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ORDINANCE NO. 2011-19

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, AMENDING SECTION 1-19 OF THE BROWARD COUNTY CODE OF ORDINANCES, RELATING TO A CODE OF ETHICS FOR THE BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS AND OTHER SPECIFIED INDIVIDUALS; MODIFYING CERTAIN PORTIONS OF SECTION 1-19 AND EXTENDING IT TO COVER ELECTED MUNICIPAL OFFICIALS AND OTHER SPECIFIED INDIVIDUALS; DELETING REFERENCES IN SECTION 1-19 TO THE BROWARD COUNTY OFFICE OF INSPECTOR GENERAL AND REFERENCES TO ENFORCEMENT OF THE CODE OF ETHICS, WHICH SUBJECTS ARE NOW GOVERNED BY ARTICLE XII OF THE BROWARD COUNTY CHARTER; AMENDING SECTIONS 1-261 AND 26-72.5 OF THE BROWARD COUNTY CODE OF ORDINANCES TO PROVIDE CONSISTENT DEFINITIONS OF LOBBYING AND RELATED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 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,

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 Elected Officials.

6 (a) Statement of Policy.

7 It is the policy of Broward County that the Board of County Commissioners work
8 for the benefit of the citizens of the County and elected officials of municipalities work
9 for the benefit of the citizens of their respective municipalities. County Commissioners
10 and elected municipal officials shall not receive any personal economic or financial
11 benefit resulting from their service on their local governing bodies beyond legally
12 authorized direct compensation. It is the responsibility of each County Commissioner
13 and elected municipal official to act in a manner that promotes public trust and
14 confidence in government with complete transparency and honesty in their services,
15 and to avoid even the appearance or perception of impropriety.

16 (b) Definitions. For purposes of this code of ethics (the "Broward County
17 Elected Official Code of Ethics"):

- 18 1. "Contractor" means any person or entity having a contract with the
19 applicable local governmental entity.
- 20 2. "Covered Individual" means (i) any member of the Board of County
21 Commissioners; (ii) any member of a governing body of any municipality
22 within Broward County; (iii) any municipal mayor; (iv) any member of a
23 final decision-making body under the jurisdiction of the Board of County
24 Commissioners or the governing body of any municipality within Broward

1 County; (v) any individual directly appointed to a County or municipal
2 employment position by the Board of County Commissioners, by a
3 governing body of any municipality within Broward County, or by a
4 municipal mayor; (vi) any individual serving on a contractual basis as a
5 municipality's chief legal counsel or chief administrative officer, when such
6 individual is acting in his or her official capacity; (vii) any member of a
7 selection, evaluation, or procurement committee that ranks or makes
8 recommendations to any final decision-making authority regarding a
9 County or municipal procurement; (viii) any employee, any official, or any
10 member of a committee of Broward County or of any municipality within
11 Broward County that has authority to make a final decision regarding a
12 public procurement; and (ix) the head of any department, division, or office
13 of Broward County or of any municipal government who makes final
14 recommendations to a final decision-making authority regarding items that
15 will be decided by the final decision-making authority. For purposes of the
16 prohibition on lobbying under section (c)(2) below, "Covered Individual"
17 also includes members of other local governmental entities within Broward
18 County, including taxing authorities, quasi-judicial boards, appointed
19 boards, and commissions.

20 3. *"Elected Official"* means any member of the Board of County
21 Commissioners and any Municipal Official as defined below.

22 4. *"Filed for Public Inspection"* means that the form is completed legibly and
23 is filed with the applicable governmental entity's chief administrative
24 official or clerk, with a copy of the form or all information contained thereon

1 inputted into the applicable governmental entity's database, which
2 database shall be searchable by internet. For any municipality that does
3 not maintain a website sufficient to meet the requirements of this
4 paragraph, the form or information may be inputted into a database
5 maintained by the Broward League of Cities, provided that database is
6 searchable by internet.

