

Orange County Florida Code of Ordinances CHAPTER 2 - ADMINISTRATION, ARTICLE X - LOBBYING ACTIVITIES

ARTICLE X. - LOBBYING ACTIVITIES

Sec. 2-351. - Definitions.

(a)

Black-out period means the period between (1) the time the invitation for bid or the request for proposal or for information, as applicable, is issued or promulgated and (2) the time the board selects the successful bidder or proposer.

(b)

Board means the Orange County Board of County Commissioners.

(c)

Compensation means fees, retainer, contract payments, salary, wages, any other payment of money, or any other consideration of any kind, either monetary or nonmonetary. Compensation does not include direct reimbursement of actual out-of-pocket expenses.

(d)

County means Orange County, Florida.

(e)

County mayor means the Orange County Mayor.

(f)

Development permit means the same as this term is defined in F.S. § 163.3164.

(g)

Expenditure means the same as this term is defined in F.S. § 112.3215.

(h)

Lobbyist means any person, partnership, corporation or other business entity that receives compensation to lobby on behalf of a principal, or an employee of a principal only when governmental relations, acting as a governmental liaison, or communicating with governmental agencies is a primary or substantial part of the employee's ongoing job responsibilities. Lobbyist does not mean a county official, county employee or any other person affiliated with the county while acting in his or her official capacity.

(i)

Lobbying means:

(1)

To communicate or the act of communicating directly with the county mayor, with any other member of the board, or with any member of a procurement committee; or

(2)

To communicate indirectly with the county mayor or any other member of the board by communicating with any staff member to a county commissioner, any county employee assigned to the county mayor's staff, the county administrator, any deputy or assistant county administrator, the county attorney, any county department director, or any county division manager.

In either case, lobbying seeks to encourage the approval, disapproval, adoption, repeal, rescission, passage, defeat or modification of any ordinance, resolution, agreement, development permit, other type of permit, franchise, vendor, consultant, contractor, recommendation, decision or other foreseeable action of the board. Lobbying shall include all such communications, regardless of whether initiated by the lobbyist or by the person being lobbied and regardless of whether oral, written or electronic.

(j)

Ministerial item means an item presented to the board requiring a mandatory act or duty admitting of no personal discretion or judgment in its performance.

(k)

Principal means the person, partnership, joint venture, trust, association, corporation, governmental entity or other entity which has contracted for, employed, retained or otherwise engaged the services of a lobbyist. For purposes of filing the specific project expenditure report, described at subsection 2-354(b) of this Code, this term shall also include those persons, partnerships, joint ventures, trusts, associations, corporations, limited liability corporations, or other entities where they or their employees do not qualify as a lobbyist under the definition set forth in this chapter but do perform lobbying activities on behalf of a business in which they have a personal interest but shall not include any governmental entity.

(l)

Procurement committee means the committee established pursuant to section 9.01.13 of the county's administrative regulations (or any successor regulation or ordinance) for purposes of evaluating the competitive proposals submitted pursuant to a request for proposal, a request for information, or any other similar solicitation for a particular procurement matter.

(m)

Procurement matter means any specific procurement decision governed, in whole or in part, by article III of chapter 17.

(Ord. No. 94-22, § 1, 11-29-94; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-14, § 2, 7-8-08; Ord. No. 2008-20, § 1, 12-16-08)

Sec. 2-352. - Registration and re-registration of lobbyists.

(a)

All lobbyists shall register and reregister with the county at the times specified in this article and on the forms prescribed from time to time by the county mayor.

(b)

All lobbyists shall, at the time of initial registration and each annual registration, pay a registration fee of ten dollars (\$10.00). No lobbyist shall be required in any year to pay more than ten dollars (\$10.00) to register, regardless of the number of principals represented.

