

ORDINANCE 2016-2

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE FLORIDA, ADOPTING RULES AND REGULATIONS FOR LOBBYING IN THE CITY OF WESTLAKE, CONSISTENT WITH PALM BEACH COUNTY'S LOBBYIST REGISTRATION ORDINANCE, PROVIDING A CONFLICTS CLAUSE, PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about April 2, 2012, Palm Beach County adopted the "Palm Beach County Lobbyist Registration Ordinance", regulating lobbying activities in the county and municipalities located therein, unless a conflicting ordinance is adopted by the municipality; and

WHEREAS, the County's Lobbyist Registration Ordinance requires among other things, lobbying activities be regularly disclosed to the public, creates a central lobbyist registration system, limits communications during the procurement process through a cone of silence, and requires the maintenance of records of lobbyist contacts; and

WHEREAS, the City of Westlake hereby determines that in order to maintain responsible government and ensure integrity in the decision making process of local government, the identity and activities of certain individuals and entities should be disclosed; and

WHEREAS, the City of Westlake elects to adopts the regulations as set forth in the Palm Beach County Lobbyist Registration Ordinance, unless otherwise in conflict as set forth herein;

NOW THEREFORE, the City Council for the City of Westlake, Florida, hereby Ordains the following:

Section 1: The foregoing recitals are hereby affirmed and ratified.

Section 2: Purpose: The purpose of the following sections is to ensure that the activity of person(s) defined as lobbyist disclose their position and maintain a current lobbyist form on file with the County and maintain a log with the City for each principal, item, issue, and/or project for which the lobbyist is lobbying.

Section 3: Definitions: The following definitions shall apply.

Advisory Board shall mean any advisory or quasi-judicial board created by the City of Westlake, Florida, by other local municipal governing bodies, or by the mayors who serve as chief executive officers or by mayors who are not members of local governing bodies.

Board will mean the City Council for the City of Westlake, as the municipal governing body for administration of this ordinance.

Central Lobbyist Registration Site will mean the official location for countywide lobbyist registration.

Lobbying shall mean seeking to influence a decision through oral or written communications or an attempt to obtain the goodwill of any member of the City Council, the City Manager, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, or the City Council, whichever is lobbied.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

Lobbyist shall not include:

- (1) Any employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
 - a. Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.
- (2) Any expert witness who is retained or employed by an employer, principal or client to provide only scientific, technical or other specialized information provided in agenda materials or testimony only in public hearings, so long as the expert identifies the employer, principal or client at the hearing.
- (3) Any person who lobbies only in his or her individual capacity for the purposes of self-representation and without compensation.
- (4) Any employee, contract employee, or independent contractor of the Palm Beach County League of Cities, Inc., lobbying on behalf of that entity.

Official or employee means any official or employee of the City, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the City. The term also includes contract personnel and contract administrators performing a government function, and the City Manager. The term "official" shall mean members of the City Council or City Manager, or other person to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

Palm Beach County Commission on Ethics means the commission established in section 2-254 et seq. to administer and enforce the ethics regulations, and may also be referred to as the "commission on ethics".

Persons and entities shall be defined to include all natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and all other organizations.

Principal shall mean the person or entity a lobbyist represents, including a lobbyist's employer or client, for the purpose of lobbying.

Section 4: Registration: Prior to lobbying, all lobbyist shall submit an original, dully executed registration form to county administration, which shall serve as the official location for countywide lobbyist registration and which shall be known as the "Central Lobbyist Registration Site." The registration may be submitted in paper or electronic form pursuant to countywide policies and procedures. Each lobbyist is required to submit a separate registration for each principal represented. A registration fee of twenty-five (\$25.00) must be included with each registration form submitted. A registrant shall promptly send a written statement to county administration canceling the registration for a principal upon termination of the lobbyist's representation of that principal. This statement shall be signed by the lobbyist. Lobbying prior to registration is prohibited. It is the responsibility of the lobbyist to keep all information contained in the registration form current and up to date.

A. Registration Form: The registration form shall be prepared by county administration and shall require the following information:

- (1) The name, phone number and address of the lobbyist;
- (2) The name, phone number and address of the principal represented;
- (3) The date the lobbyist was initially retained by the principal;
- (4) The nature and extent of any direct business association or partnership the lobbyist and principal might have with any current county commissioner, member of a local municipal governing body, mayor or chief executive office that is not a member of a local municipal governing body, advisory board member, or employee;
- (5) The area of legislative interest;
- (6) A statement confirming that the registrant is authorized to represent the principal;
- (7) Signatures of both the registrant and principal where such signatures may be made electronically pursuant to countywide policies and procedures; and
- (8) The county or municipalities to be lobbied.

