

ORDINANCE NO. 2007-09-115

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS REPEALING ORDINANCE NO. 2004-02-118 ("LOBBYIST REGISTRATION") IN ITS ENTIRETY; CREATING NEW REGULATIONS FOR LOBBYISTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE FILING OF CERTAIN REPORTS; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 28, 2004 the City Council adopted Ordinance No. 2004-02-18 relating to Lobbyist Registration, and

WHEREAS, there is a need to clarify when persons must register as lobbyists and under what circumstances, and

WHEREAS, the proposed Lobbyist Registration Ordinance will clarify the definition of lobbyist; provide for certain exclusions; require that lobbyist register and pay a registration fee; require that certain reports be filed; and will require for a penalty in certain instances,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. REPEAL: Ordinance No. 2004-02-18 is hereby repealed in its entirety.

SECTION 3. LOBBYIST REGISTRATION: An Ordinance requiring lobbyist registration is hereby created as follows:

**Sec. 1. Definitions.**

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The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Advisory personnel* means the members of those city boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city council members.
- B. *Autonomous personnel* includes but is not limited to the members of the housing authority, personnel board, pension boards, and such other autonomous or semi-autonomous authorities, boards and agencies as are entrusted with the day-to-day policy setting, operation and management of certain defined functions or areas of responsibility.
- C. *Council members* mean the mayor and members of the city council.
- D. *Community based organization* means a not-for-profit association or corporation organized under state or local law to engage in community development activities (including, but not limited to, housing and economic development activities) and has as its primary purpose the improvement of the physical, economic or social environment by addressing one or more of the critical needs of the area, with particular attention to the needs of people with low or moderate incomes.
- E. *Departmental personnel* means the city manager, all assistant city managers, all department heads, division heads, the city attorney and all assistant city attorneys; however, all departmental personnel when acting in connection with administrative hearings shall not be included for purposes of this division.
- F. *Lobbyist* means all persons employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any councilmember; any action, decision, recommendation of the city manager or any city board or committee; or any action, decision or recommendation of any city personnel defined in any manner in this section, during the time period of the entire decision-making process on such action, decision or

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recommendation that foreseeably will be heard or reviewed by the city council, or a city board or committee. The term "lobbyist" specifically excludes the principal as well as any employee of the principal engaged in lobbying activities. The term shall also exclude the following persons:

1. Expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; 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; and any person who only appears as a representative of not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance.
  2. Any public officer, employee or appointee or any person or entity in contractual privity with the city who only appears in his official capacity shall not be required to register as a lobbyist.
  3. Any person who only appears in his individual capacity, for the purpose of self-representation without compensation or reimbursement, whether direct or indirect, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowner or neighborhood associations.
  4. Any person requested by the city to appear before any city personnel, board or council, or any person compelled to answer for or appealing a code violation, a nuisance abatement board hearing, a special master hearing or an administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of such person.
- G. *Homeowner/Neighborhood association* means an organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.
- H. *Quasi-judicial personnel* means the city council and such other boards and agencies of the city that perform such quasi-judicial functions. Code enforcement hearings and

other administrative hearings shall not be included for purposes of this division as to those individuals compelled to appear before said agencies.

**Sec. 2. Registration.**

- (a) All lobbyists shall, before engaging in any lobbying activities, register with the city clerk. Every person required to register shall register on forms prepared by the clerk, pay a one-time annual registration fee of \$250.00, shall and state under oath:
  - (1) His or her name;
  - (2) His or her business address;
  - (3) The name and business address of each person or entity, which has employed the registrant to lobby;
  - (4) The councilmember or personnel sought to be lobbied;
  - (5) The specific issue on which he has been employed to lobby; and
  - (6) 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 to lobby.
- (b) Any change to any information originally filed, or any additional city councilmember or personnel who are also sought to be lobbied shall require that the lobbyist file an amendment to the registration forms, although no additional fee shall be required for such amendment. The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs.
- (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary 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 such corporation, partnership, or trust.
- (d) Separate registration shall be required for each principal represented on each specific issue. However, a separate fee shall not be required for each principal. Such issue shall be described with, as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing number.

