

ORDINANCE NO. 28-14-2206

An Ordinance amending Sec. 8A-5 (a), (b), (c), (e) and (f) of Chapter 8A of the City of South Miami's Code of Ordinances as to definitions and exemptions and adopting applicable portions of the Miami-Dade County lobbying ordinance concerning definitions and exemptions as well as providing stricter requirements and penalties.

WHEREAS, the City, its boards, committees, and agencies, including the Community Redevelopment Agency ("SMCRA") and lobbyists in the City are required to comply with the Miami-Dade County lobbying ordinance; and

WHEREAS, the City's current definition of a lobbyist is less inclusive than the County's lobbying ordinance and therefore, to the extent that it is less inclusive, it is not enforceable; and

WHEREAS, according to the City's current definition of a lobbyist, the individual officers and the employees of a closely held corporation or other business entity with only a few stockholders or members is required not only to register as a lobbyist but to also pay a lobbyist fee when attempting to influence the City Commission, the City Manager or other City personnel; and

WHEREAS, according to the City's current definition of a lobbyist: "Any person who, during the time period of the entire decision-making process on an action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board, committee, or agency, advocated in favor of or opposes any action, decision, recommendation of the deputy, assistant, or assistant to the city manager, department heads, division heads, city attorney, assistant city attorney (except when such personnel are acting in connection with quasi-judicial or administrative hearings) and any other City personnel" has been interpreted to include shop managers; and

WHEREAS, according to the City's current definition of a lobbyist, the individual officers and the employees of a closely held corporation or other business entity with only a few stockholders or members is required not only to register as a lobbyist but to also pay a lobbyist fee when attempting to influence the City Commission, the City Manager or other City personnel; and

WHEREAS, Miami-Dade County's lobbying ordinance applies to the City and City lobbyist and it defines the term lobbyist and provides for the registration of lobbyist; and

WHEREAS, the current City lobbying ordinance is confusing and difficult for most people to interpret and understand as well as not being synchronized with the County's lobbying ordinance; and

WHEREAS, it is in the best interest of the City, its personnel, as well as that of its residential and business community for there to be only one ordinance that provides the definitions of words used by the City's and the County's lobbying ordinance and for the exemptions to registration and/or payment of lobbyist fees.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:

Section 1. Section 8A-5 (a), (b), (c) and (e) of Chapter 8A of the City of South Miami's Code of Ordinances is hereby amended to read as follows:

Sec. 8A-5. - Lobbyists; registration, reporting, fees, exemptions, expenditures, and penalties.

(a) This section shall be known as the City of South Miami Lobbyist Registration Ordinance.

(b) *Definitions.* For the purposes of this section, the following terms shall have the definitions contained herein:

(1) *Lobbyist* ~~The City hereby adopts, by reference, the definition of a lobbyist as found in the Miami-Dade County lobbying ordinance, Section 2-11.1(s)(1)(b), of the Miami-Dade County Code of Ordinances and the interpretations of this Ordinance as applied in practice by Miami-Dade County and the Miami Dade Commission on Ethics. and means all natural persons, unincorporated associations, or business entities, firms, corporations, principals employed or retained, for financial compensation, which includes non-monetary compensation of similar value, by a principal who seeks to encourage the passage, defeat, or modification of any of the following:~~

~~a. Ordinance, resolution, action, or decision of the city commission, the mayor, or any commissioner;~~

~~b. Action, decision, or recommendation of any city board, committee, or agency, including without limitation, the governing and advisory boards of the city community redevelopment agency and the health facility authority; or~~

~~e. Action, decision or recommendation of the city manager, deputy, assistant, or assistant to the city manager, department heads, division heads, city attorney, assistant city attorney (except when such personnel are acting in connection with quasi judicial or administrative hearings) during the time period of the entire decision making process on an action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board, committee, or agency.~~

~~"Lobbyists" specifically includes the principal, as well as any agent, attorney, officer or employee of a principal, regardless of whether lobbying activities fall within the normal scope of employment of the agent, attorney, officer or employee. "Lobbyist" shall exclude any person who only appears as a representative of those identified in subsection (e).~~

(2) *Principal* means the natural person, firm, ~~corporation~~ company or other entity that has employed or retained a lobbyist, including the person employed by the

company or other entity, that has the authority to retain or direct a lobbyist on their behalf

~~(3) *Consultant* means an individual, corporation, partnership or business entity that has been retained, for financial compensation, which includes non-monetary compensation of similar value, to assist or provide any professional services to an entity in seeking approval of an item from the city commission or staff, or to obtain a contract with the city~~

(3) All lobbyists shall comply with this ordinance and the Miami-Dade County Lobbying Ordinance as they are amended from time to time. All references to the "County" in the County's Lobbying Ordinance shall mean the City, where applicable, for the purpose of this ordinance and for the interpretation and application of the County's Lobbying Ordinance to the City.

