

Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

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CITY COUNTY COUNCIL

PROPOSAL NO. 146, 2016

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

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INTRODUCED: 03/21/2016

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors Johnson and Robinson

DIGEST: amends Chapters 293 and 909 of the Code regarding ethics and lobbying activity to enhance integrity, transparency and accountability with respect to city and county employment, post-employment business relationships, contracting and lobbying activities; and to strengthen the regulation of lobbyist activity and tighten city-county ethics policies

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SOURCE:

Initiated by: Office of the Mayor

Drafted by: Office of Corporation Counsel

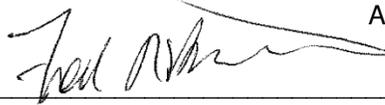
LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_



Date: March 17, 2016

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CITY-COUNTY GENERAL ORDINANCE NO. , 2016

PROPOSAL FOR A GENERAL ORDINANCE to revise the ethics code of the consolidated city and county.

WHEREAS, it is the duty of all government officials to promote trust in civic institutions; and

WHEREAS, the city code should be improved to strengthen the regulation of lobbyist activity and to tighten city-county ethics policies; and

WHEREAS, in order to increase accountability and transparency and to provide residents better access to public information the Disclose Indy citizen portal is created; NOW THEREFORE

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title I, Chapter 293, Article II of the "Revised Code of the Consolidated City and County" regarding the ethics code, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 293-206. - Employment restrictions.**

(a) An official, appointee, or employee shall not knowingly:

(1) Accept other employment involving compensation of substantial value if the responsibilities of that employment:

a) are inherently incompatible with the responsibilities of his or her position; or

b) Require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be substantially impaired; or

(2) Accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of city or county employment.

(b) An advisory opinion that grants approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

(c) A current official, deputy mayor, or other individual with appointment authority to an agency, may not have an employment contract with, be otherwise employed by, or be a subcontractor of, a person – other than a governmental agency – that has a contract, agreement, purchase, or arrangement with an agency for supplies, real property, or services.

**Sec. 293-207. – Post-Employment Restrictions; Relevant Vendor Contractual Language.**

(a) As used in this section, particular matter means an application, business transaction, claim, contract, determination, enforcement proceeding, investigation, judicial proceeding, lawsuit, license, economic development project, or public works project. Particular matter does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(b) A former employee may not represent or assist a person in a particular matter involving the city or county if the former employee personally and substantially participated in the solicitation, negotiation, awarding, or performance of a particular matter as an employee, even if the former employee receives no compensation for the representation or assistance.

(c) A former employee may not have the performance of lobbying activity (as that term is defined in Section 909-101 of this Code) related to an agency or an official as a substantial responsibility of their employment or contractual relationship with a person within one (1) year following their employment with the city or county.

(ed) When the representation or assistance is on behalf of or otherwise not adverse to the city or county, the corporation counsel may waive application of subsections (b) and (c) of this rule in individual cases when consistent with the public interest. The waiver shall be in writing and include:

- (1) The name of the individual;
- (2) The nature of the representation or assistance;
- (3) The name of any person who is compensating the individual to provide the representation or assistance; and
- (4) An explanation of why the representation or assistance is consistent with the public interest.

(de) An advisory opinion certifying that representation by or assistance from the former employee does not violate this section is conclusive proof that a former employee is not in violation of this section.

(f) Every contract or agreement between an agency or official and any person (other than a governmental entity) shall contain a provision substantially similar to the following:

*[Insert person/vendor name], providing supplies, real property, or services under this Agreement, certifies to [insert agency or official name] that no employee, contract employee, or sub-contractor of [Insert person/vendor]:*

1. Participated in any way in the solicitation, negotiation, or awarding of this Agreement while previously employed by an agency of the City of Indianapolis or Marion County for a period of one (1) year prior to the execution of this Agreement;
2. For a period of one (1) year after such employee ceased supervising the administration or performance of this contract or agreement on behalf of an agency of the City of Indianapolis

or Marion County, shall perform any functions on behalf of [insert person/vendor name] under the contract or agreement with respect to the [insert agency or official name], unless the employee's former agency has consented to the employee's performance for [insert person/vendor name] in writing;

3. Has violated any provision of Chapter 293 of the Revised Code of the Consolidated City of Indianapolis and Marion County, regarding the solicitation, negotiation, awarding, or performance of this Agreement;
4. Is currently an official or deputy mayor of , or has appointing authority to, any agency of the City of Indianapolis or Marion County; and
5. Was previously employed by the City of Indianapolis or Marion County within one (1) year of this Agreement and currently has the performance of lobbying activity (as that term is defined in Section 909-101 of this Code) related to an agency or an official as a responsibility of his or her employment or contractual relationship with [insert person/vendor name].

