

Meeting Date  
**August 8, 2017**



AGENDA	
Section	Unfinished Business
Item No.	<i>IVA</i>

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

SUBJECT:	Unfinished Business, Re: Ethics Ordinance.
DEPT/OFFICE:	County Attorney's Office

**Requested Action:**  
 It is requested that the Board of County Commissioners consider the adoption of an ethics ordinance creating a new chapter to the Brevard County Code of Ordinances, Chapter 3, "Code of Ethics."

**Summary Explanation & Background:**

The Board of County Commissioners directed staff to develop an ordinance that would establish a County code of ethics. 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.

Because of staff uncertainty over the Board's intent to consider the inclusion of a citizens' advisory Board, two versions of the ordinance have been prepared. Version 1 has a citizens' advisory committee on ethics to review and investigate and make probable cause determinations involving alleged ethics violations involving county employees. Version 2 does not have a citizens' advisory body.

**LEGISLATIVE INTENT:**

It is the intent of this ordinance to create and implement a code of ethics in the County, and to ensure a certain level of ethical conduct is observed by County officials. These rules and regulations are being put in place by the Board in order to encourage civic engagement in local government and to preserve and maintain the integrity, honesty, and transparency of the governmental decision-making process.

**Clerk to the Board Instructions:**

**Exhibits Attached:** Copy of Proposed Ordinance

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

County Manager	Assistant County Manager	County Attorney / 52090
Frank Abbate <i>FAB</i>	Assistant County Manager	<i>[Signature]</i>



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

August 9, 2017

**MEMORANDUM**

TO: Scott Knox, County Attorney

RE: Item V.A., Board Discussion of Ethics Ordinance 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 August 8, 2017, approved legislative intent and granted permission to advertise an ordinance creating a new chapter to the Brevard County Code of Ordinances, Chapter 3, Code of Ethics, with the changes as follows: 1.) Any gift of a lobbyist being limited to \$25 per lobbyist per year; 2.) Remove Section 9, Establishment of Citizens' Advisory Committee on Ethics; and 3.) Section 6(b) to read, in part, 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.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

cc: County Manager

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 FOUR (4) YEAR 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 any gifts, regardless of value, from lobbyists; 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. This Code of Ethics shall be enforced by the Citizens' Advisory Committee on Ethics, created by this Ordinance, which shall have the power and authority to investigate complaints and, upon a finding of probable cause, relay the alleged violation to the State Attorney's Office.

**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 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; or
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.

*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 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 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 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 any gift, regardless of value, from a lobbyist.
- (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 subsection (III)(F.) of Board Policy BCC-03.

**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 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. For first offenders, in place of, any penalty authorized by Fla. Stat. § 125.69, the Court or the State Attorney's Office can refer the matter back to the Advisory Committee for the issuance of a written reprimand.

**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.

VA  
without  
ADVISORY  
1 of 1

**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 \_\_\_\_\_)

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 FOUR (4) YEAR 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 THE CREATION OF A CITIZENS' ADVISORY COMMITTEE ON ETHICS; 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 any gifts, regardless of value, from lobbyists; 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. This Code of Ethics shall be enforced by the Citizens' Advisory Committee on Ethics, created by this Ordinance, which shall have the power and authority to investigate complaints and, upon a finding of probable cause, relay the alleged violation to the State Attorney's Office.

**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, administrative 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 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; or
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.

*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 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 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 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 any gift, regardless of value, from a lobbyist.
- (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 subsection (III)(F.) of Board Policy BCC-03.

**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 by a majority of County Commissioners at a regular and/or special meeting.
- (b) With the exception of those provisions requiring County Manager, County Department Director or other County employee's approval, the County Commission shall be subject to the travel procedures outlined in Brevard County Administrative Order AO-21, attached hereto.

