

ORDINANCE NO. 07-008

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2  
3 AN ORDINANCE OF THE CITY OF BOYNTON BEACH,  
4 FLORIDA, PERTAINING TO LOBBYIST REGULATIONS;  
5 PROVIDING FOR TITLE AND PURPOSE; PROVIDING  
6 FOR DEFINITIONS; PROVIDING FOR REGISTRATION;  
7 PROVIDING FOR RECORD OF LOBBYING CONTACTS;  
8 PROVIDING FOR CONE OF SILENCE; PROVIDING FOR  
9 ENFORCEMENT; PROVIDING FOR PENALTIES;  
10 PROVIDING FOR REPEAL OF LAWS IN CONFLICT,  
11 SEVERABILITY, CODIFICATION AND AN EFFECTIVE  
12 DATE.  
13

14 WHEREAS, the City Commission of the City of Boynton Beach, Florida hereby  
15 determines that its citizens must be accorded access to City Officials at all levels of  
16 government; and

17 WHEREAS, the City Commission further determines that in order to preserve and  
18 maintain the integrity of governmental process, it is necessary that the identity and activities  
19 of those who regularly engage in efforts to persuade public officials be regularly disclosed to  
20 the public; and

21 WHEREAS, the City Commission further determines that limiting communication  
22 among potential vendors, their representatives, and government officials during the City's  
23 procurement process will provide for the continued integrity of such process; and

24 WHEREAS, the City is authorized pursuant to the Florida Constitution, the Laws of  
25 Florida, and the Palm Beach County Home Rule Charter to impose such laws as are needed to  
26 carry on city government; and

27 WHEREAS, the City Commission of the City of Boynton Beach, Florida hereby  
28 determines that the Boynton Beach Lobbyist Registration Ordinance will serve the interests of its  
29 citizens by preserving and maintaining its policy of open government.

1                   **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**  
2 **OF THE CITY OF BOYNTON BEACH, FLORIDA:**

3           Section 1.     The foregoing "Whereas" clauses are hereby ratified and confirmed as  
4 being true and correct and are hereby made a specific part of this Ordinance upon adoption  
5 hereof.

6           Section 2.     Article XVI entitled "Registration of Lobbyist" of Chapter 2 entitled  
7 "Administration" of the Code of Ordinances is hereby created to read as follows:

8           **Sec. 2-230     Title and Purpose.**

9           A.     This Ordinance may be cited as the "City of Boynton Beach Lobbyist Registration  
10 Ordinance."

11           B.     The City Commission of the City of Boynton Beach hereby determines that the  
12 operation of responsible government requires that the fullest opportunity be afforded to the  
13 people to petition their City government for the redress of grievances and to express freely to  
14 he elected officials their opinions on legislation and other actions and issues; that to preserve  
15 and maintain the integrity of the governmental decision-making process, it is necessary that  
16 the identity and activities of certain Persons who engage in efforts to influence City  
17 Commissioners, Advisory Board members and employees on matters within their official  
18 duties, be publicly and regularly disclosed.

19           **Sec. 2-231     Definitions.**

20           A.     Unless expressly provided herein to the contrary, for purposes of this Ordinance, the  
21 following definitions will apply:

22           1.     "Advisory Board" will mean any advisory or quasi-judicial board created by  
23 the City Commission including Arts Commission, Code Enforcement Board, Building Board

1 of Adjustment & Appeals; Planning & Development Board, Education and Youth Advisory  
2 Board, Cemetery Board, Library Board, Recreation and Parks Board, Senior Advisory Board,  
3 Golf Course Advisory Board, Community Relations Board and Veteran's Advisory Board.

4 2. **"Board"** will mean the City Commission of the City of Boynton Beach,  
5 Florida.

6 3. **"City Commissioner"** will mean any member of the City Commission of the  
7 City of Boynton Beach, Florida.

8 4. **"Employee"** will mean the City Manager, City Attorney and Assistant City  
9 Manager.

