

Meeting Date
September 19, 2017



AGENDA	
Section	Public Hearing
Item No.	IV.C

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Ethics Ordinance
DEPT/OFFICE:	County Attorney's Office

Requested Action:

It is requested that the Board of County Commissioners hold a public hearing for consideration of an ethics ordinance creating a new chapter to the Brevard County Code of Ordinances, Chapter 3, "Code of Ethics."

Summary Explanation & Background:

On August 8, 2017 the Board of County Commissioners directed staff to revise an ordinance that would establish a County code of ethics. The revised ordinance is the subject of this public hearing. This code of ethics creates a lobbyist registration process, prohibited activities and penalties; implements a four (4) year lobbying and employment ban for Commissioners after vacating office, with limited exceptions; puts in place an out-of-state travel procedure applicable to all County Officers, which is defined to include the Board of County Commissioners on out-of-state travel when County funds are used.

Commission authorized changes to the original draft have been incorporated into the ordinance.

In addition, a new paragraph was added to the definition of lobbyist. This definition was included in the original draft of the ordinance but was inadvertently left out of subsequent drafts. The additional language below was approved by the Board in subsequent version.

- 8. a full-time or part-time employee or professional consultant while acting in the ordinary course of such employee's or consultant's scope of employment on behalf of his/her employer or client, provided such employer or client is not a lobbying firm.

**Contact:** Alex Esseesse, Asst. County Attorney, Scott Knox, County Attorney  
**Phone/e-mail:** (321) 633-2090

Clerk to the Board Instructions: Upon execution by the Chair of the Board, forward to the Secretary of State for filing; upon receipt of confirmation of filing, forward certified copy to the Municipal Code Corporation for inclusion in the Code of Ordinances of Brevard County

Exhibits Attached: proposed Ordinance

Contract /Agreement (If attached): Reviewed by County Attorney    Yes     No     PR

County Manager	Assistant County Manager	County Attorney / 52090
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Frank Abbate	Assistant County Manager
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## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

September 20, 2017

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2017-21, which was filed in this office on September 20, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 837-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

September 20, 2017

MEMORANDUM

TO: Scott Knox, County Attorney      Attn: Alex Esseesse

RE: Item IV.C., Ordinance for Creating a New Chapter to the Brevard County Code of Ordinances, Chapter 3, Code of Ethics

The Board of County Commissioners, in regular session on September 19, 2017, adopted Ordinance No. 17-21, creating a New Chapter to the Brevard County Code of Ordinances, Chapter 3, "Code of Ethics." Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for Donna Scott*  
Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

**ORDINANCE NO. 2017- 21**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA RELATING TO ETHICS; CREATING A NEW CHAPTER IN THE BREVARD COUNTY CODE OF ORDINANCES, CHAPTER 3, "CODE OF ETHICS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR A LOBBYIST REGISTRATION PROCESS; PROVIDING FOR PENALTIES FOR FAILURE TO REGISTER AS A LOBBYIST; PROVIDING FOR A LOBBYING AND EMPLOYMENT BAN ON COMMISSIONERS FOLLOWING VACATION OF OFFICE; PROVIDING FOR A PROHIBITION ON THE ACCEPTANCE OF GIFTS BY COUNTY OFFICIALS; PROVIDING FOR THE ESTABLISHMENT OF A BOARD PROCEDURE FOR SENDING COUNTY COMMISSIONERS ON OUT-OF-STATE TRAVEL USING COUNTY FUNDS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Code of Ethics, Part III, Chapter 112, Florida Statutes, establishes certain rules and regulations that public officers, including county commissioners, must follow; and

**WHEREAS**, a county may adopt an ethics code more stringent than, or with provisions differing from, the provisions of the State Code of Ethics as long as the county's provisions do not conflict with the State's ethics code; and

**WHEREAS**, the Board of County Commissioners of Brevard County, Florida has found that it is necessary for the preservation of the integrity, honesty, and transparency in government to adopt the following set of ethics provisions.

