



AGENDA ITEM MEMORADUM

Item No. 121.a

Town Attorney

Susan L. Trevarthen

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Nov 8, 2011	Oct 28 th

**Subject to Change*

- | | | | |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Quasi-Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business |

FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Lobbyist Regulation Ordinance Required to Comply with New County Ethics Code for Town Elected Officials

EXPLANATION: The Broward County Commission enacted an ethics code governing municipal Elected Officials (Town Commissioners, Vice-Mayor, Mayor) on October 11, 2011. This ordinance implements the authority given to the County Commission by the voters at the November 2011 election, to exercise control under the County Charter and preempt inconsistent municipal regulation on ethics. The County ethics code takes effect on January 2, 2012, and the Town Commission is having a workshop on it on November 29 at 5:30.

A requirement of the County ethics code is that lobbyists, as defined therein, must register with the Town and disclose contacts with Town Elected Officials. The County ethics code does not address all of the details of the lobbyist regulation system and disclosures, but does require that the documentation be filed for public inspection, and be searchable on the Town's website. The County already has a lobbyist regulation ordinance in place, as do some other cities in Broward County. The Town must adopt one before January 2, 2012.

The attached Ordinance parallels the County's lobbyist regulations. It also repeats in full some of the definitions and reporting requirements of the County ethics code applicable to lobbyists, for completeness and ease of reference within the Town. Portions of this Ordinance are mandated, and the Town Commission has no discretion over them. Areas of discretion for the Town Commission include:

1. Details of Town procedure for registering.
2. Requirement for income disclosure statement and related penalties – this is not mandated by the County ethics ordinance, but the County Commission has chosen to apply it to County lobbyists.
3. Details of penalties and procedures for violations of the registration requirement.
4. Implementation requirements and direction to Town Manager (Section 3.)

We are still evaluating the enforcement and other aspects of this Ordinance, and may have additional recommendations or revisions to this Ordinance for the Town Commission at the time of second reading.

Please note that the County Commission will next consider an ordinance governing ethics for municipal appointed officials, such as the Town Manager, Town Attorney and Town department heads. To date, no draft of that ordinance has been circulated. When it is finalized, the Town may need to revise this Ordinance to reflect its provisions and requirements.

EXPECTED OUTCOME: Passage of the Ordinance on First Reading

- EXHIBITS:**
1. Proposed Town Lobbyist Regulation Ordinance
 2. County Ethics Code
 3. County Lobbyist Regulation Ordinance

Reviewed by Town Attorney
 Yes No

Town Manager Initials CS

1 AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF
2 LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE CODE OF
3 ORDINANCES BY CREATING SECTION 2-1 "LOBBYING
4 REGULATION" OF ARTICLE I "IN GENERAL" OF CHAPTER 2
5 "ADMINISTRATION" TO ESTABLISH A LOBBYIST REGISTRATION
6 SYSTEM IN ACCORDANCE WITH SECTION 1-19 "CODE OF ETHICS
7 FOR ELECTED OFFICIALS" OF THE BROWARD COUNTY CODE OF
8 ORDINANCES BY PROVIDING FOR DEFINITIONS, REPORTING OF
9 LOBBYING ACTIVITIES, PENALTIES, AND IMPLEMENTATION;
10 PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY,
11 AND AN EFFECTIVE DATE
12

13 WHEREAS, the Board of County Commissioners has recently amended Section 1-19
14 "Code of Ethics for Elected Officials" of the Broward County Code of Ordinances (the "County
15 Ethics Code"), to subject all municipal Elected Officials, including the Town Commission of the
16 Town of Lauderdale-By-The-Sea, to the Code of Ethics imposed on the Board of County
17 Commissioners, effective January 2, 2012; and

18 WHEREAS, the County Ethics Code requires that all lobbyists who intend to engage in
19 lobbying activities with Town Elected Officials and other Covered Individuals must register as a
20 lobbyist with the Town; and

21 WHEREAS, the Town Commission desires to create a lobbyist registration system in
22 order to facilitate compliance with the requirements of the County Ethics Code.

23 NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN
24 COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AS
25 FOLLOWS:
26

27 SECTION 1. Recitals Adopted. The foregoing "Whereas" clauses are ratified and
28 confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance
29 and are hereby made a specific part of this Ordinance.

ORDINANCE 2011-20

- 53 3. “*Elected Official*” means any member of the Town Commission of the Town,
54 including the Mayor-Commissioner.
- 55 4. “*Filed for Public Inspection*” means that the form is completed legibly and is filed
56 with the Town Manager or Designee, with a copy of the form or all information
57 contained thereon inputted into the Town’s governmental database, which
58 database shall be searchable by internet.
- 59 5. “*Final Decision-Making Authority*” means (i) the Town Commission, including
60 the Mayor-Commissioner; (ii) final decision-making bodies under the jurisdiction
61 of the Town Commission; (iii) any employee, official, or committee of the Town
62 that has authority to make a final decision to select a vendor or provider in
63 connection with a public procurement by the Town; and (iv) any other quasi-
64 judicial boards, appointed boards, and commissions of the Town.
- 65 6. “*Lobbying*” or “*Lobbying Activities*” means a communication, by any means,
66 from a lobbyist to a covered individual regarding any item that will foreseeably be
67 decided by a final decision-making authority, which communication seeks to
68 influence, convince, or persuade the covered individual to support or oppose the
69 item. Lobbying does not include communications:
- 70 a. Made on the record at a duly-noticed public meeting or hearing; or
71 b. From an attorney to an attorney representing the Town regarding a
72 pending or imminent judicial or adversarial administrative proceeding
73 against the Town.
- 74 7. “*Lobbyist*” means a person who is retained, with or without compensation, for the
75 purpose of lobbying, or a person who is employed by another person or entity, on

ORDINANCE 2011-20

76 a full-time or part-time basis, principally to lobby on behalf of that other person or
77 entity. "Lobbyist" does not include a person who is:

78 a. An elected official, employee, or appointee of Broward County or of any
79 municipality within Broward County communicating in his or her official
80 capacity.

81 b. An individual who communicates on his or her own behalf, or on behalf of
82 a person or entity employing the individual on a full-time or part-time
83 basis, unless the individual is principally employed by that person or entity
84 to lobby.

85 c. Any employee, officer, or board member of a homeowners' association,
86 condominium association, or neighborhood association when addressing,
87 in his or her capacity as an employee, officer, or board member of such
88 association, an issue impacting the association or its members; or

89 d. Any employee, an officer, or a board member of a nonprofit public interest
90 entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue
91 impacting a constituent of that entity.

92 All operative words or terms used in this Section not defined herein shall be as defined, in order
93 of priority in the event of inconsistency, by Part III of Florida Statutes, Chapter 112, the Broward
94 County Code of Ordinances, and the Broward County Administrative Code.