Violation of this certification shall constitute a material breach of the Agreement and, upon such a violation, [agency or official] may terminate this Agreement. In addition, upon a violation of this certification, [agency or official] shall report such violation to the Office of Corporation Counsel who may, at its discretion, debar [person/vendor name] from eligibility for future city and/or county purchasing, bids, contracts, and/or projects.

SECTION 2. Title I, Chapter 293 of the "Revised Code of the Consolidated City and County" regarding the the ethics code, hereby is amended by the addition of a NEW Article V, creating the formation of a citizens information portal, to read as follows:

#### ARTICLE V. – DISCLOSE INDY

Sec. 293-501. – Formation of Citizen Information Portal.

The Office of Corporation Counsel shall, in consultation with any and all agencies, advisory bodies, appointees and/or officials it deems appropriate, create an online citizen information portal, which shall be announced publicly and maintained for public access.

Sec. 293-502. – Contents of Citizen Information Portal

The information portal shall provide residents, in a single identifiable location, the ability to access city or county contracts, ethics filings, campaign finance reports, crime statistics, community resources, budget and spending information, audits, and any other documents or information deemed appropriate by the Office of Corporation Counsel.

SECTION 3. Title IV, Chapter 909, Article I of the "Revised Code of the Consolidated City and County" regarding the ethics code, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 909-103. - Annual report required; fee.

- (a) Not later than January Fifteenth of each year, a lobbyist shall file with the license administrator an annual report that contains the following information on a form provided by the administrator:
  - (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist;
  - (2) The name, business address, telephone number, and electronic mail address of the lobbyist's principal employer;
  - (3) The name, business address, and electronic mail address of each real party in interest represented by the lobbyist that has a continuing engagement described in the lobbyist's registration statement;

- (4) The total amount of payments received for each engagement during the previous calendar year;
  - (5) A brief description of the subject matter for the lobbying activities in which the lobbyist was engaged during the previous calendar year;
  - (6) The identity of the agency or agencies to which the lobbying activities during the previous calendar year were directed;
  - (7) A description of and the costs of any item of entertainment, food, drink, honoraria, travel expenses, ~~and registration fees, and other things of value~~ given or provided to an official, appointee, or employee with attribution to each such official, appointee, or employee by name; however, the following items need not be listed:
    - a. Items with a face value of less than twenty-five dollars (\$25); and
    - b. Items that are exempt under subdivisions (2) through (11) of Section 293-201(b);  
and
  - (8) A verified statement certifying that in the course of engaging in any lobbying activity during the previous calendar year, the lobbyist has read and complied with Chapter 293 of the Code.
- (b) The fee for filing a registration under this section shall be provided in section 131-501 of the Code, and shall be deposited in the consolidated county fund.

Sec. 909-107. - Enforcement and penalties.

In addition to license administrator's hearings and any penalties the license administrator may impose, including but not limited to suspension and revocation of registrations, a lobbyist's first violation of:

- ~~(1) Failure to file a registration statement as required by Section 909-103 of the Code;~~
- (12) Failure to file an annual report as required by Section 909-1034 of the Code;
- ~~(23) Failure to report changed information or termination of engagement as required by Section 909-1045 of the Code; or~~
- (34) Failure to file an amended statement or other document as required by Section 909-1056 of the Code;

shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the Code. A lobbyist's second and subsequent violations of these provisions are subject to the enforcement procedures and penalties provided in Section 103-3 of the Code and shall make the lobbyist and the lobbyist's firm subject to debarment from lobbying and contracting with the City of Indianapolis and Marion County.

A violation for a lobbyist's failure to file a registration statement as required by Section 909-102 of the Code shall be subject to the enforcement procedures and penalties provided in Section 103-3 and shall subject the lobbyist and the lobbyist's firm to debarment from lobbying and contracting with the City of Indianapolis and Marion County.

**SECTION 4. Title I, Chapter 293, Article I of the "Revised Code of the Consolidated City and County" regarding the ethics code, hereby is amended by the addition of a NEW Article I, Sec. 293-103 clarifying the general applicability of Title I, Chapter 293, to read as follows:**

**Sec. 293-103. Applicability of Chapter.**

Unless otherwise specifically stated herein, this chapter does not apply to the city-county council, councillors, or state offices with county jurisdiction, which are the office of county prosecutor and the

judges of the circuit court or superior courts; however, all individuals excluded are invited to comply with this ethics code.

**SECTION 5.** This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Maggie A. Lewis  
President, City-County Council

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NaTrina DeBow  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at 10:00 a.m.

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NaTrina DeBow  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Joseph H. Hogsett, Mayor