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

**Section 1. Creation, Findings, and Intent.** Chapter 3 of the Brevard County Code of Ordinances is hereby created. The Board of County Commissioners of Brevard County, Florida, hereinafter referred to as the "Board," hereby determines and declares that the operation of responsible government is to work for the benefit of citizens of Brevard County, hereinafter referred to as the "County." In order to preserve and maintain the integrity of the governmental decision-making process, the Board finds it appropriate to: establish a process to register lobbyists and penalize those who fail to register; implement a ban on Commissioners from lobbying before the County or obtaining employment with the County, with an exception, within four (4) years of vacating office; prevent Commissioners from accepting gifts from a lobbyist

Officially filed with Secretary of State September 20, 2017

totaling more than twenty-five dollars (\$25.00) in value during any calendar year; and, create a Board procedure when Commissioners travel out-of-state using County funds. Therefore, in order to promote transparency and honesty in government, the Board finds it necessary to adopt a code of ethics as more fully set forth herein.

**Section 2. Construction.** This Ordinance shall be broadly construed to affect its purpose of preserving transparent and ethical government for the benefit of all citizens of the County.

**Section 3. Authority.** Pursuant to Fla. Stat. § 112.326 and Chapters 112 and 125, Florida Statutes, the Board is authorized to establish a code of ethics. The Board finds that this Code of Ethics will foster open government and serve to promote and protect governmental integrity.

**Section 4. Definitions.** As used in this Ordinance, unless the context otherwise requires:

*Board or County Commission* means the Board of County Commissioners of Brevard County, Florida, as well as the governing body, collegial board, or board of directors of any other decision-making board, advisory board, or advisory committee under the jurisdiction of the Board of County Commissioners.

*County* means Brevard County, Florida.

*County official* means any elected officer, appointed officer, or County employee under the jurisdiction of the Board of County Commissioners. “*County official*” includes, but is not limited to, all County Commissioners, personal staff of each County Commissioner, County managers, assistant county managers, department heads, joint employees with other governmental entities or agencies, and supervisory and non-supervisory part-time and full-time personnel employed by the Board, including temporary and seasonal employees.

*Gift* means that which is accepted by a donee or by another on the donee’s behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee’s benefit or by any other means, for which equal or greater consideration is not given within 90 days of the date of delivery, including:

1. Real property.
2. The use of real property.
3. Tangible personal property or the use of tangible personal property.
4. Intangible personal property or the use of intangible personal property.  
Intangible personal property means property as defined in Fla. Stat. § 192.001(11)(b).
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is

available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.

6. Forgiveness of indebtedness.
7. Transportation, other than that provided to a County official by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues to the extent not authorized by Board policy or contractual obligations.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having a value not already provided for in this definition.
15. The term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.

*Gift* does not include:

1. A gift from a relative.
2. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.
3. Except as provided in Fla. Stat. § 112.31485, contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.
4. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.
5. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
6. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
7. The use of a public facility or public property, made available by a governmental agency, for a public purpose.

8. Transportation provided to a County official by an agency in relation to officially approved governmental business.
9. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

*Government action* means any legislative, quasi-judicial, or administrative matter that may foreseeably be considered and acted upon by County officials, but shall not include an action which is ministerial in nature.

*Lobbying activities* means any communication, whether oral or written, direct or indirect, from a lobbyist made to any County official, including a member of the County Commission, in a location other than a duly noticed and recorded public meeting or public hearing, where such communication is intended to or could reasonably be expected to influence the passage, defeat, or modification of an item which may foreseeably come (1) before a decision-making board, advisory board, or advisory committee for a vote or other formal action, or (2) before a County official for an administrative approval or action.

*Lobbying firm* means a business entity, including any entity consisting of an individual lobbyist that receives, agrees to receive or is entitled to receive any compensation for the purpose of lobbying, whether through a partner, owner, officer, or employee of the business.