95 **(b) Lobbyist Registration.**

96 1. *Lobbyist Obligations.* Prior to engaging in any lobbying activities, whether or not
97 compensation is paid or received in connection with those activities, each lobbyist shall do the
98 following:

ORDINANCE 2011-20

- 99 (A) *Annual Registration Statement Required:* File with the Town Manager or
100 designee, in form prescribed by the Town Manager or designee, an annual
101 registration statement under oath containing the following information:
- 102 a. The lobbyist's full name, residence address, business name, business
103 address, email address, and nature of business.
 - 104 b. The full name and address of all persons on whose behalf the lobbyist will
105 be lobbying.
 - 106 c. The general and specific subject matters which the lobbyist seeks to
107 influence.
 - 108 d. The extent of any direct business association by the lobbyist with any
109 current elected or appointed official or employee of Town. For the
110 purposes of this article, the term "direct business association" shall mean
111 any mutual endeavor undertaken for profit or compensation.
 - 112 e. A lobbyist representing a group, association, or organization shall, prior to
113 engaging in lobbying, receive appropriate authorization from said group,
114 association, or organization to lobby on its behalf upon a particular subject
115 matter. A copy of the applicable minutes, motion, or other documentation
116 of the action providing such authorization shall be attached to the
117 registration statements.
 - 118 f. If, after filing the registration statement, the lobbyist intends to lobby on
119 behalf of any person(s) not listed on the registration statement or on a
120 subject matter not previously identified, the lobbyist shall, prior to
121 engaging in any lobbying activities on behalf of such unlisted person(s),

ORDINANCE 2011-20

122 file an amendment to the registration statement in form prescribed by the
123 Town Manager or designee, containing all the information required in the
124 annual registration statement.

125 (B) *Fee Required.* Pay to the Town an annual Fifty Dollar (\$50) registration fee for
126 each employer or principal, identified on an annual or amended registration
127 statement, on whose behalf he or she intends to lobby, whether he or she was
128 retained directly by the employer or principal or by another Lobbyist retained by
129 the employer or principal. The registration fees required by this section shall be
130 expended by the Town solely for the purpose of defraying the administrative costs
131 of implementing, monitoring, and otherwise ensuring compliance with this
132 section. A lobbyist who is lobbying as a volunteer, without any compensation, is
133 not required to pay a registration fee in connection with those uncompensated
134 lobbying activities.

135 (C) *Amended Statement.* A lobbyist is required to promptly amend any filed
136 registration statement if any information in the statement changes.

137 (D) *Disclosure Statement Required.*

138 (1) On or before July 15 of each year, each lobbyist shall submit to the Town
139 Manager or designee, in form prescribed by the Town Manager or
140 designee, a signed statement under oath, disclosing all Town lobbying
141 expenditures, contingency fees, and the sources from which funds for
142 making such expenditures and paying such contingency fees have come.
143 The statement shall provide such information with respect to all lobbying
144 activities undertaken from July 1 of the prior year through June 30 of the

ORDINANCE 2011-20

145 year in which such disclosure statement is required to be filed. Lobbying
146 expenditures shall not include personal expenses for lodging, meals, and
147 travel. A statement shall be filed even if there have been no expenditures
148 during a reported period. Any individual who is exempt from the
149 definition of Lobbyist pursuant to Subsection 2-1(a)7 shall not be required
150 to file the statement required by this Subsection.

151 (2) The Town Clerk shall provide for a procedure by which a lobbyist who
152 fails to timely file a disclosure statement shall be notified and assessed
153 fines. The procedure shall provide for the following:

154 a. Upon determining that the statement is late, the person designated to
155 review the timeliness of the statement shall promptly notify the lobbyist as
156 to the failure to timely file the statement and that a fine is being assessed
157 for each late day. The fine shall be Fifty Dollars (\$50) per day for each
158 late day.

159 b. Upon receipt of the late-filed statement, the person designated to review
160 the timeliness of the statement shall determine the amount of the fine due.
161 A fine shall not be assessed against a lobbyist the first time any statement
162 for which the lobbyist is responsible is not timely filed, provided all
163 statements for which the lobbyist is responsible are filed within twenty
164 (20) days after receipt of notice that any statements have not been timely
165 filed. A fine shall be assessed for any subsequent late-filed statement.

166 c. Such fine shall be paid within twenty (20) days after receipt of the notice
167 of payment due, unless timely appeal is made to the Town Commission.

ORDINANCE 2011-20

168 d. Any lobbyist may appeal a fine, based upon unusual circumstances
169 surrounding the failure to file by the designated due date, and may request
170 and shall be entitled to a hearing before the Town Commission, which
171 shall have the authority to waive the fine in whole or in part for good
172 cause shown. To be entitled to such appeal, the lobbyist must, within
173 twenty (20) days after receipt of the notice of payment due, deliver a letter
174 requesting a hearing to the person designated to review the timeliness of
175 statements.

176 (E) *Partial Year Filing Required.* Discontinuance of lobbying activities during a year
177 shall not relieve the lobbyist of the requirement to file the statement required by
178 Subsection 2-1(b)(1)(A) above for that portion of the year during which the
179 lobbyist was engaged in lobbying activities.

180 (F) *Effectiveness.* Registration statements are effective from July 1 of a given year
181 through June 30 of the following year. Registration fees paid under Subsection 2-
182 1(b)(1)(B) above cover lobbying activities during the effective period of the
183 registration statement. A new registration statement shall be filed, and all required
184 fees shall be paid, prior to engaging in any lobbying activities after expiration of a
185 previously-filed registration statement.

186 2. *List of Current Lobbyists.* The Town shall keep a current list of registered
187 lobbyists and their respective statements required under this article, all of which shall be open for
188 public inspection.

189 (c) **Reporting of Lobbying Activities.**

ORDINANCE 2011-20

190 1. *Lobbyist Contact Log.* To promote full and complete transparency, lobbyists and
191 their principals or employers who intend to meet or otherwise communicate with an Elected
192 Official for the purpose of engaging in lobbying activities, either at the Elected Official's offices
193 or elsewhere on the Town's premises, must legibly complete a contact log listing each Elected
194 Official with whom the lobbyist, principal, or employer meets or intends to meet or
195 communicate.

196 (A) *Content.* The information stated on the contact log shall include the lobbyist's
197 name; the name of the entity by which the lobbyist is employed; the name of the
198 person or entity for whom or which he or she is lobbying; the name of any
199 employer or principal of the lobbyist who is present at any meeting at which the
200 communication is made; the name of each Elected Official with whom he or she
201 is meeting or communicating; the date and time of each such meeting; and the
202 specific purpose and subject matter of each such meeting.

203 (B) *Timing, Filing.* The contact log shall be completed contemporaneously with the
204 meeting(s) and shall be filed for public inspection with the Town.

