

SUNRISE, FLORIDA

ORDINANCE NO. 486

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, AMENDING CHAPTER 2, ARTICLE I OF THE CITY CODE; ENTITLED "ADMINISTRATION" BY AMENDING SECTION 2-1, ENTITLED "LOBBYISTS; REGISTRATION REQUIRED"; ESTABLISHING NEW LOBBYIST REGISTRATION REQUIREMENTS; CREATING A PURPOSE AND INTENT; DEFINITIONS; DISCLOSURE; REGISTRATION LOGS; EXPENDITURES REPORT REQUIREMENTS; PENALTIES; PROHIBITING CONTINGENCY FEES FOR LOBBYISTS; AND CREATING A CONE OF SILENCE DURING THE PROCUREMENT PROCESS; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their local government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; and

WHEREAS, it is equally important to preserve and maintain the integrity of the governmental decision-making process; and

WHEREAS, in order to serve these two goals, it has been determined that the people are best served by having an opportunity to be informed as to those persons who seek to exert influence on the governmental decision-making process and actions arising therefrom; and

WHEREAS, the City Commission has determined that the least intrusive means of serving the needs of the people, while encouraging public and private input, is to provide for a system

of registration of and limitations on lobbyists and lobbying activities;

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

Section 1. Article I, Section 2-1 of the City Code is deleted in its entirety and is hereby amended to read:

ARTICLE I. IN GENERAL

Sec. 2-1. Lobbyists. ~~Registration required.~~

~~All persons who are required to register as lobbyists by the state or by the county shall be required to register with the city clerk by filing such documents as are required in like manner by the state or by the county to register as lobbyists.~~

(a) Purpose and Intent.

The City of Sunrise believes that it is desirable to preserve and maintain the integrity of responsible government and its decision-making process. As such, the City believes it is necessary to identify activities and expenditures of certain persons who engage in efforts to affect decisions or recommendations of elected officials of the city on matters within their official jurisdiction, either by direct communication or by solicitation of others to engage in such efforts, and to publicly and regularly disclose such information.

(b) Applicability. Notwithstanding any provision in the Code of the City of Sunrise, Florida, and as amended, to the contrary, the following shall be applicable in the City.

(c) Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Staff means any employee or agent of the City of Sunrise, other than an elected official, who is or could be involved in the decision making process, including but not limited to, awarding contracts, creating resolutions or ordinances, or involved in any way with the outcome of decisions made by elected or appointed City Officials, board members or committee members.

Compensation means any money, payment, remuneration, gift, favor, or anything of value or financial benefit including, but not limited to, favorable loan terms, interest rates not otherwise available to the general public, like-kind exchange, and/or forbearance of debt, that is conferred and/or received in return for the performance of lobbying activities.

Contingency fee means a fee, bonus, commission, or non-monetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, modification, or other outcome of any ordinance, resolution, contract award, or other action or decision of the City Commission or any resolution, action, recommendation or decision of any city board or committee, regarding such action, decision or recommendation

which foreseeably will be heard or reviewed by the City Commission, city board, or committee.

Expenditure means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a Lobbyist or Principal for the purpose of Lobbying.

Government employee means any agent of government, whether elected, appointed or hired, paid or unpaid, who is acting on behalf of the United States, the State of Florida, or any agency, political subdivision, special district, county or municipality of the State of Florida.

Lobbying means influencing or attempting to influence any action or non-action which may be presented for a vote, through oral or written communication or any attempt to influence the decision-making or seeks to encourage the passage, defeat or modification of any ordinance, resolution, action, decision or recommendation of the City Commission, or City board or committee.

Lobbyist means all persons or firms compensated by a Principal for the specific purpose to attempt to influence the decision-making process or seeks to encourage the passage, defeat, or modification of any ordinance, resolution, action or decision of the City Commission; or any resolution, action, decision or recommendation of any city board or committee; or any action, decision or recommendation of City Staff during the time period of the entire decision-making process on such action,

decision or recommendation which will be reviewed by the City Commission, or a city board or committee.

Lobbyist also means any member of the staff of the "Lobbyist" (as defined hereinabove) who receives for himself or herself any Compensation for conducting Lobbying activities. "Lobbyist" also includes the Principal as well as any employee or agent acting on his or her behalf.

Lobbyist does not mean an attorney who is a member of the Florida Bar representing a client in enforcement proceedings before the code enforcement Special Magistrate, or before the nuisance abatement board, or disciplinary or grievance proceedings or during publicly noticed quasi-judicial proceedings or other administrative or judicial proceedings.

Lobbyist does not mean expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings.

Lobbyist does not mean a Government Employee or City Staff employee when acting in his or her official capacity, or a City consultant when acting in such capacity.

Lobbyist does not mean a person who, pursuant to the terms of a collective bargaining agreement, has been designated and so recognized by the City as being a representative of a collective bargaining unit composed of City employees.

Lobbyist does not mean a foreign dignitary appearing in his or her official capacity.

Lobbyist does not mean a person who owns, publishes or is employed by a newspaper, periodical, radio station, television station or other bona fide news media.

Lobbyist does not mean a person who merely appears at a public meeting before the Mayor, City Commission, City board or committee in an individual capacity for the purpose of self-representation to express support for or opposition to any ordinance, resolution, decision or action of the City Commission; or any resolution, action, recommendation or decision of any City board or committee; or any action, decision or recommendation of City Staff.

Lobbyist does not mean a person appearing at a public meeting solely to provide factual information requested by the City Commission or a City board or committee.

Person means any individual, firm, business entity, company, corporation (profit or non-profit), professional corporation or association, group, organization, joint venture, partnership, limited partnership, limited liability company, agency, estate, trust, business trust, syndicate, fiduciary, or other entity or body or group or combination, however constituted.

Principal means the Person, firm, corporation, or other entity, whether for profit or nonprofit, which has employed or retained a lobbyist.

Procurement Period means the period of time beginning when an RFP, RLI, RFQ, bid, or other competitive solicitation is

advertised and ending when the City Commission votes to award or approve a contract, to reject all bids or responses, or otherwise takes action which ends the solicitation.

(d) Registration; disclosure requirements; log of registered lobbyists.

(1) A Person may not lobby an elected official, a City board member, or City committee member until such Person has registered as a Lobbyist with the City Clerk. Such registration shall be due upon initially being retained as a Lobbyist by a Principal, prior to any type of Lobbying activity, and shall be renewed on a yearly basis thereafter. Regardless of the date of the initial registration, all Lobbyists' registrations shall expire September 30 of each fiscal year, and shall be renewed on a fiscal year basis. A Lobbyist who fails to timely renew his or her registration shall have his or her registration canceled by the City Clerk. Once the cancellation occurs, the Lobbyist must file a new registration statement and pay all outstanding fines in order to engage in lobbying activities within the City.

(2) Every person required to register as a Lobbyist shall:
a. Register on forms provided by the City Clerk; and
b. Disclose, under oath, the following information:

- (i) Lobbyist's name, business address, and nature of business;
- (ii) Name and business address of each Principal represented;
- (iii) The specific issue on which he or she has been retained to Lobby; and
- (iv) If the Lobbyist represents a corporation, partnership or trust, or other entity, the name and business address of the chief officer, partner or beneficiary of the corporation, partnership, or trust and the names and addresses of all persons holding, directly or indirectly, at least ten (10) percent ownership interest in said corporation, partnership, trust or entity. A separate registration form shall be filed by the Lobbyist for each Principal represented and for each issue the Lobbyist has been retained to lobby on behalf of any one Principal. Such issue shall be described with as much detail as is practical, including, though not limited to: a specific description (where applicable) of a pending request for proposals, invitation to bid, ordinance, resolution, or an item on the agenda. The

city clerk or the clerk's designee shall reject any registration statement which does not provide a clear description of the specific issue on which such Lobbyist has been retained to Lobby. Lobbyists shall register **upon adoption of this Ordinance** and yearly thereafter on or before September 30, or no later than 5:00 p.m., on the last day of September that the Clerk's office is open for business.

(3) In addition, every Lobbyist shall be required to state under oath the existence of any direct or indirect business association, partnership, familial or financial relationship with any member of the City Commission, any member of a City Board, or City committee before whom he or she lobbies, or intends to lobby. For the purpose of this section, the term "direct or indirect business association" shall mean any endeavor undertaken for profit or Compensation.

(4) The City Clerk shall maintain a log, which shall be updated on a quarterly basis by April 15, July 15, October 15 and January 15 of each year, reflecting the lobbyist registrations filed in accordance with this section and the log shall be distributed to the City Commission on a quarterly basis.

- (5) The City Commission shall be diligent to ascertain that persons required to register pursuant to this section have complied, by requesting a record of compliance from the City Clerk. The City Commissioner(s) may not knowingly permit a person who is not registered pursuant to this section to lobby.
- (6) Each Person who withdraws as a Lobbyist for a particular Principal shall file an appropriate notice of withdrawal concerning representation for that Principal within 30 days after withdrawal.
- (6) The validity of any action or determination of the City Commission or any other City board or committee shall not be affected by the failure of any Person to comply with the provisions of this section.
- (7) All registration forms, logs and reports of any kind required to be maintained shall be open to the public upon the filing thereof and shall be treated as a public record.

(e) Annual Expenditures report. A Lobbyist shall annually submit to the City Clerk's office a signed statement under oath listing all Lobbying expenditures and the sources from which funds for making Lobbying expenditures have come. The Lobbying expenditures shall include, but not be limited to: meals, entertainment and gifts for public officers and employees for the preceding calendar year. Lobbying expenditures shall not include

the Lobbyist's own personal expenses for lodging, meals, travel, salary, and office expenses. Such statement of expenditures, entitled "Annual Expenditures Report" shall be due on October 15, 2008, and on October 15 of each year thereafter. Such statement shall be rendered on the form provided by the City Clerk's office and shall be open to public inspection. Such statement shall be filed, even if there have been no expenditures during the preceding calendar year.

(f) Penalties for violations. Penalties may be determined by the City Commission after it issues written notice to any violator and provides said violator with thirty (30) days to request a public hearing.

(1) The following penalties are established and may be considered by the City Commission in enforcement of this Article through prosecution of violations pursuant to the City Code.

- a. public reprimand or censure;
- b. debarment for a period not to exceed two (2) years.
- c. any violation of the Contingency fee prohibition shall also require forfeiture of such Contingency fee by the Lobbyist in addition to any or all penalties listed in Section (f) (1).

d. Authorize a civil action in a court of competent jurisdiction, including an action for injunctive relief.

e. Any Lobbyist who fails to file the expenditures report by the respective deadlines of **October 15, 2008** and by October 15 each year thereafter for each calendar year shall be subject to a daily fine of \$25.00 for each late day up to a maximum of \$1,500. per late report.

~~f. Any City Commissioner who violates this ordinance shall be considered to have violated the City's Code of Ethics and may be subject to removal from office as set forth in Section 3.05 and 3.06 of the City Charter and may be subject to discipline from the Florida Commission on Ethics.~~

f. Upon verification of a Lobbyist's failure to file the expenditures report, the City Clerk shall notify the Lobbyist by certified mail that the expenditures report must be filed within five (5) business days following receipt of the notice. The name of any Lobbyist who fails to comply with said requirement shall be automatically removed from the list of active Lobbyists. Should said person wish to re-register as a Lobbyist, he or she shall submit a new registration form accompanied by the

payment of all outstanding fines accrued prior to re-registration.

(2) The City Clerk shall submit a report ~~bi-annually~~ to the city commission as to those Lobbyists who have failed to comply with registration and/or the annual filing requirement of this ordinance.

(3) In any action filed by the City to enforce this ordinance, the City shall be entitled to recover reasonable attorney's fees and costs.

(g) Contingency Fees. Unless otherwise provided by law, nNo Person shall retain or employ a Lobbyist for compensation based on a Contingency Fee, and no Person shall accept any such employment or render any service for compensation based on a Contingency Fee.

(h) Cone of Silence.

(1) "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Letters of Interest (RLI), Request for Qualifications (RFQ), bid, or any other competitive solicitation between:

a. Any Person who seeks an award therefrom, including a potential vendor or vendor's representative, proposer, service provider, bidder, consultant, or Lobbyist, and

b. Any City Commissioner, City Staff or City representative who evaluate(s) recommend(s) selection in such procurement process. Notwithstanding the foregoing, the Cone of Silence shall not apply to communications with the City Attorney and his or her staff, or with the Purchasing Director, or with designated City Staff who are not serving on the particular selection committee, for the purpose of obtaining clarification or information concerning the subject solicitation. Further, nothing herein shall prohibit a City Commissioner, and other City Staff from communicating with each other, subject to the provisions of the Sunshine Law. For purposes of this section, "vendor's representative" means an employee, partner, officer, or director of a potential vendor, or consultant, Lobbyist, or actual or potential subcontractor or sub-consultant of a vendor.

(2) The Cone of Silence shall be applicable to each RFP, RLI, RFQ, bid, or other competitive solicitation. The Cone of Silence begins at the time of short listing by the selection team for responses for the RFP, RLI, RFQ; and for procurements when a short listing is not created, such as a bid, then at the bid opening or at

the time responses are received. At the time of imposition of the Cone of Silence, the Purchasing Director shall provide public notice of the Cone of Silence by posting notice at City Hall. The Purchasing Director shall issue a written notice thereof to affected departments, file a copy of such notice with the City Clerk and the Mayor and each City Commissioner. Any advertisement and public solicitation for goods and services shall contain a statement disclosing the requirements of this subsection.

(3) The Cone of Silence shall terminate at the time of award or approval of a contract, or upon the rejection of all bids or responses, or upon other action that ends the solicitation.

(4) Nothing contained herein shall prohibit any potential vendor or vendor's representative:

a. From making public presentations at duly noticed selection committee meetings;

b. From engaging in contract negotiations during any duly noticed public meeting;

c. From making a public presentation to the City Commission during any duly noticed public meeting;

or

d. From communicating with designated City Staff as set forth in section (h) 1.b. above for purposes

of seeking clarification or additional information, subject to the provisions of the applicable RFP, RLI, RFQ or bid documents or other procurement documents. The potential vendor or vendor's representative shall file a copy of any written communication with the Purchasing Division who shall make copies available to the public upon request.

(5) Additional penalties for violation:

a. In addition to the penalties provided in Section (f), any violation of this subsection by an existing or potential vendor or vendor's representative during the procurement period, as defined herein:

1. Shall render any RFP award, RFQ award RLI award, or bid award or other competitive solicitation award to said potential vendor or vendor's representative voidable, at the sole discretion of the City Commission; and
2. May subject the potential vendor or vendor's representative to debarment in accordance with Sec. 2-1(f)(1)b. of the City Code of Ordinances.

Section 2. Conflict. 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 3. Severability. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 4. Inclusion in the City Code. It is the intention of the City Commission, 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 Sunrise, Florida.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption.

PASSED AND ADOPTED upon this first reading this 23RD DAY OF OCTOBER, 2007.

PASSED AND ADOPTED upon this second reading this 11TH DAY OF DECEMBER, 2007.

Mayor Steven B. Feren

Authentication:

Felicia M. Bravo
City Clerk

FIRST READING

MOTION: ALU
SECOND: SCUOTTO

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
WISHNER: YEA
FEREN: YEA

SECOND READING

MOTION: SCUOTTO
SECOND: ALU

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
WISHNER: YEA
FEREN: YEA

Approved by the City Attorney
As to Form and Legal Sufficiency.

Kimberly A. Register