

**CITY OF LIGHTHOUSE POINT  
INTER-OFFICE CORRESPONDENCE**

**MEMORANDUM NO. 2015-029**

TO: Mayor Glen Troast  
Members of the City Commission

CC: John Lavisky, City Administrator  
Jennifer Oh, City Clerk

FROM: Michael D. Cirullo, Jr., City Attorney *MDC*  
Jacob G. Horowitz, Assistant City Attorney *JGH*

DATE: December 15, 2015

RE: City of Lighthouse Point ("City") / Broward County Code of Ethics for Elected Officials

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On December 8, 2015, the Board of County Commissioners adopted an ordinance amending the Broward County Code of Ethics for Elected Officials ("Code of Ethics" or "Code"). In addition to the proposed revisions to the Code included on the County Commission agenda, there were a number of substantive amendments considered by the County Commission from the dais. The County Attorney's Office is still revising and finalizing the ordinance.

This memorandum is intended to provide you with a general overview of the substantive amendments to the Code of Ethics. Please note that certain amendments may still require some legal interpretation, and the City Attorney's Office is waiting to review the final document before opining on these changes. Our office will continue to update you, as necessary, once a final document has been received.

I. DEFINITIONS

The ordinance amended the Code of Ethics to add and/or amend the following definitions:

- 1) Outside or Concurrent Employment means providing services for any person or entity other than the Elected Official's government employer in exchange for remuneration. For purposes of disclosing outside or concurrent employment and remuneration therefrom, the Elected Official's employer is the person or entity that pays the salary, wages, or compensation, not the individual clients or customers of that person or entity.
- 2) Relative shall have the definition as set forth in Section 112.3135, F.S. (i.e. "Relative," for purposes of this section only, with respect to a public official, means an individual who is related to the public 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, or half sister.)

- 3) Remuneration means monetary payment received in return for services provided in connection with outside or concurrent employment, including salary, wages, commissions, tips, and bonuses (collectively, “wages”). “Remuneration” also includes (a) profit and other distributions received from a person or entity that has paid wages during the applicable disclosure period; and (b) direct employer contributions into retirement plans (including pensions, 401K, and deferred compensation plans). Notwithstanding anything to the contrary stated above, remuneration does not include gifts, business expenses reimbursements, paid training (including travel incident thereto), direct employer contributions towards insurance and other employee benefits (other than retirement plan contributions), and return of capital or payment of interest related to a return of one’s capital contribution.
- 4) Vendor means person or entity that is currently supplying any goods or services to the applicable local governmental entity, that has supplied any goods or services to the applicable local governmental entity within the current or prior two (2) calendar years, or that has, by submitting a response to a currently-open competitive solicitation, expressed an interest in supplying any goods or services to the applicable governmental entity. Commencing January 1, 2017, “vendor” shall also include a person or entity that has submitted a response to a competitive solicitation during the current or prior two (2) calendar years.

## II. ACCEPTANCE OF GIFTS

### A) Lobbyists, Vendors and Contractors

The Code of Ethics previously had a zero tolerance policy regarding gifts from lobbyists, vendors and contractors. In other words, elected officials **were not** permitted to accept anything of value from any person or entity falling into any one (1) of these three (3) categories. The Code of Ethics **now legally permits** elected officials to accept the following gifts from lobbyists, vendors and contractors:

- 1) Gifts which have a value that is not in excess of \$5.00;
- 2) Non-alcoholic beverages;
- 3) Condolence or sympathy items (i.e. flowers, cards, food items, etc...);

- 4) Training; and
- 5) Admission to charitable events that are open to the public when the elected official pays the actual cost of any meal provided and required disclosures are filed.

In addition, governmental entities within Broward County **are not** considered lobbyists, principals or employers of lobbyists, vendors or contractors of any other governmental entity within the county. In other words, elected officials may accept gifts, including meals and other items of value, from governmental entities within the county irrespective of whether the entity that they serve has a contract with the governmental entity providing the item of value.

#### B) Official Capacity

The Code of Ethics previously had a **\$50.00 limit** on gifts from other sources given to elected officials in their official capacity. There has been **no change** to this limitation.

The Code of Ethics now expressly provides that a gift to an elected official from the governmental entity that they serve is **not** a gift from an "other source" for purposes of the \$50.00 limitation.

#### C) Nonofficial Capacity

There is **no change** to the acceptance of gifts in an elected official's nonofficial capacity. The requirements of state law still apply.

### III. OUTSIDE/CONCURRENT EMPLOYMENT

#### A) Lobbying by Elected Official

The Code of Ethics previously prohibited elected officials from lobbying governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards and commissions. The Code of Ethics now provides that elected officials **shall not** lobby covered individuals, which is otherwise defined in the Code. This amendment expands the group of individuals who may not be lobbied by elected officials.