205 2. *Elected Official Disclosures.* To further promote full and complete transparency,
206 Elected Officials must disclose any and all lobbying activity that knowingly occurs between
207 themselves and individual lobbyists or their principals or employers outside of the Town
208 premises. This shall include communicating by any form of telephonic or electronic media.

209 (A) The disclosure shall include the lobbyist's name; the name of the entity by which
210 the lobbyist is employed; the name of the person or entity for whom or which he
211 or she is lobbying; the name of any employer or principal of the lobbyist who is
212 present at any meeting at which the communication is made; the date, time, and

ORDINANCE 2011-20

213 location of the meeting; and the specific purpose and subject matter of the
214 meeting.

215 (B) The disclosure shall be made within ten (10) business days of the lobbying activity,
216 but must, in any event, be made prior to any vote on a matter that was the subject
217 of the lobbying activity.

218 (C) The disclosure shall be filed for public inspection with the Town.

219 **(d) Penalties.**

220 1. The Town Manager or designee shall be informed of any person engaged in
221 lobbying activities who has failed to comply with the provisions of Subsection II, and, in each
222 such instance, shall conduct such investigation as he, she, or they shall deem necessary under the
223 circumstances. The results of each investigation shall be reported to the Town Commission.

224 2. The Commission shall warn, reprimand, suspend, or prohibit the violator from
225 appearing on behalf of any person before the Town Commission or any decision-making body
226 under the jurisdiction of the Town Commission or from otherwise lobbying the Town for any
227 person in any fashion for a period of time; provided, however, that any suspension or prohibition
228 may not exceed a period of two (2) years, and any of said sanctions shall not be imposed unless
229 the lobbyist (or the employer or principal of the lobbyist, as applicable) allegedly in violation has
230 been afforded reasonable notice and an opportunity to be heard. The penalties provided in this
231 section shall be the exclusive penalties imposed for violations of Subsection II, except as
232 provided in Subsection 2-1(d)4. Further, the intentional failure or refusal of any lobbyist to
233 comply with any order of the Town Commission suspending or prohibiting the lobbyist from
234 lobbying shall be punishable as provided by law and shall otherwise be subject to such civil
235 remedies as the Town may pursue, including injunctive relief.

ORDINANCE 2011-20

236 3. The validity of any action taken by the Town Commission, Town employees, or
237 any decision-making body under the jurisdiction of the Town Commission, shall not be affected
238 by the failure of any person to comply with the provisions of this Section 2-1.

239 4. In addition to all other penalties in this section, a competitive solicitation
240 submitted by an employer or principal who has retained a lobbyist(s) to lobby in connection with
241 that solicitation shall be deemed non-responsive unless the employer or principal, in responding
242 to the competitive solicitation, certifies that each lobbyist retained has timely filed the required
243 registration or amended registration. If, after awarding a contract in connection with the
244 solicitation, the Town learns that the certification was erroneous, and upon investigation
245 determines that the error was willful or intentional on the part of the employer or principal, the
246 Town may, on that basis, exercise any contractual right to terminate the contract for
247 convenience.

248 **SECTION 3. Implementation.** The Town Manager shall be authorized to establish
249 protocols for the administration of the lobbyist registration system provided by this Ordinance,
250 and to take any action which is otherwise necessary to implement the purposes of this Ordinance.

251 **SECTION 4. Codification.** This Ordinance shall be codified in accordance with the
252 foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall
253 become and be made a part of the Town of Lauderdale-by-the-Sea Code of Ordinances; and that the
254 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be
255 changed to "section", "article" or such other appropriate word or phrase in order to accomplish such
256 intentions.

ORDINANCE 2011-20

257 **SECTION 5. Severability.** If any section, sentence, clause, or phrase of this Ordinance
258 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding
259 shall in no way affect the validity of the remaining portions of this Ordinance.

260 **SECTION 6. Conflicting Ordinances.** All prior ordinances or resolutions or parts thereof
261 in conflict herewith are hereby repealed to the extent of such conflict.

262 **SECTION 7. Effective Date.** This Ordinance shall become effective immediately upon
263 passage on second reading.

264 Passed on the first reading, this ____ day of _____, 2011.

265 Passed on the second reading, this ____ day of _____, 2011.

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Mayor Roseann Minnet

	First Reading	Second Reading
Mayor Minnet	_____	_____
Vice-Mayor Dodd	_____	_____
Commissioner Clottey	_____	_____
Commissioner Sasser	_____	_____
Commissioner Vincent	_____	_____

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Attest:

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Town Clerk, June White, CMC

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(CORPORATE SEAL)

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Approved as to form:

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Town Attorney, Susan L. Trevarthen

EXHIBIT 2

Sec. 1-19. - Code of ethics for elected officials.

- (a) **Statement of Policy.** It is the policy of Broward County that the Board of County Commissioners work for the benefit of the citizens of the County and elected officials of municipalities work for the benefit of the citizens of their respective municipalities. County Commissioners and elected municipal officials shall not receive any personal economic or financial benefit resulting from their service on their local governing bodies beyond legally authorized direct compensation. It is the responsibility of each County Commissioner and elected municipal official to act in a manner that promotes public trust and confidence in government with complete transparency and honesty in their services, and to avoid even the appearance or perception of impropriety.
- (b) **Definitions.** For purposes of this code of ethics (the "Broward County Elected Official Code of Ethics"):
- (1) "**Contractor**" means any person or entity having a contract with the applicable local governmental entity.
 - (2) "**Covered Individual**" means (i) any member of the Board of County Commissioners; (ii) any member of a governing body of any municipality within Broward County; (iii) any municipal mayor; (iv) any member of a final decision-making body under the jurisdiction of the Board of County Commissioners or the governing body of any municipality within Broward County; (v) any individual directly appointed to a County or municipal employment position by the Board of County Commissioners, by a governing body of any municipality within Broward County, or by a municipal mayor; (vi) any individual serving on a contractual basis as a municipality's chief legal counsel or chief administrative officer, when such individual is acting in his or her official capacity; (vii) any member of a selection, evaluation, or procurement committee that ranks or makes recommendations to any final decision-making authority regarding a County or municipal procurement; (viii) any employee, any official, or any member of a committee of Broward County or of any municipality within Broward County that has authority to make a final decision regarding a public procurement; and (ix) the head of any department, division, or office of Broward County or of any municipal government who makes final recommendations to a final decision-making authority regarding items that will be decided by the final decision-making authority. For purposes of the prohibition on lobbying under section (c)(2) below, "Covered Individual" also includes members of other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions.
 - (3) "**Elected Official**" means any member of the Board of County Commissioners and any Municipal Official as defined below.
 - (4) "**Filed for Public Inspection**" means that the form is completed legibly and is filed with the applicable governmental entity's chief administrative official or clerk, with a copy of the form or all information contained thereon inputted into the applicable governmental entity's database, which database shall be searchable by internet. For any municipality that does not maintain a website sufficient to meet the requirements of this paragraph, the form or information may be inputted into a database maintained by the Broward League of Cities, provided that database is searchable by internet.
 - (5) "**Final Decision-Making Authority**" means (i) the Board of County Commissioners; (ii) the governing body of any municipality within Broward County; (iii) municipal mayors; (iv) final decision-making bodies under the jurisdiction of the Board of County Commissioners or under the jurisdiction of the governing body of any municipality within Broward County; and (v) any employee, official, or committee of Broward County or of any municipality within Broward County that has authority to make a final decision to select a vendor or provider in connection with a public procurement. For purposes of the prohibition of lobbying under section (c)(2) below, "Final Decision-Making Authority" also includes other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions.
 - (6) "**Immediate Family Member**" means a parent, spouse, child, sibling, or registered domestic partner.
 - (7) "**Lobbying**" or "**Lobbying Activities**" means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication seeks to influence, convince, or persuade the covered individual to support or oppose the item. Lobbying does not include communications:
 - a. Made on the record at a duly-noticed public meeting or hearing; or
 - b. From an attorney to an attorney representing Broward County or any municipality within Broward County regarding a pending or imminent judicial or adversarial administrative proceeding against Broward County or against any municipality within Broward County.
 - (8) "**Lobbyist**" means a person who is retained, with or without compensation, for the purpose of lobbying, or a person who is employed by another person or entity, on a full-time or part-time basis, principally to lobby on behalf of that other person or entity. "Lobbyist" does not include a person who is:
 - a. An Elected Official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity.
 - b. An individual who communicates on his or her own behalf, or on behalf of a person or entity employing the individual on a full-time or part-time basis, unless the individual is principally employed by that person or entity to lobby.

