



**CHAFFEE COUNTY  
POLICIES AND PROCEDURES  
CONFLICT OF INTEREST AND COUNTY BOARDS**

<b>TITLE:</b> Conflict of Interest and County Boards	<b>Approval Date:</b> May 9, 2017
<b>PURPOSE:</b> The citizens of Chaffee County are entitled to have an ethical, open and accountable local government. The purpose of this Conflict of Interest policy is to provide guidance to the officials and employees of Chaffee County whenever questions of ethical conflict arise to ensure that Chaffee County government operates in a manner consistent with appropriate ethical principles and values.	<b>Revision Date:</b> n/a

1. **Statutory References.** This policy is adopted with reference to Const. Art. XXIX, C.R.S. §§ 18-1-901(3)(o), 18-8-301, 18-8-308, 18-8-402, 18-8-404, 18-8-405, 24-18-101, 24-18-102, 24-18-104, 24-18-105, 24-18-108.5, 24-18-109, 24-18-110, 24-18-201.
  
2. **Definitions.**
  - 2.1. “Applicant” – any person or entity applying for a permit, approval, or action by any County board or panel comprised in whole or in part by Chaffee County elected officials or by members of the public appointed by Chaffee County elected officials.
  
  - 2.2. “Employee” – any employee or agent of Chaffee County, including part-time and temporary employees, who uses discretionary authority in evaluating the merits of an application for a permit, approval, or County action. The term “Employee” includes any member of his/her immediate family, his/her partner, or an organization or agency in which such persons serve as an owner, co-owner, partner, shareholder (excluding a minority interest), officer, director, agent or employee or candidate for employment.
  
  - 2.3. “Official” – a member of any County board, committee or panel comprised in whole or in part by Chaffee County elected officials or by appointed members. The term “Official” includes any member of his/her immediate family, his/her partner, or an organization or agency, whether or not it is operated for profit, in which such persons serve as an owner, co-owner, partner, shareholder (excluding a minority interest), officer, director, agent or employee or candidate for employment.

**3. Conflict of Interest.** The following shall be deemed to be a conflict of interest:

- 3.1. The Official or Employee has a “substantial” financial interest in an Applicant, a direct competitor of the Applicant, or an application which, if approved, would financially benefit the Official or Employee either directly or indirectly. (An Applicant may waive a financial interest stemming from a relationship, financial interest or loan with a direct competitor.) An interest is deemed “substantial” if any one or more of the following apply:
  - 3.1.1. The Official or Employee represents (directly or indirectly) the Applicant or direct competitor of the Applicant in any aspect of its business as an owner, employee, director, officer, agent or consultant for pay or commission. The representation is not limited to the matter being considered by the Official or Employee.
  - 3.1.2. The Official or Employee co-owns any real or personal property with the Applicant or direct competitor of the Applicant or has a contract to purchase, sell, lease or rent real or personal property with the Applicant or a direct competitor of the Applicant. The co-ownership or contract is not limited to the matter being considered by the Official or Employee.
  - 3.1.3. The Official or Employee lends funds to or borrows funds from the Applicant or direct competitor of the Applicant. For example, a conflict may exist where an Official or a member of his immediate family serves on the board of directors of a bank where the Applicant has substantial lending arrangements.
- 3.2. The Official or Employee has taken a position with respect to the application. For example, a conflict may exist if the Official or Employee participated in a decision by an organization to support or oppose an application. Depending on the circumstances, an Official or Employee may avoid a conflict of interest by fully removing himself or herself from the discussion by the organization (included leaving the room when the matter is being discussed) and refraining from discussing any aspect of the application with anyone in the organization.
- 3.3. The Official or Employee has engaged in extensive communications, outside of a publicly-noticed meeting, with the Applicant or other constituents regarding the application. (An Applicant may waive allegations of conflict of interest regarding ex parte communications with other constituents.)
- 3.4. The Official or Employee has accepted, directly or indirectly, gifts, gratuities or any other thing of value from the Applicant, others interested in the decision on the application, or those opposing the application which might influence or appear to influence the Official's or Employee's decisions on the

application. The Official or Employee may accept de minimus gifts from a single source that do not exceed \$59/calendar year (reference is made to the Chaffee County Human Resources Policies and Procedures, Gifts and Favors Policy for exceptions) which were unrelated to the application.

- 3.5. The Official or Employee believes there to be a conflict of interest which prevents him or her from considering the application in a fair, unbiased manner.
- 3.6. Any other relationship or communication involving the Official or Employee which is illegal or unethical under generally recognized ethical standards (to be determined in consultation with the County Legal Department).

#### **4. Conflict of Interest Policy.**

- 4.1. Every Official or Employee is expressly prohibited from participating in the discussion, review, approval or action if the Official or Employee has a Conflict of Interest as described above. If there is a question as to whether or not a Conflict of Interest exists, the Official or Employee shall be deemed to have a Conflict until a determination can be made by the County Legal Department.
- 4.2. If there is a Conflict of Interest or unresolved claim of a Conflict of Interest, the Official or Employee shall recuse himself or herself from the discussion, review, approval or action, shall leave the room when the matter is being discussed, and shall refrain from giving testimony or discussing any aspect of the application with other Officials or Employees. A claim of conflict of interest may not be resolved merely by the Official or Employee stating that they believe they can be fair and impartial, unless recusal would result in the applicable board, committee or panel not having a quorum.
- 4.3. Failure to comply with the terms of this Code may result in removal from the applicable board or panel, termination of employment or legal action. Failure to comply with the terms of this Code may constitute first or second degree official misconduct under C.R.S. 18-8-404 or 18-8-405, subject to prosecution by the District Attorney.
- 4.4. This policy is intended to be read consistently with existing legal authority and County policy on the matters addressed by this policy. This policy is not intended to supersede specific provisions of law or other County policies regarding ethical conduct. A determination, recommendation, or action taken under this Policy will not conclude or prevent action by the Colorado Independent Ethics Commission or the District Attorney's Office, as may be appropriate.