

ORDINANCE NO. 2011-19

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
5 AMENDING SECTION 1-19 OF THE BROWARD COUNTY
6 CODE OF ORDINANCES, RELATING TO A CODE OF
7 ETHICS FOR THE BROWARD COUNTY BOARD OF
8 COUNTY COMMISSIONERS AND OTHER SPECIFIED
9 INDIVIDUALS; MODIFYING CERTAIN PORTIONS OF
10 SECTION 1-19 AND EXTENDING IT TO COVER ELECTED
11 MUNICIPAL OFFICIALS AND OTHER SPECIFIED
12 INDIVIDUALS; DELETING REFERENCES IN SECTION 1-
13 19 TO THE BROWARD COUNTY OFFICE OF INSPECTOR
14 GENERAL AND REFERENCES TO ENFORCEMENT OF
15 THE CODE OF ETHICS, WHICH SUBJECTS ARE NOW
16 GOVERNED BY ARTICLE XII OF THE BROWARD
17 COUNTY CHARTER; AMENDING SECTIONS 1-261 AND
18 26-72.5 OF THE BROWARD COUNTY CODE OF
19 ORDINANCES TO PROVIDE CONSISTENT DEFINITIONS
20 OF LOBBYING AND RELATED TERMS; PROVIDING FOR
21 SEVERABILITY; PROVIDING FOR INCLUSION IN THE
22 CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Mayor Sue Gunzburger)

15 WHEREAS, on August 10, 2010, the Board of County Commissioners (the
16 "Board") enacted Ordinance No. 2010-22, a "Code of Ethics for the Broward County
17 Board of County Commissioners" (the "County Commissioner Ethics Code"); and

18 WHEREAS, on November 2, 2010, Broward County's voters approved an
19 amendment to the Broward County Charter providing that County ordinances shall
20 prevail over municipal ordinances whenever the County acts to regulate the conduct of
21 elected officials, appointed officials, and public employees in Broward County through
22 an enacted code of ethics; and

23 WHEREAS, also on November 2, 2010, the County's voters approved an
24 amendment to the Broward County Charter that created a charter-based Office of

1 Inspector General ("OIG") and preempted the portion of Ordinance No. 2010-22 that
2 had previously created a County Office of Inspector General; and

3 WHEREAS, after the Board stated its intention to expand the County
4 Commissioner Ethics Code to cover municipal officials in Broward County,
5 municipalities were afforded the opportunity to provide their input regarding the
6 expanded code; and

7 WHEREAS, the Broward League of Cities submitted certain proposed ethics
8 provisions that the League believed were necessary and appropriate for inclusion in any
9 ethics code applicable to municipal officials, including provisions recognizing differences
10 between service as a County Commissioner and service as an elected municipal
11 official; and

12 WHEREAS, at the request of the Board, the League's proposed provisions were
13 reviewed by the OIG; and

14 WHEREAS, the OIG recommended that certain provisions proposed by the
15 League be included in the expanded code, and the Board agrees that the provisions
16 recommended by the OIG should be included in the expanded code; and

17 WHEREAS, the Board finds that a single, uniform code providing ethics
18 standards for County Commissioners, elected municipal officials, and certain other
19 specified individuals will facilitate compliance with those ethics standards and will permit
20 greater efficiencies in connection with investigations and enforcement regarding alleged
21 violations of the code; and

22 WHEREAS, the Board finds that the provisions of this Ordinance strengthen and
23 supplement the restrictions and protections originally provided under the County
24 Commissioner Ethics Code,

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1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3 Section 1. Section 1-19 of the Broward County Code of Ordinances is hereby
4 amended to read as follows:

5 Sec. 1-19. Code of Ethics for the ~~Broward County Commission~~ Elected
6 Officials.

7 (a) Statement of Policy.

8 It is the policy of Broward County that the Board of County Commissioners works
9 for the benefit of the citizens of the County and elected officials of municipalities work
10 for the benefit of the citizens of their respective municipalities. A County
11 Commissioners and elected municipal officials shall not receive any personal economic
12 or financial benefit resulting from his or her their service on the ~~Board~~ their local
13 governing bodies beyond legally authorized direct County compensation. It is the
14 responsibility of each County Commissioner and elected municipal official to act in a
15 manner that promotes public trust and confidence in government with complete
16 transparency and honesty in their services, and to avoid even the appearance or
17 perception of impropriety. ~~To that end, the voters of Broward County created Section~~
18 ~~11.08 of the Broward County Charter, which requires the Board of County~~
19 ~~Commissioners to consider a Code of Ethics ("Code") drafted by the Broward County~~
20 ~~Ethics Commission, with the sole and express purpose of regulating the behavior of the~~
21 ~~Broward County Commissioners. Upon the adoption of this Code by either the Board of~~
22 ~~County Commissioners or by the electors of Broward County, the Board of County~~
23 ~~Commissioners shall, as expeditiously as possible but no longer than 120 days after~~
24 ~~adoption, enact an ordinance consistent with the Resolution previously adopted by the~~

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1 ~~Board which would impose the Code, where applicable and appropriate, on County staff~~
2 ~~and advisory boards.~~

3 (b) Definitions. For purposes of this code of ethics (the "Broward County
4 Elected Official Code of Ethics");

5 1. "Contractor" means any person or entity having a contract with the
6 applicable local governmental entity.

