

ORDINANCE NO. 2004-02-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITY OF MIAMI GARDENS, FLORIDA, RELATING TO LOBBYING, ENTITLED "LOBBYIST REGISTRATION"; PROVIDING DEFINITIONS AND EXCLUSIONS; PROVIDING FOR REGISTRATION OF LOBBYISTS, DISCLOSURE OF MEETINGS WITH CITY PERSONNEL AND REPORTS ON EXPENDITURES; REQUIRING DISCLOSURE OF COMPENSATION OF LOBBYISTS AND PROHIBITING CONTINGENCY FEES; CREATING PENALTIES FOR VIOLATIONS AND DEBARMENT; PROVIDING FOR APPEALS TO SPECIAL MASTER; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 7.6 of the City charter, the City Council is directed to establish lobbying standards of conduct and behavior for those appearing before City officials; and

WHEREAS, the City council intend that the City's determinations on complaints of lobbying violations shall be entitled to a presumption of correctness by a reviewing court or by the Miami-Dade County Commission on Ethics and Public Trust and the Florida Commission on Ethics, and its decisions will not be disturbed unless a reviewing court or commission first determines that the decision is not supported by substantial competent evidence or the conclusions of law are incorrect as a matter of law; and,

WHEREAS, the adoption of a lobbyist ordinance is in the best interests of the City of Miami Gardens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

LOBBYIST REGISTRATION ORDINANCE

Section 1. **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 Miami Gardens lobbyist ordinance shall be applied in a cumulative manner.

Section 2. **Lobbying.**

- (a) As used in this section "lobbyist" means all employees, persons, firms, or corporations employed or retained by a principal who seeks to

resolution, action or decision of the City council; (2) any action, decision, recommendation of the City manager or any 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 the action, decision or recommendation which foreseeably will be heard or reviewed by the City council, or a City board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities. The term "lobbyist" specifically excludes the following persons:

- (1) attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications;
- (2) expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings;
- (3) any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support of or opposition to any item;
- (4) employees of a principal whose normal scope of employment does not include lobbying activities;
- (5) any public officer, employee or appointee who only appears in his or her official capacity;
- (6) any person who only appears in his or her individual capacity for the purpose of self-representation;
- (7) any principal of a local business who appears without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item; provided, however, the principal shall sign-in with the City clerk each time he or she meets with City personnel, as provided below.

(b) All lobbyists shall register with the City clerk within five business days of being retained as a lobbyist, or before engaging in any lobbying activities, whichever shall come first. Every person required to register shall:

- (1) Register on forms prepared by the City clerk;
- (2) State 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 or more ownership interest in the corporation, partnership, or trust.
- (3) Annual registration of all lobbyists shall be required by October 1st of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. The fee for the initial and annual registration shall be \$250.00. 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 council may, in its discretion, waive the registration fee upon a finding of financial hardship.
- (4) At the times of initial registration and annually thereafter on the first business day following January 1st, each lobbyist and principal shall file with the City clerk a statement under oath listing all fundraising or campaign contributions made directly or indirectly by the lobbyist, or principal, or through a member of their immediate family, or through a political action committee, or through any other person for the benefit of a person who is elected to the office of mayor, vice mayor or council member.

(d) Prior to conducting any lobbying, all principals must file a form with the City clerk, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Failure of a principal to file the authorization required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the City clerk at the point in time at which a lobbyist is no longer authorized to represent the principal.

(e) Every lobbyist and principal of a local business shall sign-in with the City clerk each time he or she meets with City personnel at a City facility, or shall deliver a memorandum of meeting to the City clerk within 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 to be 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.

(f) The City clerk shall publish to the City council, City board or committee, City manager and other City personnel a list of registered lobbyists and their principals, and the issues 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 clerk prior to City council, board and committee meetings and public hearings.