- c. Any employee, officer, or board member of a homeowners' association, condominium association, or neighborhood association when addressing, in his or her capacity as an employee, officer, or board member of such association, an issue impacting the association or its members; or
 - d. Any employee, an officer, or a board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.
- (9) "Municipal Official" means any individual serving as a member of the governing body of a municipality within Broward County or serving as a municipal mayor within Broward County.
- (10) "Vendor" means an actual or potential supplier of any goods or services to the applicable local governmental entity.

All operative words or terms used in this Code not defined herein shall be as defined, in order of priority in the event of inconsistency, by Part III of Florida Statutes Chapter 112, the Broward County Code of Ordinances, and the Broward County Administrative Code. The term "relative" shall be as defined in Florida Statutes section 112.3135.

- (c) Standards of Conduct. In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct shall apply to each Elected Official.

(1) Acceptance of Gifts.

- a. Elected Officials, their spouses or registered domestic partners, their other relatives, and their County or municipal office staff, shall not accept gifts, directly or indirectly, regardless of value, from lobbyists registered with the governmental entity on whose behalf they (or their spouse, registered domestic partner, or relative) serve, or from any principal or employer of any such registered lobbyist, or from vendors or contractors of such governmental entity. In order to effectuate this provision, no lobbyist shall engage in any lobbying activity prior to registering as a lobbyist with the applicable governmental entity.
- b. Elected Officials may accept gifts from other sources given to them in their official capacity, where not otherwise inconsistent with the provisions of Florida Statutes Chapter 112, Part III, up to a maximum value of \$50.00 per occurrence. Gifts given to an Elected Official in his or her official capacity up to \$50.00 in value are deemed to be *de minimis*.
- c. The \$50.00 limitation does not apply to gifts given to Elected Officials in their personal (non-official) capacity. Such gifts are still subject to the reporting requirements of Florida Statutes section 112.3148.

(2) Outside/Concurrent employment.

- a. Elected Officials shall not be employed as a lobbyist or engage in lobbying activities before any member of the governing body of the County or any municipality within Broward County, before any municipal mayor, or before any member of any other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions. This form of employment and activity is deemed to be in substantial conflict with the proper discharge of an Elected Official's duties in the public interest.
- b. Elected Officials may engage in other employment consistent with their public duties and where not otherwise inconsistent with the provisions of Florida Statutes Chapter 112, Part III. All outside or concurrent employment by an Elected Official, including employment pursuant to contract, as well as any remuneration received from that employment, must be disclosed on a form created by the Broward County Attorney's Office. The disclosure referenced in the preceding sentence shall be done quarterly by County Commissioners and annually by Municipal Officials. The disclosure form must be filed for public inspection. To the extent complying with the disclosure requirement contained in this paragraph would violate any written agreement to which a Municipal Official is a party, the Municipal Official shall file, for public inspection, a statement, under oath, from the Municipal Official's employer or other person or entity paying such outside remuneration, specifying how such violation would result from the required disclosure. Upon filing such statement, the Municipal Official shall not be required to comply with that portion of the disclosure requirement that would result in a violation of the written agreement for the balance of the Municipal Official's current term of office as of the effective date of this Ordinance (such disclosure requirement shall apply in full upon commencement of a new term of office after the effective date hereof, even if such new term results from the re-election of a currently-serving Municipal Official).
- c. A spouse or registered domestic partner, immediate family members, and County or municipal office staff of an Elected Official shall not lobby any member of the governing body of the County or any municipality within Broward County, or before any municipal mayor, or before members of other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards and commissions, or otherwise conduct business as a vendor or contractor with the local governmental entity served by the Elected Official.
- d. The prohibitions on Municipal Officials, their spouses or registered domestic partners, and their immediate family members stated in paragraphs a. and c. above shall not apply for the balance of the Municipal Official's current term of office as of the effective date of this Ordinance. The

prohibitions shall apply for any new term of office that begins after the effective date hereof, even if such new term results from a re-election of a currently-serving Municipal Official.

(3) Lobbyists.

- a. Elected Officials should avoid even the appearance of impropriety in their interaction and dealings with lobbyists registered under their local governmental entity's lobbyist registration system and with the principals or employers of such lobbyists.
- b. To promote full and complete transparency, lobbyists and their principals or employers who intend to meet or otherwise communicate with an Elected Official for the purpose of engaging in lobbying activities, either at the Elected Official's offices or elsewhere on the local government's premises, must legibly complete a contact log listing each Elected Official with whom the lobbyist, principal, or employer meets or intends on meeting or communicating.
 1. The information stated on the contact log shall include the lobbyist's name; the name of the entity by which the lobbyist is employed; the name of the person or entity for whom or which he or she is lobbying; the name of each Elected Official with whom he or she is meeting or communicating; the date and time of each such meeting; and the specific purpose and subject matter of each such meeting.
 2. The contact log shall be completed contemporaneously with the meeting(s) and shall be filed for public inspection.
- c. To further promote full and complete transparency, Elected Officials must disclose any and all lobbying activity that knowingly occurs between themselves and individual lobbyists or their principals or employers outside of their governmental offices/premises. This shall include communicating by any form of telephonic or electronic media.
 1. The disclosure shall include the lobbyist's name; the name of the entity by which the lobbyist is employed; the name of the person or entity for whom or which he or she is lobbying; the date, time, and location of the meeting; and the specific purpose and subject matter of the meeting.
 2. The disclosure shall be made within ten (10) business days of the lobbying activity, but must, in any event, be made prior to any vote on a matter that was the subject of the lobbying activity.
 3. The disclosure shall be filed for public inspection.

