

ORDINANCE NO. 2006-260

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING SECTION 33-2 OF THE CODE OF THE CITY OF SUNNY ISLES BEACH RELATING TO LOBBYIST REGISTRATION AND FEES BY REPEALING SECTION 33-2 IN ITS ENTIRETY AND CREATING A NEW SECTION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ANNUAL EXPIRATION AND RENEWAL FOR LOBBYIST REGISTRATIONS; REQUIRING REGISTRATION OF PRINCIPALS; REQUIRING DISCLOSURE OF ANNUAL LOBBYIST EXPENDITURE BY JANUARY 15TH OF EACH YEAR; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Commission has a desire to update its lobbyist registration and fee procedures that regulate the standards of conduct and behavior for those appearing before City officials; and

WHEREAS, there is a need to amend the City's lobbyist registration and fee structure to clarify and encourage a more effective and efficient lobbyist registration system; and

WHEREAS, the adoption of an amended lobbyist ordinance is in the best interests of the City of Sunny Isles Beach.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Repeal. Section 33-2 of the Sunny Isles Beach Code is repealed in its entirety and a new Section 33-2 shall be created as follows.

Section 2. Designation. This Ordinance shall be designated and known as the "Lobbyist Registration" Ordinance. This Ordinance shall be applicable to all lobbyists as defined below, and shall also constitute a standard of conduct and behavior for all lobbyists. The provisions of the City of Sunny Isles Beach lobbyist ordinance shall be applied in a cumulative manner.

Section 3. Definitions. For purposes of this Section, the following words, terms and phrases shall have the meanings as indicated below.

- (a) **CITY PERSONNEL** – Those City officers and employees specified to include the Mayor and City Commissioners, City Board or City Committee members, and all City employees.

- (b) **LOBBYIST** – All persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the City Commission; (2) any action, decision, recommendation of City Board or Committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the City Commission, or a City Board or Committee. “Lobbyist” specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term “Lobbyist” specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item; however, such person shall register with the City Clerk as required by this Section, but, upon request, shall not be required to pay any registration fees.
- (c) **PRINCIPAL** – All persons, firms, or corporations who employ a Lobbyist.

Section 4. Lobbyist Registration, Fees, Renewal and Withdrawal. All lobbyists shall register with the City Clerk before engaging in any lobbying activities in the City. Every person required to register as a lobbyist shall:

(1) Register as a Lobbyist.

- a. Complete the annual Lobbyist Registration form, as prepared by the City Clerk, stating under oath his or her name, business address, and the name and business address of each person or entity which has employed the registrant to lobby. If the lobbyist represents a corporation, it shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent (5%) or more ownership interest in the corporation, partnership, or trust.
- b. Pay an annual Lobbyist Registration fee of \$250.

(2) Register and Disclose Terms for Each Principal Represented.

- a. Complete the annual Principal Registration form, as prepared by the City Clerk, prior to conducting any lobbying for each principal (client) being lobbied. Such application shall include a requirement that the lobbyist state under oath, his or her name, business address, the name and business address of each person or entity by which s/he has been employed to lobby, as well as a letter of permission signed by the person, entity, principal or the principal’s representative, stating that the lobbyist is authorized to represent him/her/it, together with a disclosure of the terms and amount of compensation paid by each principal to the lobbyist. Each lobbyist and his/her principal shall attach a copy of a fee letter and specify whether any bonuses, success fees, or other consideration shall be received for such

lobbying activities. In the alternative, such lobbyist shall submit to the Clerk a joint affidavit, signed by the lobbyist and his/her principal, disclosing the terms and amount of compensation (to be) paid by each principal to the lobbyist with regard to the specific issue on which the lobbyist has been engaged.

- b. Pay an annual Principal Registration fee of \$100.00.
- c. However, if multiple lobbyists from the same firm represent the same principal, only one registration and applicable fee are required to be filed for that principal. Any lobbyist from the same firm may submit the necessary documents.

(3) File a Lobbyist Expenditure Report.

- a. By January 15th of each year, all lobbyists shall submit to the City Clerk a signed statement under oath listing all lobbying expenditures for the preceding calendar year. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events, and City personnel on whose behalf or benefit the expenditure was made. A statement shall be filed even if there have been no expenditures during the reporting period. Annual statements shall be required until such time as the lobbyist files a Notice of Withdrawal of lobbying activities with the City Clerk.
- b. The City Clerk shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed, a fine of \$50.00 per day shall be assessed for reports filed after the due date. Any lobbyist who fails to file the required expenditure report by January 15th shall be automatically suspended from lobbying until all fines are paid, unless the fine has been appealed to the Special Master of the City of Sunny Isles Beach.
- c. A lobbyist or principal may appeal a fine and may request a hearing before the Special Master for the City of Sunny Isles Beach. A request for hearing on the fine must be filed with the Special Master within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form.

(4) File a Notice of Withdrawal. Each person who withdraws as a lobbyist for a particular principal (client) shall file an appropriate notice of withdrawal.

(5) All Lobbyist and Principal Registration forms, expenditure reports, notices of withdrawal, and applicable fees shall be submitted to the City Clerk.

Section 5. Expiration of Lobbyist and Principal Registrations. All Lobbyist and Principal Registrations expire December 31st of each year.

Section 6. Processing of Registration Fees. The registration fees required by this section shall be deposited by the City Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. Unexpended funds may be transferred to general revenue at the end of the fiscal year. There shall be no fee required for filing a Notice of Withdrawal and the City Commission may, in its discretion, waive the lobbyist and/or principal registration fee upon a finding of financial hardship.

