

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE COUNTY OF PINELLAS AS RELATED TO LOBBYING; MODIFYING REGULATIONS RELATED TO REGISTRATION OF LOBBYISTS AND LOBBYING CONTACTS; RENUMBERING CODE SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, the United States Supreme Court has long held that the implementation of reasonable regulations related to lobbying do not violate the freedoms guaranteed by the First Amendment to speak, publish and petition the government; and

WHEREAS, courts have recognized as legitimate interest the protection of voters in appraising the integrity and performance of officeholders and candidates, as well as the “self-protection” of elected officials in the face of coordinated efforts to influence legislation; and

WHEREAS, each of the fifty states and the federal government have enacted regulations related to lobbying, as have numerous local governments throughout the country; and

WHEREAS, the State of Florida has a long tradition of open government as set forth in the Florida Constitution, guaranteeing its citizens' rights to transparency and integrity in the government decision making process at all levels; and

WHEREAS, Chapter 26, Article IX of the Pinellas County Code, entitled “LOBBYISTS” as most recently revised by Ordinance No. 13-06, adopted Feb. 26, 2013, governs lobbying before the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners wishes to clarify and modify its regulations related to lobbying for greater efficiency;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

SECTION I. The Following Sections of Chapter 26, Article IX, of the Pinellas County Code are hereby amended to read as follows:

Sec 26-271. — Findings and intent. [section unchanged]

The intent of the Board of County Commissioners in adopting an ordinance relating to lobbying is to protect rights guaranteed by the First Amendment to the United States Constitution to speak, publish and petition governmental officials, while at the same time protecting the citizens' rights to open government as guaranteed by sec. 24, Art. I, Florida Constitution. To that end, the Board finds it necessary to impose reasonable regulations

prohibiting lobbying in only certain limited circumstances, while otherwise allowing open access to government officials. In balancing the important yet competing rights of its citizens protected by the federal and state constitutions and to promote transparency and integrity in the decision making process, the board *finds* it necessary to require disclosure of certain activities related to lobbying as more fully set forth herein.

Sec. 26-272. - Definitions.

Clerk means the Board Records section of the Pinellas County Clerk of the Circuit Court.

Compensation means any payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbyist, directly or indirectly, by a principal for any lobbying activities.

[NOTE: Definition revised to conform with "Expenditure" definition, which borrows language from FS 11.045]

Expenditure means a payment, distribution, loan, advance, reimbursement, deposit or anything of value made by a lobbyist or a principal for the purpose of lobbying.

Lobbying means communicating, directly or indirectly, outside a duly noticed public meeting or hearing on the record with a member of the board of county commissioners, for the purpose of influencing or attempting to influence legislative or quasi-judicial action or nonaction. Lobbying shall include all forms of communication, whether oral, written, or electronic.

Lobbyist means a person who for compensation engages in lobbying as defined in this article.

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

Sec. 26-273. - Registration of lobbyists.

All lobbyists must register with the County prior to engaging in any lobbying, by filing a complete registration form with the Clerk. Registration for the remainder of the calendar year is considered active upon receipt of the completed form by the Clerk, and expires at the end of that calendar year if not renewed. A lobbyist may renew their registration for each subsequent calendar year by filing a registration renewal between December 1 and December 31.

A lobbyist re-registering after the expiration of their active registration status, or following suspension, must use the original registration form. A lobbyist is required to promptly submit a notice of revised information if any information submitted on a registration or renewal form changes.

Registration forms, registration renewal forms, and statements of lobbying expenditures will be in the format and manner designated by the county. The lobbyist upon registration or renewal must provide at a minimum, the lobbyist's name, business address, email address, phone number, the name and business address of each principal represented, the general and specific areas of legislative interest, the nature and extent of any direct business association or partnership with any current member of the board. Incomplete registration or renewal forms will be rejected.

The validity of any action or determination of the commission, board, or staff will not be affected by the failure of any person to comply with the provisions of this article.

Sec. 26-274. – Maintaining Registrations

The county or Clerk will receive and process registration and renewal forms and statements of lobbying expenditures, and will maintain a record of all active registered lobbyists for the current calendar year, as well as a record of all suspended lobbyists. The record of suspended lobbyists will include the date the suspension will be lifted, if the suspension is imposed under Section 26-279(c), or the condition required to remove the suspension.

