

**ORDINANCE NO. 2018-018**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 2, "ADMINISTRATION," ARTICLE XIII, "LOBBYISTS," TO PROVIDE FOR CONSISTENCY WITH THE BROWARD COUNTY ETHICS CODE, CLARIFICATION ON PENALTIES FOR VIOLATION OF THE CITY'S ORDINANCES, AND AN INVESTIGATIVE PROCESS FOR POTENTIAL VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in 2011, the City Commission enacted Ordinance No. 2011-030, which created Article XIII, "Lobbyists," within Chapter 2, "Administration," of the City's Code of Ordinances in order to comply with the mandates of the Broward County Code of Ethics to require registration of persons intending to lobby municipal officials and employees; and

**WHEREAS**, since then, the Broward County Code of Ethics has been amended three (3) times to keep up with the ever-changing landscape of elected officials' ethics laws and professional lobbying activities; and

**WHEREAS**, the City seeks to update its regulations pertaining to lobbyists in Article XIII, "Lobbyists," to be consistent with the current regulations promulgated by Broward County, as well as enact a process for investigating violations of the City's regulations and clarifying penalties associated therewith; and

**WHEREAS**, the City finds it to be in the best interest of our residents for lobbyists to register and report private meetings with City Commissioners, City Board Members, and other covered individuals, and for the City to have an investigative process to uncover actions in violation of the Article and provide penalties for same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

**Section 1: Ratification.** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 2, “Administration,” Article XIII, “Lobbyists,” to read as follows:

ARTICLE XIII. - LOBBYISTS

Sec. 2-1000. - Intent and purpose.

The city commission of the City of Coconut Creek, Florida, hereby determines and declares that the intent and purpose of this article is to comply with the mandates of Broward County Code of Ordinances, Section 1-19, “Code of Ethics for Elected Officials,” as amended from time to time No. 2011-19, which ordinance, among other things, requires the registration of persons intending to lobby municipal elected officials and other covered individuals as defined therein.

Sec. 2-1001. - Definitions.

The definitions as set forth in Broward County Code of Ordinances, Section 1-19, “Code of Ethics for Elected Officials,” as amended from time to time, are hereby adopted and incorporated by reference as if fully set forth herein. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

*Compensation* means paying or agreeing to pay or give, directly or indirectly, any money, anything of value, or reimbursement of expenses (in whole or in part), in consideration for the performance of lobbying activities.

*Legislation* means any ordinance, resolution, contract, bid award, action, decision or proposal of any kind that is the subject of present or prospective action by the city commission, a city board, or committee; or any action, decision or recommendation of the city manager or city staff regarding any legislation to be considered or foreseeably to be considered by the city commission, city boards, or committees.

~~*Lobbying* means communicating directly or indirectly, either in person, by telephone, letter, electronic means or other method, with the city commission members, city board members or committee members or the city manager or city staff for the purpose of influencing legislation or other official action. Lobbying does not include the activities of a person undertaken in connection with a request for information, the submission of an application for a city permit, making inquiries regarding such application or providing any~~

information required to be submitted in support of such application. Lobbying does not include communications:

- ~~(a) Made on the record at a duly-noticed public meeting or hearing; or~~
- ~~(b) From an attorney to an attorney representing the City of Coconut Creek regarding a pending or imminent judicial or adversarial administrative proceeding against the City of Coconut Creek.~~

~~Lobbyist means a person who is retained, with or without compensation, for the purpose of lobbying, or a person who is employed by another person or entity, on a full-time or part-time basis, principally to lobby on behalf of that other person or entity. "Lobbyist" does not include a person who is:~~

- ~~(a) An elected official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity.~~
- ~~(b) An individual who communicates on his or her own behalf, or on behalf of a person or entity employing the individual unless the individual is principally employed by that person or entity to lobby.~~
- ~~(c) Any employee, officer, or board member of a homeowners' association, condominium association, or neighborhood association when addressing, in his or her capacity as an employee, officer, or board member of such association, an issue impacting the association or its members; or~~
- ~~(d) Any employee, any officer, or any board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.~~

~~Person means any individual, business, corporation, association, firm, partnership, nonprofit organization or other organization or group.~~

~~Principal means a person who authorizes a lobbyist to act on their behalf as an agent to undertake lobbying.~~

Sec. 2-1002. - Lobbying registration and statements.

- (1) Registration required. Prior to engaging in lobbying activities, every lobbyist shall file with the city clerk and provide under oath the following information for each principal that the lobbyist represents:
  - (a) The lobbyist's full name, business name and address, telephone number, fax number and email address as well as the nature of business, occupation, or profession.
  - (b) The name, business name, business address and nature of the business, occupation or profession of the lobbyists' principal.
  - (c) The general and specific subject matters that the lobbyist seeks to influence.
  - (d) The extent of any direct business association by the lobbyist with any current elected or appointed official or employee of the City of Coconut Creek. For the

purposes of this article, the term "direct business association" shall mean any mutual endeavor undertaken for profit or compensation.

