

ORDINANCE NO. 2018-24

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, PROVIDING FOR A POLICY ON LOBBYING; CREATING A NEW CHAPTER IN THE PALM BAY CODE OF ORDINANCES "LOBBYING"; PROVIDING FOR THE REGISTRATION OF LOBBYISTS; CREATING A REGISTRATION PROCESS FOR LOBBYIST; PROVIDING DEFINITION; PROVIDING FOR PROGRAM PARAMETERS AND PROCEDURES; PROVIDING SPECIFIC AND NARROW EXCEPTIONS; PROVIDING FOR THE ASSESSMENT OF A FEE FOR LOBBYIST REGISTRATION; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Palm Bay desires to create an atmosphere of transparency in order to preserve and maintain the integrity of the governmental decision-making process and hereby establishes a process to register lobbyist doing business with the City of Palm Bay, and

WHEREAS, the City Council of the City of Palm Bay hereby determines and declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their municipal government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; and that to preserve and maintain the integrity of the governmental decision-making process, and

WHEREAS, it is necessary that the identity, expenditures, fees, and activities of certain persons who engage in efforts to influence City Council members, decision-making bodies under the jurisdiction of the City Council, and certain City employees on matters within their official jurisdictions, either by direct communication to such Council members, decision-making bodies, or City employees; or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay hereby adopts the foregoing whereas clauses as true and correct and incorporates such as the legislative intent of the City Council.

SECTION 2. Registration of lobbyist. The City of Palm Bay hereby establishes the following lobbying registration program as the official policy of the City:

(A) For purposes of the registration provisions of this Part, *Lobbying or Lobbying Activities* means a communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication attempts to influence, convince, or persuade the governmental decision making of an officer or employee of the City, or of an independent agency, or the attempt to encourage the passage, defeat, or modification of any legislation, proposal or recommendation of the City or of an independent agency, or of an officer or employee of the City or of an independent agency. Lobbying shall not include the following:

- (1) Legal or settlement discussions directed toward an attorney for the City or of an independent agency; or
- (2) Participation in a quasi-judicial proceeding involving the City or an independent agency.

(B) Each person who lobbies, for compensation as a lobbyist, any officer or employee of the City, or of an independent agency, shall file with the City Clerk the following information, prior to commencement of lobbying activities on any issue:

- (1) The lobbyist's full name, business address and name and nature of business, occupation or profession.

(2) The name, business address and name and nature of the business, occupation or profession of each of the lobbyist's principals.

(3) The general and specific subject matters that the lobbyist seeks to influence.

(4) The extent of any direct business association by the lobbyist with any current elected or appointed official or employee of the City of Palm Bay. For the purposes of this article, the term "direct business association" shall mean any mutual endeavor undertaken for profit or compensation.

(5) A lobbyist representing a person shall, prior to engaging in lobbying, receive appropriate written authorization from said person to lobby on that person's behalf upon a particular subject matter. A copy of the applicable documentation, including but not limited to letters, agreements, minutes, motions or other evidence of action authorizing the lobbyist to lobby on behalf of the person shall be provided with the information required by this article.

(C) Registration may be for an annual period or for a lesser, stated period, but no person may lobby unless he or she is first registered. A person may register as a lobbyist on his or her own volition or he or she may be required by any City Official or employee to register before he or she addresses such officer or employee if he or she is not already registered with the City Clerk. The City Clerk shall maintain a database in which the registration statements and oaths submitted by lobbyists shall be entered, together with corrections and amendments as herein authorized and required. If a person shall cease to be a lobbyist, his or her registration statement and oath shall be removed from the database of active lobbyists and shall be placed in a database of inactive or former lobbyists.

(D) The following persons shall not be required to register as lobbyists:

(1) A public official, City or independent agency employee or salaried employee of a public agency acting in his or her official capacity or in connection with

his or her job responsibilities or as authorized or permitted to lobby pursuant to a collective bargaining agreement;

(2) A person who only addresses the Council, Board, or independent agency board during the "public comment" portion of its meeting agenda;

(3) A person who appears at the specific request or under compulsion of the Council or a Council committee; or of the board or committee of the board of an independent agency;

(4) Expert witnesses and other persons who give factual testimony about a particular matter or measure, but do not advocate passage or defeat of the matter or measure or any amendment thereto;

(5) A person, not exempt under paragraphs (1) through (4) and otherwise meeting the definition of a lobbyist who received no compensation as a lobbyist;

(6) A Principal or an officer or employee of a principal who performs lobbying activities as part of his or her assigned duties.

SECTION 3. Registration Fee. All lobbyists shall, at the time of registration pay a registration fee, in an amount of Fifty (\$50.00) Dollars, payable to the Palm Bay City Clerk. No lobbyist shall be required in any calendar year to pay more than the amount specified, regardless of the number of principals represented and/or amendments filed.

SECTION 4. Financial Interest disclosure. A lobbyist who attempts to persuade or influence a Council Member, a Council committee, or the Council as a whole; or an independent agency board member, committee, or the independent agency as a whole; on any project, contract, development, ordinance, resolution, or agenda item, shall, prior to commencing lobbying efforts, file with the City Clerk a disclosure revealing whether the lobbyist has a financial interest in the contract,

development or project that extends beyond its approval, and the percent of that interest.

SECTION 5. Penalties.

(A) The City Attorney or designee, shall be informed of any person engaged in lobbying activities who has failed to comply with the provisions of this ordinance, and, in gross instances of violations, shall conduct such investigations as he or she shall deem necessary under the circumstances.

(B) A first violation of this section shall result in the Council issuing a warning, reprimand, suspension, or prohibit the violator from appearing on behalf of any person before the Council, Board or any decision-making body under the jurisdiction of the Council or from otherwise lobbying for any person in any fashion for a period of time; provided, however, that any suspension or prohibition may not exceed a period of two (2) years, and no sanction shall be imposed unless the lobbyist allegedly in violation has been afforded reasonable notice and an opportunity to be heard. The penalties provided in this section shall be the exclusive penalties imposed for violations of this ordinance, except as may be adopted from time to time or provided elsewhere in the City Code of Ordinance. The intentional failure or refusal of any lobbyist to comply with any order of the Council suspending or prohibiting the lobbyist from lobbying shall be punishable as provided by law and shall otherwise be subject to such civil remedies as the City may pursue, including injunctive relief.

(C) A second violation shall be punishable by a fine imposed on the lobbyist in the amount of \$250.00, in addition to the penalties set forth in subsection (B). There will be a \$250.00 fine for each violation thereafter.

(D) Each incident of a lobbyist engaging in lobbyist activities with City official or protected employee without first being registered shall constitute a separate violation.

(E) The validity of any action taken by the Council, City employees, or any decision-making body under the jurisdiction of the Council, shall not be affected by the failure of any person to comply with the provisions of this ordinance.

(F) In addition to all other penalties in this section, an employer who has retained a lobbyist(s) to lobby in connection with a competitive solicitation shall be deemed non-responsive unless the employer, in responding to the competitive solicitation, certifies that each lobbyist retained has timely filed the registration or amended registration required under this ordinance. If, after awarding a contract in connection with the solicitation, the City learns that the certification was erroneous, and upon investigation determines that the error was willful or intentional on the part of the employer, the City may, on that basis, exercise any contractual right to terminate the contract for convenience.

SECTION 6. Lobbying by former city council members, board members and employees; prohibition. A person who has been elected to the City Council or who is employed by the City in Management Groups I or II, as identified in the City's Personnel Policies and Administrative Code adopted by the City Council as amended from time to time shall not conduct lobbying activities for a period one (1) year after the termination of employment with the City, or within one (1) year from the last day of service to the City in any official capacity. The provisions of this subsection shall only apply to persons who become officers or employees of the City after the effective date of this section.

SECTION 7. It is the intention of the City Council of the City of Palm Bay that the provisions of this ordinance shall be made a part of the City of Palm Bay Code of Ordinances, Chapter 63, "Lobbying", and the sections shall be renumbered to accomplish such intention.

SECTION 8. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 9. Effective date. This Ordinance shall become effective on January 1, 2019.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____