

County Council of Cuyahoga County, Ohio

Ordinance No. O2016-0002

<p>Sponsored by: Councilmember Greenspan</p> <p>Co-sponsored by: County Executive Budish and Councilmembers Miller, Simon, Germana, Hairston, Brown, Jones, Gallagher, Schron, Conwell and Brady</p>	<p>An Ordinance amending Titles 4 and 5 of the Cuyahoga County Code to clarify the ethical rights, responsibilities and prohibitions applicable to elected officials, employees, board members, contractors and lobbyists of Cuyahoga County.</p>
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WHEREAS, Section 3.09(12) of the Cuyahoga County Charter empowers Council “to establish by ordinance a code of ethics, which shall be in addition to, and not inconsistent with, general law on the subject, which shall guide and inform County officers and employees in the performance of their official duties in a manner that will represent high standards of professionalism and loyalty to the residents of the County and that will avoid conflicts of interest, self-dealing and other violations of the public trust;” and

WHEREAS, in 2011 Council determined it was necessary to enact a comprehensive ethics policy, which was subsequently codified in Title IV of the Cuyahoga County Code; and

WHEREAS, Council has determined that in the interest of good governance it is necessary to update the County’s code of ethics to clarify the ethical rights, responsibilities, and prohibitions applicable to elected officials, employees, board members, contractors, and lobbyists; and,

WHEREAS, the Cuyahoga County Code of ethics remains the most comprehensive code of ethics of any County in the State of Ohio; and

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Purpose Statement. This Code of Ethics is hereby enacted to:

- A. Identify the minimum standards of ethical conduct which county officials, employees, board members, contractors, and lobbyists must meet;
- B. Educate county officials, employees, board members, contractors, and lobbyists in the principles of ethics and all applicable provisions of this code;

- C. Encourage county officials, employees, board members, contractors, and lobbyists to avoid conflicts of interest and pursue the highest ethical standards;
- D. Ensure county officials and employees treat all people with impartiality, fairness, and equality under the law;
- E. Provide a process by which such individuals may identify and resolve ethical issues;
- F. Provide a process to ensure prompt disclosure of serious unethical practices and to encourage others to do the same;
- G. Provide a fair and impartial process by which alleged violations of this code may be heard;
- H. Provide for a just and reasonable balance among the rights of all individuals who are directly affected by the operation of this code; and
- I. Establish penalties, as appropriate, for those who violate the public trust.

SECTION 2. That Cuyahoga County Council hereby repeals Chapters 401- 410 of the Cuyahoga County Code in their entirety and hereby enacts Chapters 401- 407 of the Cuyahoga County Code to read as follows:

Chapter 401: Compliance with State and Federal Law

Section 401.01: Conflict of Law

In accordance with Section 3.09(12) of the Cuyahoga County Charter, the obligations and prohibitions in this Title shall supplement and be consistent with any and all Federal or State, rules, regulations, procedures, ordinances, and codes governing ethics, professional conduct, or conflicts of interest, and is not intended to replace, override, or otherwise pre-empt any ethical requirement under general law including, without limitation, Chapters 102, 2921, and 3517 of the Ohio Revised Code; and Chapter 124 of the Ohio Revised Code and Chapter 123 of the Ohio Administrative Code as incorporated in Chapter 303 of the County Code.

Chapter 402: Definitions

Section 402.01: County Ethics Policy Definitions

For the purposes of this Title, the following definitions shall apply unless otherwise provided in the Code:

- A. “Appointing Authority” shall mean the County officer, director, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or other authority of the County.

- B. "Board Member" shall include members of any board, agency, commission, or authority as is or may hereafter be established by or pursuant to the Charter or County Code who are appointed or confirmed by elected officials or county officers or directors.
- C. "Business Associate" shall mean any individual, company, or organization with which an individual is acting together to pursue a common business purpose, including but not limited to, partners in a partnership, co-owners of a business, an outside employer, or co-members of a Limited Liability Corporation.
- D. "Contractor" shall mean any person or entity that is a party to an Agreement with the County, as defined in Section 102.01(A) of the Code.
- E. "Elected Official" shall include any person holding elective office specified in, or established pursuant to, the Charter. Such Elected Officials shall include, without limitation, the County Executive, the Prosecuting Attorney, and members of County Council.
- F. "Employee" shall mean any employee of Cuyahoga County including, but not limited to, any person employed, full or part time in a temporary or permanent capacity, by the County Executive, the Prosecuting Attorney, the County Council, the Personnel Review Commission, the Board of Revision, the Inspector General, and any other county agency hereafter established by or pursuant to the charter.
- G. "Gift" includes any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having greater than de minimis monetary value including, but not limited to, cash, food and drink, travel, or lodging.
- H. "Inspector General" shall mean the Cuyahoga County Inspector General as established in Section 204.01 of this Code.
- I. "Interest" shall mean a direct financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to a lawful class of residents or taxpayers of the County. An individual is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or owns or controls more than 5% of an organization's outstanding stock; provided however, that an individual appointed or otherwise authorized to serve on a private organization, and who solely acts on behalf of the county in his or her capacity for the private organization, shall not be deemed to have an interest in such private organization.
- J. "Lobbyist" shall mean any individual employed or retained by a client to contact via private written or oral communication any County elected official, employee, or board member to influence the award of County contracts, the appointment or

confirmation of any individual, or the formulation, modification, or adoption of any County legislation, regulation, or policy. A Lobbyist shall not include any individual who spends less than five percent (5%) of his or her compensated time lobbying governmental entities on behalf a specific client. "Lobbyist" shall not include anyone who performs any of the actions described in this paragraph without compensation, whose performance of such action consists solely of testimony provided at public meetings, or whose performance of such actions are an incidental and insignificant portion of one's duties.