7 2. "Covered Individual" means (i) any member of the Board of County
8 Commissioners; (ii) any member of a governing body of any municipality
9 within Broward County; (iii) any municipal mayor; (iv) any member of a
10 final decision-making body under the jurisdiction of the Board of County
11 Commissioners or the governing body of any municipality within Broward
12 County; (v) any individual directly appointed to a County or municipal
13 employment position by the Board of County Commissioners, by a
14 governing body of any municipality within Broward County, or by a
15 municipal mayor; (vi) any individual serving on a contractual basis as a
16 municipality's chief legal counsel or chief administrative officer, when such
17 individual is acting in his or her official capacity; (vii) any member of a
18 selection, evaluation, or procurement committee that ranks or makes
19 recommendations to any final decision-making authority regarding a
20 County or municipal procurement; (viii) any employee, any official, or any
21 member of a committee of Broward County or of any municipality within
22 Broward County that has authority to make a final decision regarding a
23 public procurement; and (ix) the head of any department, division, or office
24 of Broward County or of any municipal government who makes final

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1 recommendations to a final decision-making authority regarding items that
2 will be decided by the final decision-making authority. For purposes of the
3 prohibition on lobbying under section (c)(2) below, "Covered Individual"
4 also includes members of other local governmental entities within Broward
5 County, including taxing authorities, quasi-judicial boards, appointed
6 boards, and commissions.

7 3. "Elected Official" means any member of the Board of County
8 Commissioners and any Municipal Official as defined below.

9 4. "Filed for Public Inspection" means that the form is completed legibly and
10 is filed with the applicable governmental entity's chief administrative
11 official or clerk, with a copy of the form or all information contained thereon
12 inputted into the applicable governmental entity's database, which
13 database shall be searchable by internet. For any municipality that does
14 not maintain a website sufficient to meet the requirements of this
15 paragraph, the form or information may be inputted into a database
16 maintained by the Broward League of Cities, provided that database is
17 searchable by internet.

18 5. "Final Decision-Making Authority" means (i) the Board of County
19 Commissioners; (ii) the governing body of any municipality within Broward
20 County; (iii) municipal mayors; (iv) final decision-making bodies under the
21 jurisdiction of the Board of County Commissioners or under the jurisdiction
22 of the governing body of any municipality within Broward County; and (v)
23 any employee, official, or committee of Broward County or of any
24 municipality within Broward County that has authority to make a final

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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:

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- 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

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1 Administrative Code. The term "relative" shall be as defined in Florida Statutes section
2 112.3135.

3 (c) Standards of Conduct.

4 In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of
5 Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title
6 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward
7 County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct
8 shall apply to each Elected Official ~~the individual members of the Broward County Board~~
9 ~~of County Commissioners.~~

10 ~~The operative words or terms used in this Code, unless otherwise defined~~
11 ~~herein, shall be as defined, in order of priority in the event of inconsistency, by Part III of~~
12 ~~Florida Statutes Chapter 112, the Broward County Code of Ordinances and the Broward~~
13 ~~County Administrative Code. The terms "registered lobbyist" or "lobbyist", "lobbying" or~~
14 ~~"lobbying activities", "vendor" and "contractor" shall be as construed and defined in the~~
15 ~~Broward County Lobbyist Registration Act and the Broward County Procurement Code.~~
16 ~~The term "relative" shall be as defined in Florida Statutes section 112.3135 and the term~~
17 ~~"immediate family" shall be as defined in Florida Statutes section 112.3148.~~

18 (1) Acceptance of Gifts.

- 19 a. Elected Officials ~~County Commissioners~~, their spouses or
20 registered domestic partners, their other relatives, and their County
21 or municipal office staff, shall not accept gifts, directly or indirectly,
22 regardless of value, from lobbyists registered with the governmental
23 entity on whose behalf they (or their spouse, registered domestic
24 partner, or relative) serve, County or from any principal or employer

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1 of any such registered lobbyist, or from vendors or contractors of
2 such governmental entity Broward County. In order to effectuate
3 this provision, no lobbyist shall engage in any lobbying activity prior
4 to registering as a lobbyist with the applicable governmental entity.

