

ORDINANCE NO. 98-44

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN CODE BY ADDING TO CHAPTER 2, ARTICLE IV, ENTITLED "REGISTRATION OF LOBBYISTS" REQUIRING DISCLOSURE OF THE IDENTITY AND ACTIVITIES OF 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; PROVIDING FOR DEFINITIONS; PROVIDING FOR LOBBYING REGISTRATION AND STATEMENTS; PROVIDING FOR CONDUCT OF PRINCIPALS AND TOWN COUNCILMEMBERS; PROVIDING FOR PENALTIES; 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.

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 Town 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) "Economic consideration" means something of actual monetary value.

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

(e) "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.

(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.

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

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

- (j) "Principal" means the person for or upon whose behalf the lobbyist is lobbying.
- (k) "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.
- (l) "Town" means the Town of Davie, Florida.
- (m) "Town Official" means any current elected or appointed member of the Town Council, Official Town Board or Committee, Town Staff, Town Attorney or any Town Employee.

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 annual, 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 Town Official, or member of the immediate family of any Town 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 Town 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 fee charged by the Town to any lobbyist 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. 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 READING THIS 21st DAY OF October, 1998.

PASSED ON SECOND READING THIS 4th DAY OF November 1998.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1998.

**TOWN OF DAVIE LOBBYIST'S REGISTRATION
STATEMENT AND OATH**

Registration will be annual, from October 1st to September 30th, and shall be renewed for each year during which lobbying activities are to take place. Only one annual registration form is required. If, however, any of the information required on the registration form is new or changed (for example, a new principal, as defined by Section 2-57 of Ordinance 98-44, or a new specific subject of lobbying), the Lobbyist must then supplement or amend the registration before additional lobbying. (Ordinance 98-44, Section 2-58(d))

LOBBYIST INFORMATION (Ordinance 98-44, Section 2-58(a)(1))

Name _____

Address _____

(must be a physical address (e.g. not a Post Office Box) where the lobbyist resides or customarily does business)

City _____ State _____ Zip _____

Telephone _____

Explain the nature and extent of any business, professional or familial relationship which the lobbyist, or any member of the lobbyist's immediate family, has had with any Town official, or member of the immediate family of any Town official within the period of time commencing twenty-four (24) months prior to registration or January 4, 1999, whichever is later, and extending through the date of registration. (Ordinance 98-44, Section 2-58(a)(2)).

Explain 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 Town official, or current candidate for Town Council. (Ordinance 98-44, Section 2-58(a)(3))