*Lobbyist* means any person, firm, corporation, partnership, limited liability company, or any other legal entity who or which is hired by a person for the sole purpose of conducting lobbying activities on behalf of that person. "Lobbyist" does not include:

1. a person acting in his/her own private capacity;
2. a County official or any other person affiliated with the County while acting in his or her official capacity or in connection with his or her official job responsibilities;
3. any County officials who are acting in their official capacity or in the normal course of their duties;
4. a person who only addresses the Board, a decision-making board, advisory board, or advisory committee during a publicly held meeting, including, but not limited to, the following portions: consent agenda; public comment; new business; or, unfinished business;
5. an attorney, or any representative, retained or employed solely for the purpose of representing an individual or other legal entity during a publicly noticed meeting or hearing before any decision-making board, advisory board, or advisory committee;

6. a person or entity requested or compelled by a County official or by a member of a decision-making board, advisory board, or advisory committee to appear before such an entity;
7. a person or entity, including an expert witness, who does not meet with an individual County official prior to a meeting of the decision-making board, advisory board, or advisory committee considering a matter or measure but later appears before a decision-making board, advisory board, or advisory committee to present or give factual or opinion testimony about that matter or measure; or
8. a full-time or part-time employee or professional consultant while acting in the ordinary course of such employee's or consultant's scope of employment on behalf of his/her employer or client, provided such employer or client is not a lobbying firm.

*Person* means any natural person or any sole proprietor, corporation, partnership, limited liability company, joint venture, trust, or other legal entity in whatever form it has been created or named.

*Principal* means the person, firm, corporation, or other legal entity which has employed or retained a lobbyist.

*Registration statement* means the document that shall be maintained on the County website for the purposes of lobbyist registration containing:

1. the lobbyist's name, phone number, mailing address, and email address;
2. the name, phone number, and address of each principal represented;
3. the date of submission;
4. an oath or affirmation attesting that the information contained in the registration statement is true to the best of the lobbyist's knowledge and belief.

*Relative* means an individual who is related to a County official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the County official or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the County official intends to form a household, or any other natural person having the same legal residence as the County official.

*Violation* means engaging in an act with the intention or actual knowledge that the act is prohibited under this ordinance.

## **Section 5. Lobbyist Registration Process.**

- (a) *General Requirements.* Prior to engaging in lobbying activities, a lobbyist shall fill out the registration statement form maintained on the Brevard County website, which shall be in substantially the same format as is incorporated into this Ordinance as Form A(1). The form shall include a written declaration, as provided by Fla. Stat. § 92.525(2), whereby the lobbyist must attest to the truthfulness and accuracy of the information reported on the application. In order to continue lobbying activities in any succeeding years, such registration statement must be renewed within thirty (30) days prior to the statement's expiration date. Hard copies of the registration form may also be provided by the County Manager, or his/her designee, to any lobbyist requesting the same, provided the completed form is maintained as a PDF document on the County's website.
- (b) *Expiration of Registration Statement.* Registration statements are effective for one (1) year.
- (c) *Registration Fee.* No registration fee is required.
- (d) *Penalties*
  - 1. A first violation of this Section shall result in the issuance of a written warning to the lobbyist by the County Manager's Office. This notice shall be issued in accordance with Sec. 2-179, Brevard County Code of Ordinances.
  - 2. A second violation shall be punishable by a fine imposed on the lobbyist in the amount of \$250.00. There will be a \$250.00 fine for each violation thereafter.
  - 3. Each incident of a lobbyist engaging in lobbyist activities with a County official without first being registered shall constitute a separate violation.
  - 4. Any fine shall be imposed and enforced through the County's Code Enforcement process as outlined in Chapter 2, Article VI, Division 2 of the Brevard County Code of Ordinances.

**Section 6. Lobbying and Employment Ban for Commissioners.**

- (a) No current County Commissioner or future County Commissioner who is elected to the Board after the effective date of this Ordinance shall be permitted to conduct lobbying activities as a registered Lobbyist as defined by the previous definition before the Board, any County department, or any County official within four (4) years after vacating office.
- (b) No current County Commissioner or future County Commissioner who is elected to the Board after the effective date of this Ordinance shall be employed by, or receive any financial remuneration from, any entity solely under the County's jurisdiction within four (4) years after vacating office. This provision only applies in cases where a current or post-enactment Commissioner will be compensated at a higher rate than his/her yearly compensation as a County Commissioner.
- (c) This prohibition shall not apply to Commissioners who are subsequently elected to another office.
- (d) This Section cancels Board Policy BCC-20.