5 b. Elected Officials County Commissioners may accept gifts from
6 other sources given to them in their official capacity, where not
7 otherwise inconsistent with the provisions of Florida Statutes
8 Chapter 112, Part III, up to a maximum value of \$50.00 per
9 occurrence. Gifts given to an Elected Official County
10 Commissioner in his or her official capacity up to \$50.00 in value
11 are deemed to be *de minimis*.

12 c. The \$50.00 above restrictions and limitations does not apply to gifts
13 given to Elected Officials County Commissioners in their personal
14 (non-official) capacity, ~~and s~~Such gifts are still subject to the
15 reporting requirements of Florida Statutes section 112. 3148.

16 (2) Outside/Concurrent employment.

17 a. Elected Officials County Commissioners shall not be employed as a
18 lobbyist or engage in lobbying activities before any member of the
19 governing body of the County or any municipality municipalities
20 within Broward County, before any municipal mayor, or before any
21 member of any other local governmental entities within Broward
22 County, including taxing authorities, quasi-judicial boards,
23 appointed boards, and commissions, ~~except on behalf of Broward~~
24 ~~County as authorized by action of the Board of County~~

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1 Commissioners. This form of employment and activity is deemed to
2 be in substantial conflict with the proper discharge of an Elected
3 Official's Commissioner's duties in the public interest.

- 4 b. Elected Officials County Commissioners may engage in other
5 employment consistent with their public duties and where not
6 otherwise inconsistent with the provisions of Florida Statutes
7 Chapter 112, Part III. All outside or concurrent employment by an
8 Elected Official County Commissioner, including employment
9 pursuant to contract, as well as any remuneration received from
10 that employment, must be disclosed ~~quarterly~~ on a form created by
11 the Broward County Attorney's Office. The disclosure referenced in
12 the preceding sentence shall be done quarterly by County
13 Commissioners and annually by Municipal Officials. The disclosure
14 form must be ~~completely legibly~~ and filed for public inspection ~~in a~~
15 ~~database designated by the County Administrator, which database~~
16 ~~shall be searchable both in hard copy and by internet~~. To the
17 extent complying with the disclosure requirement contained in this
18 paragraph would violate any written agreement to which a
19 Municipal Official is a party, the Municipal Official shall file, for
20 public inspection, a statement, under oath, from the Municipal
21 Official's employer or other person or entity paying such outside
22 remuneration, specifying how such violation would result from the
23 required disclosure. Upon filing such statement, the Municipal
24 Official shall not be required to comply with that portion of the

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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 ~~County Commissioner~~ shall not engage in ~~lobbying activities before the Board of County Commissioners~~ 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 Broward County.

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

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term results from a re-election of a currently-serving Municipal Official.

(3) Lobbyists.

a. Elected Officials ~~County Commissioners~~ should avoid even the appearance of impropriety in their interaction and dealings with lobbyists registered under their local governmental entity's lobbyist registration system ~~Broward County Lobbyist Registration Act~~ 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 ~~County Commissioner~~ for the purpose of engaging in lobbying activities, either at the Elected Official's ~~Commissioner's~~ offices or elsewhere on the local ~~County~~ government's premises, must legibly register ~~by completing a contact log as provided under Sec. 1-267 of the Broward County Code of Ordinances.~~ This registration shall be made for listing each Elected Official with whom ~~individual County Commissioner~~ the lobbyist, principal, or employer meets or intends on meeting or communicating with.

1. The information stated on the contact log registration shall include the lobbyist's name; the name of the entity by which the lobbyist is employed ~~his or her principal, including the employer or business;~~ the name of the person or ~~entity~~ for whom or ~~which~~ he or she is lobbying; the name of each ~~the~~

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1 Elected Official County Commissioner with whom he or she
2 is meeting or communicating with; the date and time of each
3 such the meeting; and the specific purpose and subject
4 matter of each such the meeting.

5 2. The contact log shall be completed ~~registration shall be~~
6 ~~made contemporaneously~~ with the meeting(s), ~~shall be~~
7 ~~legible,~~ and shall be filed for public inspection ~~in a database~~
8 ~~designated by the County Administrator, which database~~
9 ~~shall be searchable both in hard copy and by internet.~~

10 c. To further promote full and complete transparency, Elected Officials
11 ~~County Commissioners~~ must disclose any and all lobbying activity
12 that knowingly occurs between themselves and individual lobbyists
13 or their principals or employers outside of their governmental
14 ~~County Commission~~ offices/premises. This shall include
15 communicating by any form of telephonic or electronic media.

16 1. The disclosure shall include the lobbyist's name; the name of
17 the entity by which the lobbyist is employed; ~~lobbyist's~~
18 ~~principal, including his or her employer or business;~~ the
19 name of the person or entity for whom or which he or she is
20 lobbying; the date, time, and location of the meeting; and the
21 specific purpose and subject matter of the meeting.

