

**ORDINANCE 2009-04**

1 |           **AN ORDINANCE OF THE TOWN OF**  
2 |           **LAUDERDALE-BY THE SEA, FLORIDA;**  
3 |           **AMENDING CHAPTER 2, ARTICLE II OF THE**  
4 |           **TOWN CODE BY CREATING A NEW SECTION 2-25**  
5 |           **ENTITLED "CAMPAIGN FINANCE**  
6 |           **RESTRICTIONS" TO CREATE RESTRICTIONS**  
7 |           **UPON THE MAKING OR RECEIPT OF POLITICAL**  
8 |           **CAMPAIGN CONTRIBUTIONS; PROVIDING FOR**  
9 |           **DEFINITIONS; PROVIDING FOR SEVERABILITY;**  
10 |           **PROVIDING FOR PENALTY; PROVIDING FOR**  
11 |           **INCLUSION IN CODE; AND PROVIDING FOR AN**  
12 |           **EFFECTIVE DATE.**

13 |  
14 |           **WHEREAS,** the Town Commission has determined that campaign contributions  
15 | made by vendors of goods and services to the Town present an appearance of impropriety  
16 | and corruption, and should be prohibited; and

17 |           **WHEREAS,** the Town Commission has determined that large campaign  
18 | contributions to candidates for the Town Commission potentially adversely affect the  
19 | integrity of our system of representative democracy; and

20 |           **WHEREAS,** recognizing the potential threat from candidates who may become too  
21 | compliant with the wishes of large campaign contributors, the State of Florida has limited  
22 | contributions to candidates for political office to \$500; and

23 |           **WHEREAS,** based upon the relative geographical size and number of registered  
24 | voters in Lauderdale-By-The-Sea, limiting contributions to candidates for the Town  
25 | Commission to \$300 per contributor will not impede the ability of candidates to amass the  
26 | resources necessary for effective advocacy, and imposing such a limitation will further the  
27 | Town's interests in preventing the appearance of corruption in the election of Town  
28 | officials; and

29 |           **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION**  
30 | **OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AS FOLLOWS:**

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31 **Section 1. Recitals Adopted.** That each of the above stated recitals is hereby adopted and  
32 confirmed.

33 **Section 2.** That the Town Code of the Town of Lauderdale-By-The-Sea, Florida, is  
34 amended to add Section 2-25, entitled "Campaign Finance Restrictions", to read as  
35 follows:

36 **Sec. 2-25 Campaign Finance Restrictions**

37 ***A. General Prohibition of campaign contributions by Town vendors, Disqualification,***  
38 ***Definitions.***

39 (1) (a) No vendor shall give, solicit for, deliver or provide a campaign contribution  
40 directly or indirectly to a candidate, or to the campaign committee of a candidate, for the  
41 offices of mayor or commissioner. Commencing on the effective date of this ordinance,  
42 all proposed Town contracts, as well as requests for proposals (RFP), requests for  
43 qualifications (RFQ), requests for letters of interest (RFLI), or solicitations of bids issued  
44 by the Town, shall incorporate notice of this section so as to notify potential vendors of  
45 the proscription embodied herein.

46 (b) No candidate or campaign committee of a candidate for the offices of mayor or  
47 commissioner, shall deposit into such candidate's campaign account any campaign  
48 contribution which is received directly or indirectly from a vendor or which such  
49 candidate or campaign committee knows or should know was solicited by or for a Vendor  
50 or delivered or provided by a Vendor. Candidates or those acting on their behalf shall  
51 ensure compliance with this code section by confirming through examination of the  
52 official vendor list maintained by the Town to verify the vendor status of any potential  
53 contributor. A candidate or the campaign committee of a candidate shall not be in

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54 violation of this paragraph (b) if the vendor was not listed as a vendor on the Town's  
55 official vendor list at the time that the contribution was received or deposited so long as  
56 the candidate or the campaign committee of a candidate did not know that the person or  
57 entity was a vendor of the Town.