- K. "Presumption of Influence" shall mean a rebuttable presumption that a gift made to an elected official, employee, or board member constitutes a substantial and improper influence in violation of this Title. Any person may proffer evidence to rebut a presumption of influence.
- L. "Relative" shall mean an individual's spouse, domestic partner, parent, grandparent step-parent, sibling, step-sibling, sibling's spouse, child, grandchild, step-child, uncle, aunt, nephew, niece, first cousin, or household member, and persons having any of these relationships to the spouse or domestic partner of said individual.

Chapter 403: Elected Officials, Employees, and Board Members

Section 403.01: Training

- A. Every elected official, employee, and board member shall complete an ethics training program approved by the Inspector General within thirty (30) days of first assuming office. Elected officials and employees shall complete ethics training annually for every year of service with the County thereafter.
- B. Upon successful completion of any ethics training program, elected officials, employees, and board members shall acknowledge, electronically or in writing, that they have read, understood, and agree to abide by the County ethics policy, including the provisions of this Title, Ohio Revised Code Chapter 102 and Ohio Revised Code Sections 2921.42 and 2921.43.

Section 403.02: Use and Misuse of County Resources

- A. "County resources" include, but are not limited to, County personnel, money, procurement/credit cards, vehicles, equipment, materials, supplies, or other property.
- B. Printing, mailing, or electronic communications of political material or conducting non-county business using county resources is prohibited.
- C. No elected official, employee, or board member shall use or permit the use of County resources for personal or private purposes unless the use of County

resources is de minimis or authorized by law or County policy, or the use of County resources is provided as part of his or her official compensation.

Section 403.03: Use and Misuse of Official Position

- A. No elected official, employee, or board member shall knowingly use his or her official position or official powers and duties to secure a financial or material benefit, or promise of a financial or material benefit, for himself or herself, a relative, or any private organization in which he or she has an interest.
- B. No elected official, employee, or board member shall request without offering just compensation, require, or coerce a subordinate employee to perform any task unreasonably outside the scope of his or her County employment that does not further a County interest, including the performance of any clerical or other work on behalf of the individual, his or her family, business, social, church, or fraternal interest that does not further a County interest, or the purchase of goods or services for personal, business, or political purposes. Excessive requests by a supervisor to perform tasks unreasonably outside the scope of a subordinate's County employment may constitute a violation of this Section, regardless of whether just compensation is offered.
- C. No elected official, employee, or board member shall sell or agree to sell, either directly or indirectly through an entity in which he or she holds an interest, goods or services to the County, except through the County's competitive bidding process consistent with Ohio Revised Code Section 2921.42 et. seq.
- D. No elected official, employee, or board member shall violate the prohibitions applicable to Ohio counties regarding public contracts pursuant to Ohio Revised Code Section 2921.42 et seq., and any public contracts awarded in violation of Ohio Revised Code Section 2921.42 shall be void and unenforceable.
- E. No elected official, employee, or board member shall knowingly misrepresent his or her personal opinion to be the official position of the County. This paragraph shall not apply to statements of elected officials made in the course of fulfilling the responsibilities of, or running for, office.
- F. No elected official, employee, or board member shall draw a per diem or expense monies from the County to attend a seminar, convention, or conference and then fail to attend the seminar, convention, or conference without acquiring prior approval from a direct supervisor or refunding the pro-rata unused per diem or expense monies to the County.
- G. No elected official, employee, or board member shall knowingly suppress any public record.
- H. No elected official, employee, or board member shall:

1. Abuse his or her authority to compel a subordinate employee to endure or participate in sexual conduct; or
2. Require or coerce a subordinate employee to accept sexual harassment or unwelcome sexual advances as a condition of employment, equal treatment, approval, or advancement.

Section 403.04: Conflicts of Interest

- A. Whenever a matter involving the exercise of discretion comes before an elected official, employee, or board member, either individually or as a member of a body, and the individual knows or has reason to know the disposition of the matter could result in a direct financial or material benefit to himself or herself, a relative, business associate, or any private organization in which he or she has an interest, the individual shall disclose the nature of the interest to the public in an open meeting or in writing to the Inspector General, and shall recuse themselves as required by paragraph (C) and the Ohio Revised Code.
- B. The disclosure required in paragraph (A) shall be made when the matter requiring disclosure first comes before the individual or when the individual first acquires knowledge of the interest requiring disclosure.
- C. No elected official, employee, or board member may participate in any decision or take any official action with respect to any matter involving the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct financial or material benefit on himself or herself, a relative, or any private organization in which he or she has an interest.
- D. No elected official, employee, or board member shall receive compensation from, or knowingly obtain a financial interest in, any non-County entity in exchange for any service rendered or to be rendered by him or her personally in any case, proceeding, application, or other matter which is before any County agency, department, board, commission or other authority. No person shall be required to divest themselves of a financial interest in existence at the time he or she initially assumes office or prior to the non-County entity having a matter come before the County, but recusal in accordance with subsection (C) shall be required.
- E. No elected official, employee, commission, board, or body shall appoint any individual who has served the County as an elected official, employee, or board member within the preceding 12 month to any board, commission, or other governmental entity where the Ohio Attorney General's *Index of Compatibility of Public Offices and Positions* provides that such appointment is incompatible with the appointee's position with the County. If the *Index* does not address the appointment, the elected official, employee, or board member shall request the opinion of the Inspector General, and shall not make the appointment unless the

Inspector General determines the positions are compatible. In the event the Inspector General is conflicted from rendering a particular opinion, the request shall be made to the Director of Law. In the event both the Inspector General and Director of Law are conflicted from rendering a particular opinion, the request shall be made for an opinion from the Ohio Attorney General.