(c) (1) *Registration and filing requirements.* All lobbyists shall, at least on or before 3:00 p.m. on the day of and before engaging in any lobbying activities, register with the city clerk, unless exempted from registering by Section 2-11.1(s) (3) of the Miami-Dade County Code and pay a lobbyist fee, if required. Every person required to register shall register on forms prepared by the city clerk, pay a registration fee as specified in the fee schedule and state under oath: A lobbyist who has engaged in lobbying activities before timely registering as a lobbyist shall pay a fine of \$500. It shall be the responsibility of the City Clerk to collect all fines and fees. A lobbyist who, without compensation for performing the services of a lobbyist, is representing an individual for non-commercial purposes (hereinafter referred to as a "limited lobbyist") shall include such information in the lobbyist registration form which shall be signed under oath certifying the truth of the information. No registration fee shall be required for a limited lobbyist. In addition, any lobbyist who would not be required by Miami-Dade County to pay a lobbyist registration fee if engaged in lobbying activities with the County shall not be required to pay a lobbyist registration fee when engaged in lobbying activities with the City.

i. Registration Publication. All lobbyist registration forms shall be received and date stamped by the City Clerk. The Clerk's Office shall maintain a list of all registration and of the payment of the registration fee. The Clerk shall publish on the City website a registration list of principals, issues and lobbyists which shall be updated at the end of each day, to the extent possible, that a completed or amended registration form is received.

ii. Every person required to register shall register on forms prepared by the city clerk and, other than those lobbyists who are exempt from paying a fee, shall pay a registration fee as specified in this ordinance or the City's fee schedule, whichever is greater. The forms shall include the following information, which shall be certified and state under oath by the lobbyist and the principal whom the lobbyist represents, such as its president, partner or managing member:

a. Name and business address of lobbyist;

b. Name and business address of the principal and;

~~e. The name and business address of each person, consultant, or entity, within the preceding five (5) years, for whom the lobbyist was employed as a lobbyist;~~

- d. ~~The commissioner or personnel sought to~~ Whether Commissioners, City Administration, City Attorney or City Clerk will be lobbied; and
 - e. The specific issue on which the lobbyist has been employed to lobby;
- (iii) The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered and the lobbyist has not agreed to accept any contingency or success fees as defined in Section 2-11.1 (s)(7) of the Miami-Dade County Code of Ordinances. Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor.
- (2) Change or modification of information. Any change to any information originally filed, or any additional city commissioner or personnel who are also sought to be lobbied shall require the lobbyist to file an amendment to the registration forms, although no additional fee shall be required for such amendment. The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs.
 - (3) Disclosure. If the lobbyist represents a legal entity such as a corporation, company, partnership or trust, the chief officer, partner or beneficiary shall also be identified. ~~Without limiting the foregoing, the lobbyist shall also identify all persons holding directly or indirectly, a five ten (10 5) percent or more ownership interest in the legal entity corporation, partnership or trust. Any consultant shall identify itself and the capacity in which s/he has been retained.~~
 - (4) ~~Separate registration~~ Fee requirements for issues. Separate registration an additional \$100 fee shall be required for each additional specific issue being lobbied for a Principal represented on each specific issue. A separate fee shall be required for each separate issue for the same Principal for each calendar fiscal year, which is from October 1 through September 30 (hereinafter referred to as "Fiscal Year"). The issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing item. The city clerk, in the clerk's judgment, shall reject any registration statement that does not provide a description of the specific issue on which the lobbyist has been employed.
 - (5) Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. Each principal shall file a form with the Clerk at the point in time at which a lobbyist is no longer authorized to represent the principal.
 - (6) Fees. Each lobbyist who is required to ~~shall~~ pay a registration fee, shall pay such fee as specified in the city's standard schedule of fees each time he or she registers or re-registers each calendar year the time of registering with the city clerk; A lobbyist must re-register every calendar Fiscal year before commencing any lobbying activities which is from October 1 through September 30. There shall be no fee required for filing a notice of withdrawal,; and tThe city manager clerk shall waive the registration fee upon a finding of financial hardship if supported by , based upon a sworn statement of the applicant. Prior to conducting any lobbying on a matter, all lobbyists must file a form with the city clerk, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the

~~principal. Any person who only appears as a representative of a nonprofit corporation or entity (such as a charitable organization, neighborhood, or homeowner association, local chamber of commerce, and merchant's association, trade association or trade union), without who declared in their lobbyist registration application that they would not receive and have not received any special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item, must register but shall not be required to pay a registration fee register with the city clerk as required by this subsection.~~