(4) Honest Services.

- a. An Elected Official may not engage in a scheme or artifice to deprive another of the material intangible right of honest services or any activity in contravention of his or her duty to provide loyal service and honest governance for the residents of the governmental entity that he or she serves.
- b. This section shall be construed, to the extent possible, in accordance with the standards and intent set forth under 18 U.S.C. s. 1346, as may be amended, and Florida Statutes Chapter 838.

(5) Solicitation and Receipt of Contributions.

- a. Charitable Contribution Fundraising.
 1. The solicitation of funds by an Elected Official for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect benefit between the parties to the solicitation.
 2. To promote the full and complete transparency of any such solicitation, an Elected Official shall disclose, on a form created by the Broward County Attorney's Office, the name of the charitable organization, the event for which the funds were solicited, and the name of any individual or entity that may have promoted the solicitation. The form shall be filed for public inspection.
 3. An Elected Official may not use staff or other resources of his or her governmental entity in the solicitation of charitable contributions.
 4. The requirements and prohibitions of this subpart shall not apply to actions of an Elected Official in connection with charities or fundraising events sponsored by the official's governmental entity.
 5. Salary received by a Municipal Official from a non-profit charitable organization employing the Municipal Official shall not be considered a quid pro quo or other special consideration for purposes of paragraph 1 above. Additionally, the disclosure requirement contained in paragraph 2 above shall not apply to Municipal Officials who are employed by a non-profit charitable organization when soliciting charitable contributions on behalf of that organization.
- b. Campaign Contribution Fundraising.
 1. It is the intent of this Code to promote the full and complete transparency of campaign contributions received by Elected Officials, consistent with the disclosure requirements provided by state statute.
 2. Any campaign finance disclosure that an Elected Official must submit to the Supervisor of

- Elections, or to the appropriate municipal election official, in accordance with the provisions of Florida Statutes Chapter 106 shall, contemporaneously, be filed for public inspection.
3. Elected Officials who solicit campaign contributions for other candidates for public office shall disclose, on a form created by the Broward County Attorney's Office, the name of the candidate for whom they are soliciting, the location and date of any associated event, and both the name and contribution amounts of any individual who provided contributions, directly or indirectly, to the Elected Official for subsequent delivery to the candidate. The form shall be filed for public inspection.
 4. An Elected Official may not use any staff or other resources of his or her governmental entity in the solicitation or receipt of campaign contributions.
 5. Campaign or political contributions may not be made, solicited, or accepted in any government-owned building.
- c. The Board of County Commissioners shall be prohibited from waiving the provisions of Section 18.63 of the Broward County Administrative Code as it pertains to the County's acceptance of donations.
- (6) Procurement Selection Committees.
- a. It shall be a conflict of interest for any Elected Official to serve as a voting member of a Selection/Evaluation Committee in connection with any prospective procurement by the Elected Official's governmental entity. Elected Officials shall not be included as members on any Selection/Evaluation Committee and shall not participate or interfere in any manner at Committee meetings or in the selection of Committee members, which members shall be appointed by the County Administrator or appropriate municipal staff, as relevant. Upon the completion of the selection process by the Committee, Elected Officials may inquire into any and all aspects of the selection process and express any concerns they may have to their Purchasing Director or, where applicable, other employee with responsibility to oversee the procurement process.
 - b. The prohibitions stated in the preceding paragraph shall not apply to strong mayors with a charter-prescribed strong mayor form of government or to Elected Officials who, under their charter, are required to participate in the procurement process in a manner that would be inconsistent with such prohibitions. The prohibitions stated in the preceding paragraph shall also not apply to the hiring (or contractual procurement, in lieu of hiring) of individuals who report directly to a local governing body.
- (7) Financial Disclosure.
- a. Each County Commissioner, contemporaneously with the annual filing of the Form 6 Disclosure of Financial Interest with the State of Florida Commission on Ethics, shall file such form for public inspection. Each Municipal Official, contemporaneously with the annual filing of the Form 1 Statement of Financial Interests with the State of Florida Commission on Ethics, shall file such form for public inspection.
- (8) Advisory Opinions.
- a. Any Elected Official may request an advisory opinion about how the Broward County Elected Official Code of Ethics applies to his or her own situation. Requests for opinions from County Commissioners shall be made to the Broward County Attorney or to the County Attorney's designee. Requests for opinions from Municipal Officials shall be made to the municipality's chief attorney or to that attorney's designee. Requests for opinions shall be considered only if in writing and signed by the Elected Official or by his or her office staff. Requests for opinions shall state all material facts necessary for the advising attorney to understand the circumstances and render a complete and correct opinion. If at any time after receipt of a request, the advising attorney believes that additional information is needed, the Elected Official requesting the opinion shall be notified and shall furnish such additional information.
 - b. Until amended or revoked, an advisory opinion rendered pursuant to this section shall be binding on the conduct of the Elected Official covered by the opinion unless material facts were omitted or misstated in the request for the advisory opinion. If the Elected Official acts in accordance with a binding advisory opinion, the Elected Official's action may not be found to be in violation of the Broward County Elected Official Code of Ethics. However, any opinion rendered under this section shall not be binding as to whether the Elected Official's action complies with state or federal ethics requirements.
- (d) Training and Education.
- (1) New Elected Officials shall receive a minimum of four (4) hours of training from their governmental entity's attorney (or as directed by that attorney) on the topics of the Sunshine Law, public records, and public service ethics, and shall certify or acknowledge his or her participation in this training in a form filed with the entity's chief administrative official or clerk. Such training shall be completed within one hundred twenty (120) days after taking office. The four (4) hours of training shall count towards the eight (8) hour training referenced in the paragraph immediately below. Additional training for new Elected Officials offered by the Florida Association of Counties or the Florida League of Cities is strongly encouraged.

- (2) Each Elected Official shall, on an annual basis, attend or participate in a minimum of eight (8) hours of continuing education training on the topic of public service ethics. These programs may be available through regional universities, municipal or local government organizations, or the state or regional Bar associations. Each Elected Official shall annually certify or acknowledge that he or she has met this requirement in a form filed with the entity's chief administrative official or clerk.

