



MIAMI BEACH

OFFICE OF THE CITY ATTORNEY
JOSE SMITH, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: Honorable Mayor Matti Herrera Bower
Members of the City Commission
Jorge Gonzalez, City Manager

SECOND READING

FROM: Jose Smith, City Attorney

DATE: September 9, 2009

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, LIMITED EXEMPTION AND DISCLOSURE/ABSTENTION REQUIREMENTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Deede Weithorn, and as recommended by the Neighborhood/Community Affairs Committee, the attached ordinance (approved by the City Commission on first reading at its July 22, 2009 meeting) has been drafted for the purpose of amending the City's campaign finance laws so as to include therein a city law prohibiting campaign consultants from lobbying the City Commission. Amendments made on first reading have been incorporated herein and are reflected accordingly.

The attached ordinance is thus ready for City Commission review.

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Agenda Item RS6
Date 9-9-09

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5 ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, LIMITED EXEMPTION AND DISCLOSURE/ABSTENTION REQUIREMENTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 5 entitled "Campaign Finance Reform," is hereby amended by adding the following City Code section 2-491 entitled "Prohibited Lobbying by Campaign Consultants" to read as follows:

Sec. 2-491. Prohibited Lobbying by Campaign Consultants.

A. Legislative Intent.

Corruption and the appearance of corruption in the form of campaign consultants exploiting their influence with City elected officials on behalf of private interests may erode public confidence in the fairness and impartiality of City governmental decisions. The City of Miami Beach has a paramount interest in preventing corruption or the appearance of corruption which could result in such erosion of public confidence. Prohibitions on campaign consultants lobbying former clients will protect public confidence in the electoral and governmental processes. It is the purpose and intent of the people of the City of Miami Beach in enacting this Ordinance to prohibit campaign consultants from exploiting or appearing to exploit their influence with City elected officials on behalf of private interests.

B. Prohibition.

No campaign consultant, ~~individual who has an ownership interest of 10% or greater in the campaign consultant, or employee of the campaign consultant,~~ shall lobby the City Commission for a period of 12 months following the swearing in of the elected official(s) for whom the campaign consultant provided within the past election cycle campaign consulting services.

C. Definitions.

(a) "Campaign consultant" means any person or entity that receives or is promised economic consideration for campaign consulting services to a candidate for elected office in the City of Miami Beach. "Campaign consultant" shall further include any individual who has an

ownership interest of 10% or greater in the campaign consultant, or employee of the campaign consultant. **The term "campaign consultant" does not include any vendor for a campaign.**¹

(b) "Campaign consulting services" means **primary responsibility for** participating in campaign management or ~~developing or participating in the development of~~ campaign strategy.

(c) "Campaign management" means conducting, coordinating or supervising a campaign to elect a candidate.

(d) "Campaign strategy" means **formulation of** plans for the election of a candidate.

(e) "Candidate" means a person who has taken affirmative action to seek appointment or election to City of Miami Beach elected office.

(f) "Economic consideration" means any payments, fees, commissions, gifts, or anything else of value **received directly or indirectly as consideration for campaign consulting services. The term "economic consideration" does not include reimbursements for out of pocket expenses.**

(g) "Past election cycle" means the immediately preceding City of Miami Beach General Election/**Special Election held for the purpose of electing a member of the City Commission.**

(h) "Vendor" means a person or entity who, in the ordinary course of business, sells goods, equipment or services, other than campaign consulting services.

D. Limited Exemption.

A campaign consultant who has, within the past election cycle, provided campaign consulting services to an incumbent member of the City Commission, and has entered into a lobbying contract prior to the effective date of the ordinance creating this code section is exempt from the proscription herein with limited regard to that subject lobbying contract.

E. Public Disclosure and Abstention Requirements.

1. Any campaign consultant who is exempt from the provisions of this code section pursuant to subsection D above who is lobbying before the City Commission shall, prior to discussion on an agenda item, publicly announce into the record at the subject public meeting the information disclosed (pursuant to city code section 2-482(a))² in that lobbyist's registration form. A commissioner who has or had been a party to any contractual relationship disclosed³ in said campaign consultant/lobbyist's registration form shall have a voting conflict of interest concerning any matter in which the subject campaign consultant is lobbying the City

¹ Bold italic type reflects amendments made on first reading held July 22, 2009 and suggested amendments discussed at Neighborhood/Community Affairs Committee meeting held July 29, 2009.

² Miami Beach City Code, Sec. 2-482. Registration.

(a) 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 clerk, pay a registration fee of \$25.00, as specified in appendix A and state under oath:

(1) His name;

(2) His business address;

(3) The name and business address of each person or entity which has employed the registrant to lobby;

(4) The commissioner or personnel sought to be lobbied, and whether the lobbyist has entered into any contractual relationship (paid or unpaid) with said city commissioner or personnel from 12 months preceding such person's commencement of service with the city to the present date, stating the general nature of the subject contractual relationship.

(5) The specific issue on which he has been employed to lobby; and

(6) The terms and amount of compensation to be paid by each principal to the lobbyist with regard to the specific issue on which the lobbyist has been engaged to lobby.

³ See, Miami Beach City Code, Section 2-482(a)(4), above.

Commission, and shall comply with all abstention and disclosure requirements required by State, County and City law.

2. Upon expiration of the 12 month period set forth in subsection B above, the elected official(s) for whom the campaign consultant provided within the past election cycle campaign consulting services shall have a voting conflict of interest through the remainder of his/her term of office concerning any matter on which the subject campaign consultant is lobbying the City Commission, and shall comply with all abstention and disclosure requirements required by State, County and City law.

