ORDINANCE NO. 2012-17

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV OF THE TOWN OF DAVIE CODE OF ORDINANCES TO COMPLY WITH PROVISIONS OF THE BROWARD COUNTY CODE OF ETHICS FOR ELECTED OFFICIALS BY REVISING DEFINITIONS, PROVIDING FOR DISCLOSURES, PROVIDING FOR A REGISTRATION FEE, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Davie determines and declares that open and responsible operation of municipal government requires that the fullest opportunity be afforded to the people to petition and freely express to their elected and appointed officials, their opinions on legislation and other actions and issues; and

WHEREAS, in order to preserve and maintain the integrity of the governmental decision making process, it is necessary that the identity and activities of certain persons who engage in efforts to influence Councilmembers either by direct communication to such officials or by solicitation of others to engage in such efforts be publicly and regularly disclosed; and

WHEREAS, the Broward County Commission enacted an ethics code for elected officials that became effective on January 2, 2012 which provides definitions for lobbyists, and lobbying activities; and

WHEREAS, the Ethics Code for Elected Officials also requires that lobbyists register with the municipality prior to engaging in lobbying activity; and

WHEREAS, the Town of Davie desires to amend Chapter 2, Article IV of the Code of Ordinances to incorporate definitions and lobbyist registration requirements as outlined in the Broward County Ethics Code for Elected Officials; and

WHEREAS, the Town of Davie seeks to recoup the costs of registering lobbyists and maintaining the disclosure requirements as set forth in the Ethics Code for Elected Officials by establishing a fee.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That Chapter 2 of the Code of the Town of Davie is hereby amended by adding thereto Article IV to read as follows:

ARTICLE IV. REGISTRATION OF LOBBYISTS

Sec. 2-56 INTENT AND PURPOSE.

The Town Council of the Town of Davie determines and declares that, to maintain the integrity of the government decision making process, the Town of Davie Councilmembers, Staff and residents have a legitimate need to know certain information about the activities of "lobbyists", as defined in this ordinance. The Town Council also finds that "lobbying", as defined in this ordinance, is a legitimate form of free speech, which is frequently an important and necessary part of the legislative process. As such, this ordinance seeks to impose the least burden which is reasonably necessary on lobbyists, in order to satisfy this public need for information.

Sec. 2-57 DEFINITIONS.

(a) "Candidate" means an individual who is conducting a campaign for a elected office in the Town of Davie, Florida.

(b) "Campaign" means the election process for any elected Municipal Official whether opposed or not and whether a special or regular election, beginning with the date of officially filing for office with the Town Clerk and ending with the last day of voting which finally determines the outcome of the election.

(c) "Covered Individual" means (i) any member of the Town of Davie Council (ii) any member of a final decision-making body under the Town of Davie; (iii) any individual directly appointed to a Town employment position by the Town Council, (iv) any individual serving on a contractual basis as the Town Attorney or Town Adminsitrator, when such individual is acting in his or her official capacity; (v) any member of a selection, evaluation, or procurement committee that ranks or makes recommendations to the Town Council regarding a municipal procurement; (vi) any employee, any official, or any member of a committee of the Town that has authority to make a final decision regarding a public procurement; and (vii) the head of any department, division, or office of the Town who makes final recommendations to the Town Council regarding items that will be decided by the final decision-making authority. For purposes of the prohibition on lobbying under section (c)(2) below, "Covered Individual" also includes members of other local governmental entities within Broward County, including authorities, quasi-judicial boards, appointed boards, and commissions.

~~(c)~~ (d) "Economic consideration" means something of actual monetary value.

(e) Elected Official" means any member of the Town of Davie Town Council and any Municipal Official as defined below.

~~(d)~~ (f) "Immediate family" means either a father, mother, sister, brother, child, spouse or person residing in the same residential unit.

~~(e)~~ (g) "Legislation" means any ordinance, resolution, or proposal of any kind which is the subject of present or prospective action by the Town Council.

~~(f) "Lobbying" means communicating directly or indirectly with any Town Councilmember for the Purpose of influencing legislation. Speaking at a public hearing or public meeting of the Town of Davie shall not constitute lobbying.~~

(h) "*Lobbying*" or "*Lobbying Activities*" means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication seeks to influence, convince, or persuade the covered individual to support or oppose the item.

~~(g) "Lobbyist" means a person who is employed or receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for the purpose of influencing governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. An employee of the principal is not a "lobbyist" unless the employee is principally employed for the purpose of influencing governmental affairs. "Principally employed for the purpose of influencing governmental affairs" means that one of the principal or most significant responsibilities of the employee to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. The following persons are excluded from the definition of "Lobbyist":~~

~~1. Persons who are solely responding to the direct inquiry of a Town Official.~~

~~2. Town Officials acting in the course of official Town business.~~

~~(i)~~ "*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 on a full-time or part-time basis, 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, an officer, or a board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.

(j)"*Municipal Official*" means any individual serving as a member of the governing body of a municipality within Broward County or serving as a municipal mayor within Broward County.

(k) "Ordinance" means the Town of Davie, Florida, Ordinance for the Registration of Lobbyists.

(l) "Person" means any individual, business, corporation, association, partnership, governmental agency or other association recognized as a legal entity pursuant to Florida law.

(m) "Principal" means the person for or upon whose behalf the lobbyist is lobbying.

(n) "Registration" means providing the information required by this ordinance, in writing, annually, and in Supplements and Amendments, as may be required. "Register" means to provide a registration in such a manner.