**Section 7. Prohibition on Acceptance of Gifts.**

- (a) A County Commissioner shall not accept gifts from a lobbyist totaling more than twenty-five dollars (\$25.00) in value during any calendar year.
- (b) No County official shall solicit or accept anything of value, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the official action or judgment of the official would be influenced thereby. No County official shall accept any gift, favor, or thing of value that may influence, or appear to influence, the discharge of his/her public duties.
- (c) The County shall make a reasonable effort to communicate this gift prohibition to County vendors. At a minimum, such communication shall include notification of this Section's provisions on the County's website.
- (d) This Section cancels any prior inconsistent Board Policy.

**Section 8. Use of County Funds for Out-of-State Travel.**

- (a) The use of County funds for any out-of-state travel must be approved or ratified by a majority of County Commissioners at a regular and/or special meeting.
- (b) The County Commission shall be subject to the travel procedures outlined in Brevard County Administrative Order AO-21, attached hereto.

**Section 9. Penalties.** Unless otherwise prescribed in this Ordinance, and as authorized by Fla. Stat. § 125.69(1), upon conviction of a violation of this Ordinance, the Court may impose any fine not to exceed \$500.00 or up to sixty (60) days imprisonment in the County jail, or both such fine and imprisonment.

**Section 10. Conflict.** Unless preempted by State or Federal law, to the extent that the provisions of this Ordinance are more stringent than those of State law, this Ordinance shall apply. In the case of a direct conflict between any provision of this Ordinance and a provision of any Federal, State, or County law, rule, or regulation, the more restrictive shall apply.

**Section 11. Inclusion in Code.** It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 12. Severability.** If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 13. Effective Date.** This Ordinance shall become effective upon filing with the Office of Secretary of State of Florida.

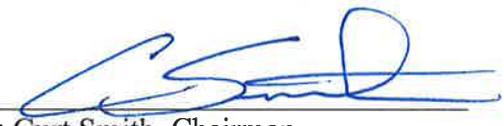
**DONE, ORDERED, AND ADOPTED** in Regular Session, this 19 day of September, 2017.

ATTEST:



By: Scott Ellis, Clerk of Court

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**



By: Curt Smith, Chairman  
(as approved by the Board on 9/19/17 )



BOARD OF COUNTY COMMISSIONERS

FORM A(1)

ANNUAL LOBBYIST REGISTRATION STATEMENT

FOR THE PERIOD \_\_\_\_\_ THRU \_\_\_\_\_

LOBBYIST NAME \_\_\_\_\_ DATE \_\_\_\_\_
PHONE NUMBER \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_
MAILING ADDRESS \_\_\_\_\_

LIST THE NAME, PHONE NUMBER, AND ADDRESS OF EACH PRINCIPAL REPRESENTED.

- 1) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
2) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
3) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
4) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
5) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
6) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_
7) NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

STATE OF FLORIDA
COUNTY OF BREVARD

UNDER PENALTIES OF PERJURY, I declare that I have read the foregoing information and that the facts stated in it are true to the best of my knowledge and belief. I further certify and acknowledge that I understand that it is my responsibility to file my annual statements and that I will not be notified by the County Manager's Office of my failure to do so.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ Lobbyist signature \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_

My commission expires: \_\_\_\_\_ Notary Public \_\_\_\_\_

## Deborah Thomas

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**From:** Lewis, Sally A <Sally.Lewis@brevardfl.gov>  
**Sent:** Thursday, September 21, 2017 8:58 AM  
**To:** Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe  
**Subject:** FW: fyi Rev'd version FW: Ethics ordinance  
**Attachments:** Ethics Ordinance w-o Committee 20170919 rev.docx