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

3. The disclosure shall be ~~made in a legible manner and filed for public inspection in a database designated by the County Administrator, which database shall be searchable both in hard copy and by internet.~~

(4) Honest Services.

a. An Elected Official ~~County Commissioner~~ 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 ~~Broward County.~~

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 ~~County Commissioner~~ 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.

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2. To promote the full and complete transparency of any such solicitation, an Elected Official ~~County Commissioner~~ 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 ~~completed legibly and shall be~~ filed for public inspection ~~in a database designated by the~~ County Administrator, ~~which database shall be searchable~~ both ~~in hard copy and by internet~~.
3. An Elected Official ~~County Commissioners~~ may not use County staff or other County 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 Broward County sponsored 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

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1 are employed by a non-profit charitable organization when
2 soliciting charitable contributions on behalf of that
3 organization.

4 b. Campaign Contribution Fundraising.

5 1. It is the intent of this Code to promote the full and complete
6 transparency of campaign contributions received by Elected
7 Officials ~~County Commissioners~~, consistent with the
8 disclosure requirements provided by state statute.

9 2. Any campaign finance disclosure that an Elected Official
10 ~~County Commissioner~~ must submit to the Supervisor of
11 Elections, or to the appropriate municipal election official, in
12 accordance with the provisions of Florida Statutes Chapter
13 106 shall, contemporaneously, be filed for public inspection
14 ~~in a database designated by the County Administrator, which~~
15 ~~database shall be searchable both in hard copy and by~~
16 ~~internet.~~

17 3. Elected Officials ~~County Commissioners~~ who solicit
18 campaign contributions for other candidates for public office
19 shall disclose, on a form created by the Broward County
20 ~~Attorney's Office and filed for public disclosure in a manner~~
21 ~~designated by the County Administrator~~, the name of the
22 candidate for ~~which~~ whom they are soliciting, the location
23 and date of any associated event, and both the name and
24 contribution amounts of any individual who provided

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1 contributions, directly or indirectly, to the Elected Official
2 ~~County Commissioner~~ for subsequent delivery to the
3 candidate. The form shall be filed for public inspection.

4 4. An Elected Official ~~County Commissioners~~ may not use any
5 ~~County~~ staff or other ~~County~~ resources of his or her
6 governmental entity in the solicitation or receipt of campaign
7 contributions.

8 5. Campaign or political contributions may not be made,
9 solicited, or accepted in any government-owned building.

10 c. The Board of County Commissioners shall be prohibited from
11 waiving the provisions of Section 18.63 of the Broward County
12 Administrative Code as it pertains to the County's acceptance of
13 donations ~~in excess of five hundred (\$500.00) dollars.~~

14 (6) Procurement Selection Committees.

15 a. It shall be a conflict of interest for any Elected Official member of
16 the Board of County Commissioners to serve as a voting member
17 of a County procurement Selection/Evaluation Committee in
18 connection with any prospective procurement by the Elected
19 Official's governmental entity. Elected Officials County
20 Commissioners shall not be included as members on any
21 Selection/Evaluation Committee and shall not participate or
22 interfere in any manner at Committee meetings or in the selection
23 of Committee members, which members shall be appointed by the
24 County Administrator or appropriate municipal staff, as relevant.

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Upon the completion of the selection process by the Committee, Elected Officials County Commissioners 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 ~~in a database designated by the County Administrator, which database shall be searchable both in hard copy and by internet.~~ 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.

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(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

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whether the Elected Official's action complies with state or federal ethics requirements.

(de) Training and Education.

(1) New Elected Officials ~~County Commissioners~~ shall receive a minimum of four (4) hours of training from their governmental entity's attorney (or as directed by that attorney) Office of the County Attorney on the topics of the Sunshine Law, public records, and public service ethics, and shall ~~---The County Commissioner shall~~ certify or acknowledge his or her participation in this training ~~through~~ in a form filed with the entity's chief administrative official or clerk ~~the County Administrator~~. 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 ~~Commissioners~~ offered by the Florida Association of Counties or the Florida League of Cities is strongly encouraged.

(2) Each Elected Official ~~member of the Board of County Commissioners~~ 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 ~~The County Commissioner~~ 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 ~~his or her participation in this program through the County Administrator.~~

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(d) Enforcement.

(1) Office of Inspector General.

a. ~~Created and Established.~~

1. ~~The Office of Inspector General is created to detect misconduct involving waste, fraud, abuse, mismanagement, corruption, as well as the violation of County and municipal ordinances, state or federal statutes, and the state and federal constitution by any member of the Board of County Commissioners.~~

2. ~~The Inspector General shall head the Office.~~

3. ~~The organization and administration of the Office of Inspector General shall be independent to assure that no interference or influence external to the Office of Inspector General adversely affects the objectivity of the Inspector General.~~

b. Functions, Authority and Powers.

