ORDINANCE NO. 2018-4206

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VII, ENTITLED "STANDARDS OF CONDUCT," DIVISION 3, ENTITLED "LOBBYISTS," SECTION 2-482 THEREOF, ENTITLED "REGISTRATION; DISCLOSURES," TO CREATE AN EXEMPTION FROM THE CITY'S LOBBYIST REGISTRATION FEE REQUIREMENT FOR ANY PRINCIPAL OF A CORPORATION, PARTNERSHIP, OR OTHER ENTITY, WHO APPEARS AS A LOBBYIST ON BEHALF OF THAT ENTITY, WITHOUT SPECIAL COMPENSATION OR REIMBURSEMENT FOR THE APPEARANCE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, City Code Section 2-482 requires that all lobbyists, before engaging in any lobbying activities, register with the City Clerk and pay a registration fee (unless, like representatives of not-for-profit corporations, they are specifically exempted from the fee requirement); and

WHEREAS, pursuant to City Code Section 2-482, all lobbyists, including principals of corporations, partnerships, or other entities who appear as lobbyists on behalf of such entities, are required to pay the City's lobbyist registration fee; and

WHEREAS, the Mayor and City Commission now desire to exempt principals of corporations, partnerships, and other entities, who appear on behalf of such entities, without special compensation or reimbursement for the appearance, from the lobbyist registration fee requirement, in order to reduce financial burdens on business owners who appear as lobbyists before the City; and

WHEREAS, the amendments proposed herein are consistent with the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, which also exempts principals of corporate entities who appear on behalf of such entities, without special compensation or reimbursement for the appearance, from the County's lobbyist registration fee requirement.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Division 3, entitled "Lobbyists," of Article VII, entitled "Standards of Conduct," of Chapter 2, entitled "Administration," of the Miami Beach City Code, is hereby amended to state as follows:

CHAPTER 2
ADMINISTRATION

* * *

Article VII. Standards of Conduct

* * *

Division 3. Lobbyists

* * *

Sec. 2-482. Registration; disclosures.

(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 registration fee of $350.00, as specified in appendix A and state under oath:

(1) ~~His~~ The lobbyist's name;

(2) ~~His~~ The lobbyist's business address;

(3) The name and business address of each person or entity which has employed the registrant to lobby;

(4) The commissioner or personnel sought to be lobbied, and whether the lobbyist has entered into any contractual relationship (paid or unpaid) with said city commissioner or personnel from 12 months preceding such person's commencement of service with the city to the present date, stating the general nature of the subject contractual relationship.

a. A lobbyist who has within the past election cycle provided campaign consulting services to an incumbent member of the city commission (which lobbying activity is not otherwise prohibited by Code section 2-491[1]) shall disclose such particular service on his/her lobbyist registration form and shall orally disclose such particular service before lobbying the city commission at a public hearing.

b. For purposes of subsection (4)a., above, the following definitions shall apply:

Campaign consulting services means primary responsibility for campaign management or campaign strategy.

Campaign management means conducting, coordinating or supervising a campaign to elect a candidate.

Campaign strategy means formulation of plans for the election of a candidate.

Candidate shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.

Past election cycle means the immediately preceding City of Miami Beach election held for the purpose of electing a member of the city commission.

(5) The specific issue on which ~~he~~ the lobbyist 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 commissioner 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. 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.

(e) Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.

(f) In addition to the $350.00 per issue registration fee required in subsection (a) of this section, annual registration of all lobbyists shall be required for each 12-month period commencing October 1 of each year, and the fee for such annual registration shall be $500.00, as specified in appendix A.

(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 commissioner 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 commission 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.

(1) *Exemptions from fee requirement.*

(a) A principal of any corporation, partnership, or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support of or opposition to any item, shall register with the clerk as required by this subsection, but shall not be required to pay any registration fees.

(b) Any person (except those exempt from the definition of "lobbyist" as set forth in section 2-481 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 commissioner or other personnel named on the forms.

(i) 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. Commissioners 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 commissioner 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.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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 Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on August 4, 2018

PASSED and **ADOPTED** this 25 day of July, 2018.

