PROPOSED

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO ATTORNEY'S FEES AND COSTS RECOVERY FOR THOSE SUBJECT TO FALSE AND MALICIOUS ETHICS COMPLAINTS; CREATING SECTION 1-20 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, during the 2024 session, the Florida Legislature enacted the Committee Substitute for Senate Bill 7014, which requires local governments that adopt more stringent ethics standards than the State to adopt a procedure for the recovery of attorney's fees and costs for malicious and false noncriminal ethics complaints;

WHEREAS, the Broward County Ethics Code ("Ethics Code") creates more stringent ethics standards than the State;

WHEREAS, the Broward County Office of the Inspector General ("Office") has various responsibilities related to its duty to investigate allegations of gross mismanagement and misconduct, which include alleged violations of the Ethics Code;

WHEREAS, while the Office is not an ethics commission, it nevertheless has a complaint procedure whereby it receives complaints pertaining to alleged violations of law, including the Ethics Code, investigates those complaints, and potentially refers its

findings to an entity with jurisdiction over the alleged misconduct, or, if no such entity exists, to a hearing officer for quasi-judicial enforcement proceedings; and

WHEREAS, to ensure compliance with state law, the County adopts the following procedure to allow the victims of false and malicious ethics complaints to recover their attorney's fees and costs from the complainant,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 1-20 of the Broward County Code of Ordinances is hereby created to read as follows:

[Underlining omitted]

Sec. 1-20. Recovery of attorney's fees and costs for malicious ethics complaints.

- (a) Definitions; Construction. All capitalized terms used herein shall have the meanings as defined in Section 10.01 of the Broward County Charter ("Charter"). This section shall be construed consistently with Section 10.01 of the Charter and Section 112.326, Florida Statutes.
- (b) Demand for attorney's fees and costs. If a final determination is made pursuant to Section 10.01.B.(13) of the Charter that a person has filed a complaint concerning a violation of Section 1-19, Section 1-234, or Chapter 26, Article V, of the Broward County Code of Ordinances, with a malicious intent to injure an Official's or Employee's reputation with baseless, spurious, or false accusations, or with a reckless disregard for the truth of the allegations, the Inspector General must provide that determination to the County Administrator, with a copy to the County Attorney, within ten (10) days after that determination becomes final. The County Administrator shall then,

within three (3) business days after receipt, provide the determination to the Official or Employee who was the subject of the complaint. Within sixty (60) days following their receipt of that determination, the Official or Employee may submit to the County Administrator a verified demand for attorney's fees and costs expended by the Official or Employee in connection with the complaint, which demand must include supporting documentation substantiating the amounts sought. The County Administrator shall promptly provide to the complainant a copy of the demand and all submitted supporting documentation, and shall include therewith a conspicuous statement that if the complainant fails to provide written notice to the County Administrator within thirty (30) days after the date stated on such conspicuous statement that the complainant objects to the demand for attorney's fees and costs, then the complainant will be liable for the full demanded amount of attorney's fees and costs. If the complainant does not timely object in writing, then the demand for attorney's fees and costs shall be final, conclusive, and binding. If the complainant does timely object in writing, then the demand for attorney's fees and costs shall be referred to a Hearing Officer, as described below.

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- (c) Hearing procedure. In adjudicating the demand for attorney's fees and costs, the same rules, standards, and processes for conducting hearings before a Hearing Officer under Section 10.01 of the Charter shall apply, except as follows:
 - (1) The only issue shall be the amount of attorney's fees and costs with entitlement deemed conclusively determined. In determining the applicable amounts, the Hearing Officer will determine the reasonableness of attorney's fees in accordance with Florida law, and recoverable costs in accordance with Section 57.041, Florida Statutes.

- (2) Within thirty (30) days after the conclusion of the presentation of evidence, the Hearing Officer shall enter a final order that makes findings of fact and conclusions of law determining the amount of attorney's fees and costs
 - owed by the complainant.
- (3) The Official or Employee shall be responsible for representing their own interests and presenting their own evidence, and may, if they wish to do so, retain private counsel.
- (d) Enforcement. The Official or Employee may enforce the final determination of attorney's fees and costs by filing an appropriate action in a court of competent jurisdiction. Neither Broward County nor the Inspector General shall have any financial obligation for any portion of the attorney's fees and costs awarded.

Section 2. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 3. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. 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 orphrase to the extent necessary to accomplish such intention.

Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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Approved as to form and legal sufficiency: Andrew J. Meyers, County Attorney

By: <u>/s/ Joseph K. Jarone</u> 01/27/2025 Joseph K. Jarone (date) Senior Assistant County Attorney

By: <u>/s/ René D. Harrod</u> 01/27/2025

René D. Harrod (date)

Chief Deputy County Attorney

JKJ/mb Malicious Complaint Fees and Costs Ordinance 01/27/2025 #1133237.13