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- (e) Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.
- (f) All lobbyists shall be required to register prior to October 1st of each year. In the event registration occurs after October 1<sup>st</sup>, the registration fee shall not be prorated, and a new registration fee shall be due and owing as of September 31<sup>st</sup> of each year.
- (g) Every registrant shall be required to state the extent of any business, financial, familial or professional relationship, or other relationship giving rise to an appearance of an impropriety, with any current city councilmember or city personnel who is sought to be lobbied as identified on the lobbyist registration form filed.
- (h) The registration fees required by subsections (a) and (f) of this section shall be deposited by the 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. 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. 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 under oath that the lobbyist is authorized to represent the principal. Failure of a principal to file the form 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 under oath with the city clerk at the point in time at which a lobbyist is no longer authorized to represent the principal. Any person (except those exempt from the definition of "lobbyist" as set forth in section 1 above) who only appears as a representative of a not-for-profit corporation or entity without special compensation or reimbursement for the appearance, whether direct or indirect to express support of or opposition to any item, shall register with the clerk as required by this section but, shall not be required to pay any registration fees. Copies of registration forms shall be furnished to each councilmember or other personnel named on the forms.
- (i) 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. Council members or city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this section to lobby the councilmember or the relevant committee, board or city personnel.

- (j) The city clerk shall publish logs on a quarterly and annual basis reflecting the lobbyist registrations filed. All logs required by this section shall be prepared in a manner substantially similar to the logs prepared for the state legislature pursuant to F.S. §11.045.

**Sec. 3. List of expenditures; fee disclosure; reporting requirements.**

- (a) On or before October 1 of each year, lobbyists subject to lobbyist registration requirements shall submit to the city clerk a signed statement under oath as provided herein listing all lobbying expenditures, as well as compensation received, for the preceding calendar year with regard to the specific issue on which the lobbyist has been engaged to lobby. A statement shall be filed even if there have been no expenditures or compensation during the reporting period. 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.
- (b) Each lobbyist and his/her principal shall, before engaging in any lobbying activities, submit to the city clerk a joint signed statement under oath 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 to lobby. If no compensation will be paid concerning the subject lobby services, a statement shall nonetheless be filed reflecting as such.
- (c) Attorneys licensed by the Florida Bar shall not be required to divulge client confidences relating to their compensation.
- (d) Any change to information originally filed shall require that the lobbyist (and principal under subsection (b) above) file, within three 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 lobbied issue is scheduled to occur

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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 and principal have a continuing duty to supply accurate information and amend said reports when so needed.

- (e) The city clerk shall notify any lobbyist (or principal) who fails to timely file the expenditure or fee disclosure reports referenced in sections (a) and (b) above. In addition to any other penalties, which may be imposed herein, 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 December 1 shall be automatically suspended from lobbying until all fines are paid, unless the fine has been appealed to the Miami Dade County Ethics Council.
- (f) Upon the failure of a lobbyist (or principal) to file either of the reports referenced above and/or pay the assessed fines after notification, the violator shall be subject to any penalties
- (g) 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:
  - (1) First violation for a period of one year from the date of determination of violation;
  - (2) Second violation for a period of two years from the date of determination of violation;
  - (3) Third violation for a period of three years from the date of determination of violation.

Said penalties shall include admonition, public reprimand, fines, as well as prohibitions from registering as a lobbyist or engaging in lobbying activities before the city.

- (h) A lobbyist (or principal) may appeal a fine and/or penalty and may request a hearing before the City's Special Master. A request

for a hearing on the fine must be filed with the City Clerk's Office within 15 calendar days of receipt of the notification of the failure to file the required disclosure form. If the City demonstrates by competent substantial evidence that a violation(s) occurred, the Special Master shall confirm the fine and/or penalty. However, if the City does not demonstrate by competent substantial evidence that a violation(s) occurred, the Special Master shall waive the penalty and/or fine.