1. ~~The authority of the Inspector General shall extend over the Board of County Commissioners.~~

2. ~~Upon a determination by the Inspector General that good cause exists, including but not limited to the receipt of a filed complaint or a credible published report, the Inspector General shall commence an investigation of any member of the Board of County Commissioners.~~

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3. ~~Any complaint received by the Office of Inspector General that is made against a candidate for the office of County Commissioner and received within sixty (60) days of the date of the election shall be held in abeyance until the election is determined or, if the complaint is made within sixty (60) days of a primary election, until the general election is determined if the individual against whom the complaint was filed remains a candidate in the general election.~~
4. ~~The Inspector General shall have the authority to investigate any member of the Board of County Commissioners. Each member of the Board of County Commissioners shall fully cooperate with the Inspector General.~~
5. ~~In connection with an investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require the production of documents and records.~~
6. ~~The Inspector General shall have the authority to prepare reports and recommendations based upon its investigation.~~
7. ~~Upon a finding of probable cause and the good faith belief that a violation of a state, federal or local law, rule, regulation or policy has occurred, the Inspector General shall notify the appropriate civil, criminal or administrative agencies charged with enforcement of said violation.~~

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- a) ~~The Inspector General shall refer findings of alleged criminal offenses to the State Attorney and/or the Office of the United States Attorney.~~
- b) ~~The Inspector General shall refer findings of alleged civil offenses involving a violation of Florida Statutes Chapter 112, Part III, to the Florida Commission on Ethics.~~
- c) ~~Civil infractions involving local ordinances or code provisions not covered by Florida Statutes Chapter 112, Part III shall be stated in a complaint brought in the name of the Inspector General on behalf of Broward County, which complaint shall be referred to a Hearing Officer randomly chosen from among the panel of hearing officers selected by the Inspector General Selection Oversight Committee. Upon the finding of a violation, the Hearing Officer shall impose sanctions in accordance with Florida Statutes sections 112.317 and 125.69, or as provided within this Code.~~
 - i. ~~In addition to all other authority granted in this section, the hearing officer shall have the authority to:~~
 - a. ~~Issue notices of hearings;~~
 - b. ~~Administer oaths and affirmations;~~

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- ~~e. Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the preservation and production of documents and other items which may be used as evidence;~~
 - ~~d. Rule upon motions presented and offers of proof and receive relevant evidence;~~
 - ~~e. Issue appropriate orders to effectuate discovery;~~
 - ~~f. Regulate the course of the hearing;~~
 - ~~g. Dispose of procedural requests or similar matters; and~~
 - ~~h. Enter any order, consistent with his or her authority, to carry out the purposes of this chapter.~~
- ~~ii. Except to any extent inconsistent with any provision of this subsection, the Florida Rules of Civil Procedure and Florida Evidence Code, as amended, shall apply to hearings under this section.~~
- ~~iii. Within thirty (30) days after completion of the hearing, the hearing officer shall issue a final order determining whether a violation of the Code has occurred. The final order shall~~

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~~contain detailed findings of fact and conclusions of law. If a violation has occurred, the final order shall specify the sanction(s) imposed.~~

~~iv. Orders issued by the hearing officer, including the final order, are subject to judicial review as provided by applicable law.~~

~~8. The Inspector General shall provide adequate notice to the subject of any investigation and an opportunity to be heard with respect to the charges or allegations made.~~

~~9. The Inspector General's records related to active investigations shall be and are confidential and exempt from disclosure, as provided by F.S. 112.3188(2).~~

~~10. The Inspector General shall be deemed "an appropriate local official" for purposes of whistleblower protection provided by F.S. 112.3188(1).~~

~~11. The Inspector General may recommend remedial action and may follow up to determine whether recommended remedial actions have been taken.~~

~~12. The Inspector General shall establish policies and procedures and monitor the costs of investigations undertaken.~~

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~~13. The Inspector General is hereby deemed to be a public official and shall be subject to all applicable provisions of this Code.~~

~~e. Minimum Qualifications, Selection and Term of Office.~~

~~1. Minimum qualifications. The Inspector General shall be a person who:~~

~~a) Has at least ten (10) years of experience in any one, or a combination of, the following fields:~~

~~1) as a Federal, State or local Law Enforcement Officer;~~

~~2) as a Federal or State court judge;~~

~~3) as a Federal, State or local government attorney with expertise in investigating fraud, mismanagement and corruption; or~~

~~4) as a person with progressive supervisory experience in an investigative public agency similar to an inspector general's office.~~