10 5. **"Lobbying"** shall mean seeking to influence the decision of any City  
11 Commissioner, any Advisory Board member or any Employee with respect to the passage,  
12 defeat or modification of any item which may foreseeably be presented for consideration to  
13 the Advisory Board or City Commission as applicable.

14 6. **"Lobbyist"** shall mean any Person who is employed and receives payment, or  
15 who contracts for economic consideration, for the purpose of Lobbying on behalf of a  
16 Principal. "Lobbyist" shall not include any Employee, as defined by this Ordinance, when  
17 acting in the course of his or her employment, any elected official when the official is  
18 Lobbying on behalf of the government agency which the official serves, or any member of the  
19 official's staff when such staff member is Lobbying on an occasional basis on behalf of the  
20 governmental agency by which the staff member is employed.

21 7. **"Person"** shall mean individuals, firms, associations, joint ventures, partnerships,  
22 estates, trusts, business trusts, syndicates, fiduciaries, corporations (profit or not-for-profit),  
23 professional corporations, or associations and all other groups or combinations however

1 constituted.

2 8. **“Principal”** shall mean the Person or entity a Lobbyist represents for the  
3 purpose of Lobbying.

4 **Sec. 2-232 Registration.**

5 **A. Registration Required.** All Lobbyists shall register with City Administration before  
6 engaging in Lobbying. Every Lobbyist shall submit a form prepared by the City  
7 Administration and shall state his or her name, address, the name and address of each  
8 Principal represented, the general and specific areas of legislative interest, and the nature and  
9 extent of any direct business association or partnership with any current City Commissioner,  
10 Advisory Board member or Employee. A Lobbyist’s registration shall automatically expire on  
11 December 31<sup>st</sup> of the year of registration. If any time during the year, a Lobbyist commences  
12 representing a Principal for which the Lobbyist has not registered pursuant to this Ordinance,  
13 such Lobbyist shall register with respect to that Principal prior to Lobbying. Lobbying prior to  
14 registration is prohibited.

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

16 1. City Commissioners, Advisory Board members or Employees discussion  
17 matters relevant to their official duties;

18 2. Persons under contract with the City who communicate with City  
19 Commissioners, Advisory Board members or Employees regarding issues related only to the  
20 performance of their services under their contract;

21 3. Any Person who lobbies only in his or her individual capacity for the purpose  
22 of self-representation;

23 4. Any Person who is a party before the Commission or Advisory Board in a

1 quasi-judicial proceeding.

2 **C. False Statements.** A Lobbyist shall not knowingly make, or cause to be made, a false  
3 statement or misrepresentation in maintaining registration or when Lobbying City  
4 Commissioners, Advisory Board members or Employees.

5 **Sec. 2-233 Record of Lobbying Contacts.**

6 **A. Contact Log.** Within 24 hours of having lobbied a City Commissioner, Advisory  
7 Board member or Employee, except when disclosure of lobbying status is made when  
8 appearing before the Commission or any Advisory Board, all Persons shall advise the City  
9 Clerk's office either in writing, via e-mail or by way of telephone call, of Lobbyist activity.  
10 The City Clerk's office will maintain a contact log disclosing all Lobbyist activity. When  
11 disclosing Lobbying activity, the Person shall provide his or her name, the name of each  
12 Principal the Lobbyist is representing, and the subject matter of the Lobbyist activity.

13 **B. Lobbying Outside of City Offices.** In the event that a Lobbyist engages in Lobbying  
14 which is outside of City offices, and which is a scheduled appointment initiated by any Person  
15 for the purpose of Lobbying, the Lobbyist shall advise the City Clerk's office, either in  
16 writing, via e-mail or by way of a telephone call within twenty-four (24) hours after the  
17 scheduled appointment and the subject matter of the Lobbyist activity.

18 **Sec. 2-234 Cone of Silence.**

19 **A.** "Cone of Silence" means a prohibition on any communication, except for written  
20 correspondence, regarding a particular Request for Proposal, Request for Qualification, bid, or  
21 any other competitive solicitation between:

22 1. Any Person or Person's representative seeking an award from such competitive  
23 solicitation, and

1           2.     Any City Commissioner or Commissioner's staff, or any Employee authorized  
2 to act on behalf of the Commission to award a particular contract.

