

Introduced by Council Member Shad and substituted by the Finance Committee:

**ORDINANCE 2011-197-E**

AN ORDINANCE REGARDING CHAPTER 602 (ETHICS CODE), PURSUANT TO ORDINANCE 2010-616-E; CREATING AND ESTABLISHING A NEW PART 6 (OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT), TO ESTABLISH AN OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT TO COORDINATE ETHICS TRAINING, COMPLIANCE, AND OVERSIGHT ISSUES AND TO STAFF THE ETHICS COMMISSION; PROVIDING FOR A LIMITED EXEMPTION FOR THE RESIDENCY REQUIREMENTS OF THE DIRECTOR'S POSITION PROVIDED FOR IN THIS ORDINANCE; PROVIDING FOR TRANSITION PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Ordinance 2010-616-E amended the Charter of the City of Jacksonville to provide for an ethics code, an ethics commission, and an independent citywide Office of Ethics, Compliance and Oversight to coordinate ethics training, ethics compliance, and oversight issues and to staff the ethics commission; and

**WHEREAS**, the citizens' trust in government is an essential foundation of democratic government; and citizens deserve to know that City officials in the course of their official duties, are working exclusively for the good of the public as opposed to self interests; and

**WHEREAS**, the Council, in amending the Charter, recognized that a centralized independent citywide office with the power to address

1 ethical issues, would further promote citizen trust in government;  
2 and

3 **WHEREAS,** the Council recognizes the importance of taking  
4 proactive measures in combating corruption, fraud and waste by  
5 training, increased transparency, use of a Hotline process and  
6 obtaining citizen input on ethical issues; and

7 **WHEREAS,** the Council is responsible by Charter for  
8 establishing the ethics code, the Ethics Commission and the  
9 independent citywide Office of Ethics, Compliance and Oversight;  
10 and

11 **WHEREAS,** the Council finds that there is a need to coordinate  
12 the oversight, ethics and anti-corruption efforts of all agencies  
13 of the consolidated city of Jacksonville, including the Independent  
14 Authorities and Constitutional Officers in order to improve  
15 efficiencies and to enhance public trust; and

16 **WHEREAS,** through this ordinance, the Council can effect the  
17 consolidation and strengthening of oversight functions between the  
18 general government, constitutional officers, and independent  
19 agencies by utilizing and coordinating existing oversight  
20 resources; now therefore

21 **BE IT ORDAINED** by the Council of the City of Jacksonville:

22 **Section 1. Part 6 (Office of Ethics, Compliance and**  
23 **Oversight) created.** Part 6 (Office of Ethics, Compliance and  
24 Oversight) of Chapter 602 (Ethics Code) is hereby created to read  
25 as follows:

26 **CHAPTER 602. ETHICS CODE**

27 **\* \* \***

28 **PART 6**

29 **OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT**

30 **SUBPART A**

31 **CREATION AND ORGANIZATION**

**Sec. 602.611. - Office of Ethics, Compliance and Oversight;****Creation**

(a) There is hereby created, pursuant to Section 1.203 of the Charter of the City of Jacksonville, the Office of Ethics, Compliance and Oversight, the purpose of which is to coordinate and handle citywide ethics training, compliance, and oversight issues. In furtherance of the above, the Office shall ensure the investigation of all situations involving fraud, waste, corruption and conflicts of interest by city officials and employees, and to staff the Jacksonville Ethics Commission. The organization and administration of the office shall be independent to assure that no external interference or influence adversely affects the independence and objectivity of the office.

(b) The Office of Ethics, Compliance and Oversight is an independent office which is:

(1) administratively housed in the Office of General Counsel, but separately budgeted and accounted for; and

(2) whose executive director is appointed by the Jacksonville Ethics Commission subject to Council confirmation; and

(3) whose budget is recommended to the Mayor by the Director of the Office of Ethics, Compliance and Oversight and approved by Council.

**Sec. 602.612. - Organization.****(a) Staffing.**

(1) *General staffing.* The Office of Ethics, Compliance and Oversight shall be staffed, at the discretion of the Ethics Commission, and subject to available funding, with a director and such other executive positions approved by Council, each of whom must be knowledgeable and experienced in management, leadership, auditing, oversight, investigation, training, contract administration, and

1 clerical functions deemed necessary to the proper functioning of the  
2 office.

3 (2) *Director.*

4 (i) *Appointment.* The director of the Office of  
5 Ethics, Compliance and Oversight shall be a registered Duval County  
6 voter at the time of hire, or shall relocate to Duval County within  
7 six (6) months of hire, and shall be appointed for a term of three  
8 (3) years by the Jacksonville Ethics Commission, and the  
9 appointment shall be confirmed by Council. The Director shall be  
10 exempt from civil service.

11 (ii) *Separation.* The director may be separated from  
12 employment by the Jacksonville Ethics Commission before the  
13 completion of his or her term for cause, which shall include  
14 misfeasance, malfeasance, or conduct unbecoming or detrimental to  
15 the performance of his or her position or the integrity of the  
16 Office of Ethics, Compliance and Oversight. Separation shall only  
17 be effected at a public meeting, and only after the employee has  
18 been provided a minimum of 60 business days written notice of the  
19 basis for cause and has been provided an opportunity to be  
20 informally heard at the public meeting. The 60 day written notice  
21 shall be reduced to 15 days written notice in the event of the  
22 director's arrest for a felony.