- (2) A lobbyist representing a person or entity shall, prior to engaging in lobbying, receive appropriate written authorization from said person or entity to lobby on that person's or entity's behalf upon a particular subject matter. A copy of the applicable documentation, including but not limited to letters, agreements, minutes, motions or other evidence of action authorizing the lobbyist to lobby on behalf of the person or entity shall be provided with the information required by this section.
- (a) Completed registration forms shall be public records and open to public inspection, copying, and in an on-line data base.
  - (b) Each lobbyist who withdraws representation for a principal shall file with the city clerk notice of withdrawal as a lobbyist for that principal no later than three (3) working days after withdrawal.
  - (c) The city clerk's ~~office~~ department shall maintain a current list of registered lobbyists and all documentation required under this article. The registration must be signed, or electronically verified, by the lobbyist and attested to under penalty of perjury. A lobbyist will not be considered active and/or eligible to lobby within the City unless the lobbyist has provided all the information and supporting documentation detailed herein, to the satisfaction of the city clerk, or designee, and has received confirmation from the city clerk, or designee, that the registration is active and the lobbyist is eligible to lobby. A registrant must satisfactorily complete all aspects of the registration process within thirty (30) days of signing or electronically verifying the registration form. The city clerk may approve a form of registration consistent with this article, which shall be used in all cases, except where unavailable.
  - (d) A lobbyist shall file a separate statement for each principal on whose behalf he or she lobbies.
  - (e) An annual lobbyist registration fee may be established by resolution of the city commission. Such fee shall be for the purpose of providing funding to the city to offset the cost of recording, transcription, administration or any other costs incurred in compiling and maintaining these records and making them available to the public.
  - (f) Registration will be yearly, running from October 1 to September 30 of each year, and shall be renewed for each year during which lobbying activities are to take place. Only one (1) annual registration form is required per principal. However, if any of the information required in the registration form is new or changed (for example, a new principal, or a new specific subject of lobbying), then the lobbyist must supplement or amend the registration before additional lobbying.

Sec. 2-1003. - Statement of representation.

All persons engaging in lobbying activities shall make a statement of representation at the beginning of their conversation, presentation, letter, telephone call, e-mail or facsimile transmission or other method of communication with the city commission members, city board members or committee members ~~or the city manager or city staff, or other covered individuals as defined in Broward County Code of Ordinances, Section 1-19, "Code of Ethics for Elected Officials," as amended from time to time,~~ stating the name of the principal for whom he or she is lobbying. ~~In addition, the city clerk shall maintain a contact log, which shall contain all of the information required in section 2-1002, and shall be required every time a lobbyist meets with or intends on meeting with city commission members, city board members, or committee members.~~

Sec. 2-1004. – Lobbyist Activity Log ~~Persons excluded.~~

- (1) To promote full and complete transparency, lobbyists who lobby a City elected official or covered individual as defined in Broward County Code of Ordinances, Section 1-19, "Code of Ethics for Elected Officials," as amended from time to time, must contemporaneously with the lobbying activity or as soon thereafter as is practicable (but in any event within three (3) working days after the lobbying activity occurs), legibly complete a contact log which contains the following information:
  - (a) The lobbyist's name;
  - (b) The name of the entity by which the lobbyist is employed;
  - (c) The name of the person or entity for whom or which the lobbyist is lobbying;
  - (d) The name of each City elected official or covered individual as defined in Broward County Code of Ordinances, Section 1-19, "Code of Ethics for Elected Officials," as amended from time to time, lobbied by the lobbyist;
  - (e) The name of each person attending or participating in any portion of the meeting or communication during which the lobbying activity occurred;
  - (f) The date and time of the meeting or other communication during which the lobbying activity occurred;
  - (g) The location of the meeting and mode of communication, as applicable (e.g., in person, by telephone, by email exchange); and
  - (h) The specific subject matter discussed in such meeting or communication.
- (2) The obligation to complete the contact log referenced in paragraph (1) above applies regardless of the location of the lobbying activity and applies whether the activity occurs in person, by telephone, by electronic communication, by video conference, or in writing.

- (3) The contact log referenced in paragraph (1) above shall be filed for public inspection.
- (4) The city clerk shall create and maintain an online contact log system accessible by registered lobbyists. In lieu of creating and maintaining its own online contact log system, the City may utilize any such system maintained by the Broward League of Cities, provided the City provides a link to such system on the City's website.
- (5) Individuals who do not meet the definition of "lobbyist" as defined in Broward County Code of Ordinances, Section 1-19, "Code of Ethics for Elected Officials," as amended from time to time, do not need to register or complete the contact log as provided herein.