3     B.     For the purposes of this Section, a Person's representative shall include but not be  
4 limited to the Person's employee, partner, officer, director, consultant, Lobbyist, or any actual  
5 or potential subcontractor or consultant of the Person.

6     C.     The Cone of Silence shall be in effect as of the deadline to submit the proposal bid, or  
7 other response to a competitive solicitation. Each Request for Proposal, Request for  
8 Qualification, bid, or any other competitive solicitation shall provide notice of Cone of  
9 Silence requirements and refer to this Ordinance.

10    D.     The provisions of this Ordinance shall not apply to oral communications at any public  
11 proceeding including pre-bid conferences, oral presentations before selection committees,  
12 contract negotiations during any public meeting, presentations made to the Board, and protest  
13 hearings. Further, the Cone of Silence shall not apply to contract negotiations between any  
14 Employee and the intended awardee, any dispute resolution process following the filing of a  
15 protest between the Person filing the protest and any Employee, or any written correspondence  
16 at any time with any Employee, City Commissioner, or Advisory Board member or selection  
17 committee member, unless specifically prohibited by the applicable competitive solicitation  
18 process.

19    E.     The Cone of Silence shall not apply to any purchases made in an amount less than the  
20 competitive bid threshold set forth in the set forth in the City of Boynton Beach Purchasing  
21 Policies.

22    F.     The Cone of Silence shall terminate at the time the Board or a City Department  
23 authorized to act on behalf of the Board, awards or approves a contract, rejects all bids or

1 responses, or otherwise takes action which ends the solicitation process.

2 **Sec. 2-235 Enforcement.**

3 A. If the City Manager is informed of an Person engaged in Lobbying activities who has  
4 failed to comply with the requirements of this Ordinance, he or she shall conduct an  
5 investigation as deemed necessary under the circumstances. In the event the City Manager  
6 determines that a violation has occurred based on the results of the investigation, the  
7 following enforcement procedures shall apply.

8 B. A notice of violation shall be transmitted to the Person indicating the nature of the  
9 violation and the penalty imposed. The Lobbyist shall have up to thirty days after the date of  
10 the notice to seek appeal of the penalty. In the event the Lobbyist fails to submit an appeal in  
11 writing to the City Manager within thirty days of the date of such notice, the violation shall be  
12 deemed final, and the penalty imposed shall be effective immediately.

13 C. Appeals of any decisions of the City Manager shall be referred to a special master for  
14 hearing.

15 1. Creation and Appointment. Appeal hearings pursuant to this Ordinance shall  
16 be conducted by designated special masters. Applications for special master positions shall be  
17 directed to the City Manager pursuant to a notice published in a newspaper of general  
18 circulation. The City Manager shall select a pool of candidates from applications filed on the  
19 basis of experience and qualifications. The City Manager shall appoint each special master to  
20 conduct each hearing from the pool of candidates selected, as necessary. A special master  
21 shall be a graduate of a law school accredited by the American Bar Association, and a current  
22 member in good standing of The Florida Bar. The City Manager shall give preference to  
23 those attorneys who have prior experience in a judiciary capacity or as a hearing officer,

1 mediator, or special master. Special masters shall serve without compensation for their  
2 services, and shall not be considered Employees. Travel reimbursement is limited to expenses  
3 incurred only for travel outside Palm Beach County necessary to fulfill their responsibilities as  
4 a special master.

5 2. Conduct of Hearing. Hearings before the special master shall be conducted as  
6 follows:

7 a. Persons seeking appeal will receive written notice by certified  
8 mail of the hearing no less than fifteen working days in advance of the  
9 hearing. The special master shall render a decision on the appeal within  
10 fifteen working days after the case was heard.

11 b. The special master shall provide Persons seeking appeal and any  
12 City representatives an opportunity to present testimony and evidence.  
13 All testimony shall be under oath and shall be recorded. Formal rules of  
14 evidence shall not apply, but fundamental due process shall be observed  
15 and shall govern the proceedings. The special master, in his or her  
16 discretion, may exclude irrelevant, immaterial, or unduly repetitious  
17 evidence, but all other evidence of a type commonly relied upon by  
18 reasonably prudent Persons in the conduct of their affairs shall be  
19 admissible, whether or not such evidence would be admissible in a trial in  
20 the courts of Florida. Any part of the evidence may be received in  
21 written form.

22 c. The decision of the special master is final and appealable by  
23 writ of certiorari pursuant to the Florida Rules of Appellate Procedure.

1 D. The validity of any action taken by the Board, The Advisory Boards, or any  
2 Employees, shall not be affected by the failure of any Person to comply with the provisions of  
3 this Ordinance.

4 **Sec. 2-236 Penalties.**

5 A. Violations of the City of Boynton Beach Lobbyist Registration Ordinance shall be  
6 punishable as follows:

7 1. Failure to properly register as required by Section 3 of the Ordinance shall be  
8 deemed a single violation, punishable by a fine of two hundred fifty dollars (\$250.00) per day  
9 for each day an unregistered Lobbyist engages in Lobbying activity, in an amount not to  
10 exceed a total of two thousand five hundred dollars (\$2,500.00).

11 2. Failure to properly provide Lobbying contact information as required by  
12 Section 4 of this Ordinance shall be punishable by a fine of two hundred fifty dollars  
13 (\$250.00) for each violation.

14 3. Violations of the Cone of Silence set forth in Section 5 of this Ordinance shall  
15 be punishable by a fine of two hundred fifty dollars (\$250.00) for each violation.

16 4. Any Person who knowingly makes or causes to be made a false statement or  
17 misrepresentation in maintaining a Lobbyist registration shall be subject to a fine of two  
18 hundred fifty dollars (\$250.00) for each violation.

19 5. Any Person who violates the provisions of the Ordinance more than once  
20 during a twelve-month period shall be prohibited from Lobbying as follows: A second  
21 violation shall result in a prohibition of one year, a third violation shall result in a prohibition  
22 of two years.

23 6. The penalties provided in this section shall be exclusive penalties imposed for

1 any violation of the registration, contact lob and Cone of Silence requirements of this  
2 Ordinance. Failure or refusal of any Lobbyist to comply with any order of the City or special  
3 master shall be punishable as provided by law, and shall otherwise by subject to such civil  
4 remedies as the City may pursue, including injunctive relief.

5 Section 5. Each and every other provision of the Code of Ordinances not herein  
6 specifically amended, shall remain in full force and effect as originally adopted.

7 Section 6. All laws and ordinances applying to the City of Boynton Beach in  
8 conflict with any provisions of this ordinance are hereby repealed.

9 Section 7. Should any section or provision of this Ordinance or any portion  
10 thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not  
11 affect the remainder of this Ordinance.

12 Section 8. Authority is hereby given to codify this Ordinance.

13 Section 9. This Ordinance shall become effective immediately.

14

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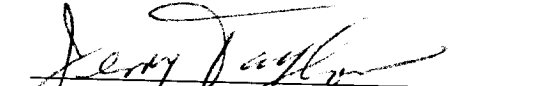
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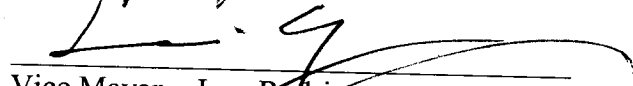
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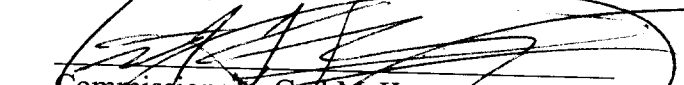
CITY OF BOYNTON BEACH, FLORIDA

  
\_\_\_\_\_  
Mayor - Jerry Taylor

  
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Vice Mayor - Jose Rodriguez

  
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Commissioner - Ronald Weiland

  
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Commissioner - Mack McCray

  
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Commissioner - Carl McKoy

ATTEST:

  
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Janet Prainito, City Clerk

(Corporate Seal)