23 (iii) *Vacancy.* In the event of a director  
24 vacancy, the position shall be filled temporarily by a non-  
25 confirmed appointment by the Ethics Commission for a period not to  
26 exceed 180 days, and then as provided for in subsection (i) above.

27 (3) *Volunteers.* The Director may utilize the services  
28 of such volunteer personnel who have agreed to perform services  
29 without compensation, in accordance with the volunteer policies of  
30 the Division of Human Resources. Such volunteer personnel shall  
31 act with such authority as granted by the Ethics Commission.

1 (b) *Administrative support.*

2 (1) *Additional staffing.* The Director of the Office of  
3 Ethics, Compliance and Oversight shall have the power to appoint,  
4 employ, and remove such other personnel as is deemed necessary for  
5 the efficient and effective administration of the activities of the  
6 office, subject to the budget approval of City Council. All such  
7 appointees shall serve at the pleasure of the Director and shall be  
8 exempt from civil service.

9 (2) *Supplemental support.* To the extent that  
10 additional support is necessary beyond that which is funded by  
11 Council, administrative support shall be provided by the Office of  
12 General Counsel, and investigative support shall be provided both  
13 by the Council Auditor's Office and the Office of General Counsel,  
14 all at the request of the Ethics Commission.

15 (3) *Legal Support.* Pursuant to the Charter, the Office  
16 of General Counsel shall provide legal services to the Office of  
17 Ethics, Compliance and Oversight. Recognizing that legal conflicts  
18 may present themselves from time to time, special counsel may be  
19 retained in accordance with Section 108.505 Ordinance Code.

20 (c) *Qualifications.* The Executive Director shall have a  
21 bachelor's degree or higher from an accredited college or  
22 university, with a preference for an advanced degree in applied  
23 ethics, law, or public administration; at least ten years  
24 experience in related activities such as administration of an  
25 ethics office or activity, ethics related legal work, criminal  
26 justice administration; and administrative experience.

## 27 **SUBPART B. DUTIES**

### 28 **Sec. 602.621. - Duties.**

29 The Office of Ethics, Compliance and Oversight, through its  
30 executive officials, shall have authority to:

1 (a) Encourage compliance with the spirit and letter of ethics  
2 laws, and provide advice and training to departments and agencies;

3 (b) Develop policies, programs and strategies to deal with  
4 all ethics-related matters;

5 (c) Develop training and education programs with assistance  
6 of the General Counsel and City training personnel;

7 (d) Organize a citywide Ethics Coordination Council with one  
8 representative each from the executive branch, the legislative  
9 branch, each constitutional officer and each independent agency,  
10 with the purpose of avoiding duplication of ethics resources,  
11 sharing best practices and training, evaluating risk areas and  
12 devising plans to eliminate any city fraud, waste or corruption;

13 (e) Review periodically this Code and other applicable laws  
14 and regulations and recommend appropriate changes to this Code;

15 (f) Administer a confidential "Hotline" for the discovery of  
16 government waste, fraud, and ethics violations;

17 (g) Respond to requests for assistance from all public  
18 officers and employees subject to this Ethics Code;

19 (h) Act as the executive officer of the Jacksonville Ethics  
20 Commission, responsible for its administration and operation;

21 (i) Work with the human resources and procurement offices and  
22 other appropriate divisions to integrate ethics into procurement,  
23 hiring, retention and promotion policies of the executive branch of  
24 the City and to share these practices with the Ethics Coordination  
25 Council;

26 (j) Lead, direct, and be responsible for the development of  
27 the citywide ethics plan and report to be created by the Ethics  
28 Coordination Council;

29 (k) Investigate, review and report on City issues, and past,  
30 present and proposed programs, activities, accounts, records,

1 contracts and transactions all as related to the prevention and  
2 remediation of conflicts of interest, fraud, waste, and corruption;

3 (l) Request and obtain data relevant to its authorized  
4 investigations and to receive full access to the records of all  
5 elected and appointed city officials and employees, and  
6 departments, divisions, agencies and contractors and other persons  
7 and entities doing business with the City and/or receiving City  
8 funds, that is not otherwise deemed confidential by law, regarding  
9 any such contracts or transactions with the City. All elected and  
10 appointed City and county officials and employees, and contractors  
11 and other parties doing business with the City and/or receiving  
12 City funds shall fully cooperate with the Office of Ethics,  
13 Compliance and Oversight.

14 (m) Where possible violations of any state, federal or local  
15 law are suspected, to notify the appropriate civil, criminal or  
16 administrative agencies, and assist those agencies as appropriate.  
17 In the case of a possible violation of a human resource rule,  
18 regulation or policy governing a City employee, the official shall  
19 also notify the City administrator and the head of the department  
20 for which the employee works, unless to do so would otherwise  
21 jeopardize an ongoing investigation.