- F. If uncertain as to whether a true conflict of interest exists, any elected official, employee, or board member may, before a matter is decided, disclose a potential conflict of interest to the Department of Law or the Inspector General, and request an opinion to determine whether the potential conflict of interest precludes the elected official, employee, or board member's participation in a particular matter.
- G. No elected official, employee or board member shall be required to recuse himself or herself with respect to the following matters:
 - 1. Adoption of the County's biennial budget as a whole; or
 - 2. Any matter that does not involve the exercise of discretion.

Section 403.05: Nepotism

- A. No elected official, employee, or board member, either individually or as a member of a body, may participate in any decision specifically to appoint, hire, promote, discipline, or discharge a relative for any position of the County.
- B. No elected official, employee, or board member may, either individually or as a member of a body, supervise a relative in the performance of the relative's official powers and duties.
- C. No public official, employee or board member shall secure any public contract in which the individual, a member of the individual's family, or any of the individual's business associates has an interest in violation of Ohio Revised Code Section 2921.42.

Section 403.06: Gifts

- A. All individuals shall comply with the requirements and prohibitions applicable to public officials and employees, as stated in Ohio Revised Code Section 102.03.
- B. No elected official, employee, or board member shall solicit or accept any gift where:
 - 1. The gift is intended to influence the elected official, employee, or board member in the performance or non-performance of his or her official powers or duties;

2. The gift is intended as a reward for any official action on the part of the elected official, employee, or board member in violation of Ohio Revised Code Section 2921.43.
- C. Presumption of influence. Subject to the exceptions listed in subsection (D), the following presumptions shall apply:
1. A gift or multiple gifts from a contractor or lobbyist within the same calendar year having an annual aggregate face value of seventy-five dollars (\$75.00) or more are presumed to influence an elected official, employee, or board member in the performance or non-performance of his or her official powers or duties.
 2. A gift to an elected official, employee, or board member is presumed to be intended to influence the performance or non-performance of his or her official powers or duties when the gift is from a private person or organization that seeks County action involving the exercise of discretion by or with the participation of the individual.
 3. A gift to an elected official, employee, or board member is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained County action involving the exercise of discretion by or with the participation of the individual during the preceding twelve months.
- D. Notwithstanding the provisions in subsection (B), the following gifts shall not carry a presumption of influence:
1. Gifts made to the County;
 2. Gifts given on special occasions, such as marriage, illness, or retirement, which are reasonable and customary, and which do not otherwise constitute a substantial and improper influence on the recipient;
 3. Meals and refreshments provided when an elected official, employee, or board member is in his or her professional capacity a speaker or participant at a job-related conference or program, and the meals and refreshments are made available to all participants;
 4. Invitations to or attendance at charitable fundraisers or community events that provide meals of an ordinary character and do not include entertainment of a significant value;
 5. Anything for which an elected official, employee, or board member pays face value, or at a discount available to all county employees or the general public;

6. Any campaign contribution that is otherwise lawfully received and reported under this Code and general law.

Section 403.07: Financial Disclosure

- A. Elected officials shall file an annual disclosure statement directly with the Ohio Ethics Commission or the appropriate filing agency by the deadline prescribed by the Ohio Ethics Commission.
- B. On or before April 15 of each year, the following employees shall file an annual disclosure statement with the Inspector General on the Financial Disclosure Statement form prescribed by the Ohio Ethics Commission, unless otherwise required by Ohio law to file such a statement directly with the Ohio Ethics Commission:
 1. All officers and directors appointed pursuant to Article V, Section 7.03, Section 8.02, Section 9.06, Section 10.01, and Section 11.03 of the Cuyahoga County Charter;
 2. Any other director-level or officer-level position of the county appointed pursuant to the County Charter or County Code, including but not limited to, directors of departments established by ordinance, Health and Human Services administrators, and the Inspector General.
 3. Chief of staff and/or First Assistant to the County Executive, County Council, and County Prosecutor;
 4. Deputies Chiefs or similarly titled employees within Office of the County Executive to which any county officer or director reports.
 5. Board of Revision hearing officers; and
 6. The Clerk of County Council.
- C. Any employee appointed to occupy a position listed in subsection (B) who has not previously filed a financial disclosure statement for the year preceding his or her appointment shall file a financial disclosure statement for that year with the Inspector General within thirty (30) days of appointment to his or her new position. The requirements of this section shall also apply to any former employee or elected official of the county who, within the prior calendar year, held one or more of the positions identified in paragraph (A) or (B) of this section.
- D. If the filing deadlines in paragraph (B) falls on a non-business day, the filing deadline shall be extended to the next regular business day.