~~b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;~~

~~e) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary;~~

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- d) ~~Has a four-year degree from an accredited institution of higher learning;~~
 - e) ~~Has experience in the management of a private or public entity; and~~
 - f) ~~Has not been employed by Broward County or served in an elected office within the State of Florida during the five (5) year period immediately prior to selection.~~
2. ~~Highly qualified candidates will also have audit-related skills and/or hold one or more of the following professional certifications at the time of selection: certified inspector general (CIG), certified inspector-general investigator (CIGI), certified inspector-general auditor (CIGA), certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner (CFE).~~
3. ~~Selection.~~
- a) ~~Responsibility for selecting the Inspector General shall be vested solely with the Inspector General Selection Oversight Committee ("Selection Oversight Committee").~~
 - b) ~~The Selection Oversight Committee shall be comprised of:~~
 - 1) ~~The Chief Judge of Seventeenth Judicial Circuit or, if he or she is unable or unwilling to serve, then his or her designee.~~

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2) ~~The State Attorney of the Seventeenth Judicial Circuit or, if he or she is unable or unwilling to serve, then his or her designee.~~

3) ~~The Public Defender for the Seventeenth Judicial Circuit or, if he or she is unable or unwilling to serve, then his or her designee.~~

4) ~~The Special Agent in charge of the Miami Regional Operation Center of the Florida Department of Law Enforcement or, if he or she is unable or unwilling to serve, then his or her designee.~~

5) ~~The Dean of the Nova Southeastern University Law Center or, if he or she is unable or unwilling to serve, then his or her designee. In the event that no individual in this category agrees to serve, the Selection Oversight Committee shall fill the vacancy.~~

e) ~~In the event any of the above individuals are unable or unwilling to serve, the members of the Selection Oversight Committee shall fill the vacancy by majority vote.~~

d) ~~The members of the Selection Oversight Committee shall elect a chairperson who shall preside over the~~

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~~actions of the Committee. The Selection Oversight Committee shall establish its own rules of procedure.~~

e) ~~The Human Resources Division of Broward County shall be responsible for providing staffing to the Selection Oversight Committee and for the solicitation of qualified candidates for the position of Inspector General.~~

f) ~~In addition to its other responsibilities under this Code, the Selection Oversight Committee shall select qualified hearing officers to preside over hearings in connection with civil infractions as specified above.~~

g) ~~In addition to the factors specified above, in selecting the Inspector General and qualified hearing officers, the Selection Oversight Committee shall take into consideration the rich diversity of the County's residents.~~

4. ~~Term. The Inspector General shall be appointed for a term of four (4) years. The Selection Oversight Committee shall convene at least six (6) months prior to the end of each contract term to determine whether to renew the contract of the Inspector General or solicit new candidates.~~

5. ~~Vacancy. In the event of a vacancy in the position of Inspector General, the Chairperson of the Selection Oversight Committee shall appoint an interim Inspector~~

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~~General until such time as a successor Inspector General is selected and assumes office.~~

~~6. The presence of all five (5) members of the Selection-Oversight Committee is necessary to constitute a quorum for purposes of any vote to select or remove the Inspector General. For all other votes, a quorum shall consist of three (3) or more members being present.~~

~~d. Contract. The Director of the Broward County Human Resources Division, with the assistance of the County Attorney of Broward County, shall negotiate a contract of employment with the Inspector General substantially consistent with the terms included in contracts of other contractual employees of Broward County.~~

~~e. Physical Facilities and Staff.~~

~~1. The County shall provide the Office of Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.~~

~~2. The Inspector General shall have the power to appoint, employ, and remove such assistants, employees and personnel, and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office of Inspector General.~~

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~~3. The Office of the County Auditor shall be a resource to the Inspector General and shall make staff available as necessary to assist the Inspector General in its investigations.~~

~~f. Procedure for Finalization of Reports and Recommendations Which Make Findings as to the Person or Entity Being Reviewed or Inspected. The Inspector General shall publish and deliver finalized reports and recommendations to the Board of County Commissioners and to the Offices represented on the Selection-Oversight Committee. Whenever the Inspector General concludes a report or recommendation which contains findings as to a member of the Board of County Commissioners, the Inspector General shall provide the affected County Commissioner with a copy of the report or recommendation and the County Commissioner shall have ten (10) working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized. A timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection shall not apply when the Inspector General, in conjunction with the State Attorney or United States Attorney, determines that supplying the County Commissioner with such report will jeopardize a pending criminal investigation.~~

~~g. Reporting.~~

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~~1. The Inspector General shall annually prepare and publish a written report to all covered entities concerning the work and activities of the Office of Inspector General including, but not limited to, statistical information regarding the disposition of closed investigations. The annual report of the Inspector General shall, promptly after it is completed, be posted on Broward County's public website and presented to the Selection Oversight Committee.~~