B. Registration Exceptions: Registrations shall not be required for the following:

- (1) Persons under contract with the City who communities with any member of the City Council, the City Manager, advisory board members or employees regarding issues related only to the performance of their services under their contract;
- (2) Any attorney representing a client in an active or imminent judicial proceeding, arbitration proceeding, mediation proceeding where a mediator is present, or formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings, in which the City is a party, who communicates with the City Attorney on issues related only to the subject matter of the judicial

proceeding, arbitration proceeding, mediation proceeding, or formal administrative hearing. This exception to the registration requirement includes communications with other government officials and employees conducted during depositions, mediation, arbitration hearing or trial, judicial hearings or trial, and settlement negotiations for active litigation, so long as the City attorney is present for those communications.

C. Existing County Registrations: All registrations on file and in effect with the County before the effective date of this ordinance shall remain in full force and effect.

Section 5: Reporting of Expenditures: Commencing November 1, of each year, all lobbyist shall submit to the Central Lobbyist Registration Site a signed statement under oath listing all expenditures made by the lobbyist in lobbying City officials and employees in excess of twenty-five (\$25) for the preceding fiscal year commencing on October 1 and ending on September 30. A Statement shall list in detail each expenditure category, including food and beverage, entertainment, research, communications, media advertising, publications, travel, lodging and special events. Political contributions and expenditures which are reported under election laws as well as campaign-related personal services provided without compensation are excluded from the reporting requirements. A lobbyist or principal's salary, office overhead expenses and personal expenses for lodging, meals and travel also are excluded from the reporting requirements. Research is an office expense unless it is performed by independent contractors rather than by the lobbyist or the lobbyist's firm.

The county administrator of the Central Lobbyist Registration Site shall provide notice of violation to any lobbyist who fails to timely file an expenditure report and shall also notify the county commission on ethics of this failure. In addition to any other penalties which may be imposed under this ordinance, any lobbyist who fails to file the required expenditure report within thirty (30) days of the date of notice of violation shall be suspended from lobbying unless the notice of violation has been appealed to the commission on ethics.

Section 6: False Statements: A lobbyist shall not knowingly make, or cause to be made, a false statement or misrepresentation in maintaining registration or when lobbying members of the City Council, the City Manager or advisory board members, or employees.

Section 7: Record of Lobbying Contacts:

- (1) **Contact Log.** Except when appearing before the board, local municipal governing body, or any advisor board, all persons shall sign, for each instance of lobbying, contact logs maintained and available in the office of reception of each department of county or municipal government as applicable. The person shall provide his or her name, whether or not the person is a lobbyist as defined in this ordinance, the name of each principal, if any, represented in the course of the particular contact, and the subject matter of the lobbying contact. All contact logs shall be maintained by the City for a period of five (5) fiscal years.

- (2) **Lobbying outside of county or municipal offices.** In the event that a lobbyist engages in lobbying which is outside of county or municipal offices as applicable, and which is a scheduled appointment initiated by any person for the purpose of lobbying, the lobbyist shall advise in writing, the member of the City Council, the City Manager, the advisory board member's office, or the employee's department office as appropriate of the calendar scheduling of an appointment and the subject matter of the lobbying contact.

Section 8: Cone of Silence means a prohibition on any communication, except for written correspondence, regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between:

- (1) Any person or person's representative seeking an award from such competitive solicitation; and
- (2) Any member of the City Council or the council member's staff, or the City Manager or the City Manager's staff, or any employee authorized to act on behalf of the City Council to award a particular contract.
- (3) For the purpose of this section, a person's representative shall include but not be limited to the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.
- (4) The cone of silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. The cone of silence applies to any person or person's representative who responds to a particular request for proposal, request for qualification, bid, or any other competitive solicitation, and shall remain in effect until such response is either rejected by the City or withdrawn by the person or person's representative. Each request for proposal request for qualification, bid or any other competitive solicitation shall provide notice of cone of silence.
- (5) The provisions of this section shall not apply to oral communications at any public proceedings, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meeting, representations made to the City Council, and protest hearings. Further, the cone of silence shall not apply to contract negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, any member of the City Council, or advisory board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.
- (6) The cone of silence shall not apply to any purchases made in an amount less than the competitive bid threshold amount of twenty-five (\$25,000.00) thousand dollars.
- (7) The cone of silence shall terminate at the time the City Council, or any authorized designee acts on behalf of the City Council and awards or approves a contract, reject all bids responses, or otherwise takes action which ends the solicitation process.
- (8) Any contract entered into in violation of the cone of silence provisions in this section shall render the transaction voidable.

Section 9: Enforcement: The enforcement provisions shall be as set forth in the County's Lobbyist Registration Ordinance.

Section 10: Penalties: Penalties for violations of this ordinance shall be consistent with the penalties as set forth in the County's Lobbyist Registration Ordinance.

Section 11: Conflicts: Should any provision in this ordinance conflict with any provision in the County's Lobbyist Registration ordinance, the provision of this ordinance shall control.

Section 12: Severability: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 13: This Ordinance shall become effective immediately upon adoption.

Passed and Approved on this 22 day of August 2016.



City of Westlake
Roger Manning, Mayor



Attestation:
Ken Cassel, Interim City Manager

Approved as to Form:



Pam E. Booker, Esq.
Interim City Attorney