For your records

s

*Sally Lewis*  
*2725 Judge Fran Jamieson Way*  
*Viera, Fl. 32940*  
*321-633-2010*  
*[Sally.lewis@brevardfl.gov](mailto:Sally.lewis@brevardfl.gov)*

*Under Florida law, all correspondence sent to the County Manager's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail or your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

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**From:** Cummings, Cathleen  
**Sent:** Wednesday, September 20, 2017 4:35 PM  
**To:** Lewis, Sally A; Knox, Scott L  
**Subject:** FW: fyi Rev'd version FW: Ethics ordinance

Here's the ordinance w/ the revision made during yesterday's meeting.

### Cathie

Cathleen M. Cummings, FRP  
Legal Office Administrator  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way, Suite 308  
Viera, FL 32940  
P: 321-633-2090, ext 52835  
F: 321-633-2096  
[cathleen.cummings@brevardfl.gov](mailto:cathleen.cummings@brevardfl.gov)



County Attorney



*Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

---

**From:** Cummings, Cathleen  
**Sent:** Tuesday, September 19, 2017 10:41 AM  
**To:** Esseesse, Alexander  
**Subject:** fyi Rev'd version FW: Ethics ordinance

Please see attached for the rev'd version based on public hearing.

**Cathie**

Cathleen M. Cummings, FRP  
Legal Office Administrator  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way, Suite 308  
Viera, FL 32940  
P: 321-633-2090, ext 52835  
F: 321-633-2096  
[cathleen.cummings@brevardfl.gov](mailto:cathleen.cummings@brevardfl.gov)



County Attorney



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**From:** Knox, Scott L  
**Sent:** Tuesday, September 19, 2017 10:32 AM  
**To:** Cummings, Cathleen  
**Subject:** Ethics ordinance

ORDINANCE NO. 2017-\_\_\_\_\_

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA RELATING TO ETHICS; CREATING A NEW CHAPTER IN THE BREVARD COUNTY CODE OF ORDINANCES, CHAPTER 3, "CODE OF ETHICS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR A LOBBYIST REGISTRATION PROCESS; PROVIDING FOR PENALTIES FOR FAILURE TO REGISTER AS A LOBBYIST; PROVIDING FOR A LOBBYING AND EMPLOYMENT BAN ON COMMISSIONERS FOLLOWING VACATION OF OFFICE; PROVIDING FOR A PROHIBITION ON THE ACCEPTANCE OF GIFTS BY COUNTY OFFICIALS; PROVIDING FOR THE ESTABLISHMENT OF A BOARD PROCEDURE FOR SENDING COUNTY COMMISSIONERS ON OUT-OF-STATE TRAVEL USING COUNTY FUNDS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, a county may adopt an ethics code more stringent than, or with provisions differing from, the provisions of the State Code of Ethics as long as the county's provisions do not conflict with the State's ethics code; and

**WHEREAS**, the Board of County Commissioners of Brevard County, Florida has found that it is necessary for the preservation of the integrity, honesty, and transparency in government to adopt the following set of ethics provisions.

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totaling more than twenty-five dollars (\$25.00) in value during any calendar year; and, create a Board procedure when Commissioners travel out-of-state using County funds. Therefore, in order to promote transparency and honesty in government, the Board finds it necessary to adopt a code of ethics as more fully set forth herein.

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5. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.
6. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.
7. The use of a public facility or public property, made available by a governmental agency, for a public purpose.

8. Transportation provided to a County official by an agency in relation to officially approved governmental business.
9. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

*Government action* means any legislative, quasi-judicial, or administrative matter that may foreseeably be considered and acted upon by County officials, but shall not include an action which is ministerial in nature.

*Lobbying activities* means any communication, whether oral or written, direct or indirect, from a lobbyist made to any County official, including a member of the County Commission, in a location other than a duly noticed and recorded public meeting or public hearing, where such communication is intended to or could reasonably be expected to influence the passage, defeat, or modification of an item which may foreseeably come (1) before a decision-making board, advisory board, or advisory committee for a vote or other formal action, or (2) before a County official for an administrative approval or action.

