hearing to take place no earlier than thirty (30) days, unless otherwise waived by both the complainant and respondent from the date of the written notice of the hearing.

(e) As soon as practicable after giving due consideration to a complaint, or, if a hearing was held, after the hearing, the Commission shall take any action or combination of actions which it deems appropriate and which it is lawfully empowered to take, including, but not limited to the following:

(1) dismiss the complaint based on any of the following grounds:

(i) the complaint does not allege facts sufficient to constitute a violation of article XII of the County Charter or this chapter; or

(ii) the Commission has no jurisdiction over the matter; or

(iii) failure of the complainant to cooperate in the Commission's review and consideration of the complaint; or

- (iv) the complaint is defective in a manner which results in the Commission being unable to make any sound determination; and
 - (v) the complaint is frivolous;
- (2) determine that no violation of this chapter has occurred; or
- (3) determine that the complaint alleges facts sufficient to constitute a violation of this chapter and that the Commission will conduct a hearing, in which case the Commission shall promptly send written notice of such determination to the respondent and to the complainant; or
- (4) determine that further information must be obtained in order for the Commission to determine whether the complaint alleges facts sufficient to constitute a violation of the chapter; and
- (i) conduct its own investigation with respect to any alleged violation; or
 - (ii) request the County Counselor or Director of Human Resources to investigate the complaint and report all findings back to the Commission; or
 - (iii) schedule the complaint for further review and consideration at a future time certain, in which case the Commission shall promptly send written notice of such determination to the respondent and to the party who made the complaint; or
 - (iv) refer the complaint to any appropriate authorities for criminal investigation or prosecution; or
- (5) Any time a complaint is dismissed, the notice shall be in writing and contain the reasons for the dismissal.
- (f) During any investigation and during any hearing which is conducted to determine whether a violation of this chapter has occurred,

(1) the respondent or his or her representative, if any, shall have an opportunity to challenge the sufficiency of any complaint which has been filed against him or her

(2) the complainant and the respondent(s) may be represented by counsel of their own choosing; and

(i) examine all documents and records obtained or prepared by the Commission in connection with the matter heard;

(ii) bring witnesses;

(iii) establish all pertinent facts and circumstances; and

(iv) question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(g) The following principles shall apply to evidence in connection with hearings conducted by the Commission:

(1) The Commission shall not be bound to adhere to statutory Rules of Evidence, but shall be fundamentally fair in its administration of evidence;

(2) During any hearing conducted by the Commission to determine whether a violation of this chapter has occurred, all evidence including certified copies of records which the Commission considers shall be fully offered and made a part of the record in the proceedings;

(3) The respondent or any other person under investigation shall be afforded adequate opportunity to rebut or offer countervailing evidence;

(4) The Commission shall inform the respondent or his or her counsel of exculpatory evidence in its possession; and,

(5) The standard of evidence in hearings conducted under this chapter shall be a preponderance of evidence admitted at the hearing.

(h) Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the Commission and who, may be adversely affected thereby, may, upon request of the person or a representative of the person, or upon the request of any member of the

Commission, appear at the hearing to testify on his or her own behalf or have a representative appear to so testify, and the Commission may permit any other person to appear and to testify at a hearing. (Ord. 4104, Eff. 6/2/09)

(i) No later than thirty (30) days after the date the hearing is concluded the Ethics Commission will determine whether to dismiss the complaint, or upon a finding of violation of this chapter, to make appropriate penalty recommendations pursuant to section 9025. of this chapter, or to recommend action to the County Executive or Appointing Authority where such action is recommended. The commission may issue any additional reports, opinions and recommendations as it deems advisable under the circumstances. All such reports shall be in compliance with all state and local laws governing confidentiality, open meetings and records, open government, and torts.

(j) A finding of violation of this chapter requires the affirmative vote of three members of the Ethics Commission that there is a preponderance of evidence that the respondent has violated this chapter. Any member not present at all public hearings and deliberations may not vote. The written final decision must specify the sections violated and provide a factual explanation supporting each violation or, if no violation is found, finding of fact and reasons for dismissal. When determining the appropriate penalty, the following should be considered: the severity of the respondent's offense; the position and responsibilities of the respondent; the presence or absence of any intention on the part of the respondent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. The Ethics Commission must file its memorandum of decision with the County Counselor's office, and send it to the complainant and respondent, within ten days after it votes. When a party to the proceeding has appeared by counsel, service upon the counsel shall be deemed service upon the party.