Section 7. Change in Lobbyist Information. Any change to the information originally filed pursuant to this ordinance shall require that the lobbyist file within three (3) business days from such changed circumstances, a signed statement under oath amending the above-referenced reports. Additionally, in the event official action on the specific lobbying issue is scheduled to occur during said three-day period, the lobbyist and principal shall, prior to said official action, further disclose the amendment by publicly stating on the record, at which the official action is to occur, the subject amendment. The lobbyist has a continuing duty to supply accurate information and amend said reports when so needed.

Section 8. Creation of a Lobbyist Log. The City Clerk shall publish logs on a quarterly and an annual basis reflecting the lobbyist registrations, which have been filed in accordance with this chapter. All logs required by this ordinance shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to section 11.045, Florida Statutes.

Section 9. City Clerk to Publish Information. The City Clerk shall publish to the City Commission, City appointed boards or committees, City Manager and other personnel a list of registered lobbyists and their principals, for which they are authorized to lobby, and any other disclosure made to the City Clerk that is required pursuant to state and county law. The information shall be disseminated by the City Clerk prior to City Commission meetings and public hearings.

Section 10. City Sign-in Sheet. Every lobbyist and principal of a local business shall sign-in at the front desk each time he or she meets with City personnel at a City facility, or shall deliver a memorandum of said meeting to the City Clerk within twenty-four (24) hours of meeting with City personnel at any other location, and shall inform the City Clerk, in writing, of the (1) name of the lobbyist or the principal of the local business; (2) the City personnel in attendance; (3) the time and place of the meeting; and (4) the issue discussed. The issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable to a pending request for a proposal, invitation to bid, or public hearing item.

Section 11. Penalties for Violation.

- (a) The City Clerk shall notify the Miami-Dade County Commission on Ethics and Public Trust of the failure of a lobbyist (or principal) to file either of the reports referenced above and/or pay the assessed fines after notification.
- (b) A lobbyist (or principal) may appeal a fine and may request a hearing before the Miami-Dade Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Miami-Dade Commission on Ethics and Public Trust within 15 calendar days of receipt of the notification of the failure to file the required disclosure form. The Miami-Dade County Commission on Ethics

and Public Trust shall have the authority to waive the fine, in whole or in part, based on good cause shown.

- (c) The Miami-Dade County Commission on Ethics and Public Trust shall investigate any person engaged in lobbying activities who may be in violation of this section. In the event that a violation is found to have been committed the Miami-Dade County Commission on Ethics and Public Trust may in addition to the penalties set forth in this Section, prohibit such person from lobbying before the City Commission or any committee, board or personnel of the City as provided herein.
 - 1. Every lobbyist who is found to be in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
 - (i) First violation: for a period of 90 days from the date of determination of violation;
 - (ii) Second violation: for a period of one year from the date of determination of violation;
 - (iii) Third violation: for a period of five years from the date of determination of violation;
 - 2. As used herein, a “direct violation” shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into a violation of this section shall also render the contract voidable. The City Manager shall include the provisions of this subsection in all City bid documents, RFP, RFO, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as the result of such failure illegal *per se*.
- (d) A contract entered into in violation of this section shall also render the contract voidable. The City Manager shall include the provisions of this section in all City bid documents, RFP, RFQ, and CDBG applications; provided, however, the failure to do so shall not render any contract entered in as the result of the failure illegal *per se*.
- (e) All members of the City Commission, and all City personnel, shall be diligent to ascertain whether persons required to register pursuant to this section have complied. City Commission members or City personnel may not knowingly permit a person who is not registered pursuant to this section to lobby the City Commission members, or City appointed committee or board or City personnel.

Section 12. Lobbyist Contingency Fees Prohibited. No person may, in whole or in part, receive or agree to receive a contingency fee. As used herein, “contingency fee” means a fee, bonus, commission, or non-monetary benefit as compensation which dependant on or in any way contingent of the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the City Commission; (2) any action, decision or recommendation of the City Manager or any City appointed

board or committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the City Commission, or a City appointed board or committee.

Section 13. **Conflict Provision.** It is acknowledged that Section 2-11.1(s) of the Miami-Dade County Code is a minimum standard to govern lobbying activities. If there is any conflict between this ordinance and the County Code, this ordinance shall control.

Section 14. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 15. **Inclusion in the Code.** It is the intention of the Commission, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the code of the City of Sunny Isles Beach, Florida; and that the sections of this ordinance may be renumbered or relettered to accomplish such intentions; and that the word "ordinance" shall be changed to "section" or other appropriate word, as required.

Section 16. **Repealer.** All ordinances or part of ordinances in conflict herewith be and the same are hereby repealed.

[The remainder of this page is intentionally left blank.]

Section 17. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading the 15th day of June, 2006.

PASSED and ADOPTED on second reading the 20th day of July, 2006.

Norman S. Edelcup, Mayor

ATTEST:

Jane A. Hines, CMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Hans Ottinot, City Attorney

Moved by: _____

Seconded by: _____

Vote:

Mayor Edelcup	___ (Yes)	___ (No)
Vice Mayor Brezin	___ (Yes)	___ (No)
Commissioner Goodman	___ (Yes)	___ (No)
Commissioner Iglesias	___ (Yes)	___ (No)
Commissioner Thaler	___ (Yes)	___ (No)