*Lobbying firm* means a business entity, including any entity consisting of an individual lobbyist that receives, agrees to receive or is entitled to receive any compensation for the purpose of lobbying, whether through a partner, owner, officer, or employee of the business.

*Lobbyist* means any person, firm, corporation, partnership, limited liability company, or any other legal entity who or which is hired by a person for the sole purpose of conducting lobbying activities on behalf of that person. "*Lobbyist*" does not include:

1. a citizen acting in his/her own private capacity;
2. a County official or any other person affiliated with the County while acting in his or her official capacity or in connection with his or her official job responsibilities;
3. any County officials who are acting in their official capacity or in the normal course of their duties;
4. a person who only addresses the Board, a decision-making board, advisory board, or advisory committee during a publicly held meeting, including, but not limited to, the following portions: consent agenda; public comment; new business; or, unfinished business;
5. an attorney, or any representative, retained or employed solely for the purpose of representing an individual or other legal entity during a publicly noticed meeting or hearing before any decision-making board, advisory board, or advisory committee;

6. a person or entity requested or compelled by a County official or by a member of a decision-making board, advisory board, or advisory committee to appear before such an entity;
7. a person or entity, including an expert witness, who does not meet with an individual County official prior to a meeting of the decision-making board, advisory board, or advisory committee considering a matter or measure but later appears before a decision-making board, advisory board, or advisory committee to present or give factual or opinion testimony about that matter or measure; or
8. a full-time or part-time employee or professional consultant while acting in the ordinary course of such employee's or consultant's scope of employment on behalf of his/her employer or client, provided such employer or client is not a lobbying firm.

*Person* means any natural person or any sole proprietor, corporation, partnership, limited liability company, joint venture, trust, or other legal entity in whatever form it has been created or named.

*Principal* means the person, firm, corporation, or other legal entity which has employed or retained a lobbyist.

*Registration statement* means the document that shall be maintained on the County website for the purposes of lobbyist registration containing:

1. the lobbyist's name, phone number, mailing address, and email address;
2. the name, phone number, and address of each principal represented;
3. the date of submission;
4. an oath or affirmation attesting that the information contained in the registration statement is true to the best of the lobbyist's knowledge and belief.

*Relative* means an individual who is related to a County official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the County official or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the County official intends to form a household, or any other natural person having the same legal residence as the County official.

*Violation* means engaging in an act with the intention or actual knowledge that the act is prohibited under this ordinance.

## **Section 5. Lobbyist Registration Process.**

- (a) *General Requirements.* Prior to engaging in lobbying activities, a lobbyist shall fill out the registration statement form maintained on the Brevard County website, which shall be in substantially the same format as is incorporated into this Ordinance as Form A(1). The form shall include a written declaration, as provided by Fla. Stat. § 92.525(2), whereby the lobbyist must attest to the truthfulness and accuracy of the information reported on the application. In order to continue lobbying activities in any succeeding years, such registration statement must be renewed within thirty (30) days prior to the statement's expiration date. Hard copies of the registration form may also be provided by the County Manager, or his/her designee, to any lobbyist requesting the same, provided the completed form is maintained as a PDF document on the County's website.
- (b) *Expiration of Registration Statement.* Registration statements are effective for one (1) year.
- (c) *Registration Fee.* No registration fee is required.
- (d) *Penalties*
  - 1. A first violation of this Section shall result in the issuance of a written warning to the lobbyist by the County Manager's Office. This notice shall be issued in accordance with Sec. 2-179, Brevard County Code of Ordinances.
  - 2. A second violation shall be punishable by a fine imposed on the lobbyist in the amount of \$250.00. There will be a \$250.00 fine for each violation thereafter.
  - 3. Each incident of a lobbyist engaging in lobbyist activities with a County official without first being registered shall constitute a separate violation.
  - 4. Any fine shall be imposed and enforced through the County's Code Enforcement process as outlined in Chapter 2, Article VI, Division 2 of the Brevard County Code of Ordinances.