(k) In any contested case, as defined by section 536.010(4), RSMo, before the Commission, any person aggrieved by a final decision of the Commission shall be entitled to judicial review thereof, as provided in sections 536.010 - .140, RSMo. (Ord. 4066, Eff. 12/12/08; Ord. 4104, Eff. 6/2/09)

921. Ex Parte Communications.

After a complaint has been filed and during the pendency of a complaint before the Commission, no member of the Commission may communicate directly or indirectly with

any party or other person about any issue of fact or law regarding the complaint, except that

(a) the members of the Commission may obtain legal advice from the County Counselor and may discuss the complaint with the Commission's staff; and

(b) the members of the Commission may discuss the complaint at a lawfully conducted meeting. If any person attempts to communicate with a Commission member regarding the pending complaint, the Commission member shall disclose the substance of the communication to the Commission on the public record at the next regular meeting of the Commission. (Ord. 4066, Eff. 12/12/08)

922. Commission Information, Confidentiality.

No member of the Commission nor any public servant who has access to any confidential information related to the functions or activities of the Commission shall divulge that information to any person who is not authorized to have it. The identity of a person who requests a confidential advisory ethics opinion is confidential, as is information describing or pertaining to any organization mentioned in the request for an opinion if the disclosure of the information could lead to the disclosure of the identity of the person requesting the confidential advisory opinion. (Ord. 4066, Eff. 12/12/08)

923. Confidentiality, Waiver.

A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of that person is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the Commission in connection with the request for an advisory opinion. (Ord. 4066, Eff. 12/12/08)

924. Statute of Limitations.

No action may be taken on any complaint which is filed later than one year after a violation of this chapter is alleged to have occurred or is discovered, and a complaint alleging a violation must be filed within six (6) months from the date the complainant(s) knew or should have known of the action alleged to be a violation. (Ord. 4066, Eff. 12/12/08)

925. Penalties.

Any violation of this chapter may be punished by the Jackson County Municipal Court created pursuant to chapter 18 of this code upon conviction by confinement of up to six (6) months in the county jail or by a fine of not more than \$500, or both. The Commission shall have the authority to refer any matter to the appropriate authority for criminal investigation or prosecution. Any disciplinary action shall be carried out in accordance with the provisions of this chapter, as well as any other laws, policies and procedures applicable to the position of the offender and the gravity of the offense. The Commission is permitted to

take any action which it is otherwise lawfully permitted to take, including, but not limited to, any one or combination of the following which the Commission deems appropriate under the circumstances: public or confidential admonition; public or confidential reprimand; or referral of the matter to the appropriate authority. (Ord. 4066, Eff. 12/12/08)

926. Penalties Cumulative.

The penalties prescribed in this chapter shall be cumulative and not exclusive of each other or of any other penalties which may be imposed pursuant to any other laws or policies. (Ord. 4066, Eff. 12/12/08)

927. Liberal Construction of Chapter.

The provisions of this chapter are to be construed liberally, to the end that the public interest be fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the County Charter. In the event of a conflict between any provision of this chapter and any applicable federal, state, or county charter provision which does not expressly provide otherwise, the federal, state, or county charter provision shall control. To the extent permitted by law, all County rules, or policies inconsistent with this chapter are hereby repealed. (Ord. 4066, Eff. 12/12/08)

OTHER RESTRICTIONS

930. Solicitation of Funds Prohibited.

No person may solicit for any charity, political or private cause on county property without the express written consent of the Personnel Director. (Ord. 554, Sec. 7.1, Eff. 12-20-77)

930.1 Guidelines.

The County Executive shall issue, by executive order, guidelines and standards for use by the Personnel Director in giving his consent to responsible charities and political or private causes. (Ord. 554, Sec. 7.2, Eff. 12-20-77)

931. Political Solicitation Prohibited.

Employees under the Merit System shall not be personally solicited or required to pay any assessment or contribution or perform any service which will benefit anyone occupying or seeking employment, nomination or election to any public office by any other employee, officer or elected official of the county. (Ord 554, Sec 6.1, Eff 12-20-77)

C/R: 731.00, political activities of county officers and employees.

931.1 Job Actions Prohibited.

No officer or employee shall promote, remove or demote or promise or threaten to

promote, remove or demote, any county employee for making or refusing to make any contribution to any political party or purpose or for rendering or refusing to render any political service. (Ord. 554, Sec. 6.2, Eff. 12-20-77)

C/R: 739.00, Restrictions on former employees and elected officials.

932. Appointees to Boards and Commissions, Appearance at Legislative Meetings.

All appointees to boards and commissions subject to the Legislature's power of disapproval under art. II, §16(4) of the Constitutional Home Rule Charter of Jackson County shall appear at the regular meeting of the legislature next following their appointment, unless excused by vote of the legislature. (Ord. 2220, Eff. 08/21/93)

932.1 Notice of Legislature's Power of Disapproval.

The office of the county executive shall notify each such appointee that the legislature may disapprove the appointment of any appointee to such a board or commission. (Ord. 2220, Eff. 08/21/93)

932.2 Penalty.

The penalty provisions of sections 950 and 951 do not apply to this section. (Ord. 2220, Eff. 08/21/93)

933. Combined Charities Campaign Policy.

933.1 Generally.

The county will hold an annual Combined Charities Campaign during which eligible charitable federations or funds will be allowed to solicit county employees for contributions. Employees will be allowed to make direct contributions, or to pledge contributions to be deducted from employee paychecks. (Ord. 4035, Eff. 10/6/08)