58 (2) Each prohibited act of giving, soliciting for, delivering or providing a campaign  
59 contribution or depositing a campaign contribution in violation of this section shall  
60 constitute a separate violation. All contributions deposited into a candidate's campaign  
61 account in violation of this section shall be forfeited to the Town's general revenue fund.

62 (3) (a) A person or entity, other than a then existing vendor, who directly or indirectly  
63 makes a campaign contribution to a candidate who is elected to the office of mayor or  
64 commissioner shall be disqualified for a period of 12 months following the swearing in of  
65 the subject elected official from serving as a vendor with the Town. A then existing  
66 vendor who directly or indirectly makes a contribution to a candidate who is elected to  
67 the Office of Mayor or Commissioner, shall be disqualified from serving as a vendor with  
68 the Town for a period of twelve (12) months from a final finding of a violation of this  
69 section, or from the time of action on a waiver request by the Town Commission pursuant  
70 to paragraph (B) below, in the event that a waiver is sought by the vendor. In the event  
71 that such waiver request for a particular transaction is granted, the affected vendor shall  
72 nonetheless be disqualified from serving as a vendor with the Town as to any other  
73 goods, equipment or services to be provided by the vendor to the Town, beyond the  
74 vendor goods, equipment or services which are the subject matter of any waiver which is  
75 granted. In the event such waiver request is denied for a particular transaction, the twelve  
76 (12) month disqualification period shall continue to apply to both the particular

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77 transaction for which the waiver was sought, as well as all other vendor activities for the  
78 provision of goods, equipment or services to the Town during that twelve (12) month  
79 period.

80 (b) For purposes of this section, the term "disqualified" shall be defined to include:

81 (i) Termination of a contributor/vendor's existing contracts with the Town, subject to the  
82 applicable waiver provisions of paragraph B herein; and

83 (ii) Disqualification of a contributor's response to solicitation requests for prospective  
84 vendor contracts with the Town, subject to the applicable waiver provisions of paragraph  
85 B herein.

86 (4) As used in this section:

87 (a) *Vendor*. (i) A "vendor" is a person and/or entity who has been selected by the Town as  
88 the successful bidder on a present or pending bid to provide to the Town goods,  
89 equipment or services, or has been approved by the Town on a present or pending award  
90 to provide to the Town goods, equipment or services, prior to, upon or following  
91 execution of a contract, or purchase order.

92 (ii) "Vendor" shall include natural persons and/or entities that hold a controlling financial  
93 interest in a vendor entity. The term "controlling financial interest" shall mean the  
94 ownership, directly or indirectly, of ten percent or more of the outstanding capital stock  
95 in any corporation or a direct or indirect interest of ten percent or more in a firm. The  
96 term "firm" shall mean a corporation, partnership, business trust or any legal entity other  
97 than a natural person.

98 (iii) "Vendor" shall include a labor union whose members provide labor services for a  
99 vendor entity.

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100 (iii) "Vendor" shall not include Town officers or employees.

101 (iv) For purposes of this section, "vendor" status shall terminate upon completion of  
102 performance of the agreement for the provision of goods, equipment or services.

103 (b) *Services.* For purposes of this section, the term "services" shall mean the rendering by  
104 a vendor through competitive bidding or otherwise, of labor, professional and/or  
105 consulting services to the Town, including, but not limited to, the provision of lobbying  
106 services to the Town.

107 (c) *Campaign Contributions.* The term "campaign contribution" shall have the meaning  
108 which is ascribed to the term "Contributions" pursuant to Section 106.011, Florida  
109 Statutes, as amended.