Section 403.08: Secondary Employment

- A. All elected officials and employees shall disclose the following types of secondary employment in writing to the Department of Human Resources on an official form approved by the Inspector General, and shall keep such information up to date throughout their term of employment with the County:
 - 1. Any compensated employment or private business activity outside the elected official's or employee's primary status with the County that results in gross income required to be reported by the United States Internal Revenue Service, excluding interest income, dividends, other corporate contributions, alimony, income from life insurance or endowment, income in respect of a decedent, retirement plans, pensions and annuities, and social security, PERS, or equivalent retirement benefits; or
 - 2. Any compensated or uncompensated fiduciary interest with an entity that receives funding from the County.
- B. The Department of Human Resources shall transmit a copy of each secondary employment disclosure form to the Inspector General.
- C. In the event the Inspector General determines a county employee's employment violates an express prohibition or creates a conflict of interest where mandatory recusal would preclude the employee from performing a substantial portion of his or her job duties, the employee shall either terminate his or her secondary employment or face dismissal from service with the County. Elected officials holding secondary employment shall recuse themselves in accordance with Section 403.04.
- D. Employees shall request approval from the Inspector General within thirty (30) days of accepting any secondary employment. The Inspector General may limit the type of classifications of secondary employment that require disclosure. The Inspector General shall render an opinion within fourteen (14) days of the Inspector General receiving the request from the Department of Human Resources in accordance with Section 407.01(J).

Section 403.09: Future Employment

- A. No present or former elected official or employee shall, during public service or for twelve months thereafter, represent or act in a representative capacity for any person or organization on any matter involving the exercise of discretion by the county or any agent thereof, in which the present or former elected official or employee, personally participated in his or her capacity as a County official.
- B. Elected officials and employees shall disclose to the Inspector General any employment offers, or ongoing discussions of future employment, with any entity

presently dealing with the County concerning matters within the scope of the individual's current official duties.

- C. This section shall not be construed as prohibiting an elected official, or employee from representing himself or herself before the County, or asserting a claim against the County on his or her own behalf, nor shall this section prohibit any individual from representing a person or organization on an uncompensated basis.

Section 403.10: Discrimination

No elected official, employee, or board member shall discriminate against anyone on the basis of race, religion, national origin, age, sex, gender, ethnicity, sexual orientation, gender identity and expression, disability, or genetic information.

Section 403.11: Political Contributions from County Employees

- A. No elected official shall knowingly solicit or accept a campaign contribution from any County employee over whom he or she has appointing authority or confirmation authority, either individually or as a member of a body. No elected official shall knowingly solicit or accept a campaign contribution from an employee whose County confirmation is pending.
- B. No employee shall knowingly make a campaign contribution to, or solicit funds for a campaign for public office conducted by or for their own elected employer or confirming authority. Employees shall not be prohibited from making voluntary contributions to political parties or candidates for any other public office.
- C. The prohibitions of this Section shall not apply to employees or elected officials whose service with the county has terminated.
- D. An elected official or employee may request an opinion from the Inspector General prior to accepting, soliciting, or making a campaign contribution. The Inspector General shall provide an opinion within fourteen (14) days of receiving the request; provided however that the Inspector General shall not be required to conduct a review of political contributions on behalf of any candidate or political campaign.

Section 403.12: Whistleblowers

All elected officials, employees, and board members shall have whistleblower rights and responsibilities as specified in Chapter 406 of this Code.

Section 403.13: Partisan Political Activity by Classified Civil Service Employees

All elected officials, employees and board members are subject to the rules regarding political activity pursuant to Ohio Revised Code Chapter 124 and Ohio Administrative

Code Chapter 123, as is now or hereafter incorporated by Chapter 303 of the Cuyahoga County Code.

Chapter 404: Contractors

Section 404.01: Registration, Disclosure Requirements, and Training Certification

Any and all contractors shall comply with the Registration, Training, and Disclosure Requirements as provided in Chapter 501 of the County Code.

Section 404.02: Gifts

- A. No contractor shall make a gift to an elected official, employee, or board member in violation of Ohio Revised Code Section 102.03.
- B. Additionally, no contractor shall provide, pay for, or offer any gift to any elected official, employee, or board member where:
 - 1. The gift is intended to influence the elected official, employee, or board member in the performance or non-performance of his or her official powers or duties;
 - 2. The gift is intended as a reward for any official action on the part of the elected official, employee, or board member.
- C. No contractor shall knowingly provide, pay for, or offer, any gift or multiple gifts having an annual aggregate face value of seventy-five dollars (\$75.00) or more to a person the contractor knows, or reasonably should know, is an elected official, employee, or board member of the County.
- D. Presumption of influence. Subject to the exceptions listed in subsection (E), the following presumptions shall apply:
 - 1. A gift or multiple gifts made within the same calendar year having an annual aggregate value of seventy-five dollars or more are presumed to influence an elected official, employee, or board member in the performance or non-performance of his or her official powers or duties.
 - 2. A gift to an elected official, employee, or board member is presumed to be intended to influence the performance or non-performance of his or her official powers or duties when the gift is from a private person or organization that seeks County action involving the exercise of discretion by or with the participation of the employee.
 - 3. A gift to an elected official, employee, or board member is presumed to be intended as a reward for official action when the gift is from a private person or

organization that has obtained County action involving the exercise of discretion by or with the participation of the employee during the preceding twelve months.