(c)

The forms prescribed from time to time by the county mayor for the registration and re-registration of lobbyists shall require, at a minimum, the following information:

(1)

The lobbyist's name and business address;

(2)

The name and business address of each principal represented;

(3)

The specific areas of the principal's governmental interest;

(4)

Where the principal is a corporation, limited liability corporation, or association the name of the chief executive officer of the corporation or association;

(5)

Where the principal is a general partnership or joint venture, the names of all partners;

(6)

Where the principal is a limited partnership, the name of the general partner or partners;

(7)

Where the principal is a trust, the names of all trustees and beneficiaries;

(8)

Where the principal is a partnership, joint venture, corporation, association, trust or nongovernmental entity other than a natural person, the names of all natural persons holding, directly or indirectly, a five (5) percent or more ownership interest in the entity; and

(9)

Disclosure of any business, professional or familial relationship that the lobbyist or any employee of the lobbyist may have with the county mayor or any other member of the board, any staff member to a county commissioner, any county employee assigned to the county mayor's staff, the county administrator, any deputy or assistant county administrator, the county attorney, any county division director, or any county department manager.

(d)

All lobbyists shall register and reregister prior to January 1 of each year, and registration forms shall be filed with the county department or office designated by the county mayor. If and when a lobbyist commences representation subsequent to January 1 of any year of any principal for which the lobbyist has not registered pursuant to this article, such lobbyist shall register with respect to that principal prior to lobbying. Lobbying prior to registration is prohibited. Each lobbyist who ceases lobbying for a particular principal shall file a written notice at the time of withdrawal.

(e)

Principals, or their respective employees, who do not qualify as a lobbyist under the definition set forth in this chapter, shall be exempt from the annual registration requirement.

(Ord. No. 94-22, § 2, 11-29-94; Ord. No. 98-03, § 1, 1-27-98; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-14, § 2, 7-8-08)

Sec. 2-353. - Record of lobbying contacts.

All visitors and lobbyists, with the exception of county staff, shall sign the visitor logs, maintained and available in the office reception areas of the county mayor and the board, prior to meeting with the county mayor, a county commissioner, county administrator, or any of their respective staff. The visitor or lobbyist shall state his or her name; the name of each principal, if applicable, represented in the course of the particular contact; and the topic of the contact. The visitor logs shall be transmitted to the county attorney's office, on a periodic basis, and available for storage and public inspection in the county department or office designated by the county mayor. In the event that a lobbyist or principal engages in lobbying which is initiated outside of county offices, the lobbyist or principal shall provide the information required above to the county department or office designated by the county mayor within seven (7) calendar days of such lobbying contact.

(Ord. No. 98-03, § 2, 1-27-98; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-14, § 2, 7-8-08)

Sec. 2-354. - Expenditure reports.

(a)

Registered lobbyist annual expenditure reports. On or before April 1 of each year, all registered lobbyists shall submit, to the appropriate county department, a lobbyist annual expenditure report for each principal represented during the previous year, signed under oath, listing all expenditures incurred by the lobbyist for that specific principal during the preceding calendar year for the purpose of lobbying. Such report shall be prepared and shall disclose such information as is prescribed in F.S. § 112.3215 for executive branch lobbyists, except that the lobbyist annual expenditure report shall be submitted only annually and shall pertain only to expenditures incurred by the lobbyist, not the principal.

(b)

Specific project expenditure reports.

(1) a.

Initial report. Effective as to project applications and items submitted to or filed with the county after January 1, 2009, the principal or the principal's authorized agent (when accompanied by an agent authorization form on file with the county) shall submit to the appropriate county department one specific project expenditure report for all lobbying expenditures incurred by the principal and his or her authorized agent and his or her lobbyist, contractors, and consultants, if applicable, for any project or issue to be presented to the board unless the project or item is exempt. One cumulative specific project expenditure report for all lobbying expenditures incurred for a specific project or issue to be presented to the board, shall be prepared and signed by the principal or the principal's authorized agent, shall disclose such information as is prescribed in F.S. § 112.3215, and shall be submitted with all other required documentation associated with the specific project or issue.

b.

Professional fees. Nothing included in section 2-354 of this Code is intended to require the disclosure of professional fees paid by the principal to its lobbyist for the purpose of lobbying.

c.

Exemptions. The following items shall be exempt from the requirement for a specific project expenditure report:

1.

Ministerial items;

2.

Resolutions;

3.