~~2. The Selection Oversight Committee shall convene at least annually, shortly after its receipt of the annual report, to consider the report and the performance of the Inspector General. Other meetings of the Committee may be set by majority vote during the annual meeting or at the request of the Inspector General. A meeting to vote upon setting a public hearing to consider removal of the Inspector General shall be set by the Chairperson upon his or her own volition or upon being requested to do so by any member of the Committee.~~

~~h. Financial Support and Budgeting.~~

~~1. The Charter Government of Broward County shall be responsible for the funding of the Office of Inspector General.~~

~~2. Pursuant to its annual budget process, the Broward County Board of County Commissioners shall provide sufficient and~~

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~~adequate financial support for the Inspector General's Office to fulfill its duties. The costs of reviews, inspections and investigations by the Inspector General may be defrayed in part by the imposition of a fee imposed by the County which shall be equal to one quarter of one percent (0.25%) of the contract price (hereinafter "IG contract fee") added to each County contract, as well as a fee on lobbyist registrations.~~

~~3. The Inspector General shall timely deliver to the Board of County Commissioners a budget request including a reasonable estimate of operating and capital expenditures. The budget request shall include funds to enable the Inspector General to retain outside counsel to represent the Inspector General in connection with complaints referred to a hearing officer. The Inspector General's budget shall not be implemented until a public hearing is held by the Broward County Board of County Commissioners. The Inspector General shall establish a fiscal year which coincides with that of Broward County. Nothing contained herein shall be construed to prohibit the Inspector General from transmitting to the Board of County Commissioners supplemental budget requests, which shall be scheduled for a public hearing and if approved by the Commission, shall constitute amendments to the county budget. The Board of County Commissioners'~~

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~~approval of the Inspector General's budget request shall not be unreasonably withheld.~~

~~i. Removal. The Inspector General may be removed only for cause based upon specified charges of the following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. Removal shall be considered at a duly noticed public hearing of the Selection Oversight Committee. The Inspector General shall be provided sufficient advance notice of the reasons for the possible removal, and shall be given an opportunity to be heard on the charges. The Inspector General may only be removed upon the affirmative vote of no fewer than three (3) members of the Selection Oversight Committee.~~

~~(2) Sanctions:~~

~~a. Fines:~~

- ~~1. A County Commissioner who violates any provision of this Code shall be assessed a monetary fine of between \$250.00 and \$5,000.00 per violation.~~
- ~~2. Additionally, the Hearing Officer may order the Commissioner to pay restitution or to disgorge any sums wrongfully received by the Commissioner or by any relative of the Commissioner or entity substantially affiliated with the Commissioner.~~
- ~~3. In determining the amount of the fine, the Hearing Officer shall consider:~~

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- a) ~~The gravity of the violation;~~
- b) ~~Whether it was intentional; and~~
- c) ~~Whether it is a repeat offense.~~

4. ~~The Hearing Officer may determine that no fine shall be imposed upon making an affirmative, express finding that the violation was unintentional and *de minimis*.~~

b. ~~Public Reprimand/Censure.~~

1. ~~A County Commissioner who is found to have violated any provision of this Code shall be subject to public reprimand or censure.~~

c. ~~Incarceration.~~

1. ~~A County Commissioner who is convicted of a violation of this Code may, pursuant to Florida Statutes section 125.69, be subject to imprisonment for a maximum of sixty (60) days, in addition to a fine and public censure.~~

Section 2. RESTRICTIONS ON AMENDMENT.

Except as to any amendments required as a result of changes in governing law:

(a) The Board of County Commissioners may at any time strengthen or supplement the restrictions and protections provided under this Code, but the restrictions and protections hereof may be weakened or removed, in whole or in part, only by citizen initiative as referenced in Section 7.01 of the Broward County Charter.

(b) If any Court determines that the above-provided requirement of a citizen initiative is inconsistent with applicable law, then, to the full extent permitted under applicable law, the restrictions and protections of this Code may be weakened or

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1 removed, in whole or in part, only by an affirmative vote of a majority plus one (1)
2 member of the full Board of County Commissioners.

3 Section 3. Section 26-72.5 of the Broward County Code of Ordinances, the
4 definition section of the Broward County Employee Code of Ethics Act, is hereby
5 amended to read as follows:

6 Except as stated in (a) through (g) ~~(e)~~ below, the definitions contained or
7 referenced in Section 1-19, Broward County Code, apply to the same words or terms
8 appearing in this Act.

9 ...

10 (b) "Covered Individual" means (i) any member of the Board of County
11 Commissioners; (ii) any member of a final decision-making body under the jurisdiction
12 of the Board of County Commissioners; (iii) any member of a selection, evaluation, or
13 procurement committee that ranks or makes recommendations to any final decision-
14 making authority regarding a County procurement; (iv) any employee of Broward
15 County that has authority to make a final decision regarding a public procurement; and
16 (v) the head of any department, division, or office of Broward County who makes final
17 recommendations to a final decision-making authority regarding items that will be
18 decided by the final decision-making authority.