(Ord. No. 2010-22, § 1, 8-10-10; Ord. No. 2011-19, § 1, 10-11-11)

Editor's note—

Section 7 of Ord. No. 2011-19, enacted Oct. 11, 2011, which amended former § 1-19 in its entirety, provided that no provisions of said ordinance shall be applicable to Municipal Officials until Jan. 2, 2012.

Broward County, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 1 - ADMINISTRATION >> ARTICLE XIII. - LOBBYING ACTIVITIES >>

ARTICLE XIII. - LOBBYING ACTIVITIES 171

- Sec. 1-260. - Title; intent and purpose.
Sec. 1-261. - Definitions.
Sec. 1-262. - Lobbying registration, statements, and fees.
Sec. 1-263. - Prohibition on use of lobbying statements.
Sec. 1-264. - Contingency fees; disclosure; penalties.
Sec. 1-265. - Penalties.
Sec. 1-266. - Code of silence.
Sec. 1-267. - Registration of contacts.
Secs. 1-268—1-275. - Reserved.

Sec. 1-260. - Title; intent and purpose.

- (a) Sections 1-260 through 1-266 of Chapter 1, Broward County Code, may be cited as the "Broward County Lobbyist Registration Act."
- (b) The Board of County Commissioners of Broward County, Florida, hereby determines and declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their county government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; and that to preserve and maintain the integrity of the governmental decision-making process, it is necessary that the identity, expenditures, fees, and activities of certain persons who engage in efforts to influence County Commissioners, decision-making bodies under the jurisdiction of the Board of County Commissioners, and certain County employees on matters within their official jurisdictions, either by direct communication to such Commissioners, decision-making bodies, or County employees, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

(Ord. No. 2001-15, § 1, 5-8-01)

Sec. 1-261. - Definitions.

As used in this article, unless the context otherwise indicates:

- (a) *Board* means the Board of County Commissioners of Broward County, Florida.
- (b) *Lobbying or Lobbying Activities* means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication seeks to influence, convince, or persuade the covered individual to support or oppose the item. Lobbying does not include communications:
- (1) Made on the record at a duly-noticed public meeting or hearing; or
 - (2) From an attorney to an attorney representing Broward County regarding a pending or imminent judicial or adversarial administrative proceeding against Broward County.
- (c) *Person* means any individual, business, corporation, association, firm, partnership, organization, group, or other entity, whether operated for profit or not for profit.
- (d) *Lobbyist* means a person who is retained, with or without compensation, for the purpose of lobbying; or a person who is employed by another person or entity, on a full-time or part-time basis, principally to lobby on behalf of that other person or entity. "Lobbyist" does not include a person who is:
- (1) An Elected Official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity;
 - (2) An individual who communicates on his or her own behalf, or on behalf of a person or entity employing the individual on a full-time or part-time basis, unless the individual is principally employed by that person or entity to lobby;
 - (3) An employee, officer, or board member of a homeowners' association, condominium association, or neighborhood association when addressing, in his or her capacity as an employee, officer, or board member of such association, an issue impacting the association or its members; or
 - (4) An employee, officer, or board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.
- (e) *Employer* means any person providing or agreeing to provide compensation of any kind to a lobbyist in consideration for his or her performance of lobbying activities.
- (f) *Compensation* means paying or agreeing to pay or give, directly or indirectly, any money, anything of

value, or reimbursement of expenses (in whole or in part), in consideration for the performance of lobbying activities.

- (g) *Covered Individual* means (i) any member of the Board of County Commissioners; (ii) any member of a final decision-making body under the jurisdiction of the Board of County Commissioners; (iii) any member of a selection, evaluation, or procurement committee that ranks or makes recommendations to any final decision-making authority regarding a County procurement; (iv) any employee of Broward County that has authority to make a final decision regarding a public procurement; and (v) the head of any department, division, or office of Broward County who makes final recommendations to a final decision-making authority regarding items that will be decided by the final decision-making authority.
- (h) *Final Decision-Making Authority* means (i) the Board of County Commissioners; (ii) final decision-making bodies under the jurisdiction of the Board of County Commissioners; and (iii) any employee of Broward County that has authority to make a final decision to select a vendor or provider in connection with a public procurement.

(Ord. No. 2001-15, § 2, 5-8-01; Ord. No. 2009-34, § 1, 6-23-09; Ord. No. 2009-67, § 1, 10-13-09; Ord. No. 2011-19, § 4, 10-11-11)

Editor's note—

Section 7 of Ord. No. 2011-19, enacted Oct. 11, 2011, which partially amended § 1-261, provided that no provision of said ordinance shall be applicable to Municipal Officials until January 2, 2012.

Sec. 1-262. - Lobbying registration, statements, and fees.

- (a) Prior to engaging in any lobbying activities, whether or not compensation is paid or received in connection with those activities, each lobbyist shall:
- (1) File with the County Administrator, in form prescribed by the County Administrator, an annual registration statement under oath containing the following information:
 - a. The lobbyist's full name, residence address, business name, business address, and nature of business.
 - b. The full name and address of all persons on whose behalf the lobbyist will be lobbying. If, after filing the registration statement, the lobbyist intends to lobby on behalf of any person(s) not listed on the registration statement, the lobbyist shall, prior to engaging in any lobbying activities on behalf of such unlisted person(s), file an amendment to the registration statement in form prescribed by the County Administrator, containing all the information required in the annual registration statement.
 - c. The general and specific subject matters which the lobbyist seeks to influence.
 - d. The extent of any direct business association by the lobbyist with any current elected or appointed official or employee of Broward County. For the purposes of this article, the term "direct business association" shall mean any mutual endeavor undertaken for profit or compensation.
 - e. A lobbyist representing a group, association, or organization shall, prior to engaging in lobbying, receive appropriate authorization from said group, association, or organization to lobby on its behalf upon a particular subject matter. A copy of the applicable minutes, motion, or other documentation of the action providing such authorization shall be attached to the registration statements.
 - (2) Pay to the County Administrator's Office an annual Fifty Dollar (\$50) registration fee for each employer, identified on an annual or amended registration statement, on whose behalf he or she intends to lobby, whether he or she was retained directly by the employer or by another Lobbyist retained by the employer. The registration fees required by this section shall be expended by the County Administrator's Office solely for the purpose of defraying the administrative costs of implementing, monitoring, and otherwise ensuring compliance with this section. A lobbyist, who is lobbying as a volunteer, without any compensation, is not required to pay a registration fee in connection with those uncompensated lobbying activities.
- (b) A lobbyist is required to promptly amend any filed registration statement if any information in the statement changes.
- (c) Registration statements are effective from July 1 of a given year through June 30 of the following year. Registration fees paid under (a)(2) above cover lobbying activities during the effective period of the registration statement. A new registration statement shall be filed, and all required fees shall be paid, prior to engaging in any lobbying activities after expiration of a previously-filed registration statement.
- (d) *Disclosure Statement Required.*
- (1) On or before July 15 of each year, each lobbyist shall submit to the County Administrator's Office, in form prescribed by the County Administrator, a signed statement under oath, disclosing all lobbying expenditures, contingency fees, and the sources from which funds for making such expenditures and paying such contingency fees have come. The statement shall provide such information with respect to all lobbying activities undertaken from July 1 of the prior year through

June 30 of the year in which such disclosure statement is required to be filed. Lobbying expenditures shall not include personal expenses for lodging, meals, and travel. A statement shall be filed even if there have been no expenditures during a reported period. A public official acting in his or her official capacity shall not be required to file the statement required by this subsection.