**Section 6. Lobbying and Employment Ban for Commissioners.**

- (a) No current County Commissioner or future County Commissioner who is elected to the Board after the effective date of this Ordinance shall be permitted to conduct lobbying activities as a registered Lobbyist as defined by the previous definition before the Board, any County department, or any County official within four (4) years after vacating office.
- (b) No current County Commissioner or future County Commissioner who is elected to the Board after the effective date of this Ordinance shall be employed by, or receive any financial remuneration from, any entity solely under the County's jurisdiction within four (4) years after vacating office. This provision only applies in cases where a current or post-enactment Commissioner will be compensated at a higher rate than his/her yearly compensation as a County Commissioner.
- (c) This prohibition shall not apply to Commissioners who are subsequently elected to another office.
- (d) This Section cancels Board Policy BCC-20.

**Section 7. Prohibition on Acceptance of Gifts.**

- (a) A County Commissioner shall not accept gifts from a lobbyist totaling more than twenty-five dollars (\$25.00) in value during any calendar year.
- (b) No County official shall solicit or accept anything of value, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the official action or judgment of the official would be influenced thereby. No County official shall accept any gift, favor, or thing of value that may influence, or appear to influence, the discharge of his/her public duties.
- (c) The County shall make a reasonable effort to communicate this gift prohibition to County vendors. At a minimum, such communication shall include notification of this Section's provisions on the County's website.
- (d) This Section cancels any prior inconsistent Board Policy.

**Section 8. Use of County Funds for Out-of-State Travel.**

- (a) The use of County funds for any out-of-state travel must be approved or ratified by a majority of County Commissioners at a regular and/or special meeting.
- (b) The County Commission shall be subject to the travel procedures outlined in Brevard County Administrative Order AO-21, attached hereto.

**Section 9. Penalties.** Unless otherwise prescribed in this Ordinance, and as authorized by Fla. Stat. § 125.69(1), upon conviction of a violation of this Ordinance, the Court may impose any fine not to exceed \$500.00 or up to sixty (60) days imprisonment in the County jail, or both such fine and imprisonment.

**Section 10. Conflict.** Unless preempted by State or Federal law, to the extent that the provisions of this Ordinance are more stringent than those of State law, this Ordinance shall apply. In the case of a direct conflict between any provision of this Ordinance and a provision of any Federal, State, or County law, rule, or regulation, the more restrictive shall apply.

**Section 11. Inclusion in Code.** It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 12. Severability.** If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 13. Effective Date.** This Ordinance shall become effective upon filing with the Office of Secretary of State of Florida.

**DONE, ORDERED, AND ADOPTED** in Regular Session, this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**

\_\_\_\_\_  
By: Scott Ellis, Clerk of Court

\_\_\_\_\_  
By: Curt Smith, Chairman  
(as approved by the Board on \_\_\_\_\_)



BOARD OF COUNTY COMMISSIONERS

FORM A(1)

**ANNUAL LOBBYIST REGISTRATION STATEMENT**

FOR THE PERIOD \_\_\_\_\_ THRU \_\_\_\_\_

LOBBYIST NAME \_\_\_\_\_ DATE \_\_\_\_\_  
PHONE NUMBER \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_  
MAILING ADDRESS \_\_\_\_\_

LIST THE NAME, PHONE NUMBER, AND ADDRESS OF EACH PRINCIPAL REPRESENTED.

- 1) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 2) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 3) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 4) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 5) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 6) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_
- 7) NAME: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BREVARD

UNDER PENALTIES OF PERJURY, I declare that I have read the foregoing information and that the facts stated in it are true to the best of my knowledge and belief. I further certify and acknowledge that I understand that it is my responsibility to file my annual statements and that I will not be notified by the County Manager's Office of my failure to do so.

DATED this \_\_\_\_\_ day of \_\_\_\_\_  
Lobbyist signature \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_

My commission expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_