(o) "Town" means the Town of Davie, Florida.

Sec. 2-58 REGISTRATION.

(a) Prior to engaging in lobbying activities, every lobbyist shall register with the Town by filing with the Town Clerk the following information in writing:

(1) The name, address and telephone number of the lobbyist is required on every, amended, and supplemental registration. The "address" must be a physical address (e.g. not a Post Office Box) where the lobbyist either resides or customarily does business.

(2) The nature and extent of any business, professional or familial relationship which the lobbyist, or any member of the lobbyist's immediately family, has had with any Municipal Official, or member of the immediate family of any Municipal Official within the period of time commencing twenty-four (24) months prior to registration and extending through the date of registration. No disclosure would be required of any such relationship existing prior to the effective date of this ordinance.

(3) The nature and extent of any involvement, activity or assistance, whether paid or voluntary, by any lobbyist, or any member of the lobbyist's immediate family, with the current or the most recent campaign of any current elected Municipal Official, or current candidate for Town Council.

(4) Name, address and phone number of the lobbyist's principal(s), if known at the time of registration. The "address" must be a physical address (e.g. not a Post Office Box) where the principal either resides or customarily does business.

(5) The general and specific matters upon which the lobbyist intends to lobby, if known at the time of registration.

(b) There shall be ~~no~~ a fee in the amount of $50 (Fifty Dollars) charged by the Town, for each principal represented and by each ~~any~~ lobbyist. Such fee shall cover the cost of registering and maintaining a database of lobbyists as required by the Broward County Code of Ethics for Elected Officials. Said fee may be amended as needed by resolution. ~~or lobbyist's principal for registration or lobbying pursuant to this ordinance.~~

(c) The registration information, and any supplement or amendment shall be filed in the Town Clerk's office. The registration must be signed by the lobbyist and attested to under penalty of perjury. The Town Clerk may approve a form of registration consistent with this ordinance, which shall be used in all cases, except where unavailable.

(d) Registration will be yearly, running from October 1st to September 30th of each year, and shall be renewed for each year during which lobbying activities are to take place. Only one annual registration form is required, per principal, per lobbyist.. However, if any of the information required in the registration form is new or changed (for example, a new principal, as defined by this ordinance, or a

new specific subject of lobbying), then the Lobbyist must supplement or amend the registration before additional lobbying.

(e) Notwithstanding any provision to the contrary in this Ordinance, no lobbyist shall be required to register only because the lobbyist has spoken at any public hearing or public meeting of the Town of Davie.

Sec. 2-59. CONDUCT OF PRINCIPALS AND OF TOWN COUNCIL.

(a) Any principal who retains a lobbyist(s) in the Town shall take reasonable measures to supervise and monitor its lobbyist(s) to insure compliance with this Ordinance.

(b) Any Councilmember who has actual knowledge and recollection of a lobbyist who fails to register as required in this Ordinance, or of a lobbyist who makes a material misrepresentation in Registration shall disclose same in writing to the Town Clerk as soon as reasonably practical. Failure to make such disclosure shall subject the Councilmember to a penalty as provided for in Section 2-61(a). Nothing in this section shall require any inquiry by any Councilmember to ascertain the compliance by any person with this Ordinance, nor does this section imply that any Councilmember is required to remember all of his or her past dealings with lobbyists.

Sec. 2-60. GENERAL CONSTRUCTION.

(a) Examples and section headings are provided for clarity and for purposes of illustration only. Examples are not intended to imply that the illustration is the sole or exclusive possibility.

(b) All language and terms in this ordinance shall be construed according to the definitions contained in the ordinance. If there is no explicit definition in this ordinance, then the language or term shall be construed according to the ordinary legal meaning in Florida; or if there is no ordinary legal meaning in Florida, then according to the ordinary and reasonable meaning to residents of the Town.

(c) Lobbyist registrations must be true and accurate for matters of which the lobbyist has actual knowledge, or which the lobbyist may ascertain through reasonably diligent inquiry.

Sec. 2-61. PENALTIES.

(a) A "Penalty" in this ordinance means the penalties specified in the Town of Davie Code of Ordinances, Section 1-9 ("General penalty; continuing violations"); or in the event said Section 1-9 is repealed or superseded, the general penalty specified by Town of Davie Code of Ordinances for violations of the Town of Davie Code of Ordinances. However, notwithstanding any language to the contrary in the general Code provisions for penalties, the maximum penalty for violation of this Lobbyist ordinance shall not exceed five hundred dollars ($500.00). This ordinance shall be enforced by issuance of a notice to appear in County Court as authorized by Section 162.22, Florida Statutes, as it may be amended from time to time.

(b) Any lobbyist who fails to register or willfully violates this ordinance shall be subject to a penalty, as provided in subsection (a) above; and additionally shall be subject to imposition by the Town Council of a prohibition of further lobbying in the Town for up to one year.

(c) Any Councilmember or Principal who knowingly and willfully directs or permits a lobbyist to violate this ordinance shall be subject to a penalty as provided in subsection 2-61(a).

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. 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 portion of this Ordinance.

SECTION 4. This Ordinance shall take effect sixty (60) days after its passage and adoption.

PASSED ON FIRST READY THIS 1st DAY OF August, 2012.

PASSED ON SECOND READING THIS 15th **DAY** August, **2012.**

Judy Paul

MAYOR/COUNCILMEMBER

ATTEST:

Asst TOWN CLERK

APPROVED THIS 15th DAY OF August, 2012