110 **B. *Waiver of prohibition.***

111 (1) *Criteria for Waiver.*

112 The requirements of this section may be waived by the affirmative vote of four members  
113 of the Town Commission for a particular transaction after a public hearing, upon finding  
114 that:

115 (a) The goods, equipment or services to be involved in the proposed transaction are  
116 unique and the Town cannot avail itself of such goods, equipment or services without  
117 entering into a transaction which would violate this section but for waiver of its  
118 requirements; or

119 (b) The business entity involved in the proposed transaction is the sole source of supply  
120 as determined by the Town Manager in accordance with procedures established by the  
121 Town Manager; or

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122 (c) An emergency contract must be made in order to protect the health, safety or welfare  
123 of the citizens of the Town; or

124 (d) A contract for the provision of goods, equipment or services exists which, if  
125 terminated by the Town, would be substantially adverse to the best economic interests of  
126 the Town.

127 ***(2) Limited Waiver.***

128 Notwithstanding the denial of the Town Commission of a waiver request regarding the  
129 provision of goods, equipment or services under an existing contract pursuant to  
130 paragraph B(1) above, the Town Commission may, by the affirmative vote of four (4)  
131 members of the Town Commission after a public hearing, grant a limited waiver  
132 concerning an existing contract for the provision of goods, equipment or services  
133 between a vendor and the Town upon finding that in order to protect the health, safety  
134 and welfare of the citizens of the Town, it is necessary that the affected contract be  
135 continued for a limited duration (not to exceed a period of six (6) months) in order for the  
136 Town to obtain a replacement vendor.

137 ***(3) Full Disclosure.***

138 Any grant of a waiver or limited waiver by the Town Commission must first be supported  
139 with a full disclosure of the subject campaign contribution.

140 ***C. Implementation.***

141 The Town Manager is authorized to adopt additional procurement procedures for goods,  
142 equipment or services to implement this section. These procedures shall provide for the  
143 assembly, maintenance and posting of an official Town vendor list as referenced herein.

144 ***D. Campaign Contribution limits.***

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145 No candidate for the office of Mayor or Town Commissioner shall accept a campaign  
146 contribution, and no person or entity shall make a campaign contribution to such a  
147 candidate, in an amount which exceeds the aggregate amount of \$300.00 per election,  
148 adjusted for inflation based upon the Consumer Price Index.

149 E. ***Penalty.***

150 Violations of this section shall be punishable as provided in Sec. 1-12 of the Code of  
151 Ordinances.

152 F. ***Applicability.***

153 This section shall be applied only prospectively to campaign contributions which are  
154 made after the date of adoption of this section.

155 **Section 3. Severability.** That the provisions of this Ordinance are declared to be  
156 severable and if any section, sentence, clause or phrase of this Ordinance shall for any  
157 reason be held to be invalid or unconstitutional, such decision shall not affect the validity  
158 of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall  
159 remain in effect, it being the legislative intent that this Ordinance shall stand  
160 notwithstanding the invalidity of any part.

161 **Section 4. Inclusion in the Code.** That it is the intention of the Town Commission, and it  
162 is hereby ordained that the provisions of this Ordinance shall become and be made a part  
163 of the Code of the Town of Lauderdale-By-The-Sea; that the sections of this Ordinance  
164 may be renumbered or relettered to accomplish such intentions; and that the word  
165 "Ordinance" shall be changed to "Section" or other appropriate word.

166 **Section 5. Effective Date.** That upon adoption on second reading this Ordinance shall be  
167 effective immediately and shall be applied prospectively only.

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168 **Section 6.**     Adoption.

169             Passed on the first reading, this 3<sup>rd</sup> day of January, 2009

170             Passed on the second reading, this 7<sup>th</sup> day of January 2009

171

*Roseann Minnet*

Mayor Roseann Minnet

172

173

174

175

First Reading

Second Reading

176 Mayor Minnet

Aye

Aye

177 Vice-Mayor McIntee

Aye

Aye

178 Commissioner Clotey

Aye

Aye

179 Commissioner Silverstone

Aye

Aye

180 Commissioner Dodd

Aye

Aye

181

182 ATTEST:

APPROVED OF THE FORM:

183

*June White*

*Daniel L. Abbott*

184

Town Clerk, June White

Daniel L. Abbott, Town Attorney

185

186 (CORPORATE SEAL)