- 7 5. "*Final Decision-Making Authority*" means (i) the Board of County
8 Commissioners; (ii) the governing body of any municipality within Broward
9 County; (iii) municipal mayors; (iv) final decision-making bodies under the
10 jurisdiction of the Board of County Commissioners or under the jurisdiction
11 of the governing body of any municipality within Broward County; and (v)
12 any employee, official, or committee of Broward County or of any
13 municipality within Broward County that has authority to make a final
14 decision to select a vendor or provider in connection with a public
15 procurement. For purposes of the prohibition of lobbying under section
16 (c)(2) below, "*Final Decision-Making Authority*" also includes other local
17 governmental entities within Broward County, including taxing authorities,
18 quasi-judicial boards, appointed boards, and commissions.
- 19 6. "*Immediate Family Member*" means a parent, spouse, child, sibling, or
20 registered domestic partner.
- 21 7. "*Lobbying*" or "*Lobbying Activities*" means a communication, by any
22 means, from a lobbyist to a covered individual regarding any item that will
23 foreseeably be decided by a final decision-making authority, which
24 communication seeks to influence, convince, or persuade the covered

1 individual to support or oppose the item. Lobbying does not include
2 communications:

- 3 a. Made on the record at a duly-noticed public meeting or hearing; or
4 b. From an attorney to an attorney representing Broward County or
5 any municipality within Broward County regarding a pending or
6 imminent judicial or adversarial administrative proceeding against
7 Broward County or against any municipality within Broward County.

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

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

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

4 9. *"Municipal Official"* means any individual serving as a member of the
5 governing body of a municipality within Broward County or serving as a
6 municipal mayor within Broward County.

7 10. *"Vendor"* means an actual or potential supplier of any goods or services to
8 the applicable local governmental entity.

9 All operative words or terms used in this Code not defined herein shall be as
10 defined, in order of priority in the event of inconsistency, by Part III of Florida Statutes
11 Chapter 112, the Broward County Code of Ordinances, and the Broward County
12 Administrative Code. The term "relative" shall be as defined in Florida Statutes section
13 112.3135.

14 (c) Standards of Conduct.

15 In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of
16 Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title
17 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward
18 County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct
19 shall apply to each Elected Official.

20 (1) Acceptance of Gifts.

21 a. Elected Officials, their spouses or registered domestic partners,
22 their other relatives, and their County or municipal office staff, shall
23 not accept gifts, directly or indirectly, regardless of value, from
24 lobbyists registered with the governmental entity on whose behalf

1 they (or their spouse, registered domestic partner, or relative)
2 serve, or from any principal or employer of any such registered
3 lobbyist, or from vendors or contractors of such governmental
4 entity. In order to effectuate this provision, no lobbyist shall engage
5 in any lobbying activity prior to registering as a lobbyist with the
6 applicable governmental entity.

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

13 c. The \$50.00 limitation does not apply to gifts given to Elected
14 Officials in their personal (non-official) capacity. Such gifts are still
15 subject to the reporting requirements of Florida Statutes section
16 112.3148.

17 (2) Outside/Concurrent employment:

18 a. Elected Officials shall not be employed as a lobbyist or engage in
19 lobbying activities before any member of the governing body of the
20 County or any municipality within Broward County, before any
21 municipal mayor, or before any member of any other local
22 governmental entities within Broward County, including taxing
23 authorities, quasi-judicial boards, appointed boards, and
24 commissions. This form of employment and activity is deemed to

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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

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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.

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- 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.

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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

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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

1 soliciting charitable contributions on behalf of that
2 organization.

3 b. **Campaign Contribution Fundraising.**

- 4 1. It is the intent of this Code to promote the full and complete
5 transparency of campaign contributions received by Elected
6 Officials, consistent with the disclosure requirements
7 provided by state statute.
- 8 2. Any campaign finance disclosure that an Elected Official
9 must submit to the Supervisor of Elections, or to the
10 appropriate municipal election official, in accordance with the
11 provisions of Florida Statutes Chapter 106 shall,
12 contemporaneously, be filed for public inspection.
- 13 3. Elected Officials who solicit campaign contributions for other
14 candidates for public office shall disclose, on a form created
15 by the Broward County Attorney's Office, the name of the
16 candidate for whom they are soliciting, the location and date
17 of any associated event, and both the name and contribution
18 amounts of any individual who provided contributions,
19 directly or indirectly, to the Elected Official for subsequent
20 delivery to the candidate. The form shall be filed for public
21 inspection.
- 22 4. An Elected Official may not use any staff or other resources
23 of his or her governmental entity in the solicitation or receipt
24 of campaign contributions.