19 ~~(c)(b)~~ "Gift" shall be as defined in Subsection 112.312(12), Florida Statutes.

20 (d) "Final Decision-Making Authority" means (i) the Board of County
21 Commissioners; (ii) final decision-making bodies under the jurisdiction of the Board of
22 County Commissioners; and (iii) any employee of Broward County that has authority to
23 make a final decision to select a vendor or provider in connection with a public
24 procurement.

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1 ~~(e)(6)~~ "Immediate family member" means a parent, spouse, child, sibling, or
2 registered domestic partner of a County employee.

3 (f) "Lobbying or Lobbying Activities" means a communication, by any means,
4 from a lobbyist to a covered individual regarding any item that will foreseeably be
5 decided by a final decision-making authority, which communication seeks to influence,
6 convince or persuade the covered individual to support or oppose the item. Lobbying
7 does not include communications:

- 8 1. Made on the record at a duly-noticed public meeting or hearing; or
- 9 2. From an attorney to an attorney representing Broward County regarding a
10 pending or imminent judicial or adversarial administrative proceeding
11 against Broward County.

12 (g) "Lobbyist" means a person who is retained, with or without compensation,
13 for the purpose of lobbying; or a person who is employed by another person or entity,
14 on a full-time or part-time basis, principally to lobby on behalf of that other person or
15 entity. "Lobbyist" does not include a person who is:

- 16 1. An Elected Official, employee, or appointee of Broward County or of any
17 municipality within Broward County communicating in his or her official
18 capacity;
- 19 2. An individual who communicates on his or her own behalf, or on behalf of
20 a person or entity employing the individual on a full-time or part-time basis,
21 unless the individual is principally employed by that person or entity to
22 lobby;
- 23 3. Any employee, officer, or board member of a homeowners' association,
24 condominium association, or neighborhood association when addressing,

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1 ~~made by any decision-making body under the jurisdiction of the Board, or~~
2 ~~a final procurement decision to be made by a County employee.~~
3 ~~Appearing before the Board or other decision-making body under the~~
4 ~~jurisdiction of the Board at a publicly-noticed meeting does not constitute~~
5 ~~lobbying.~~

6 ...

7 (d) Lobbyist means a person who is retained, with or without compensation,
8 for the purpose of lobbying; or a person who is employed by another person or entity,
9 on a full-time or part-time basis, principally to lobby on behalf of that other person or
10 entity. "Lobbyist" does not include a person who is:

- 11 1. An Elected Official, employee, or appointee of Broward County or of any
12 municipality within Broward County communicating in his or her official
13 capacity;
- 14 2. An individual who communicates on his or her own behalf, or on behalf of
15 a person or entity employing the individual on a full-time or part-time basis,
16 unless the individual is principally employed by that person or entity to
17 lobby;
- 18 3. An employee, officer, or board member of a homeowners' association,
19 condominium association, or neighborhood association when addressing,
20 in his or her capacity as an employee, officer, or board member of such
21 association, an issue impacting the association or its members; or
- 22 4. An employee, officer, or board member of a nonprofit public interest entity
23 (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a
24 constituent of that entity. ~~any individual who engages in lobbying, as~~

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1 recommendations to a final decision-making authority regarding items that will be
2 decided by the final decision-making authority.

3 (h) Final Decision-Making Authority means (i) the Board of County
4 Commissioners; (ii) final decision-making bodies under the jurisdiction of the Board of
5 County Commissioners; and (iii) any employee of Broward County that has authority to
6 make a final decision to select a vendor or provider in connection with a public
7 procurement.

8 Section 5. SEVERABILITY.

9 If any portion of this Ordinance is determined by any Court to be invalid, the
10 invalid portion shall be stricken, and such striking shall not affect the validity of the
11 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
12 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
13 or circumstance(s), such determination shall not affect the applicability hereof to any
14 other individual, group, entity, property, or circumstance.

15 Section 6. INCLUSION IN CODE.

16 It is the intention of the Board of County Commissioners that the provisions of
17 this Ordinance shall become and be made a part of the Broward County Code; and that
18 the sections of this Ordinance may be renumbered or relettered and the word
19 "ordinance" may be changed to "section," "article," or such other appropriate word or
20 phrase in order to accomplish such intentions.

21 Section 7. EFFECTIVE DATE.

22 This ordinance shall become effective as provided by law, except that no
23 provision of this Ordinance shall be applicable to Municipal Officials until January 2,
24 2012.

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ENACTED October 11, 2011
FILED WITH THE DEPARTMENT OF STATE October 17, 2011
EFFECTIVE January 2, 2012

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Municipal Officials Code of Ethics.doc
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