

PROPOSED

ORDINANCE NO.

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

7 (Sponsored by the Board of County Commissioners)
8

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

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

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

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

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

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

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

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

30 [Underlining omitted]

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

32 (a) *Definitions; Construction.* All capitalized terms used herein shall have the
33 meanings as defined in Section 10.01 of the Broward County Charter ("Charter"). This
34 section shall be construed consistently with Section 10.01 of the Charter and
35 Section 112.326, Florida Statutes.

36 (b) *Demand for attorney's fees and costs.* If a final determination is made
37 pursuant to Section 10.01.B.(13) of the Charter that a person has filed a complaint
38 concerning a violation of Section 1-19, Section 1-234, or Chapter 26, Article V, of the
39 Broward County Code of Ordinances, with a malicious intent to injure an Official's or
40 Employee's reputation with baseless, spurious, or false accusations, or with a reckless
41 disregard for the truth of the allegations, the Inspector General must provide that
42 determination to the County Administrator, with a copy to the County Attorney, within
43 ten (10) days after that determination becomes final. The County Administrator shall then,

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

59 (c) *Hearing procedure.* In adjudicating the demand for attorney's fees and
60 costs, the same rules, standards, and processes for conducting hearings before a
61 Hearing Officer under Section 10.01 of the Charter shall apply, except as follows:

62 (1) The only issue shall be the amount of attorney's fees and costs with
63 entitlement deemed conclusively determined. In determining the applicable
64 amounts, the Hearing Officer will determine the reasonableness of
65 attorney's fees in accordance with Florida law, and recoverable costs in
66 accordance with Section 57.041, Florida Statutes.

67 (2) Within thirty (30) days after the conclusion of the presentation of evidence,
68 the Hearing Officer shall enter a final order that makes findings of fact and
69 conclusions of law determining the amount of attorney's fees and costs
70 owed by the complainant.

71 (3) The Official or Employee shall be responsible for representing their own
72 interests and presenting their own evidence, and may, if they wish to do so,
73 retain private counsel.

74 (d) *Enforcement.* The Official or Employee may enforce the final determination
75 of attorney's fees and costs by filing an appropriate action in a court of competent
76 jurisdiction. Neither Broward County nor the Inspector General shall have any financial
77 obligation for any portion of the attorney's fees and costs awarded.

78 Section 2. Severability.

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

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

86 It is the intention of the Board of County Commissioners that the provisions of this
87 Ordinance become part of the Broward County Code of Ordinances as of the effective
88 date. The sections of this Ordinance may be renumbered or relettered and the word

89 "ordinance" may be changed to "section," "article," or such other appropriate word or
90 phrase to the extent necessary to accomplish such intention.

91 Section 4. Effective Date.

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

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

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

By: /s/ René D. Harrod 01/27/2025
René D. Harrod (date)
Chief Deputy County Attorney

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

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.