ORDINANCE NO. 2011-05

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PRECLUDING CAMPAIGN CONTRIBUTIONS TO VILLAGE COUNCIL CANDIDATES BY VENDORS; PROVIDING FOR A FINANCIAL PENALTY TO ANY VIOLATING VENDOR, AND A DISQUALIFICATION OF THE VENDOR FOR A PERIOD OF ONE YEAR FOLLOWING THE ELECTION FROM DOING BUSINESS WITH THE VILLAGE; CORRECTING ELECTION DATE AS MODIFIED IN THE VILLAGE'S CHARTER PROVIDING THE ELECTION IN NOVEMBER AND NOT SEPTEMBER; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Vice Mayor Brian W. Pariser].

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay desires to amend its elections code in order to preclude campaign contributions by existing and prospective Village vendors; and,

WHEREAS, the Village desires to ensure complete transparency in government and desires to ensure that there is no appearance of impropriety by having vendors provide campaign contributions to candidates; and,

WHEREAS, the Village desires to keep politics within the candidate forum and not within the Village's vendor forum; and

WHEREAS, any vendor that provides a campaign contribution to a proposed Village candidate for elected office shall be precluded for a period of one year following the election from transacting business with the Village as a Vendor; and,

WHEREAS, the vendor violating section 10-12 shall be required to pay a penalty to the Village of the amount of the contribution, plus $500.00.

WHEREAS, the Mayor and Village Council desire to amend its Elections Code.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The Village of Palmetto Bay hereby amends Chapter 10, entitled "Elections" which shall be amended to read as follows:

Chapter 10 ELECTIONS*

* * *

Sec. 10-3. Elections.

(a) *Elector.* Any person who is a resident of the Village, has qualified as an elector of the state and registers to vote in the manner prescribed by general law and municipal ordinance shall be an elector of the Village.

(b) *Nonpartisan elections.* All elections for the Village Council and Mayor shall be conducted on a nonpartisan basis and the ballot shall not reveal the party designation of any candidate.

(c) *Election dates.* A general election shall be held in each even-numbered year, on the day of the first state primary election, or if none is held in the year, on the first Tuesday following the second Monday in November. A runoff election, if necessary, shall be held the third Tuesday in November. The Village Council shall hold no meetings between the general election and the swearing in of those newly elected or re-elected Council Members, except in the case of an emergency affecting life, health, property or the public peace, to adopt a budget, or otherwise to comply with a requirement of state law which must be satisfied during that period of time.

* * *

Sec. 10-12___ Prohibited campaign contributions by vendors.

(a) No person who is a vendor to the Village shall give a campaign contribution directly, or through a member of the person's immediate family, or through a political action committee, or through any other person, to a candidate, or to the campaign committee of a candidate, for the offices of Mayor, Vice Mayor, or Council Person. No candidate, or campaign committee of a candidate for the offices of Mayor, Vice Mayor, or Council Person, shall solicit or receive any campaign contribution from a person who is a vendor to the Village, or through a member of the person's immediate family, or through a political action committee, or through any other person on behalf of the person. This prohibition applies to natural persons and to persons who hold a controlling financial interest in business entities.

(b) A person who directly, or through a member of the person's immediate family, or through a political action committee, or through any other person makes a contribution to a candidate for the office of Village Mayor, Vice Mayor or Council Person shall be disqualified for a period of <u>one</u> year ~~two (2)~~ following the election from transacting business with the Village. This prohibition on transacting business with the Village may be waived only in the manner provide in section 2-123(b).

(c) A vendor to the Village who has violated this Section 10-12 shall forfeit any rights under any agreement with such vendor(s) and service(s) with said former shall immediate terminate upon completion of pending tasks as directed by the Village Manager. Failure of a vendor to disclose, in writing to the Village Clerk, any contribution to a Village candidate shall all be subject to a fine in the total amount of any such contribution, plus $500.00.

(d) As used in this paragraph:

(1) A "vendor" is a person who transacts business with the Village, or has been approved by the Village Council to transact business with the Village, or is listed on the Village Manager's approved vendor list.

(2) A "contribution" is:

a. A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value.

b. A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.

c. The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

d. The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

~~e. A private email list of a vendor may be considered an "in kind" contribution having an attributable monetary value.~~

(3) Transacting Business shall mean having a contractual relationship with the Village of Palmetto Bay as a service provider, vendor, successful bidder, successful respondent to a request for proposal or qualification, piggy-back contract, and/or any other contract in which the Village is a purchaser of goods and/or services.

(e) This section 10-12 should be cross-referenced with the Village's Ethics and Procurement Codes in order to ensure compliance with its provisions. All solicitations by the Village shall include a disclosure of the prohibition provided under this Section. The Village shall provide each election candidate a copy of the current list of vendors and a copy of this Ordinance.

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Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

Section 3. This ordinance shall be codified and included in the Code of Ordinances.

Section 4. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. This ordinance shall take effect immediately upon enactment.

PASSED AND ENACTED this 6th day of June, 2011.

Attest: _____
Meighan Alexander
Village Clerk

_____
Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

_____
Eve A. Boutsis,
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore	YES
Council Member Howard Tendrich	YES
Council Member Joan Lindsay	YES
Vice-Mayor Brian W. Pariser	YES
Mayor Shelley Stanczyk	YES