Sec. 26-275. - Prohibition of lobbying in certain procurement matters and other circumstances.

Lobbying is prohibited on all county competitive selection, procurement, or solicitation processes and contract awards as set forth in section 2-189, Pinellas County Code.

Sec. 26-276. — Record of lobbying contacts.

Except when appearing at a duly noticed public meeting or hearing on the record, all lobbyists who meet with a Commissioner for the purpose of lobbying must submit a notice of lobbying contact, in a format determined by the county, prior to meeting with the Commissioner.

The notice of lobbying contact must include at a minimum the lobbyist's name; the name of each principal, if applicable, represented in the course of the particular contact; the topic of the contact; the location, date, and time of the meeting.

The notice of lobbying contact will be maintained by the Clerk; and will be available for public inspection. In the event that a lobbyist engages in lobbying and is unable to submit a notice of lobbying contact prior to the meeting, the lobbyist may cure this violation by submitting the notice of lobbying contact before 5 p.m. of the second business day following of such lobbying contact.

Sec. 26-277. - Statement of lobbying expenditures.

A lobbyist must, by January 15, submit to the Clerk's office a signed statement under oath listing all lobbying expenditures for the preceding calendar year, the sources of the funds, and an itemization as to the amount expended for each member of the board of county commissioners

by each registered lobbyist. The statement of lobbying expenditures must be filed even if no funds were expended. If a complete statement of lobbying expenditures is not timely filed, the lobbyist will be suspended until the delinquent report is filed.

The Clerk will maintain the statements of lobbying expenditures, which will be available for public inspection.

Sec. 26-278. - Exceptions.

- (a) The following persons shall not be required to register:
- (1) An elected official or government employee acting in his official capacity or in connection with his job responsibilities.
 - (2) A person who appears at the specific request or under compulsion of the commission, board or staff member.
 - (3) Expert witnesses or other persons who give testimony about a particular matter or measure but do not advocate passage or defeat of the matter or measure or any amendment thereto.
 - (4) Any person who appears at a public hearing or administrative proceeding or quasi-judicial proceeding before the county commission, any board or staff member and has no other communication on the matter or subject of the public hearing, administrative hearing or quasi-judicial proceeding.
 - (5) Any person in contractual privity with the county who appears only in his or her official capacity.
- (b) This article shall not apply to discussion or negotiations on matters in litigation or in matters in anticipation of litigation.

Sec. 26-279. – Enforcement; violations; penalties.

- (a) If a person engages in lobbying without being actively registered, the person will be subject to a fine of \$500.00. However, for the first violation on this provision, the person may cure the violation by filing a complete registration form before 5 p.m. of the second business day following the improper lobbying activity. This cure provision may only be utilized once per lobbyist. If the first violation is not cured, the fine will apply. Upon any subsequent improper lobbying the violator will be subject to an additional fine of \$500.00 and suspended from lobbying for two (2) years from the date of the notice of violation.
- (b) A first violation of any other provision of this article will result in the issuance of a warning. A second violation of within a period of 12 months from the initial violation will be punishable by a fine of \$250.00. If a third violation occurs within 12 months of the second violation, the violator will be subject to an additional fine of \$250.00 and suspended from lobbying for one (1) year. If a fourth violation occurs within 12 months of the third violation, the violator will be subject to an

additional fine of \$250.00 and suspended from lobbying for two (2) years from the date of the notice of violation.

(c) A suspended lobbyist is prohibited from lobbying until the suspension is lifted. If a lobbyist engages in lobbying while under suspension the lobbyist will be subject to a fine of \$500.00.

(d) Penalties for any violation of this article may further be administered as provided in sections 1-8 and 2-622 et seq. of the County Code.

[NOTE: PCC § 1-8 provides for a fine not to exceed \$500, and authorizes legal proceedings; § 2-622 et seq. is the Special Magistrate Admin Division Procedures. Fine amounts TBD by BCC]

SECTION 2. Severability. If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Filing of Ordinance: Effective Date. Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance will be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective [DATE].