- E. Notwithstanding the provisions in subsection (C), the following gifts shall not carry a presumption of influence:
1. Gifts made to the County;
 2. Gifts given on special occasions, such as marriage, illness, or retirement, which are reasonable and customary, and which do not otherwise constitute a substantial and improper influence on the giftee;
 3. Meals and refreshments provided when an elected official, employee, or board member in his or her professional capacity is a speaker or participant at a conference or program and the meals and refreshments are made available to all participants;
 4. Invitations to or attendance at charitable fundraisers or community events that provide meals of an ordinary character and do not include entertainment of a significant value;
 5. Anything for which an elected official, employee, or board member, or his or her campaign committee where otherwise permitted by law, pays the face value, or at a discount available to all county employees or the general public;
- F. Notwithstanding any other provision of this Section, contractors shall not be prohibited from making any campaign contribution that is otherwise lawfully made under this Code and general law.

Section 404.03: Discrimination

No contractor shall discriminate against anyone on the basis of race, religion, national origin, age, sex, gender, ethnicity, sexual orientation, gender identity and expression, disability, or genetic information.

Section 404.04: Whistleblowers

All contractors shall have whistleblower rights and responsibilities as specified in Chapter 406 of this Code.

Chapter 405: Lobbyists

Section 405.01: Registration, Training, and Disclosure Requirements

- A. Registration. Except as provided in subsection (D), a lobbyist must register with the Inspector General as a lobbyist within thirty days after the start of lobbying activity

on behalf of his or her client. Lobbyists shall re-register every four (4) calendar years. The registry application fee shall be \$100.00. Registrants shall make all required disclosures listed in subsection (B) on or before the date of registration, unless such information is explicitly exempt from disclosure by this Code or general law. The effective date of registration will be upon the completion and filing of the registration form, payment of one registration fee, and completion of ethics training. Fees collected pursuant to this section shall support the Inspector General's cost of administering the contractor and lobbyist registries.

B. Annual Disclosure Requirements. Each registered lobbyist shall disclose the following information on or before January 1 of each year:

1. The name, phone number, and address of the registered lobbyist and all of its employees or agents who engage in lobbying activities;
2. A list of all clients, including names, phone numbers, addresses, and nature of business, from whom the registered lobbyist receives compensation for engaging in lobbying activities;
3. A statement of all matters on which the registered lobbyist has lobbied for each client in the past year, or on which the registered lobbyist is contracted to lobby in the future;
4. A list of any past positions held by the registered lobbyist or any of its employees or agents as an elected official, employee, or board member of a city, county or state, and the period of time during which each individual held such position;
5. Any other information as may be required by the Inspector General.

C. Training.

1. Every lobbyist shall complete an ethics training program conducted by the Inspector General prior to engaging in any lobbying activities with the County.
2. Upon successful completion of any County ethics training program, lobbyists shall acknowledge, electronically or in writing, that they have received, read, understood, and agree to abide by the County ethics policy, including the provisions of this Title, Ohio Revised Code Chapter 102 and Ohio Revised Code Sections 2921.42 and 2921.43.
3. Ethics training certification shall expire on December 31 of the respective year that is four (4) calendar years following the date of the ethics training. A lobbyist may only renew its ethics training certification by completing a subsequent ethics training program conducted by the Inspector General. Any

lobbyist who fails to renew its ethics training certification shall be removed from the registry of approved lobbyists.

D. The requirements of Section shall not apply to the following persons or entities:

1. A person who owns, publishes, or is employed by a media outlet. This subsection does not exempt persons whose relation to a media outlet is only incidental to a lobbying effort, or where a position taken or advocated by a media outlet directly affects a County policy in which the media outlet has a direct or indirect economic interest;
2. Governmental entities and their agents, provided the communications relate solely to subjects of governmental interest;
3. A not-for-profit corporation solely seeking to provide a free service, or financial or in-kind support, for a county program or initiative.
4. An attorney or other person whose contact with a County employee or elected official is made solely as part of resolving a dispute with the County, provided that the contact is solely with County employees or officials who do not vote on, or have final authority over, the policy decision.

Section 405.02: Gifts

- A. No lobbyist shall make a gift to an elected official, employee, or board member in violation of Ohio Revised Code Section 102.03.
- B. Additionally, no lobbyist shall provide, pay for, or offer any gift to any elected official, employee, or board member where:
 1. The gift is intended to influence the elected official, employee, or board member in the performance or non-performance of his or her official powers or duties;
 2. The gift is intended as a reward for any official action on the part of the elected official, employee, or board member.
- C. No lobbyist shall knowingly provide, pay for, or offer, any gift or multiple gifts having an annual aggregate face value of seventy-five dollars (\$75.00) or more to a person the lobbyist knows, or reasonably should know, is an elected official, employee, or board member of the County.
- D. Presumption of influence. Subject to the exceptions listed in subsection (E), the following presumptions shall apply:

1. A gift or multiple gifts made within the same calendar year having an annual aggregate value of seventy-five dollars or more are presumed to influence an elected official, employee, or board member in the performance or non-performance of his or her official powers or duties.
 2. A gift to an elected official, employee, or board member is presumed to be intended to influence the performance or non-performance of his or her official powers or duties when the gift is from a private person or organization that seeks County action involving the exercise of discretion by or with the participation of the employee.
 3. A gift to an elected official, employee, or board member is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained County action involving the exercise of discretion by or with the participation of the elected official, employee, or board member during the preceding twelve months.
- E. Notwithstanding the provisions in subsection (C), the following gifts shall not carry a presumption of influence:
1. Gifts made to the County;
 2. Gifts given on special occasions, such as marriage, illness, or retirement, which are reasonable and customary, and which do not otherwise constitute a substantial and improper influence on the giftee;
 3. Meals and refreshments provided when an elected official, employee, or board member is a speaker in his or her professional capacity or participant at a conference or program and the meals and refreshments are made available to all participants;
 4. Invitations to or attendance at charitable fundraisers or community events that provide meals of an ordinary character and do not include entertainment of a significant value;
 5. Anything for which an elected official, employee, or board member, or his or her campaign committee where otherwise permitted by law, pays the face value, or at a discount available to all county employees or the general public;
- F. Notwithstanding any other provision of this Section, lobbyists shall not be prohibited from making any campaign contribution that is otherwise lawfully made under this Code and general law.