#### B) Disclosure

The Code of Ethics previously required the disclosure of outside/concurrent employment and any remuneration received from such employment. As previously noted, the Code of Ethics now includes expressed definitions of "outside/concurrent employment" and "remuneration." Remuneration may also now be disclosed based on an **exact dollar amount** or one of the

**monetary ranges** detailed in the ordinance. Disclosures must be filed **by July 1** of each year for the preceding calendar year.

#### C) Elected Official's Family

The Code of Ethics previously prohibited an elected official's spouse, domestic partner and staff from lobbying governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards and commissions. Further, an elected official's spouse, domestic partner and staff member could not conduct business as a vendor or contractor of the governmental entity served by the elected official.

The Code of Ethics now **prohibits** immediate family and staff of elected officials from lobbying covered individuals. An immediate family member of an elected official **may now** be a vendor or contractor of the governmental entity served by the elected official if such activity is permissible under state law and the required disclosures are filed.

#### IV. LOBBYISTS

The Code of Ethics previously required elected officials to disclose lobbying activity that occurs outside of governmental premises, and required lobbyists to complete a contact log when the lobbying activity occurred within governmental premises.

**Effective April 1, 2016**, the following requirements now apply to all lobbying activity:

- 1) Lobbyists who lobby elected officials must complete a contact log contemporaneously with the lobbying activity or as soon thereafter as practicable, but no later than three (3) days following the lobbying activity;
- 2) The contact log completed by the lobbyists must now include the name of each person attending or participating in the lobbying activity as well as the location;
- 3) The **lobbyist's obligation** to complete the contact log applies **irrespective** of where the lobbying activity occurs or whether the communication occurs in person, by telephone, email, video conference or in writing; and
- 4) Each municipality must create and maintain a contact log accessible by registered lobbyist. The Broward League of Cities may provide an alternate database.

Based on this amendment, elected officials **no longer have any reporting obligation** with regards to communications with lobbyists. The lobbyist has the burden to report (i.e. complete the contact log) irrespective of where the lobbying activity occurs.

V. SOLICITATION AND RECEIPT OF CONTRIBUTIONS

A) Charitable Contribution Fundraising

The Code of Ethics now requires charitable contribution fundraising to be disclosed **within fifteen (15) days** of such activity. The Code had not previously included a deadline or timeframe to disclose.

B) Campaign Contribution Fundraising

The Code of Ethics now requires campaign contribution fundraising to be disclosed **within fifteen (15) days** of such activity. The Code had not previously included a deadline or timeframe to disclose. In addition, the “filed for public inspection” requirement for campaign finance disclosure may now be satisfied by a municipality providing a link to a separate database where such forms are otherwise filed.

VI. PROCUREMENT/SELECTION COMMITTEES

The Code of Ethics now expressly permits elected officials to attend meetings of procurement/selection committees provided that they do not participate or otherwise interfere with the meeting.

VII. FINANCIAL DISCLOSURE

The Code of Ethics now permits the “filed for public inspection” requirement for the Form 1 disclosure to be satisfied by a municipality providing a link to a separate database where the Form 1 is otherwise filed.

VIII. ADVISORY OPINIONS

The Code of Ethics now requires all advisory opinions issued by local government attorneys to include an expressed recitation of the pertinent and material facts. Elected officials are also now required to ensure that **within fifteen (15) days** after the receipt of an advisory opinion, the opinion is sent to Broward County for inclusion in the **County database**, which will now be maintained.

IX. TRAINING AND EDUCATION

A) Newly Elected Officials

The Code of Ethics **still requires** newly elected officials to receive four (4) hours of training on the Sunshine Law, public records and public service ethics within one hundred twenty (120) days of taking office. Certification of completion of this requirement must now be filed **within fifteen (15) days** of completing the training. At least two (2) of these four (4) hours must be in an interactive (i.e. group or individual) setting, and the certification must provide the date of training, the number of hours completed and the mode of training (i.e. group, individual, online, etc...).

The definition of “newly elected officials” has been clarified to include those elected officials who did not occupy an office subject to the code at any time within one (1) year prior to their current election to office.

#### B) Elected Officials

Elected officials are now only required to obtain **four (4) hours of ethics training annually** as opposed to the eight (8) hours previously required. The training must be on the topics of the Sunshine Law, public records and public service ethics. “Annual” for purposes of this disclosure means “term year.” In other words, an elected official has twelve (12) months from the date of election to complete the training requirement. At least two (2) of these four (4) hours must be in an interactive (i.e. group or individual) setting, and the certification must provide the date of training, the number of hours completed and the mode of training (i.e. group, individual, online, etc...).

This amended training requirement takes effect for elected officials on the first day of their applicable term year which commence **in or after November 2015**.

MDC:JGH