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- 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

1 would be inconsistent with such prohibitions. The prohibitions
2 stated in the preceding paragraph shall also not apply to the hiring
3 (or contractual procurement, in lieu of hiring) of individuals who
4 report directly to a local governing body.

5 (7) Financial Disclosure.

6 a. Each County Commissioner, contemporaneously with the annual
7 filing of the Form 6 Disclosure of Financial Interest with the State of
8 Florida Commission on Ethics, shall file such form for public
9 inspection. Each Municipal Official, contemporaneously with the
10 annual filing of the Form 1 Statement of Financial Interests with the
11 State of Florida Commission on Ethics, shall file such form for
12 public inspection.

13 (8) Advisory Opinions.

14 a. Any Elected Official may request an advisory opinion about how the
15 Broward County Elected Official Code of Ethics applies to his or her
16 own situation. Requests for opinions from County Commissioners
17 shall be made to the Broward County Attorney or to the County
18 Attorney's designee. Requests for opinions from Municipal Officials
19 shall be made to the municipality's chief attorney or to that
20 attorney's designee. Requests for opinions shall be considered
21 only if in writing and signed by the Elected Official or by his or her
22 office staff. Requests for opinions shall state all material facts
23 necessary for the advising attorney to understand the
24 circumstances and render a complete and correct opinion. If at any

1 time after receipt of a request, the advising attorney believes that
2 additional information is needed, the Elected Official requesting the
3 opinion shall be notified and shall furnish such additional
4 information.

5 b. Until amended or revoked, an advisory opinion rendered pursuant
6 to this section shall be binding on the conduct of the Elected Official
7 covered by the opinion unless material facts were omitted or
8 misstated in the request for the advisory opinion. If the Elected
9 Official acts in accordance with a binding advisory opinion, the
10 Elected Official's action may not be found to be in violation of the
11 Broward County Elected Official Code of Ethics. However, any
12 opinion rendered under this section shall not be binding as to
13 whether the Elected Official's action complies with state or federal
14 ethics requirements.

15 (d) Training and Education.

16 (1) New Elected Officials shall receive a minimum of four (4) hours of training
17 from their governmental entity's attorney (or as directed by that attorney)
18 on the topics of the Sunshine Law, public records, and public service
19 ethics, and shall certify or acknowledge his or her participation in this
20 training in a form filed with the entity's chief administrative official or clerk.
21 Such training shall be completed within one hundred twenty (120) days
22 after taking office. The four (4) hours of training shall count towards the
23 eight (8) hour training referenced in the paragraph immediately below.
24 Additional training for new Elected Officials offered by the Florida

1 Association of Counties or the Florida League of Cities is strongly
2 encouraged.

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

10 Section 2. RESTRICTIONS ON AMENDMENT.

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

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

16 (b) If any Court determines that the above-provided requirement of a citizen
17 initiative is inconsistent with applicable law, then, to the full extent permitted under
18 applicable law, the restrictions and protections of this Code may be weakened or
19 removed, in whole or in part, only by an affirmative vote of a majority plus one (1)
20 member of the full Board of County Commissioners.

21 Section 5. SEVERABILITY.

22 If any portion of this Ordinance is determined by any Court to be invalid, the
23 invalid portion shall be stricken, and such striking shall not affect the validity of the
24 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion

1 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
2 or circumstance(s), such determination shall not affect the applicability hereof to any
3 other individual, group, entity, property, or circumstance.

4 Section 6. INCLUSION IN CODE.

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

10 Section 7. EFFECTIVE DATE.

11 This ordinance shall become effective as provided by law, except that no
12 provision of this Ordinance shall be applicable to Municipal Officials until January 2,
13 2012.

14 ENACTED

15 FILED WITH THE DEPARTMENT OF STATE

16 EFFECTIVE

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