~~The following persons shall not be required to register or make a statement of representation and shall not be prohibited from lobbying:~~

- ~~(1) Any person who in his or her individual capacity communicates with the city commission members, city board members or committee members or city manager or city staff for the purpose of self-representation without compensation or reimbursement for such communication, to express support of or opposition to any legislation.~~
- ~~(2) Any person who lobbies as a representative of a not-for-profit corporation or entity such as a homeowners association without compensation or reimbursement for the appearance.~~
- ~~(3) Any public officer, employee or appointee who only appears in his or her official capacity.~~
- ~~(4) Notwithstanding any provision to the contrary in this article, no person shall be required to register solely as a result of the fact that the person has spoken at any public hearing or public meeting in the City of Coconut Creek, Florida.~~

#### Sec. 2-1005. - Penalties.

- (1) The City Manager, or his or her designee, shall be informed of any person who has failed to comply with the registration and reporting requirements, and in each such instance, shall conduct an investigation as he or she shall deem necessary under the circumstances and determine whether or not a violation of this Article has occurred.

(2) Violation of any provision of this article shall be punishable by:  
~~reprimand, censure or a prohibition of the violator from lobbying the city commission members, city board members or committee members or the city manager or city staff for a period not to exceed two (2) years.~~

- (a) First offense = written warning;

(b) Second offense = prohibition of the violator from lobbying on behalf any principal on any subject matter in the City for a period of one (1) year;

(c) Third or more offenses = prohibition of the violator from lobbying on behalf any principal on any subject matter in the City for a period of two (2) years.

(3) No sanction shall be imposed unless the lobbyist in violation has been afforded notice and an opportunity to be heard by the City Manager or his/her designee. The penalties imposed in this section shall be the exclusive penalties imposed for violations of the registration and reporting requirements of this Article; however, the intentional failure or refusal of any lobbyist to adhere to a suspension imposed by the City Manager or his/her designee shall be subject to such civil remedies as the City may pursue, including, but not limited to, injunctive relief.

(4) To challenge the imposition of a penalty pursuant to this Article, an appeal must be taken to the City Commission in the following manner.

(a) Required information. An appeal by an aggrieved party must be made in writing, directed to the city clerk, and must provide the following information including a processing fee which is the established fee for initial registration:

1. Identification of the action which is being appealed;

2. Identification of who took the action and the date it was made;

3. The basis of the appeal;

4. The relief being sought; and

5. The name of the aggrieved party, the aggrieved party's substantial interest in the matter and how the decision has adversely affected the aggrieved party.

(b) Procedure. The following procedures shall be adhered to in the processing of any appeal:

1. The city clerk or designee must receive the letter of appeal with the required information set forth above from the aggrieved party within ten (10) working days of the date of the action being appealed.

2. Upon receipt of a timely filed and sufficient letter of appeal, the city clerk or designee shall place the appeal on the agenda for consideration of the appeal at the next regular meeting of the City Commission, provided that

the appeal was received in time for proper placement on that agenda. In any event, a properly filed letter of appeal shall be scheduled for hearing no later than ninety (90) working days from the date it was received by the city clerk department.

3. The aggrieved party shall present the appeal at the public hearing for which the appeal hearing is scheduled. The City Manager or his/her designee may present reasons or documentation in support of the penalty imposed pursuant to this Article.

4. The City Commission must consider the appeal. The appeal may be granted, denied, or set for further consideration upon a majority vote.

(c) Pendency of Appeal. During the pendency of any appeal pursuant to this Article, the penalty imposed shall remain in force until further order of the City Commission.

(d) Decision. The City Commission, sitting in its appellate capacity, shall conduct a de novo review of the issue presented and file its written findings and decision with the city clerk or designee within thirty (30) days of the appellate hearing. An appeal from a decision made by the City Commission shall be handled exclusively by judicial review in the Seventeenth Judicial Circuit Court, in and for Broward County, Florida, and shall be filed within thirty (30) days from the date of the filing of the City Commission's written order with the city clerk or designee.

**Section 3: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 4: Severability.** That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 5: Codification.** That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

**Section 6: Effective Date.** That this Ordinance shall become effective upon its passage on second and final reading.



PASSED FIRST READING THIS 9<sup>TH</sup> DAY OF AUGUST, 2018.

PASSED SECOND READING THIS 13<sup>TH</sup> DAY OF SEPTEMBER, 2018.

\_\_\_\_\_  
Joshua Rydell, Mayor

Attest:

\_\_\_\_\_  
Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Absent</u>	<u>Nay</u>
Belvedere	<u>Aye</u>	<u>Aye</u>

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7/18/18

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown.