

ORDINANCE NO. 2017-006

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV, CODE OF ORDINANCES TITLED, "REGISTRATION OF LOBBYISTS", PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the Town of Davie is authorized to protect the public health, safety, and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Office of the Town Attorney desires to amend Chapter 2, Article IV of the Town of Davie Code of Ordinances; and

WHEREAS, the proposed ordinance amendment is within the police power of the Town of Davie; and

WHEREAS, The Town Council finds that this Ordinance is necessary for the preservation of the public health, safety, and welfare of the Town's residents; and

WHEREAS, The Town Council deems it to be in the best interest of the citizens and residents of the Town of Davie to adopt the proposed ordinance; and

WHEREAS, the Town Council has legally advertised its intent to update Chapter 2, Article IV of the Town of Davie Code of Ordinances.

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

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. The amended Chapter 2, Article IV, is hereby adopted as set forth in Exhibit "A".

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.

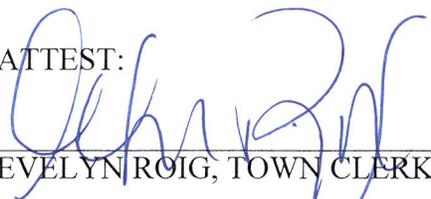
SECTION 4. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. This Ordinance shall become effective immediately upon passage and adoption.

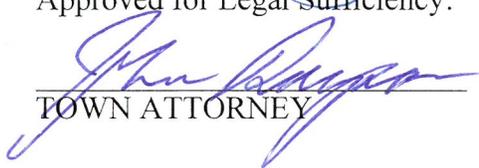
PASSED FIRST READING THIS 18th DAY OF January, 2017.

PASSED SECOND READING THIS 1st DAY OF February, 2017.

ATTEST:


EVELYN ROIG, TOWN CLERK

Approved for Legal Sufficiency:


TOWN ATTORNEY


JUDY PAUL, MAYOR

Sec. 2-56. - Intent and purpose.

- (a) 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 article. The town council also finds that "lobbying", as defined in this article, is a legitimate form of free speech, which is frequently an important and necessary part of the legislative process. As such, this article seeks to impose the least burden which is reasonably necessary on lobbyists, in order to satisfy this public need for information.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

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) Contractor means any person or entity currently under contract with the Town of Davie.
- (d) 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 administrator, 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 [as defined herein], "covered individual" also includes members of other local governmental entities within Broward County, including authorities, quasi-judicial boards, appointed boards, and commissions.
- (e) Economic consideration means something of actual monetary value.
- (f) Elected official means any member of the Town of Davie Town Council and any municipal official as defined below.
- (g) Immediate family means either a father, mother, sister, brother, child, spouse or person residing in the same residential unit.
- (h) Legislation means any ordinance, resolution, or proposal of any kind which is the subject of present or prospective action by the town council.
- (i) 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.
- (j) 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:

- (1) An elected official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity.
 - (2) 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.
 - (3) 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
 - (4) 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.
- (k) 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.
- (l) Outside or Concurrent Employment means providing services for any person or entity, other than the Elected Official's governmental employer, in exchange for remuneration. (m) Person means any individual, business, corporation, association, partnership, governmental agency or other association recognized as a legal entity pursuant to Florida law.
- (n) Principal means the person for or upon whose behalf the lobbyist is lobbying. (o) Registration means providing the information required by this article, in writing, annually, and in supplements and amendments, as may be required. "Register" means to provide a registration in such a manner.
- (p) Relative shall have the meaning stated in Florida Statute § 112.3135.
- (q) Remuneration means the monetary payment received in return for services provided in connection with outside or concurrent employment, including salary, wages, commissions, tips, and bonuses. Remuneration does not include gifts, business expense reimbursements, paid training, direct employer contributions toward insurance, and other employee benefits (other than retirement plan contributions), and return of capital or payment of interest related to a return of one's capital contribution.
- (r) Vendor means a person or entity that is currently supplying any goods or services to the Town of Davie, that has supplied any goods or services to the Town of Davie within the current or prior two Town Fiscal years, that has submitted a response to a currently open competitive bid solicitation, or has submitted a response to a competitive bid solicitation within the past two fiscal years.

Town means the Town of Davie, Florida.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

Sec. 2-58. - Required; information to be filed.

- (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 article.
- (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 a fee in the amount of fifty dollars (\$50.00) charged by the town, for each principal represented and one-hundred dollars (\$100.00) by each 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.
 - (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 article, which shall be used in all cases, except where unavailable.
 - (d) 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, 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 article, or a new specific subject of lobbying), then the lobbyist must supplement or amend the registration before additional lobbying.
 - (e) No more than three (3) days after the lobbyist meets with a Town of Davie elected Official, the lobbyist is responsible for filling out and submitting the lobbyist log via the Town of Davie website. Failure to submit the lobbyist log shall result in an ethics violation by the lobbyist. The Town of Davie Town Clerk shall have the authority to periodically amend the lobbyist log as he/she seems necessary and to conform with County and State requirements.
 - (1) The lobbyist shall fill out the lobbyist log in its entirety. This includes the location of the meeting, the name of the people attending the meeting, the date of the meeting, the form of communication, the matter(s) discussed, and any additional information as listed on the lobbyist log form.
 - (f) Notwithstanding any provision to the contrary in this article, 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.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

Sec. 2-59. - Conduct of principals and 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 article.
- (b) Any councilmember who has actual knowledge and recollection of a lobbyist who fails to register as required in this article, 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 subsection 2-61(a). Nothing in this section shall require any inquiry by any councilmember to ascertain the compliance by any person with this article, nor does this section imply that any councilmember is required to remember all of his or her past dealings with lobbyists.

- (c) No immediate family member or municipal office staff of a Town of Davie Elected Official shall lobby any covered individual. An immediate family member of an Elected Official may conduct business as a vendor or contractor with the Town of Davie where such activity is permissible under the laws of the State of Florida and Broward County. Any conduct in violation of this paragraph shall be deemed to provide a prohibited financial benefit to the Elected Official.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

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 article shall be construed according to the definitions contained in the article. If there is no explicit definition in this article, 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.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

Sec. 2-61. - Penalties.

- (a) A "penalty" in this article 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 article shall be enforced by issuance of a notice to appear in county court as authorized by F.S. § 162.22, as it may be amended from time to time.
- (b) Any lobbyist who fails to register or willfully violates this article 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 (1) year.
- (c) Any councilmember or principal who knowingly and willfully directs or permits a lobbyist to violate this article shall be subject to a penalty as provided in subsection 2-61(a).

Sec. 2-62 – Conduct of lobbyists outside of the Town of Davie

- (a) If a lobbyist is found to have violated any State, County, or Municipal Ordinance pertaining to lobbying activities, that lobbyist shall be banned from lobbying within the Town of Davie until the lobbyist has been reinstated by the entity or agency that has revoked their lobbyist privileges.

(Ord. No. 98-44, § 1, 10-21-98; Ord. No. 2012-17, § 1, 8-15-12)

Secs. 2-63—2-70. - Reserved.

Secs. 2-~~6263~~—2-70. - Reserved.

SUN-SENTINEL
Published Daily
Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF: BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared MARK KUZNITZ, who on oath says that he or she is a duly authorized representative of the SUN-SENTINEL, a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting

Town of Davie Town Clerk's Office
Wednesday
February 1st
Meetings

Was published in said newspaper in the issues of; Jan 21, 2017

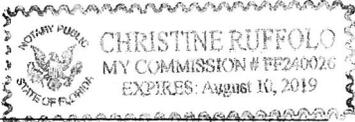
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Affiant further says that the said SUN-SENTINEL is a newspaper published in said BROWARD/PALM BEACH/MIAMI-DADE County, Florida, and that the said newspaper has heretofore been continuously published in said BROWARD/PALM BEACH/MIAMI-DADE County, Florida, each day and has been entered as second class matter at the post office in BROWARD County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised, any person, firm or corporation, any discount, rebate, commission or refund, for the purpose of securing this advertisement for publication in the said newspaper.