933.2 Eligibility.

To be eligible to participate in the Jackson County, Missouri Combined Charities campaign as a federation or fund, a charitable organization must be an umbrella organization, it must fund at least ten member organizations and may not provide more than 10% of its revenues to any one charity, it must provide substantial services in the Jackson County area, and the federation/fund and all of its member organizations must meet the following additional criteria. (Ord. 4035, Eff. 10/6/08)

a. The organization must be organized and registered for charitable purposes under all applicable Missouri State statutes. (Ord. 4035, Eff. 10/6/08)

b. The organization must be exempt from taxation under section 501(c)(3) or section 170(c)(1) or (2) of the Internal Revenue Code and

must have held that exempt status for a period of not less than two years prior to the campaign. (Ord. 4035, Eff. 10/6/08)

c. The organization and its affiliated agencies shall have written policies of non-discrimination and shall comply with all laws and regulations regarding non-discrimination and equal opportunity with respect to clients, officers, employees, and volunteers. (Ord. 4035, Eff. 10/6/08)

d. The organization must not be a private foundation nor be organized solely to participate in the Jackson County Combined Charities campaign. (Ord. 4035, Eff. 10/6/08)

e. The organization must be governed by a volunteer board of directors serving without compensation. (Ord. 4035, Eff. 10/6/08).

f. must not contribute funds collected from the Jackson County, Missouri Combined Charities Campaign to any political advocacy group. (Ord. 4035, Eff. 10/6/08)

g. The organization must ensure that its promotional activities and printed materials are based upon actual program operations and are truthful, non-deceptive, and include all material facts relative to its cause. (Ord. 4035, Eff. 10/6/08)

h. The organization must ensure that its publicity and promotional activities protect against unauthorized use of its contributor lists. (Ord. 4035, Eff. 10/6/08)

i. The organization must provide its most recent IRS Form 990. If total funds raised in the preceding year equal or exceed \$100,000.00, the organization must also provide its most recent financial audit by an independent certified public accountant. (Ord. 4035, Eff. 10/6/08)

j. Each labor organization which has been recognized by the County as representing a bargaining unit of County employees may designate one charitable agency that is closely associated with that labor organization and meets all of the other criteria of this subsection to participate in each year's Combined Charities Campaign. (Ord.

4035, Eff. 10/6/08)

The CEO or director of the organization applying to participate as a federation or fund must certify that the federation/fund and its member organizations meet the applicable criteria. The federation/fund's administrative fund raising expenses shall not exceed 25% of total support and revenue, unless a reasonable explanation is given and a plan for reducing the percentage to less than 25% over three years is included with the organization's application to participate in the campaign. (Ord. 4035, Eff. 10/6/08)

933.3 Administration.

Periodically, the County will seek proposals from qualified federations/funds and the federation/fund that submits the best proposal will be chosen to administer the campaign for a set period. Factors to be used to determine the best proposal shall include experience of the federation/fund in administering campaigns, the proposed administrative cost percentages, the federation/fund's ability to distribute contributions including continuing payroll deductions, the federation/fund's experience with health and human service charities, and the federation/fund's presence in and familiarity with the needs of the Jackson County community. The proposals must provide for the following services: (Ord. 4035, Eff. 10/6/08)

- a. The federation/fund must prepare and distribute a donor choice card which allows employees to choose for donation any qualified federation/fund or any of its member agencies. Each employee will be required to designate either a federation/fund or one of its member organizations to receive that employee's contributions. (Ord. 4035, Eff. 10/6/08)
- b. The federation/fund will receive all contributions from the county and will distribute the funds to the designated agency. (Ord. 4035, Eff. 10/6/08)
- c. The federation/fund may withhold a percentage of the contributions to charities that are not members of its umbrella group for its administrative costs in distributing contributions to those charities, or for other administrative costs that are directly related to the participation in the campaign of these non-member charities. The federation/fund may withhold a percentage of the contributions distributed to its member charities in accordance with its agreements with those charities. The administrative costs that justify the percentage proposed to be withheld must be detailed in the proposal. (Ord. 4035, Eff. 10/6/08)
- d. The federation/fund will not be required to solicit contributions on behalf of charities that are not members of its umbrella group, but the federation/fund must allow equal opportunity for other qualified

federations/funds to participate in any rallies or other presentations for county employees. (Ord. 4035, Eff. 10/6/08)

e. The federation/fund must show that it is governed by Jackson County area citizens and has substantial procedures to ensure its credibility with county employees. (Ord. 4035, Eff. 10/6/08)

933.4 Selection.

The county executive or his or her designee will solicit proposals and select the federation/fund that will administer the campaign. The county executive may promulgate rules and regulations necessary to the effective administration of the campaign. (Ord. 4035, Eff. 10/6/08)

935. - 939.00 RESERVED