3. Any person or entity who has provided campaign consulting services on a voluntary non-compensated basis within the past election cycle and who is lobbying before the City Commission shall, prior to discussion on an agenda item, publicly announce in to the record at the subject public meeting the prior provision of such voluntary campaign consulting services. The subject elected official(s) for whom the voluntary non-compensated campaign consulting services were provided shall have a voting conflict of interest through the remainder of his/her term of office concerning any matter on which the subject provider of voluntary non-compensated campaign consulting services is lobbying the City Commission, and shall comply with all abstention and disclosure requirements required by State, County and City law.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2009.

PASSED and ADOPTED this _____ day of _____, 2009.

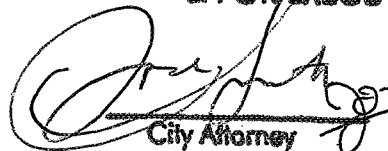
ATTEST:

Matti Herrera Bower
Mayor

Robert Parcher
City Clerk

Requested by Commissioner Deede Weithorn
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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney 5/19/09
Date



MIAMI BEACH

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, September 9, 2009**, to consider the following:

10:20 a.m.

An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" By Providing That The City Commission May Designate Dog Parks In Public Park Areas; Amending Section 10-11, Entitled "Running At Large Prohibited" By Providing That The City Commission May Designate Specific Off-Leash Areas For Dogs In Public Parks.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

11:15 a.m.

An Ordinance Amending Chapter 30, Entitled "Code Enforcement," By Amending Article III Thereof, Entitled "Enforcement Procedure," By Amending Section 30-74, Entitled "Fine," By Amending The Provisions Relating To The Mitigation Of Fines; By Amending Section 30-76, Entitled "Rehearings; Mitigation," By Increasing The Time Period For The Jurisdiction Of The Special Master For The Mitigation Of Fines To Three Years And Providing Criteria Relative To Fine Mitigation.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Section 2-458 Thereof Entitled "Supplemental Abstention And Disclosure Requirements" By Requiring Public Officers To Disclose Compensation Received By Public Officer And/Or Public Officer's Employer Or Firm Related To Subject Conflicting Relationship, Said Disclosures To Be Made From Three Years Preceding Original Date Of Election/Appointment Of Public Officer.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending In Part Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled "Campaign Finance Reform," Sections 2-487 Through And Including 2-490, By Prohibiting "Vendors" And "Real Estate Developers" From Soliciting Campaign Contributions For Candidates For The Office Of Mayor Or Commissioner, Expanding Upon The Definitions Of "Vendor" And "Real Estate Developer" And Conforming As Housekeeping Matter Certain Language To Existing Text.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5 Entitled "Campaign Finance Reform," By Adding Thereto Section 2-491 Entitled "Prohibited Lobbying By Campaign Consultants," Prohibiting Campaign Consultants And Certain Affiliated Persons Or Entities From Lobbying City Commission For 12 Months Subsequent To Swearing In Of Subject Elected Official(s), Establishing Definitions, Limited Exemption And Disclosure/Abstention Requirements.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article IV, Division 1, Section 2-194 Thereof Entitled "Removal From Office", By Limiting Grounds For Suspension/Removal To Those "Specified Offenses" Set Forth Within Florida Statute Section 112.3173 (As Amended), And Establishing Procedure Prior To Suspension/Removal.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2, Section 2-458 Thereof Entitled "Supplemental Abstention And Disclosure Requirements", Establishing Additional Disclosure Requirements For Public Officials Of Any Family Or Business Relationship With Party Who Is Directly Benefitted By Agency Vote.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2, Section 2-450 Thereof Entitled "Disclosure Of Interest In/Relationship With Business Entity," By Requiring Elected Official's Disclosure Of Certain Business Relationships Established Within 24 Months After Contracting Party's Appearance Before City Commission.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Thereof By Creating Section 2-462 Entitled "Prohibiting Elected Officials From Having Certain Post-Service Contracts With City", Prohibiting Former City Elected Officials From City Employment Or Contracts On Matters In Which City Commission Approval Is Required.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Thereof By Creating Section 2-463 Entitled "Prohibition Of Certain Post-Service/Employment Relationships", Prohibiting Certain Post-Service/Employment Activity Of City Elected Officials And City Employees For A Period Of Two Years After Leaving City Service/Employment.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

3:00 p.m.

An Ordinance Amending In Part Miami Beach City Code Chapter 2, Article VII, Division 5 Thereof Entitled "Campaign Finance Reform," Sections 2-487 "Prohibited Campaign Contributions By Vendors," 2-488 "Prohibited Campaign Contributions By Lobbyists On Procurement Issues," 2-489 "Prohibited Campaign Contributions By Real Estate Developers," And 2-490 "Prohibited Campaign Contributions By Lobbyists On Real Estate Development Issues," By Prohibiting Campaign Contributions From Vendors, Real Estate Developers And Their Respective Lobbyists To Candidate/Incumbent Members Of The City Commission Seeking Any Non-Federal Elected Office.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

5:10 p.m.

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II "District Regulations," Division 18 "PS Performance Standard District," Amending Section 142-693 "Permitted Uses," By Restricting Or Prohibiting Commercial Rooftop Venues South Of 5th Street.

Inquiries may be directed to the Planning Department at (305) 673-7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must 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. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

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