

ORDINANCE NO. 16-007

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA, AMENDING SECTIONS **1-3-22** AND **1-3-24** OF DIVISION **3**, TITLE **1** OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE TO PROVIDE FOR THE CAMPAIGN FINANCE AND ETHICS COMMISSION'S ENFORCEMENT OF THE COUNTY GIFT BAN ORDINANCE.

The Board of Supervisors of the County of Orange ordains as follows:

SECTION **1**. Sections **1-3-22** and **1-3-24** of Division **3**, Title **1** of the Codified Ordinances of the County of Orange are hereby amended to read as follows:

ARTICLE **2**. – GIFTS TO PUBLIC OFFICIALS

Sec. **1-3-21**. Purpose; meaning of terms; interpretation; citation.

The Board of Supervisors finds that the receipt of gifts by public officials from persons who do business with the County erodes public confidence in the impartiality of decisions made by those officials. The purpose of this article is to prohibit the donation and receipt of specified gifts, thereby eliminating, to the extent possible, such loss of confidence.

Unless otherwise expressly defined, the terms used in this article shall have the same meaning as defined in the California Political Reform Act (title 9 of the California Government Code) and regulations issued by the Fair Political Practices Commission pursuant to the authority of the Political Reform Act, as the Act and regulations shall be, from time to time, amended.

This article shall be known as, and may be cited as, the "Orange County Gift Ban Ordinance."

Sec. **1-3-22**. Definitions.

For the purposes of this Article:

- (a) *County* means the County of Orange.
- (b) *County officer* means every person who is elected or appointed to an office in the County which is specified in Section 87200 of the California Government Code.
- (c) *Designated employee* means every employee of the County who is designated in the County's Conflict of Interest Code to file a statement of

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economic interests and every member of a board, commission or committee under the jurisdiction of the Board of Supervisors required to file such a statement.

(d) *Doing business with the County* means:

- (1) Seeking the award of a contract or grant from the County, or
- (2) Having sought the award of a contract or grant from the County in the past twelve (12) months, or
- (3) Being engaged as a lobbyist or lobbyist firm, as defined in this Article, from the time of such engagement until twelve (12) months after the award of the contract grant, license, permit, or other entitlement for use, which was the subject of the engagement, or
- (4) Having an existing contractual relationship with the County, until twelve (12) months after the contractual obligations of all parties have been completed, or
- (5) Seeking, actively supporting, or actively opposing the issuance, by the County, of a discretionary license, discretionary permit, or other discretionary entitlement for use, or having done any of these things within the past twelve (12) months.

(e) *Gift* shall have the meaning it is defined to have in the California Political Reform Act, and the regulations issued pursuant to that Act, except that the following shall not be deemed to be gifts:

- (1) Meals, beverages, and free admission at any event sponsored by, or for the benefit of, a bona fide educational, academic, or charitable organization, and, in addition, commemorative gifts from such organizations with a cumulative value from any single source of fifty dollars (\$50.00) or less during any twelve-month period.
- (2) Flowers, plants, balloons or similar tokens which are given to express condolences, congratulations, sympathy for ill health, or to commemorate special occasions, provided that gifts made or received under this exemption shall not exceed a value of fifty dollars (\$50.00) from any single source in any calendar year.
- (3) A prize awarded on the basis of chance in a bona fide competition not related to the official status of the public official.