(i) A bidder or proposer shall be subject to debarment 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 said bidder or proposer. A contract entered into in violation of this division shall also render the contract voidable. The city manager shall include the provisions of this subsection in all city bid documents, RFP, RFQ, RFLI; provided, however, that failure to do so shall not render any contract entered into as the result of such failure illegal per se.

(j) Except as otherwise provided in subsection (a) herein, the validity of any action or determination of the city council or city personnel, board or committee, shall not be affected by the failure of any person to comply with the provisions of this division.

**Sec. 4. Prohibited lobbying activities.**

Any person or entity retained as a lobbyist by the city is prohibited from lobbying any city officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFO, RFLI, bid, request for ruling or other determination, contract or controversy on behalf of a third party for the length of the contract or other agreement between the lobbyist and the city.

**Sec. 5. Contingency fee prohibited.**

No person or entity may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. 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, council, or nonmonetary benefit as compensation, which is dependent on or in any way contingent on the passage, defeat, or modification of:

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- (a.) An ordinance, resolution, action or decision of the city council;
- (b.) Any action, decision or recommendation of the city manager or any city board or committee; or
- (c.) 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 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

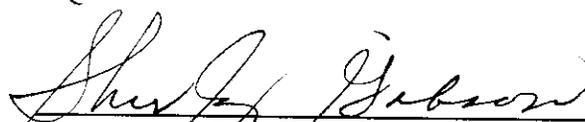
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PASSED ON FIRST READING ON THE 11H DAY OF APRIL, 2007.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 25<sup>th</sup> DAY OF APRIL, 2007.

ATTEST:

  
RONETTA TAYLOR, OMC, CITY CLERK

  
SHIRLEY GIBSON, MAYOR

Prepared by SONJA K. DICKENS, ESQ.  
City Attorney

SPONSORED BY: Sonja K. Dickens, City Attorney

MOVED BY: Vice Mayor Braynon  
SECONDED BY: Councilwoman Watson

VOTE: 6-0

Mayor Gibson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Vice Mayor Oscar Braynon, II	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman Melvin L. Bratton	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman Aaron Campbell	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No) Out of town
Councilman André Williams	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Sharon Pritchett	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Barbara Watson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)

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# City of Miami Gardens

1515-200 NW 167<sup>th</sup> Street  
Miami Gardens, Florida 33169



Mayor Shirley Gibson  
Vice Mayor Oscar Braynon II  
Councilman Melvin L. Bratton  
Councilman Aaron Campbell Jr.  
Councilman André Williams  
Councilwoman Sharon Pritchett  
Councilwoman Barbara Watson

## Agenda Cover Page

Date: April 25, 2007

Fiscal Impact: No  Yes

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes  No

Sponsor Name/Department:

**Attorney Dickens**

Public hearing

Ordinance

1st Reading

Advertising requirement: Yes  No

RFP/RFQ # \_\_\_\_\_

Quasi-Judicial

Resolution

2nd Reading

Yes  No

### **Title**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS REPEALING ORDINANCE NO. 2004-02-118 ("LOBBYIST REGISTRATION") IN ITS ENTIRETY; CREATING NEW REGULATIONS FOR LOBBYISTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE FILING OF CERTAIN REPORTS; PROVIDING FOR PENALTIES;

### **Staff Summary**

On January 28, 2004, the City Council adopted Ordinance No. 2004-02-18, relating to Lobbyist Registration. There is a need to clarify when persons must register as lobbyist and under what circumstances. One important clarification that has been made is that everyone who represents a principal unless they are an employee of that principal must register before they meet with any City of Miami Gardens staff members, City Officials or appear before the City Council. Attached is a proposed ordinance repealing Ordinance No. 2004-02-18. This ordinance provides for a clarification of lobbyist; provides for certain exclusions; requires that lobbyist register and pay a registration fee; require that certain reports be filed, and will require for a penalty in certain instances.

RECOMMENDATION: That the Council adopt this ordinance

**I-1) 2<sup>ND</sup> READING  
ORDINANCE  
LOBBYIST REGISTRATIN**