22 (n) Personnel within the office shall not interfere with any  
23 ongoing criminal investigation or prosecution of the state attorney  
24 or the U.S. Attorney for the Middle District of Florida. When the  
25 state attorney or the U.S. Attorney for the Middle District of  
26 Florida has explicitly notified the office in writing that the  
27 investigation is interfering with an ongoing criminal investigation  
28 or prosecution, then all investigative activities shall be  
29 suspended.

30 (o) Respond to requests for assistance from all public  
31 officers subject to this Ethics Code.

**Sec. 602.622 Department/Independent Agency Ethics Officers**

(a) The Mayor, the Council President, each constitutional officer, and each executive director of the independent agencies of the City shall designate one of their employees as an "Ethics Officer." Each Ethics Officer's duties are in addition to his or her principal operational role unless there is an approved budget for a separate position dealing exclusively with ethics and oversight functions. Specific responsibilities assigned to these Ethics Officers include, but are not limited to the following:

(1) Conduct periodic meetings with senior management, boards and employee groups to assess risk areas and to provide advice on ethics issues and to work to instill an ethical culture in their agency;

(2) Assist their department head or senior management in the development of an overall internal ethics plan;

(3) Participate in a citywide Ethics Coordination Council, which shall identify risks, recommend programs to implement national best practices to combat fraud, waste and corruption, and provide department and agency reports to be included in the citywide ethics.

(4) Assist in the receipt of ethics, fraud, waste, and corruption complaints from employees and the general public, and to assure that such complaints and information are directed to an appropriate authority, in a manner that best protects the complaining parties. When an Ethics Officer is in doubt about the relief available within a chain of command, or the consequences of reporting within the chain of command, the Ethics Officer shall have a duty to report complaints to the Director of the Office of Ethics, Compliance and Oversight.

(b) In addition to those Ethics Officers set forth in subsection (a) above, there may be appointed within the executive



1 branch additional department ethics officers (DEOs) to assist the  
2 Ethics Officer in the duties required by this section at the  
3 department or division level. These duties shall be in addition to  
4 the principal operational role of the department ethics officer.

5 **Sec. 602.623 Confidentiality / Whistleblowing**

6 (a) It is the policy of the City that employees, ethics  
7 officers, administrators, complainants, whistleblowers and innocent  
8 parties shall be protected to the maximum extent of the law.

9 (b) All records of complaints and investigations shall remain  
10 confidential to the extent authorized by F.S. 112.3188 (2) and any  
11 other state law so applicable.

12 (c) In furtherance of the City policy set forth herein, the  
13 director and such authorized personnel in the Office of Ethics,  
14 Compliance and Oversight are deemed "safe havens" and whistleblower  
15 report-to authorities for the receipt of information and complaints  
16 related to ethics, waste, fraud, and corruption. A complainant or  
17 ethics officer shall not be penalized or retaliated against in any  
18 way for disclosing information to the Office of Ethics, Compliance  
19 and Oversight. The director shall take all such action as is  
20 appropriate under the circumstances to address the allegations  
21 disclosed to them.

22 **SUBPART C.**

23 **INDEPENDENT AUTHORITIES**

24 **Sec. 602.631 Investigations related to officers and employees of**  
25 **independent agencies.**

26 In accordance with section 1.202 of the Charter, officers and  
27 employees of independent agencies are subject to the jurisdiction  
28 of the Ethics Code. The Office of Ethics, Compliance and Oversight  
29 shall defer handling any investigations when the applicable  
30 independent agency has an established ethics program with  
31 investigatory functions and is appropriately undertaking the

1 investigation. Nothing contained herein shall limit an independent  
2 agency from seeking cooperation and assistance from the Office of  
3 Ethics, Compliance and Oversight and such assistance being  
4 provided.

5 **Section 2. Current ethics officer Exempt from residency**  
6 **requirement.** Notwithstanding any provision of Section 1 to the  
7 contrary, the City's official ethics officer in 2010 shall be  
8 exempt from the director's residency requirements set forth in  
9 Section 602.612, *Ordinance Code*, as approved in Section 1 of this  
10 ordinance, should she decide to pursue or accept such position.

11 **Section 3. Transition.** For the purposes of recommending  
12 the budgeting and staffing of the initial Office of Ethics,  
13 Compliance and Oversight, the City's existing Ethics Officer, with  
14 input and assistance from the General Counsel and the Inspector  
15 General, and in consultation with the new Mayor's transition team,  
16 shall present a recommendation to the Mayor for the first year  
17 fiscal year funding and staffing of the Office of Ethics,  
18 Compliance, and Oversight.

19 It is the intention of Council that the Office of Ethics,  
20 Compliance, and Oversight be budgeted and operational commencing  
21 with the 2011-2012 fiscal year, and that all positions of this  
22 office be filled with existing budgeted city positions and that no  
23 additional funding be necessary to staff the office.

24 **Section 4. Effective Date.** This Ordinance shall become  
25 effective upon signature by the Mayor or upon becoming effective  
26 without the Mayor's signature.

1 Form Approved:

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3           /s/ Steven E. Rohan          

4 Office of General Counsel

5 Legislation Prepared By: Steven E. Rohan and  
6 Carla Miller, Ethics Officer

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