(h) Any person who appears as a representative for an individual or firm for an oral presentation before a City certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the City all individuals who may make a presentation. The affidavit shall be filed by staff with the City clerk's office at the time the proposal is submitted. For the purpose of this subsection only, the listed members of the presentation team shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an individual or firm unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the City clerk's office and has paid all applicable fees.

(1) On the first business day following January 1st 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.

(2) 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 the first business day following January 1st shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the special master for the City of Miami Gardens.

(3) A lobbyist or principal may appeal a fine and may request a hearing before the special master for the City of Miami Gardens. A request for a hearing on the fine must be filed with the special master within 15 calendar days of receipt of the notification of the failure to file the required disclosure form. The special master shall have the authority to waive the fine, in whole or part, based on good cause shown. The special master shall have the authority to adopt rules of procedure regarding appeals.

(j) 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.

(j) (k) In the event that a violation is found to have been committed, the person shall be prohibited from lobbying before the City council or any committee, board or personnel of the City on the subject that resulted in a finding of a violation, and be subject to the penalties set forth in this chapter. Additionally, every lobbyist who is found to be in violation of this chapter shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:

- First violation for a period of one year from the date of determination of violation;
- Second violation for a period of two years from the date of determination of violation;
- Third violation for a period of three years from the date of determination of violation.

A bidder or proposer shall be subject to debarment as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three or more occasions. As used herein, a “direct violation” shall mean a violation committed by the bidder or proposer and an “indirect violation” shall mean a violation committed by a lobbyist representing the bidder or proposer.

(l) 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 into as the result of the failure illegal *per se*.

(m) All members of the City council, and all City personnel, shall be diligent to ascertain whether persons required to register pursuant to this section have complied. City council members or City personnel may not knowingly permit a person who is not registered pursuant to this section to lobby the City council members, or committee, board or City personnel.

(n) The definitions provided by Miami-Dade County code section 2-11.1(b) shall apply to this section.

Section 3. Disclosure of Fees. On the first business day following January 1st of each year, all lobbyists shall disclose the terms and amount of compensation paid by each principal to the lobbyist for services rendered regarding City business. The principal shall also disclose the terms and amount of compensation paid to every lobbyist retained or employed by the principal. The disclosure shall be made on a form provided by the City clerk. No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to a lobbyist. No lobbyist 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 is dependent on or in any way contingent on the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the City council; (2) any action, decision or recommendation of the City manager or any City 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 council, or a City board or committee.

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

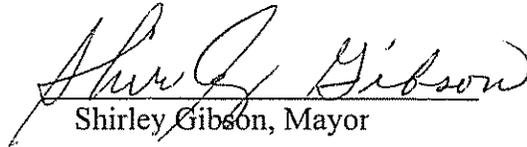
Section 5. Codification. This ordinance shall be codified and included in the Code of Ordinances.

Section 6. Severability. 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.

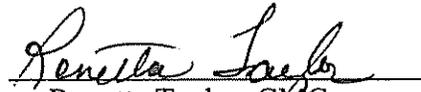
Section 7. Effective Date. This ordinance shall take effect ten (10) days after adoption on second reading enactment.

PASSED ON FIRST READING this 14th day of January, 2004.

PASSED AND ADOPTED ON SECOND READING on this 28th day of January, 2004.


Shirley Gibson, Mayor

Attest:


Ronetta Taylor, CMC
City Clerk

APPROVED AS TO FORM:
AND LEGAL SUFFICIENCY:


Hans Ottinot
Interim City Attorney

MOVED BY Councilwoman Watson

SECONDED BY Councilman Braynon

VOTE: 7-0

Mayor Gibson	<u> x </u> (Yes)	___ (No)
Vice Mayor Campbell	<u> x </u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u> x </u> (Yes)	___ (No)
Councilman Oscar Braynon, II	<u> x </u> (Yes)	___ (No)
Councilwoman Audrey J. King	<u> x </u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	<u> x </u> (Yes)	___ (No)
Councilwoman Barbara Watson	<u> x </u> (Yes)	___ (No)