Section 405.03: Discrimination

No lobbyist shall discriminate against anyone on the basis of race, religion, national origin, age, sex, gender, ethnicity, sexual orientation, gender identity and expression, disability, or genetic information.

Section 405.04: Whistleblowers

All lobbyists shall have whistleblower responsibilities as specified in Chapter 406 of this Code.

Chapter 406: Whistleblowers

Section 406.01: Whistleblower Responsibilities

- A. Any elected official, employee, or board member who possesses actual knowledge of a violation of this Title shall inform the Inspector General within five days of discovering the violation, unless the individual knows the violation has already been reported.
- B. Any person who reasonably believes a violation of this Title or of any state or federal ethics law, rule, or regulation has occurred, or will occur, may file a complaint with the Inspector General.
- C. No elected official, employee, board member, lobbyist, or contractor shall file a complaint with the Inspector General that includes information he or she knows to be false, or which has been submitted in bad faith or with reckless disregard for the truth.
- D. No person shall retaliate against any individual who, in good faith, has filed a written report or expressed in writing his or her intent to report a violation or suspected violation of this Code, whether such retaliation is through threat, coercion, harassment, abuse of authority, or adverse employment action.
- E. Any act of retaliation shall be considered a separate violation of this Code. All complaints of retaliation shall be reported to the Inspector General for investigation.

Section 406.02: Whistleblower Rights

- A. Pursuant to Section 124.341 of the Ohio Revised Code, if an appointing authority takes any final disciplinary or retaliatory action against an employee as a result of the employee's having filed a written report or complaint of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, the employee's sole remedy is to file an appeal with the state personnel board of review within the time period prescribed by law.

- B. If an employee believes he or she has been subject to retaliation for having filed a complaint of a violation of this title that is not a violation reportable under Ohio Revised Code Section 124.341, he or she shall report such retaliation to the Department of Human Resources. If an appointing authority or the Department of Human Resources takes any final disciplinary or retaliatory action against an employee as a result of the employee's having filed a report or complaint under this title that is not a violation reportable under Ohio Revised Code Section 124.341, the employee may file an appeal with the Personnel Review Commission. Any complaint giving rise to an alleged retaliatory act must be filed in writing in order for an employee to exercise his or her appeal rights under this paragraph. A complaint filed in writing may be submitted anonymously; provided however that the employee shall bear the burden of proving that the employee was the source of the anonymous complaint upon appeal. Claims of retaliation heard by the Personnel Review Commission shall be appealable to the Court of Common Pleas pursuant to Ohio Revised Code Chapter 2506.
- C. The annual training provided to employees, as required in Chapter 403 of this code, shall include a notice to employees enumerating their whistleblower rights and responsibilities, including the requirement that an employee must submit any initial ethics complaint in writing to properly exercise his or her appeal rights in the event of whistleblower retaliation.

Chapter 407: Duties and Responsibilities

Section 407.01: Inspector General

- A. The Inspector General shall serve as the County's chief ethics officer, shall receive complaints of ethics violations, and shall conduct investigations in accordance with Section 204.01 of the Code. In the event the Inspector General has a conflict of interest or other circumstances arise that would preclude him or her from performing any power or duty vested in the Inspector General, including but not limited to investigating alleged violations of this Title, the Inspector General shall recuse himself or herself from the conflicted matter and shall notify the Director of Law of such recusal. Upon receiving a notice of recusal from the Inspector General, the Director of Law shall appoint an independent person or entity to perform the powers or duties of the Inspector General with regard to the particular matter until either the matter is closed or the conflict of interest is resolved.
- B. All documents submitted or prepared in the course of an investigation under this Title shall be considered part of the Inspector General's confidential investigatory files, which shall be exempt from disclosure until the matter is concluded and the investigation is closed by the Inspector General and any other investigatory agencies with jurisdiction over the matter. The Inspector General shall take reasonable measures to protect the anonymity of complainants and witnesses to the extent permitted by law.