**Section 9. Establishment of Citizens' Advisory Committee on Ethics.**

- (a) *Creation.* The Board hereby establishes a Citizens' Advisory Committee on Ethics ("Advisory Committee") consisting of Brevard County residents.
- (b) *Appointments.* Each Commissioner shall appoint one (1) regular member and one (1) alternate member to serve on the Advisory Committee. Such selections shall be at-large appointments. Both selections are subject to majority approval by the County Commission. To avoid any conflict of interest, or perceived conflict of interest, no appointees shall currently be County officials.
- (c) *Qualifications.* Each member of the Advisory Committee shall be a United States citizen, resident of Brevard County, and shall be of outstanding reputation of integrity, responsibility, and commitment to serving the community. Each member shall be one or more of the following: an attorney; a certified public accountant with forensic audit experience; a former elected official; a former judge; a higher education faculty member or former faculty member with experience in ethics; a corporate official with a background in human resources or ethics, or any other individual with a similar background or experience.
- (d) *Term of Office.* Unless removed from office or the seat vacated, each member of the Advisory Committee shall serve two (2) years or until a successor is appointed.
- (e) *Vacant Seat.* An Advisory Committee member who is removed or vacates his/her seat shall have his/her seat filled by the Commissioner from the District that appointed the individual to his/her seat. All vacancy appointments should be made within thirty (30)

days of a vacancy occurring. The County Commission must approve a vacancy appointment by majority vote. Vacancy appointments shall have the same term as outlined in subsection (d).

- (f) *Composition.* At all times, each District Commissioner shall have one (1) appointee actively serving on the Advisory Committee.
- (g) *Quorum and Voting.* At least three (3) of the five (5) regular members must be present at an Advisory Committee meeting in order to hold a vote. An alternate can only vote if the regular member he/she serves behind is not present.
- (h) *Removal from the Committee.* A supermajority vote of the County Commission is needed in order to remove a member of the Advisory Committee for cause or after three unexcused absences.
- (i) *Officer Selection.* The County Commission shall determine when the first meeting of the Advisory Committee shall take place. At this first meeting, the Advisory Committee shall select from its members a chairman and vice-chairman. This selection shall be made by majority vote of Advisory Committee members and shall run until the end of each calendar year. Selection of new officers shall take effect on January 1 of each year.
- (j) *Duties.* The Advisory Committee shall have the duties described as follows:
  - 1. Make, adopt, and amend rules of procedure and by-laws, as necessary, in order to meet its obligations under this Ordinance.
  - 2. The Advisory Committee may, upon receiving a complaint or upon its own initiative with a majority vote, seek information and gather facts for the purpose of reviewing any circumstance or situation of which the Advisory Committee may become aware that appears to violate, or may potentially violate, an acceptable standard of ethics established in the County's Code of Ethics.
  - 3. Conduct reasonable inquiries into matters pertaining to a complaint.
  - 4. Request information or records from County officials or through a public records request in order to make factual determinations deemed relevant to the complaint.
  - 5. Exercise and utilize all procedures and processes available to County agencies to secure the production of documents and testimonial evidence relevant to an investigation of a complaint.
  - 6. Take sworn oral and/or written statements from persons with knowledge of the alleged violation.
  - 7. Provide notice to any person against whom a complaint has been filed with the Advisory Committee.
  - 8. Afford a public hearing to an alleged violator, which shall be deemed to constitute a waiver of any confidentiality or public records exemption, unless legislatively provided otherwise under the State of Florida open meetings or public records laws;
  - 9. Make a probable cause determination as to whether a County official has violated the County's Code of Ethics.

10. Transfer complaints to the State Attorney's Office for further action, if any, in accordance with Fla. Stat. § 125.69, Florida Statutes, where the Advisory Committee finds probable cause for a **major violation** of the provisions of this ordinance.

(k) *Procedure for Reviewing Complaints.*

1. The Advisory Committee shall investigate any alleged violation within its jurisdiction on the Advisory Committee's own initiative by majority vote, or that is submitted upon a written complaint:
  - i. executed on a form prescribed by the Advisory Committee;
  - ii. based substantially upon the personal knowledge of the complainant; and
  - iii. signed under oath or affirmation by the complaining person.
2. Within ten (10) business days of receiving a complaint, the Advisory Committee shall send a copy of the complaint to the alleged violator.
3. An alleged violator is entitled to a public hearing upon request. The alleged violator must submit the public hearing request in writing and the request must be received by the Advisory Committee within fourteen (14) calendar days following the mailing of the complaint to the alleged violator. By requesting a public hearing, the alleged violator waives confidentiality to the extent allowed by law.
4. The Advisory Committee shall make a probable cause determination within sixty (60) days from the date a complaint is filed.