- (7) Disclosure and appearance of impropriety. In addition to the matters addressed above, every registrant shall be required to state the extent of any business, financial, familial, ~~or professional relationship,~~ or other relationship ~~giving rise to an appearance of an impropriety,~~ with the mayor, any city commissioner, or personnel who is sought to be lobbied as identified on the lobbyist registration form filed.
- (8) ~~Duty of the city commission, boards, committees, agencies, and employees. All members of the city commission and all city personnel, including all board, committee, and agency members, shall be diligent to ascertain whether persons required to register pursuant to this section have complied with the requirements of this division. The mayor, commissioners, board, committee and agency members, and city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this section. All members of the City Commission, and all City personnel, shall be diligent to ascertain whether persons required to register pursuant to this subsection have been complied. Commissioners or City personnel may not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner, or the relevant committee, board or City personnel.~~
- (9) ~~Lobbyists, including all consultants, shall sign in with the city clerk before meeting with any city officials. All covered city officials, personnel, and members shall maintain logs of all telephone and electronic communications with lobbyists.~~
- (9) Any person who appears as a representative for an individual or firm for an oral presentation before a City certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the City staff, all individuals who may make a presentation. The affidavit shall be filed by staff with the Clerk's office at the time the committee's proposal is submitted to the City Manager. For the purpose of this subsection only, the listed members of the presentation team, with the exception of any person otherwise required to register as a lobbyist, shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an anyone unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the Clerk's office as a lobbyist and has paid all applicable lobbyist registration fees.

* * *

- (e) Exceptions to registration. All persons who are exempted from registration or from paying a registration fee by the Miami-Dade County's Lobbying Ordinance are likewise exempted by the City from registration and/or from the payment of

~~registration fees. The following persons will be exempt from the provisions of this section:-~~

- ~~(1) Any person who only appears in his or her individual capacity at a public hearing before the city commission, board, committee, agency meeting, and has no other communication with the city personnel, for the purpose of self-representation without compensation or reimbursement, whether direct, indirect, or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowners or neighborhood associations. All speakers shall, however, sign in on forms available at the public hearing or meeting. Additionally, any person or representative of a business entity requested to appear before any city commission, or board, committee, or agency meeting, or any person or representative compelled to answer for or appealing a code violation, or any administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of the person.~~
- ~~(2) Any public officer, employee or appointee or any person or entity in contractual privity with the city who only appears in his or her official capacity shall not be required to register as a lobbyist.~~
- ~~(3) Any person appearing as an expert witness called in proceedings before the commission, any board or a committee or the administration of the city who presents testimony in support of a position or explaining such position.~~

(f) Penalties.

- (1) Violations of this section may be determined by the Miami-Dade County Commission on ethics and public trust. A finding by the commission that a person has violated this chapter shall subject the person to a five hundred dollars (\$500.00) civil penalty. The commission on ethics may additionally provide other penalties such as admonition and public reprimand, as well as prohibitions from registering as a lobbyist or engaging in lobbying activities before the city. Conviction for given false information shall be punishable by a fine of up to \$500, imprisonment for up to 60 days and/or suspension from lobbying privileges in South Miami for a period of up to two years.
- (2) Additionally, every person who is found to be in violation of this chapter shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
 - First violation: for a period of one (1) year from the date of determination of violation;
 - Second violation: for a period of two (2) years from the date of determination of violation;
 - Third violation: for a period of three (3) years from the date of determination of violation.

The city commission may debar a bidder or proposer from lobbying activities in the city, and from entering into contracts with the city, or any agency or authority of the

city when the bidder or proposer either directly or indirectly, on three or more occasions, has been found to have violated the lobbyist provisions of this section.

As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall render the contract voidable. The city manager shall include the provisions of this section in all city bid documents, RFPs and RFQs; provided, however, that failure to do so shall not render any contract voidable.

* * *

Section 2. Codification. The provisions of this ordinance shall become and be made part of the Code of Ordinances of the City of South Miami as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. Ordinances in Conflict. All ordinances or parts of ordinances and all sections and parts of sections of ordinances in direct conflict herewith are hereby repealed. However, it is not the intent of this section to repeal entire ordinances, or parts of ordinances, that give the appearance of being in conflict when the two ordinances can be harmonized or when only a portion of the ordinance in conflict needs to be repealed to harmonize the ordinances. If the ordinance in conflict can be harmonized by amending its terms, it is hereby amended to harmonize the two ordinances. Therefore, only that portion that needs to be repealed to harmonize the two ordinances shall be repealed.

Section 5. Effective Date. This ordinance shall become effective upon enactment.

PASSED AND ENACTED this 17th day of December, 2014.

ATTEST:

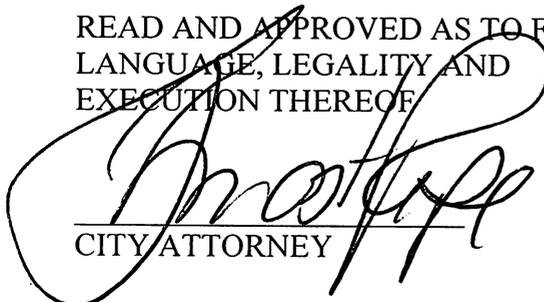

CITY CLERK

1st Reading - 12/2/14
2nd Reading - 12/17/14

APPROVED:


MAYOR

READ AND APPROVED AS TO FORM:
LANGUAGE, LEGALITY AND
EXECUTION THEREOF


CITY ATTORNEY

COMMISSION VOTE: 5-0
Mayor Stoddard: Yea
Vice Mayor Harris: Yea
Commissioner Edmond: Yea
Commissioner Liebman: Yea
Commissioner Welsh: Yea

M E M O R A N D U M

TO: Mayor, Vice Mayor, City Commissioners and City Manager

FROM: Thomas F. Pepe, City Attorney

DATE: November 20, 2014

RE: Amendment to Lobbying Ordinance



While I initially intended to only amend the definitions, exemptions and exceptions found in the City's lobbying ordinance by adopting those found in the County's ordinance, I discovered that the County's ordinance did not define the word "Principal" and there didn't appear to be a provision to take into consideration situations where a relative or friend of an individual appears as a representative/lobbyist for purely personal matters. In addition, the City Manager and City Clerk desired to make changes to the ordinance as well. Therefore, the ordinance that is being proposed is an amalgam of ideas and suggestions of all three of us.

The County's Lobbying Ordinance applies to the City of South Miami and City lobbyist and the City's lobbying ordinance may not be less restrictive than the County's ordinance. According to the County's ordinance and an opinion that I previously had from the Commission on Ethics ("COE") in 2013, as well as my recent conversation with an attorney at the offices of the COE, just about everyone who represents someone, other than themselves, is a lobbyist, with minor exceptions or exemptions from registration or payment of fees. This definition of a lobbyist includes a relative of an individual, each and every "principal" of any entity. While the County ordinance does not define the word "Principal" of an entity, the Commission on Ethics has published some examples found at the end of this memorandum. Even the pastor of a church, a rabbi or an Islamic clergyman is a lobbyist if he/she is representing his/her church, or someone other than himself/herself, and if he/she is seeking, on their behalf, to influence any action, decision, recommendation of someone with the city, including the city manager, city attorney, department heads, city personnel, or members of the city commission or members of any city board, concerning a matter that could foreseeably be addressed by the city commission or a city board and if he/she does not meet any of the following exceptions or exemptions.

The following representatives of a principal are not considered by the County's ordinance to be lobbyists. See Sec.11.1(s) (1)(b):

- a) Representatives who appear at a publically noticed **Quasi-judicial proceeding**;

- b) Representatives, without compensation, representing a “**neighborhood association**”;
- c) **Expert witnesses** at a public meeting;
- d) **Community based not-for-profit** that is **seeking a grant** and who is not receiving special compensation; and
- e) **Employees** whose **normal scope of employment is not lobbying**.

The following representatives of a principal [see sec. 2-11.1(s)(3)] are considered by the County’s ordinance to be lobbyists but they are exempt from registering:

- a) **Public Officers & Employees** representing a public entity Sec. 2-11.1(s)(3)(a);
- b) An individual's own **Self Representation** without compensation Sec.11.1(s) (3) (b);

The following representatives of a principal are considered to be lobbyists by the County’s ordinance (Sec.11.1(s) (1)(b) and must register, but if they do so **without special compensation** they are **exempt from paying a fee**:

- a) The **Principal** of the entity Sec.11.1(s) (3)(b);
- b) Representatives of **Not-for-Profit** entities Sec.11.1(s) (4);
- c) Certified **Micro Enterprise** Sec.11.1(s) (4);
- d) Level I Community **Small Business Enterprise** Sec.11.1(s) (4); and
- e) Tier 1 Community **Business Enterprise** Sec.11.1(s) (4);

The following representatives are considered by the County’s ordinance to be lobbyists but need not register as a lobbyist if they are making a presentation to County or City Staff and if they are listed in an affidavit filed with County or City Staff:

Members of an **oral presentation team** appearing before an evaluation, selection, technical review, certification committee or similar committee.

Note that the COE does not have a definition for “**special compensation**” and the attorney I spoke to is requesting a COE special opinion defining this phrase.

Miami-Dade County Commission on Ethics and Public Trust

“Lobbying in Miami-Dade County FAQs” includes the following examples of who is considered by the COE to be the “Principal” of an entity:

Who is a considered a Principal?

- The President of a corporation.
- The owner, president or chief shareholder of a corporation or an individual who has been designated or who has the apparent authority to make final decisions on

behalf of the corporate entity who is engaged in lobbying activities as defined above.

- A member of the corporate board engaged in lobbying who has been appointed by the corporation to serve as its representative during negotiations or lobbying activities.
- But, an officer of an entity, such as a chief financial officer, is not a principal if his/her normal scope of employment does not include lobbying activities.

MDC Ethic's Code 2-11.1

(s) Lobbying.

(1) (a) As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

(b) As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities. The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

(2) All lobbyists shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:

(a) Register on forms prepared by the Clerk;

(b) State under oath his or her name, business address and the name and business address of each person or entity which has employed said registrant to lobby. If the lobbyist represents a corporation, the corporation shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Registration of all lobbyists shall be required prior to January 15 of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. The fee for annual registration shall be four hundred and ninety dollars (\$490.00). Every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b)(1). The registration fees required by this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the

public. Notwithstanding the foregoing, fifteen (15) percent of future funds generated by lobbyist registration fees after the effective date of this ordinance shall be deposited into a separate account, and shall be expended by the Ethics Commission for the purposes of educational outreach, the rendering of advisory opinions and enforcement of the provisions of Section 2-11.1(s) relating to lobbyists. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.

(c) Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered and the lobbyist has not agreed to accept any contingency or success fees as defined in subsection (s)(7). Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Clerk of the Board at the point in time at which a lobbyist is no longer authorized to represent the principal.

(d) Each lobbyist shall, within sixty (60) days after registering as a lobbyist, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course"). Lobbyists who have completed the initial Ethics Course mandated by the preceding sentence and have continuously registered as a lobbyist thereafter shall be required to complete a refresher Ethics Course every two years. Each lobbyist who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion within sixty (60) days after registering as a lobbyist. The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; and the Public Records Law. The fee for the Ethics Course shall be one hundred dollars (\$100.00). The registration fees required by this subsection shall be deposited into a separate account, and shall be expended by the Ethics Commission for Ethics Courses and related costs. The requirements of this subsection relating to the Ethics Course shall not be applicable to any municipal lobbyist in Miami-Dade County unless said municipality has adopted an ordinance providing for ethics training of lobbyists, and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection. The Executive Director of the Ethics Commission may waive the Ethics Course requirement for a particular lobbyist when he or she determines that the lobbyist has taken an initial or refresher Ethics Course offered by a municipality which satisfies the requirements of this subsection.

(3) (a) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.

(b) Any person who only appears in his or her individual capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist. A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or

contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but shall not be required to pay any registration fees.

(4) Any person who only appears as a representative of a not-for-profit corporation or entity (such as a charitable organization, or a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but, upon request, shall not be required to pay any registration fees. Any principal who only appears as a representative of a certified Micro Enterprise, as defined in Section 2-8.1.1.1.1 of the Code, as a representative of a certified Level I Community Small Business Enterprise, as defined in Section 10-33.02 or as a representative of a certified Tier 1 Community Business Enterprise, as defined in Section 2-10.4.01, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but, upon request, shall not be required to pay any registration fees.

(5) Any person who appears as a representative for an individual or firm for an oral presentation before a county certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed by staff with the Clerk's office at the time the proposal is submitted. For the purpose of this subsection only, the listed members of the presentation team shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an individual or firm unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the Clerk's office and has paid all applicable fees.

(6) (a) On July 1 of each year, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. A statement shall not be filed if there have been no expenditures during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events.

(b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in subsection (s)(9), a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in subsection (z). Any lobbyist who fails to file the required expenditure report by September 1 shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.

(c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and/or pay the assessed fines after notification.

(d) A lobbyist or principal may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.

(7) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the County Commission; (2) any action, decision or recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee.

(8) The Clerk shall publish logs on a quarterly and an annual basis reflecting the lobbyist registrations which have been filed in accordance with this subsection (s). All logs required by this ordinance shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.

(9) The Ethics Commission shall investigate any person engaged in lobbying activities who may be in violation of this subsection (s). In the event that a violation is found to have been committed the Ethics Commission may, in addition to the penalties set forth in subsection (z), prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein.

Every lobbyist who is found to be in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:

1st violation for a period of 90 days from the date of determination of violation;

2nd violation for a period of one (1) year from the date of determination of violation;

3rd violation for a period of five (5) years from the date of determination of violation;

A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract

voidable. The County Manager shall include the provisions of this subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as the result of such failure illegal per se.

(10) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register pursuant to this subsection have been complied. Commissioners or County personnel may not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner, or the relevant committee, board or County personnel.

(11) Except as otherwise provided in subsection (s)(9), the validity of any action or determination of the Board of County Commissioners or County personnel, board or committee shall not be affected by the failure of any person to comply with the provisions of this subsection (s).

(Ord. No. 86-24, § 1, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 00-19, § 1, 2-8-00; Ord. No. 01-93, § 1, 5-22-01; Ord. No. 01-162, § 1, 10-23-01; Ord. No. 10-03, § 1, 1-21-10; Ord. No. 10-04, § 1, 1-21-10; Ord. No. 10-34, § 1, 6-3-10; Ord. No. 10-56, § 1, 9-21-10; Ord. No. 12-10, § 1, 3-6-12; Ord. No. 12-63, § 1, 9-6-12)

Sec. 8A-5. - Lobbyists; registration, reporting, fees, exemptions, expenditures, and penalties.

- (a) This section shall be known as the City of South Miami Lobbyist Registration Ordinance.
- (b) *Definitions.* For the purposes of this section, the following terms shall have the definitions contained herein:
- (1) *Lobbyist* means all natural persons, unincorporated associations, or business entities, firms, corporations, principals employed or retained, for financial compensation, which includes non-monetary compensation of similar value, by a principal who seeks to encourage the passage, defeat, or modification of any of the following:
 - a. Ordinance, resolution, action, or decision of the city commission, the mayor, or any commissioner;
 - b. Action, decision, or recommendation of any city board, committee, or agency, including without limitation, the governing and advisory boards of the city community redevelopment agency and the health facility authority; or
 - c. Action, decision or recommendation of the city manager, deputy, assistant, or assistant to the city manager, department heads, division heads, city attorney, assistant city attorney (except when such personnel are acting in connection with quasi-judicial or administrative hearings) during the time period of the entire decision-making process on an action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board, committee, or agency.

"Lobbyists" specifically includes the principal, as well as any agent, attorney, officer or employee of a principal, regardless of whether lobbying activities fall within the normal scope of employment of the agent, attorney, officer or employee. "Lobbyist" shall exclude any person who only appears as a representative of those identified in subsection (e).
 - (2) *Principal* means the natural person, firm, corporation or other entity that has employed or retained a lobbyist.
 - (3) *Consultant* means an individual, corporation, partnership or business entity that has been retained, for financial compensation, which includes non-monetary compensation of similar value, to assist or provide any professional services to an entity in seeking approval of an item from the city commission or staff, or to obtain a contract with the city.
- (c) (1) *Registration and filing requirements.* All lobbyists shall, before engaging in any lobbying activities, register with the city clerk. Every person required to register shall register on forms prepared by the city clerk, pay a registration fee as specified in the fee schedule and state under oath:
- a. Name and business address of lobbyist;
 - b. Name and business address of principal;
 - c. The name and business address of each person, consultant, or entity, within the preceding five (5) years, for whom the lobbyist was employed as a lobbyist;
 - d. The commissioner or personnel sought to be lobbied; and
 - e. The specific issue on which the lobbyist has been employed to lobby;
- (2) *Change or modification of information.* Any change to any information originally filed, or any additional city commissioner or personnel who are also sought to be lobbied shall require the lobbyist to file an amendment to the registration forms, although no additional fee shall be required for such amendment. The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs.
 - (3) *Disclosure.* If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also

identify all persons holding directly or indirectly, a ten (10) percent or more ownership interest in the corporation, partnership or trust. Any consultant shall identify itself and the capacity in which s/he has been retained.

- (4) *Separate registration requirements.* Separate registration shall be required for each principal represented on each specific issue. The issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing item. The city clerk shall reject any registration statement that does not provide a description of the specific issue on which the lobbyist has been employed.
 - (5) Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.
 - (6) *Fees.* Each lobbyist shall pay a registration fee, as specified in the city's standard schedule of fees at the time of registering with the city clerk, every year from October 1 through September 30. There shall be no fee required for filing a notice of withdrawal, and the city manager shall waive the registration fee upon a finding of financial hardship, based upon a sworn statement of the applicant. Prior to conducting any lobbying on a matter, all lobbyists must file a form with the city clerk, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Any person who only appears as a representative of a nonprofit corporation or entity (such as a charitable organization, neighborhood or homeowner association, local chamber of commerce and merchant's association, trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item, shall not be required to register with the city clerk as required by this subsection.
 - (7) *Disclosure and appearance of impropriety.* In addition to the matters addressed above, every registrant shall be required to state the extent of any business, financial, familial or professional relationship, or other relationship giving rise to an appearance of an impropriety, with the mayor, any city commissioner, or personnel who is sought to be lobbied as identified on the lobbyist registration form filed.
 - (8) *Duty of the city commission, boards, committees, agencies, and employees.* All members of the city commission and all city personnel, including all board, committee and agency members, shall be diligent to ascertain whether persons required to register pursuant to this section have complied with the requirements of this division. The mayor, commissioners, board, committee and agency members, and city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this section.
 - (9) *Lobbyists, including all consultants, shall sign in with the city clerk before meeting with any city officials.* All covered city officials, personnel, and members shall maintain logs of all telephone and electronic communications with lobbyists.
- (d) *List of expenditures.*
- (1) On October 1 of each year, lobbyists shall submit to the city clerk a signed statement under oath, as provided by the clerk, listing all lobbying expenditures for the preceding calendar year. A statement shall not be filed if there have been no expenditures during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events and shall identify the city officials, personnel, and members upon whom the expenditures were made.
 - (2) The city clerk shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed under this chapter, a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the October 1 due date.
 - (3) The city clerk shall notify the county commission on ethics and public trust of the failure of a lobbyist to file a report and/or pay the assessed fines after notification.

(4) A lobbyist may appeal a fine and may request a hearing before the county commission on ethics and public trust. A request for a hearing on the fine must be filed with the county commission on ethics and public trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The county commission on ethics and public trust shall have the authority to waive the fine, in whole or in part, based on good cause shown.

(e) *Exceptions to registration.* The following persons will be exempt from the provisions of this section:

- (1) Any person who only appears in his or her individual capacity at a public hearing before the city commission, board, committee, agency meeting, and has no other communication with the city personnel, for the purpose of self-representation without compensation or reimbursement, whether direct, indirect, or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowners or neighborhood associations. All speakers shall, however, sign-in on forms available at the public hearing or meeting. Additionally, any person or representative of a business entity requested to appear before any city commission, or board, committee, or agency meeting, or any person or representative compelled to answer for or appealing a code violation, or any administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of the person.
- (2) Any public officer, employee or appointee or any person or entity in contractual privity with the city who only appears in his or her official capacity shall not be required to register as a lobbyist.
- (3) Any person appearing as an expert witness called in proceedings before the commission, any board or a committee or the administration of the city who presents testimony in support of a position or explaining such position.

(f) *Penalties.*

- (1) Violations of this section may be determined by the Miami-Dade County Commission on ethics and public trust. A finding by the commission that a person has violated this chapter shall subject the person to a five hundred dollars (\$500.00) civil penalty. The commission on ethics may additionally provide other penalties such as admonition and public reprimand, as well as prohibitions from registering as a lobbyist or engaging in lobbying activities before the city.
- (2) Additionally, every person who is found to be in violation of this chapter shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
 - First violation for a period of one (1) year from the date of determination of violation;
 - Second violation for a period of two (2) years from the date of determination of violation;
 - Third violation for a period of three (3) years from the date of determination of violation.

The city commission may debar a bidder or proposer from lobbying activities in the city, and from entering into contracts with the city, or any agency or authority of the city when the bidder or proposer either directly or indirectly, on three or more occasions, has been found to have violated the lobbyist provisions of this section.

As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall render the contract voidable. The city manager shall include the provisions of this section in all city bid documents, RFPs and RFQs; provided, however, that failure to do so shall not render any contract voidable.

- (3) Except as otherwise provided in subsection (f)(1), the validity of any action or determination of the city commission, board, committee, or agency shall not be affected by the failure of any person to comply with the provisions of this section.

- (g) *Prohibition on appointment of lobbyists to boards and committees.* No person who is required to register with the city clerk as a lobbyist shall serve on any board or committee of the city. Any person who is required to register as a lobbyist subsequent to being appointed to a board or committee shall be disqualified from participating on the board or committee from the date that the person knew, or reasonably should have known, that he or she was required to register. No person shall be appointed to a board or committee for a period of nine (9) months from the time the person files a statement with the city clerk withdrawing his or her registration as a lobbyist. The penalty provisions of subsection (f) shall apply to any lobbyist who violates this prohibition.

(Ord. No. 1251, §§ 1—6, 6-3-86; Ord. No. 1712, § 1, 4-11-00; Ord. No. 1722, § 1, 9-19-00; Ord. No. 1876, § 1, 2-7-06; Ord. No. 2153, §§ 1, 2, 2-5-13)

Editor's note—

Although § 9 of Ord. No. 1251, adopted June 3, 1986, specified inclusion in ch. 2, the editor has included the provisions in § 8A-5 since § 7 of the ordinance repealed Ord. No. 1233, adopted June 14, 1985, §§ 1, 2 of which had been included as § 8A-5

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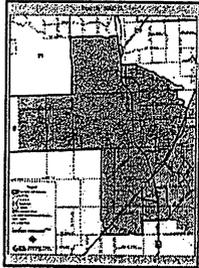



Alexander Montessori School does not discriminate on the basis of race, nationality, or ethnic origin.

MIAMI-DADE COUNTY Public Notice

The Public is advised that the South A Municipal Advisory Committee (MAC) will be holding a meeting on Wednesday, December 10, 2014 at 6:30 P.M. at Deerwood Bonita Lakes Park, 14445 SW 122nd Avenue, Miami, 33186.

The MAC will be evaluating the potential incorporation of the area into a separate municipality; it will also be meeting with staff to discuss the County's concerns regarding any adverse impact to the remaining unincorporated municipal service area or other regional municipal-type services that could occur due to any such incorporation. The MAC area is generally bounded as follows:



NORTHERN MOST BOUNDARY: SW 120th Street
SOUTHERN MOST BOUNDARY: SW 232nd Street
EASTERN MOST BOUNDARY: US 1
WESTERN MOST BOUNDARY: SW 157th Avenue
(Boundaries only include areas within County Commission District 9 for study area)

The public is invited to share its thoughts on incorporation, the proposed boundaries, services it wishes to see enhanced and any additional information that may assist the MAC in its deliberations.

For legal ads online, go to <http://legalads.miamidade.gov>

CITY OF SOUTH MIAMI COURTESY NOTICE

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its regular City Commission meeting scheduled for **Wednesday, December 17, 2014** beginning at 7:00 p.m., in the City Commission Chambers, 6130 Sunset Drive, to consider the following item(s):

- A Resolution authorizing the City Manager to negotiate an agreement with ADP to provide payroll services, Human Resources and Time & Attendance integrated software solution.
- An Ordinance amending Section 4-2(a) of the City Code adding drugstores, convenience stores and service stations as listed uses in the table of distance requirements regarding alcohol sale.
- An Ordinance amending Section 20-4.2 of the City of South Miami's Land Development Code to add criteria for the City's approval of a plat or re-plat tentatively approved by the Miami-Dade County.
- An Ordinance amending Sec. 8A-5 (a), (b), (c), (e) and (f) of Chapter 8A of the City of South Miami's Code of Ordinances as to definitions and exemptions and adopting applicable portions of the Miami-Dade County lobbying ordinance concerning definitions and exemptions as well as providing stricter requirements and penalties.
- An Ordinance amending the Land Development Code Section 20-4.5 and 20-4.5.1, including, but not limited to, provisions concerning intent, definitions, applicability and providing for tree removal requirements, applications, permits, feces tree mitigation and protection, enforcement, penalties, remedies, and appeals.

ALL interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk's Office at: 305-663-6340.

Maria M. Menendez, CMC
City Clerk

Pursuant to Florida Statutes 386.0105, the City hereby advises the public that if a person decides to appeal any decision made by this Board, Agency or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared MARIA MESA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

CITY OF SOUTH MIAMI
NOTICE OF PUBLIC HEARING 12/17/2014

in the XXXX Court,
was published in said newspaper in the issues of

12/05/2014

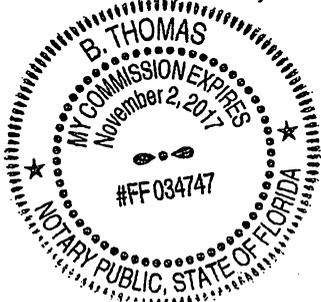
Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade 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.

Sworn to and subscribed before me this

05 day of DECEMBER, A.D. 2014

(SEAL)

MARIA MESA personally known to me



CITY OF SOUTH MIAMI NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its regular City Commission meeting scheduled for Wednesday, December 17, 2014, beginning at 7:00 p.m. in the City Commission Chambers, 6100 Sunset Drive to consider the following item(s):

A Resolution authorizing the City Manager to negotiate an agreement with ABF to provide payroll services, Human Resources and Time & Attendance integrated software solution.

An Ordinance amending Section 4-2(a) of the City Code adding drug stores, convenience stores and service stations as listed uses in the table of distance requirements regarding alcohol sale.

An Ordinance amending Section 20-12 of the City of South Miami's Land Development Code to add criteria for the City's approval of a plat or re-plat tentatively approved by the Miami-Dade County.

An Ordinance amending Sec 8A's (a), (b), (c), (e) and (f) of Chapter 37 of the City of South Miami's Code of Ordinances as to abridgments and exemptions and adopting applicable portions of the Miami-Dade County lobbying ordinance concerning definitions and exemptions as well as providing stricter requirements and penalties.

An Ordinance amending the Land Development Code Section 20-45 and 20-151 including, but not limited to, provisions concerning: interim definitions, applicability, and providing for tree removal requirements, applications, permits, fees, tree mitigation and protection, enforcement, penalties, remedies and appeals.

All interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk's Office at 305-866-6340.

Maria M. Menendez, CMC
City Clerk

Pursuant to Florida Statutes 286.105, the City hereby advises the public that if a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

12/5 14-3-7912379569M