- C. All elected officials, employees, contractors, lobbyists, and board members shall cooperate fully and truthfully with any investigation or inquiries initiated by the Inspector General regarding an alleged or potential violation of this Title to the extent that the constitutional rights of those accused are not violated. Elected officials, employees, board members, lobbyists, and contractors shall locate, compile, and produce any information requested by the investigating authority, unless such information is exempt from disclosure under this Code or applicable law.
- D. If the Inspector General determines that an elected official, employee, or board member has violated a provision of this Title or the Charter, the Inspector General may take one or more of the following actions:
1. The Inspector General may issue a Letter of Notification, which advises the individual that he or she is in non-compliance, and may advise the respondent of any steps to be taken to bring the respondent into compliance and/or avoid future violations.
 2. The Inspector General may issue a Letter of Admonition expressing disapproval of the individual's violation of a provision of this Title. The Inspector General shall send a simultaneous copy of all letters of admonition to the Department of Human Resources and to the respondent's appointing authority.
 3. The Inspector General may issue a Letter of Censure condemning the individual for knowingly violating one or more provisions of this Title. The Inspector General shall send a simultaneous copy of all letters of censure to the Department of Human Resources and to the respondent's appointing authority.
 4. The Inspector General may require the individual to complete a County ethics training program.
 5. The Inspector General may make a recommendation to an individual's appointing authority, including but not limited to, a recommendation for suspension, forfeiture of office, or removal from office.
- E. If the Inspector General determines there are reasonable grounds to believe a contractor or lobbyist has violated a provision of this Title, the Inspector General may take one or more of the following actions:
1. The Inspector General may issue a Letter of Notification, which advises the contractor or lobbyist that it is in non-compliance, and may advise the respondent of any steps to be taken to bring the respondent into compliance and/or avoid future violations.

2. The Inspector General may remove a lobbyist from the registry and prohibit them from engaging in lobbying activities for a period of time determined by the Inspector General.
 3. The Inspector General may initiate the process to debar a contractor in accordance with Section 505 of the Code.
 4. The Inspector General may require the contractor or lobbyist to complete a County ethics training program.
- F. The Inspector General may reject the registration application of any contractor currently debarred, suspended, or subject to potential debarment under Chapter 505 of this Code. In the event a contractor's registration application is rejected, the Inspector General shall notify the contractor that its registration application has been rejected, shall refund any assessed registration fees, and shall issue a "Notice of Potential Debarment" if required under Chapter 505.
- G. If the Inspector General determines there are reasonable grounds to believe any person has violated any federal, state, or local law, the Inspector General shall refer said violations to the appropriate civil, criminal, or administrative agencies charged with enforcing such law.
- H. The Inspector General shall be responsible for administering ethics training for all contractors and lobbyists who are required to receive ethics training under this Title. The Inspector General shall receive and keep records of ethics certifications from all such contractors and lobbyists.
- I. The Inspector General shall receive and maintain all financial disclosure statements required to be filed directly with the Inspector General. The Inspector General shall acquire and maintain copies of any Financial Disclosure statements filed directly with the Ohio Ethics Commission by elected officials.
- J. The Inspector General shall provide any individual under investigation for giving, soliciting, or accepting a gift in violation of Section 403.06, 404.02, or 405.02 of this Code an opportunity to submit evidence to rebut any presumption of influence the Inspector General has found. The Inspector General shall take any such evidence into consideration prior to taking final action.
- K. The Inspector General shall publish a list of all registered contractors and lobbyists on the County's website.
- L. The Inspector General shall issue an advisory opinion within fourteen (14) days upon receiving a written request regarding the compatibility of an employee's prospective secondary employment or the compatibility of a prospective board member appointment.

- M. In consultation with the Department of Law, the Inspector General shall prepare a comprehensive County Ethics Policy Manual, which shall include the requirements of this Title, Ohio Revised Code Chapter 102, Ohio Revised Code Sections 2921.42 and 2921.43, and such other materials deemed appropriate for distribution. The County Ethics Policy Manual shall be made publicly available online.
- N. The Inspector General shall furnish, electronically or in writing, a copy of the County Ethics Policy Manual to all contractors and lobbyists on or before the date of their first ethics training.

Section 407.02: Personnel Review Commission

- A. The Agency of the Inspector General and Department of Human Resources shall work in cooperation with the Personnel Review Commission to ensure county-wide compliance with this Title. The Personnel Review Commission shall provide an annual report to County Council detailing employee ethics training, receipt of ethics laws, and posting of whistleblower policies.
- B. The Personnel Review Commission shall hear and adjudicate appeals of all claims of retaliation brought under Chapter 406 of this Code.

Section 407.03: Department of Human Resources

- A. The Department of Human Resources shall administer ethics training as necessary, and distribute a copy of the County's ethics policy to all elected officials, employees, and board members who are required to receive ethics training under this Title. The Department of Human Resources shall receive and maintain records of ethics certifications from all such elected officials, employees, and board members.
- B. The Department of Human Resources shall be responsible for investigating claims of discrimination brought against any employee, elected official, or board member.
- C. The Department of Human Resources shall furnish a copy of the County Ethics Policy Manual prepared by the Department of Law to all elected officials, employees, and board members on or before the date of their first ethics training.
- D. The Department of Human Resources shall post the County's whistleblower policies, in accordance with Chapter 406 of this Code, in a manner consistent with its current disclosure and posting of other human resource materials.
- E. The Department of Human Resources shall enforce ethics compliance and shall do each of the following, as necessary:
 - 1. Provide copies of Ohio and County laws relating to ethics in accordance with this Code and general law;

2. Conduct ethics training programs and classes for County employees;
3. Post the County's Whistleblower Policy at County offices;
4. Take other actions necessary to perform its responsibilities for ethics compliance and training except for actions specifically assigned to another unit of County government.

SECTION 3. Section 501.19 of the Cuyahoga County Code is hereby amended to read as follows (additions bolded and underlined, deletions are stricken):

Section 501.19: ~~Ethics Compliance Required~~ Registration, Ethics Training, and Certification

A. No contract shall be entered into unless all the provisions of State and County laws related to ethics policy have been met.