(l) *Dismissal of Complaints.*

1. The Advisory Committee may, in its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional, or insubstantial.
2. In the event the Advisory Committee dismisses a complaint as provided in this Section, the Advisory Committee shall issue a public report stating with particularity its reason(s) for the dismissal.

(m) *Probable Cause Determination.* Upon a finding of probable cause following the preliminary investigation, the Advisory Committee shall notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall become public records. The case must then be forwarded to the State Attorney's Office for further action, if any, in accordance with Fla. Stat. § 125.69. The Advisory Committee shall also publish a public report stating with particularity its reason(s) for finding probable cause.

(n) *Cooperation of County Departments, Boards, and Offices.* The services of other departments, boards, and offices of the County shall be made available to the Advisory Committee at its request, subject to the requested party's ability and capacity to provide them.

(o) *Limitations.*

1. The Advisory Committee, at the request of the State Attorney or any law enforcement agency, shall stay an ongoing proceeding.
2. The Advisory Committee shall stay consideration of a complaint when, based upon the same set of facts, the County official is subject to an ongoing disciplinary, administrative, or criminal action initiated by any governmental entity with jurisdiction over the County official.
3. The Advisory Committee is without jurisdiction to, and no respondent may voluntarily or involuntarily, enter into a stipulation or settlement which imposes any penalty, including, but not limited to, a sanction or admonition or any other penalty. Penalties shall be imposed only by the appropriate disciplinary authority as designated in this Ordinance.
4. A member of the Advisory Committee shall not:
  - i. Run for any public office without immediately resigning from his/her position on the Advisory Committee.
  - ii. Use his/her position in any manner that decreases public trust or gives the appearance of impropriety.
  - iii. Allow his/her name and title as a member of the Advisory Committee to be used by a political campaign in support of or against any candidate for public office. However, nothing herein shall preclude a member from signing a petition in support of or against any referendum, ballot question, or candidate. This rule does not prohibit any campaign contributions by a member, or a member supporting any candidate in his/her own name.

(p) *Compensation.* The members of the Advisory Committee shall be paid such compensation and expenses as provided by the County Commission from time to time by resolution.

(q) *Jurisdiction.* The Advisory Committee shall be empowered to consider alleged violations of the County's Code of Ethics committed on or after the effective date of this Ordinance. Any alleged violation of the State Code of Ethics shall be forwarded to the State Commission on Ethics for investigation.

(r) *Confidentiality.* All records of complaints and investigations shall remain confidential and exempt from public disclosure to the extent authorized by Fla. Stat. § 112.324 and any other applicable State law. All proceedings, the complaint, and other records relating to the preliminary investigation as provided herein shall be confidential and exempt from the provisions of Chapter 119, Florida Statutes, until either the alleged violator requests in writing that such investigation and records be made public records, or the preliminary investigation is completed notwithstanding any provision of Chapters 120 and 286, Florida Statutes. The preliminary investigation is completed when a probable cause determination is made. All other proceedings conducted pursuant to this Section shall be public meetings within the meaning of Chapter 286, Florida Statutes, and all other



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 \_\_\_\_\_

VA  
with  
Advisory  
10/11

documents made or received by the Advisory Committee shall be public records within the meaning of Chapter 119, Florida Statutes.

(s) *Perjury or Fraud.* Any person deemed to have lied on a complaint form or while providing testimony under oath shall be deemed to have committed a violation under this ordinance punishable in the manner prescribed by section 10.

**Section 10. 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. For first offenders, in place of, any penalty authorized by Fla. Stat. § 125.69, the Court or the State Attorney's Office can refer the matter back to the Advisory Committee for the issuance of a written reprimand.

**Section 11. 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 12. 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 13. 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 14. 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 \_\_\_\_\_)