ATTEST:

8/6/18

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

(Sponsored by Commissioner Ricky Arriola)

Underline denotes additions
~~Strike-through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 5/29/18 Date

NK

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MIAMI BEACH INCORPORATED MARCH 26TH 1915

MIAMIBEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, City Attorney
DATE: July 25, 2018

1:35 p.m. Second Reading Public Hearing

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VII, ENTITLED "STANDARDS OF CONDUCT," DIVISION 3, ENTITLED "LOBBYISTS," SECTION 2-482 THEREOF, ENTITLED "REGISTRATION; DISCLOSURES," TO CREATE AN EXEMPTION FROM THE CITY'S LOBBYIST REGISTRATION FEE REQUIREMENT FOR ANY PRINCIPAL OF A CORPORATION, PARTNERSHIP, OR OTHER ENTITY, WHO APPEARS AS A LOBBYIST ON BEHALF OF THAT ENTITY, WITHOUT SPECIAL COMPENSATION OR REIMBURSEMENT FOR THE APPEARANCE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Legislative Tracking
Office of the City Attorney

Sponsor
Commissioner Ricky Arriola & Co-sponsored by Commissioners Aleman & Gongora

ATTACHMENTS:

Description

- Memorandum
- Ordinance

MIAMIBEACH

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission

Date: July 25, 2018

From: Raul J. Aguila
City Attorney

Subject: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VII, ENTITLED "STANDARDS OF CONDUCT," DIVISION 3, ENTITLED "LOBBYISTS," SECTION 2-482 THEREOF, ENTITLED "REGISTRATION; DISCLOSURES," TO CREATE AN EXEMPTION FROM THE CITY'S LOBBYIST REGISTRATION FEE REQUIREMENT FOR ANY PRINCIPAL OF A CORPORATION, PARTNERSHIP, OR OTHER ENTITY, WHO APPEARS AS A LOBBYIST ON BEHALF OF THAT ENTITY, WITHOUT SPECIAL COMPENSATION OR REIMBURSEMENT FOR THE APPEARANCE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

Pursuant to the request of Commissioner Ricky Arriola, the attached Ordinance is hereby submitted for consideration on Second Reading/Public Hearing by the Mayor and City Commission. The Ordinance passed on First Reading at the June 6, 2018 City Commission meeting.

City Code Section 2-482 requires that all lobbyists, before engaging in any lobbying activities, register with the City Clerk and pay a registration fee (unless, like representatives of not-for-profit corporations, they are specifically exempted from the fee requirement). Pursuant to City Code Section 2-482, all lobbyists, including principals of corporations, partnerships, or other entities who appear as lobbyists on behalf of such entities, are required to pay the City's lobbyist registration fee.

The proposed Ordinance amends City Code Section 2-482, to create an exemption from the City's lobbyist registration fee requirement for any principal of a corporation, partnership, or other entity, who appears as a lobbyist on behalf of that entity without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support of or opposition to any item.

The Ordinance is consistent with the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, which also exempts principals of corporations, partnerships, or other entities who appear on behalf of such entities, without special compensation or reimbursement for the appearance, from the County's lobbyist registration fee requirement.

The Ordinance only exempts the subject individuals from the lobbyist registration fee requirement. Principals of corporations, partnerships, or other entities, who appear on behalf of such entities, would still be considered lobbyists under all applicable City, County, and State laws, and would be required to register as lobbyists with the City Clerk. To that end, the proposed Ordinance is consistent with City Charter Section 1.05, as it merely serves to waive the lobbyist registration fee, and does not create a less stringent standard of conduct in City Code Chapter 2, "Administration," Article VII, "Standards of Conduct," inasmuch as the subject individuals will still be considered "lobbyists."

Fiscal Impact Statement

According to the Office of the City Clerk, in the past year, between May 22, 2017, and May 22, 2018, 18 individuals registered as both the lobbyist and owner/chief-officer of their respective for-profit companies. Calculating the annual registration fees and per-issue registration fees together, these 18 registrants accounted for $15,300 or 6.1% of the total annual lobbyist registration fees collected by the Office of the City Clerk. Accordingly, this Ordinance is expected to reduce annual revenue from lobbyist registration fees by approximately $15,000.