B. **Registration.**

Except as provided in Subsection (B), every contractor whose annual aggregate amount of contracting with the County exceeds ten thousand dollars (\$10,000) shall register with the Inspector General prior to doing business with the County. Registration shall take place prior to entering any contract that would bring a Contractor's annual aggregate amount above ten thousand dollars. Contractors shall re-register every four (4) calendar years. Every registered contractor shall pay a registration filing fee of one hundred dollars (\$100.00). Contractors shall be responsible for keeping track of their annual aggregate amount of contracting with the County. Each registered contractor must provide to the Inspector General the contractor's corporate name, federal tax identification number, address, names of the contractor's principals, and any other information as may be required by the Inspector General, unless such information is explicitly exempt from disclosure by this Code or general law. Fees collected pursuant to this section shall support the Inspector General's cost of administering the contractor and lobbyist registries.

C. **Ethics Training and Certification.**

1. **Every contractor whose annual aggregate amount of contracting with the County exceeds ten thousand dollars (\$10,000) shall complete an ethics training program prescribed by the Inspector General prior to doing business with the County.**
2. **Upon successful completion of any ethics training program, contractors shall acknowledge, electronically or in writing, that they have received, read, understood, and agree to abide by the County ethics policy, including**

the provisions of this Title, Ohio Revised Code Chapter 102 and Ohio Revised Code Sections 2921.42 and 2921.43.

3. Ethics training certification shall expire on December 31 of the respective year that is four (4) calendar years following the date of the ethics training. A contractor may only renew its ethics training certification by completing a subsequent ethics training program prescribed by the Inspector General. Any contractor who fails to renew its ethics training certification shall be removed from the registry of approved contractors.
- D. No approval authority shall award a contract to any contractor who fails to comply with the requirements of this Section.
- E. Notwithstanding paragraphs (A) through (C), the following entities shall not be mandated to comply with the requirements of this Section and shall not be required to pay the registration filing fee:
 1. Political subdivisions, public utilities, and other governmental entities.
 2. Persons or entities that receive either direct payments or reimbursements from the County for the emergency purchase of items required to serve basic needs, including, but not limited to, temporary foster care providers and grocery or department stores that accept vouchers for basic needs.
 3. Court reporters or expert witnesses in connection with civil litigation or criminal prosecution.
 4. Persons or entities that receive County funds through a County-sponsored rebate program, including, but not limited to, the County Storefront Renovation Rebate Program.
 5. Accrediting bodies.
- F. The Inspector General may, on his or her own initiative or upon request, grant exemptions from the registration and/or training requirements of this Section with the approval of the Board of Control. Requests for exemptions shall be submitted to the Inspector General. Should either the Inspector General or the Board of Control deny an exemption request, the aggrieved party may appeal the decision to the full Council.

SECTION 4. Section 505.06(A)(1) of the Cuyahoga County Code is hereby amended to read as follows (additions bolded and underlined, deletions are stricken):

- A. Debarment by the Inspector General
 1. Notice of Potential Debarment and Opportunity for Contractor to Respond

- a. Prior to debarment, the Inspector General shall provide a written “Notice of Potential Debarment” to the contractor. The Notice of Potential Debarment shall include all of the following:
 - i. A notice that the Inspector General is considering debaring the contractor;
 - ii. A notice that if the contractor is debarred, the contractor will not be able to enter into any contracts or agreements with the County and that it will not be able to submit any bids, proposals, statements of qualifications, or any other offers to the County;
 - iii. A notice that if the contractor is debarred, the contractor will be barred from doing any work as a subcontractor on a county contract or agreement;
 - iv. A notice that if the contractor is debarred, the County will automatically disqualify any bids, proposals, statements of qualifications, or any other offers from the contractor;
 - v. A notice of the grounds for the potential debarment;
 - vi. A notice of the duration of the potential debarment;
 - vii. A notice that the contractor has the right to submit written materials and evidence to the Inspector General to explain why the contractor should not be debarred;
 - viii. A notice of the due date and time by which any written materials and evidence submitted by the contractor must be received by the Inspector General. The due date and time may not be less than 14 calendar days and no more than 60 calendar days from the Inspector General’s mailing or other means of transmitting the notice to the contractor; and
 - ix. A notice that the contractor has the right to request a meeting with the Inspector General or his or her representative to explain the contractor’s evidence and why the contractor should not be debarred. The Notice shall specify the location and two dates on which the meeting may take place if the contractor were to request a meeting. The Notice shall also specify the means and deadline by which the contractor may request the meeting and choose one of the two dates provided by the Inspector General in the Notice. The Notice shall also provide that if the contractor does not request the meeting by the

deadline and in the manner provided for in the Notice, the contractor shall be deemed to have waived its right to the meeting.

- b. **For the purposes of this Section, "Notice" shall mean a written communication sent by certified mail, return receipt requested, to the last known address of a party, its identified counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venture. If no return receipt is received within 10 calendar days of mailing, receipt shall then be presumed.**

SECTION 5. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Miller, seconded by Mr. Greenspan, the foregoing Ordinance was duly enacted.

Yeas: Brown, Hairston, Simon, Greenspan, Miller, Germana, Gallagher, Schron, Conwell, Jones and Brady

Nays: None

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: January 26, 2016

Committee(s) Assigned: Council Operations & Intergovernmental Relations

Additional Sponsorship Requested: March 1, 2016

Additional Sponsorship Requested: April 5, 2016

Committee Report/Second Reading: April 12, 2016

Additional Sponsorship Requested on the Floor: April 26, 2016

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