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- (4) Gifts from any agency of a foreign sovereign nation, provided that such gifts are unconditionally donated by the public official to the Director of OC Public Works within forty-five (45) days of receipt, and the public official does not claim any tax deduction by virtue of such donation.
- (5) Food, beverages, and free admission provided by a governmental agency or provided to the public at large, for ceremonial functions commemorating the groundbreaking, opening, or naming of a governmental facility.
- (6) Food and beverages consumed by a public official that total less than five dollars (\$5.00) per occasion.
- (f) *Lobbyist* shall mean any individual, including an attorney, who is employed or contracts for consideration, other than reimbursement of reasonable travel expenses, to communicate directly with any County officer or staff member of a County Supervisor for the purpose of seeking, actively supporting, or actively opposing the award of a contract or grant from the County, or the issuance, by the County of a discretionary license, discretionary permit, or other discretionary entitlement for use. An attorney shall not be considered a lobbyist when performing activities which can only be performed by a person admitted to the practice of law.
- (g) *Lobbyist firm* shall mean (1) any business entity, which is employed or contracts for consideration, other than reimbursement of reasonable travel expenses, to communicate directly with a County officer or staff member of a County Supervisor for the purpose of seeking, actively supporting or actively opposing the award of a contract or grant from the County, or the issuance, by the County, of a discretionary license, discretionary permit, or other discretionary entitlement for use, or (2) any business entity of which any member or employee is a lobbyist.
- (h) *Principal* shall mean any individual or business entity which employs or contracts with a lobbyist or lobbyist firm for any of the purposes stated in Section 1-3-22(f) or Section 1-3-22(g).
- (i) An individual or business entity shall be deemed to be employed or contracting to communicate directly with a County officer or staff member of a County Supervisor if it is reasonably foreseeable that in the course of employment or in the course of performing the contract, the individual or an employee of the entity, will have an oral or written communication with any County officer or staff member of a County Supervisor, outside of any meeting governed by the Ralph M. Brown Act (which is codified in the California Government Code commencing with section 54950), for the purpose of seeking, actively supporting, or actively opposing the award of a contract or grant from the County, or the

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issuance by the County, of a discretionary license, discretionary permit, or other discretionary entitlement for use.

(j) An individual lobbyist who is an officer, partner or employee of his or her principal shall be deemed to be "engaged" within the meaning of this section on the first occasion on which he or she engages in an oral or written communication described in Section **1-3-22(i)**. A lobbyist firm, or an individual lobbyist who is not an officer, partner or employee of his or her principal shall be deemed to be "engaged" within the meaning of this section upon the completion of an agreement, oral or written, to provide the services specified in Section **1-3-22(f)** or **1-3-22(g)**.

(k) *Public official* means every County officer and every designated employee.

Sec. 1-3-23. Prohibitions.

(a) No person who is doing business with the County shall make any gift to any County officer.

(b) No person who is doing business with the County shall make any gift to any designated employee who, by virtue of his County employment, could make a governmental decision, participate in making a governmental decision, or use his or her official position to influence a governmental decision regarding the pending business of the donor, or who has done any of the above during the twelve (12) months preceding the donation.

(c) No County officer shall solicit or accept any gift from any person whom he knows, or has reason to know, is doing business with the County.

(d) No designated employee shall solicit or accept any gift from any person whom he knows, or has reason to know, is doing business with the County, when such employee, by virtue of his County employment, could make a governmental decision, participate in making a governmental decision, or use his or her official position to influence a governmental decision regarding the pending business of the donor, or has done any of the above during the twelve (12) months preceding the donation.

(e) No public official shall accept any gift when the identity of the donor is not known to the public official.

Sec. 1-3-24. Violations and enforcement.

(a) Any County officer who violates section **1-3-23** shall be guilty of a misdemeanor.

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- (b) Any designated employee who violates section **1-3-23** shall be subject to discipline for such violation, including, in appropriate cases, termination of employment.
- (c) Any member of any County board, commission or committee, other than a board, commission or committee established by the Constitution or a statute of the State of California, who violates section **1-3-23** shall be subject to removal from office.
- (d) Any person who violates section **1-3-23(a)** or **1-3-23(b)** shall be guilty of a misdemeanor.
- (e) These enforcement provisions are in lieu of the penalty provided in section **1-1-34**, are cumulative, and are not mutually exclusive.
- (f) Violations of this Article by a County officer, as defined in this Article, and by a member of a board, commission or committee under the jurisdiction of the Board of Supervisors shall be investigated and administratively enforced pursuant to section **1-2-112** of the County Campaign Finance and Ethics Commission Ordinance.

This ordinance shall take effect and be in full force thirty (30) days from and after its passage and before the expiration of fifteen (15) days after the passage thereof, shall be published once in an adjudicated newspaper in the County of Orange.

THE FOREGOING was PASSED and ADOPTED by the following vote of the Orange County Board of Supervisors on July 12, 2016, to wit:

AYES: Supervisors: TODD SPITZER, SHAWN NELSON, MICHELLE STEEL,
LISA A. BARTLETT

NOES:

EXCUSED: ANDREW DO

ABSTAINED:

/S/
ROBIN STIELER, Clerk of the Board of Supervisors, County of Orange, California

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