- (2) The County Administrator shall provide for a procedure by which a lobbyist who fails to timely file a disclosure statement shall be notified and assessed fines. The procedure shall provide for the following:
- a. Upon determining that the statement is late, the person designated to review the timeliness of the statement shall promptly notify the lobbyist as to the failure to timely file the statement and that a fine is being assessed for each late day. The fine shall be Fifty Dollars (\$50) per day for each late day.
 - b. Upon receipt of the late-filed statement, the person designated to review the timeliness of the statement shall determine the amount of the fine due.
 - c. Such fine shall be paid within twenty (20) days after receipt of the notice of payment due, unless timely appeal is made to the Board.
 - d. A fine shall not be assessed against a lobbyist the first time any statement for which the lobbyist is responsible is not timely filed, provided all statements for which the lobbyist is responsible are filed within twenty (20) days after receipt of notice that any statements have not been timely filed. A fine shall be assessed for any subsequent late-filed statement.
 - e. Any lobbyist may appeal a fine, based upon unusual circumstances surrounding the failure to file by the designated due date, and may request and shall be entitled to a hearing before the Board, which shall have the authority to waive the fine in whole or in part for good cause shown. To be entitled to such appeal, the lobbyist must, within twenty (20) days after receipt of the notice of payment due, deliver a letter requesting a hearing to the person designated to review the timeliness of statements.
- (e) *List of Current Lobbyists.* The County Administrator's Office shall keep a current list of registered lobbyists and their respective statements required under this article, all of which shall be open for public inspection.
- (f) *Partial Year Filing Required.* Discontinuance of lobbying activities during a year shall not relieve the lobbyist of the requirement to file the statement required by subsection (d)(1) above for that portion of the year during which the lobbyist was engaged in lobbying activities.
- (Ord. No. 2001-15, § 3, 5-8-01; Ord. No. 2009-34, § 2, 6-23-09; Ord. No. 2009-67, § 2, 10-13-09)

Sec. 1-263. - Prohibition on use of lobbying statements.

No information obtained from lobbying statements required by this article shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fund-raising affair or for commercial purposes.

(Ord. No. 2001-15, §§ 4, 5, 5-8-01)

Sec. 1-264. - Contingency fees; disclosure; penalties.

- (a) "Contingency fee" means any consideration, including a fee, bonus, commission, or benefit, whether monetary or nonmonetary, as compensation for lobbying, which consideration is in any way dependent or contingent on the enactment, defeat, modification, or other outcome of any specific action of the Board.
- (b) A lobbyist shall disclose any compensation received in the form of contingency fees in the disclosure statement filed pursuant to Subsection 1-262(d).
- (c) In addition to the penalties provided in Section 1-265, any knowing or intentional violation of this section shall be punishable as provided by law.

(Ord. No. 2001-15, § 6, 5-8-01; Ord. No. 2009-67, § 3, 10-13-09)

Sec. 1-265. - Penalties.

- (a) The County Attorney or County Administrator, or their designee, shall be informed of any person engaged in lobbying activities who has failed to comply with the provisions of this act, and, in each such instance, shall conduct such investigation as he, she, or they shall deem necessary under the circumstances. The results of each investigation shall be reported to the Board.
- (b) The Board shall warn, reprimand, as suspend, or prohibit the violator from appearing on behalf of any person before the Board or any decision-making body under the jurisdiction of the Board or from otherwise lobbying for any person in any fashion for a period of time; provided, however, that any suspension or prohibition may not exceed a period of two (2) years, and no sanction shall be imposed unless the lobbyist allegedly in violation has been afforded reasonable notice and an opportunity to be heard. The penalties provided in this section shall be the exclusive penalties imposed for violations of this act, except as provided in 1-264(c). The intentional failure or refusal of any lobbyist to comply with any

order of the Board suspending or prohibiting the lobbyist from lobbying shall be punishable as provided by law and shall otherwise be subject to such civil remedies as the County may pursue, including injunctive relief.

- (c) The validity of any action taken by the Board, County employees, or any decision-making body under the jurisdiction of the Board, shall not be affected by the failure of any person to comply with the provisions of this article.
- (d) In addition to all other penalties in this section, an employer who has retained a lobbyist(s) to lobby in connection with a competitive solicitation shall be deemed non-responsive unless the employer, in responding to the competitive solicitation, certifies that each lobbyist retained has timely filed the registration or amended registration required under Section 1-262. If, after awarding a contract in connection with the solicitation, the County learns that the certification was erroneous, and upon investigation determines that the error was willful or intentional on the part of the employer, the County may, on that basis, exercise any contractual right to terminate the contract for convenience.

(Ord. No. 2001-15, § 7, 5-8-01; Ord. No. 2009-34, § 3, 6-23-09)

Sec. 1-266. - Cone of silence.