Signature of Affiant

Sworn to and subscribed before me on: January 23, 2017.

Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

LEGAL NOTICE
Given that on February 1, 2017, at 6:30 p.m., or as soon thereafter as practicable, at the Town Hall, 6591 Orange Drive, the Town Council of the Town of Davie will hold a public hearing to consider the proposed ordinances listed below and, at which time, interested parties may appear and be heard with respect to the ordinances. Copies of the proposed ordinances may be inspected by the public at the Office of the Town Clerk during business hours of the Town of Davie.

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV, CODE OF ORDINANCES TITLED, "REGISTRATION OF LOBBYISTS", PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING APPLICATION VA 16-275, DAVIE CONCRETE, VACATING AN UNNAMED RIGHT-OF-WAY LYING NORTH OF OAKES ROAD AND EAST OF SW 49 WAY, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE VA 16-275 Davie Concrete currently zoned M-4 (County)

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THIS BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSES, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 797-1020 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD).
1/21/17

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

Item Number: 15.

To: Mayor and Councilmembers
From: John C. Rayson, Town Attorney & Allan T. Weinthal, Esq.
Prepared By: John C. Rayson, Town Attorney & Allan T. Weinthal, Esq. - Town Attorney
Subject: Ordinance
Affected District: Town Wide
Item Request: Schedule for Council Meeting

Title of Agenda Item: **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV, CODE OF ORDINANCES TITLED, "REGISTRATION OF LOBBYISTS", PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on first reading on January 4, 2017. In a roll call vote: Mayor Paul - yes; Vice-Mayor Luis - yes; Councilmember Caletka - excused; Councilmember Hattan - yes; Councilmember Starkey - yes. (Motion carried 4-0)}**

Executive Summary: This Amendment fixes the numbering, updates the definitions, adds an additional \$100 fee for each principal represented, and bans any lobbyist that is found to have violated any State, County, or Municipal Ordinance pertaining to lobbying activities from lobbying within the Town until said lobbyist has been reinstated by the entity or agency that has revoked their lobbyist privileges. Additionally, this Ordinance requires a lobbyist that has met with a Town elected official to complete the Town's lobbyist log, via our website, within three days after said meeting. Failure to do so shall result in an ethics violation by the lobbyist. Furthermore, the Ordinance has been updated to prevent immediate family members of elected officials or office staff of the elected official from lobbying a covered individual.

Key Points:

- Fixes the numbering.
- Updates the definitions.
- Adds an additional \$100 fee for each principal represented.
- Bans any lobbyist that is found to have violated any State, County, or Municipal Ordinance pertaining to lobbying activities from lobbying within the Town until they have been reinstated by the entity or agency that has revoked their lobbyist privileges.
- Requires any lobbyist that met with a Town elected official to complete the Town's lobbyist log, via our website.
- Prevents immediate family members of elected officials or office staff of the elected official from lobbying a covered individual.

Previous Actions:

Concurrences:

Fiscal Impact:

Has request been budgeted? N/A

If yes expected cost:

Account name and number:

If no, amount needed:

Account name funds will be appropriated from

Additional Comments

Recommendation: Motion to approve

Strategic Goals This Item Supports:

Creating an Environment that is Conducive to Innovation, Creativity, and Collaboration, Nurturing the health, safety, and welfare of the community

ATTACHMENTS:

File Name	Description
TCAR LOBBYIST ORDINANCE.pdf	Lobbyist Ordinance
Updated Lobbyist Ordinance - Final.pdf	Exhibit "A"