- (a) *Definitions.* For purposes of this section, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:
 - (1) *Affected Person* means any person, and that person's support staff, appointed, hired, designated, or authorized to evaluate, rank, recommend, or select a Vendor or a Vendor's response to a Competitive Solicitation or to make an award in a Competitive Solicitation process.
 - (2) *Competitive Solicitation* means a formal process by Broward County relating to the acquisition of goods or services, which process is intended to provide an equal and open opportunity to qualified persons and entities to be selected to provide the goods or services. The term shall not include a competitive process which seeks to enter into a contract or award money to perform governmental, quasi-governmental, social, or human services primarily for charitable, benevolent, humanitarian, or other philanthropic purposes, such as the award of grants or support assistance to organized nonprofit entities that promote or assist with the care, education, health, standard of living, or general welfare of people in the Broward County community, or that promote or assist community or neighborhood enhancements.
 - (3) *Cone of Silence* means a period of time during which there is a prohibition on communication regarding a particular Competitive Solicitation.
 - (4) *Evaluation or Selection Committee* means a group of persons appointed or designated by the County Administrator or the Director or head of a County office, agency, department, or division, or their designee, to evaluate, rank, select, or make a recommendation regarding a Vendor or the Vendor's response to the Competitive Solicitation.
 - (5) *Vendor* means a person or entity that has entered into or that lobbies to enter into a contract with Broward County, or that seeks an award from Broward County to provide goods, perform a service, render an opinion or advice, or make a recommendation related to a Competitive Solicitation for compensation or other consideration.
 - (6) *Vendor's Representative* means an owner, individual, employee, partner, officer, or member of the board of directors of a Vendor, or a consultant, lobbyist, or actual or potential subcontractor or subconsultant who acts at the behest of a Vendor in communicating regarding a Competitive Solicitation.
- (b) *Prohibited communication.* Except as set forth in subsection (e), a Cone of Silence shall be in effect during the course of a Competitive Solicitation as provided in subsection (c) between:
 - (1) Any person or entity, including a Vendor or Vendor's Representative, that seeks a contract, award, recommendation, or approval related to a Competitive Solicitation or that is subject to being evaluated or having its response evaluated in connection with a Competitive Solicitation, and
 - (2) Any County Commissioner, Commissioner's staff, the County Administrator, Deputy County Administrator, Assistant County Administrator, Assistants to the County Administrator, their respective support staff, any member of the Evaluation or Selection Committee appointed for the competitive solicitation, or Affected Person as defined in subsection (a)(1).
- (c) *Effective dates.* A Cone of Silence shall begin and shall end for Competitive Solicitations within the scope of this Ordinance as follows:
 - (1) For any County Commissioner or the Commissioner's staff, a Cone of Silence shall be in effect during a Competitive Solicitation beginning upon the first meeting of the Evaluation Committee (for a Request for Proposals—RFP) or Selection Committee short listing (for a Request for Letters of Interest—RLI) or at the time of the opening of submissions in response to Invitations for Bids. For the County Administrator, Deputy County Administrator, Assistant County Administrator, Assistants to the County Administrator, their respective support staff, any member of an Evaluation or Selection Committee appointed for the competitive solicitation, or Affected Person as defined in subsection (a)(1), a Cone of Silence shall be in effect during a Competitive Solicitation upon the approval of the Selection Committee for a Request for Letters of Interest, upon the approval of the

Evaluation Committee for a Request for Proposals, or at the time of advertisement for Invitations for Bids.

- (2) The Cone of Silence shall terminate at the time the Board of County Commissioners or other authorized person makes final award or gives final approval of a contract, rejects all bids or responses to the Competitive Solicitation, or takes other action which ends the Competitive Solicitation.
- (d) *Notice.* When the Cone of Silence becomes effective for a particular Competitive Solicitation, the Broward County Administrator or designee shall provide public notice of the effectiveness of this Ordinance to the Competitive Solicitation. The County Administrator shall also include a statement that generally discloses the requirements of this Ordinance in the public notice and, if any, the solicitation document for the goods or services.
- (e) *Permitted communication.*
- (1) Nothing in this section shall prohibit a County Commissioner, the County Commissioner's office personnel, and other County employees from communicating with each other.
- (2) Nothing contained in this section shall prohibit a County Commissioner or the County Commissioner's office personnel from initiating contact with a Vendor or Vendor's Representative and subsequent communication related thereto for the purpose of obtaining further information regarding the Competitive Solicitation.
- (3) The Cone of Silence shall not apply to communications with the County Attorney and his or her office personnel, the County Auditor and his or her office personnel, or with other County personnel, provided that such person is not a member of the Evaluation or Selection Committee appointed for the competitive solicitation or an Affected Person as defined in subsection (a)(1).
- (4) Nothing contained in this section shall prohibit any Vendor or Vendor's Representative:
- a. From making public presentations at pre-bid conferences or at a selection meeting related to the Competitive Solicitation;
 - b. From engaging in contract negotiations during a public meeting related to the Competitive Solicitation;
 - c. From making a public presentation to the County Commission during any public meeting of the Board;
 - d. From communicating with the person or persons designated in the Competitive Solicitation as the contact person for clarification or information related to the Competitive Solicitation; or
 - e. From communicating in writing as provided in subsection (5) below.
- (5) The Director of Purchasing or designee shall accept written communications from a Vendor or Vendor's Representative during the time a Cone of Silence is applicable to a Competitive Solicitation. Such writing, including any response thereto, shall be provided to the person or the members of the applicable committee appointed or designated to recommend a Vendor for award. The writing shall also be attached to the Board agenda item for the award or for approval of the contract under the applicable Competitive Solicitation.
- (f) *Violations.*
- (1) A complaint alleging a violation of this ordinance may be filed with the County's Office of Intergovernmental Affairs and Professional Standards. In each such instance, an investigation shall be performed and the results of each investigation, including a determination of violation, if any, shall be set forth in a written report. If there is a determination of violation, a fine shall be imposed against the Vendor in the maximum amount provided in Subsection 8½-16(f)(34) of the County Code of Ordinances.
- (2) A copy of the report and notice of the imposition of a fine, if any, as provided for in this subsection (f), shall be mailed, return receipt requested, to the Vendor and the person who has been investigated.
- (3) A person or the Vendor who is determined by the Office of Intergovernmental Affairs and Professional Standards to have violated this Ordinance may appeal such determination within the time and in the manner provided in Section 21.120 of the Broward County Administrative Code. If the determination is appealed and a final decision is rendered by a hearing officer, the decision of the hearing officer shall be the final determination. If no appeal is timely filed or if no final determination is made by a hearing officer, the determination of the Office of Intergovernmental Affairs and Professional Standards shall be final.
- (4) After a determination becomes final, a copy of the report or final decision of the hearing officer shall be furnished to the Board, the Vendor, and the person who was investigated. Notice and demand for payment of any fine imposed shall be included with the final determination.
- (5) A determination of violation shall render any award to a Vendor who is found to have violated this Ordinance voidable, at the sole discretion of the Board.
- (6) If a Vendor is determined to have violated the provisions of this Ordinance on three occasions, the Purchasing Director shall initiate debarment proceedings pursuant to Section 21-119 of the Broward County Administrative Code.

(Ord. No. 2001-15, § 8, 5-8-01; Ord. No. 2004-31, § 1, 8-24-01; Ord. No. 2007-09, § 1, 5-8-07; Ord. No. 2011-06, § 1, 3-8-11)

Sec. 1-267. - Registration of contacts.

All persons shall sign, at each time of contact, the contact logs maintained and available in the office reception areas of the Board of County Commissioners and each department of County Government. The person shall state his or her name; the name of each employer, if any, represented in the course of the particular contacts; with whom the contact is made; and the topic of the contact. The contact logs shall be transmitted to the County Administrator at the end of each quarter.

(Ord. No. 2001-15, § 9, 5-8-01)

Secs. 1-268—1-275. - Reserved.

FOOTNOTE(S):

(17) Editor's note— Ord. No. 2001-15, §§ 1—9, adopted May 8, 2001, amended former Art. XIII, §§ 1-260—1-265, in its entirety to read as herein set out. Former Art. XIII pertained to similar subject matter and derived from Ord. No. 79-85, §§ 1—6, adopted Aug. 15, 1979. (Back)