Agreements in settlement of litigation matters in which the county is a party; and

4.

Ordinances initiated by county staff.

d.

Purchasing and procurement. Effective January 1, 2009, one (1) specific project expenditure report shall be submitted to or filed with the county by a bidder, offerer, quoter or respondent or his/her agent (when accompanied by an agent authorization form on file with the county) for all lobbying expenditures incurred by the bidder, offerer, quoter or respondent and his/her agent and his or her lobbyist, contractors, and consultants, if applicable, only for the following procurement matters:

1.

Competitive sealed proposal, as described at section 17-311, Orange County Code; or

2.

When filing a response to a request for a procurement of professional services, as governed by F.S. § 287.055 and described at subsection 17-312(f), Orange County Code, including but not limited to professional architectural, engineering, landscape architectural or land surveying services.

Where required, one (1) cumulative specific project expenditure report for all lobbying expenditures incurred for the specific procurement item to be presented to the board, shall:

(i)

Be prepared and signed by the bidder, offerer, quoter or respondent or his/her agent;

(ii)

Disclose such information as is prescribed in F.S. § 112.3215; and

(iii)

Be submitted to the county by the bidder, offerer, quoter or respondent or his/her agent.

e.

Amendments to report. The specific project expenditure report may be subsequently amended if necessary, shall remain cumulative, and shall be filed by the principal or the principal's authorized agent no less than seven (7) business days prior to the scheduled board meeting date with the department where the original application is filed. Any subsequent amendment shall be a continuing requirement of the principal or the principal's authorized agent.

f.

Update following filing of amendments. For those items scheduled for a public hearing, if additional expenditures are incurred subsequent to the filing of the initial specific project expenditure report or subsequent to the filing of any amendment which was filed no less than seven (7) business days prior to the BCC meeting, the principal or the principal's authorized agent, during the scheduled board meeting on the project or issue, shall verbally inform the board that additional expenditures were incurred subsequent to the filing of the initial report and amendment thereto. For those items scheduled on the consent agenda, if additional expenditures are incurred subsequent to the filing of the initial specific project expenditure report or subsequent to the filing of any amendment which was filed no less than seven (7) business days prior to the BCC meeting, the item shall be removed from the consent agenda for the upcoming BCC meeting.

(2)

The specific project expenditure report format shall be adopted separately by administrative regulation.

(Ord. No. 94-22, § 3, 11-29-94; Ord. No. 98-03, § 2, 1-27-98; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-14, § 2, 7-8-08; Ord. No. 2008-20, § 2, 12-16-08)

Sec. 2-355. - Prohibition of lobbying in procurement matters.

Except as expressly set forth in subsections 17-313(g) and 17-313.1(f), during the black-out period, no lobbyist, principal, or other person may lobby, on behalf of a competing party in a particular procurement matter, either (i) the mayor or his or her respective staff; (ii) any member of the board or their respective staff; or (iii) any county employee assigned to the procurement committee (if any).

(Ord. No. 98-03, § 2, 1-27-98; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-14, § 2, 7-8-08)

Sec. 2-355.1. - Prohibition on campaign contributions in procurement matters.

During the black-out period, no lobbyist, principal, or other person may provide a contribution, as defined in F.S. § 106.011, on behalf of a competing party acting in a particular procurement matter, to either (i) the mayor or any member of the county commission or (ii) any candidate for mayor or county commission.

(Ord. No. 2008-13, § 2, 7-8-08)

Sec. 2-356. - Investigation of violations; penalties; validity of actions.

(a)

The county attorney or county administrator, or their designee, shall be informed of any person engaged in lobbying activities who has failed to comply with the registration and expenditure reporting requirements of this article and, in each such instance, shall conduct such investigation as he or she shall deem necessary under the circumstances. The results of each investigation shall be reported to the board.

(b)

The board may warn, reprimand or censure the violator or may suspend or prohibit the violator from appearing on behalf of any principal before the board or any county advisory body or from otherwise lobbying for any principal 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 subsection shall be the exclusive penalties imposed for violations of the registration and reporting requirements of this article. The failure or refusal of any lobbyist to comply with any order of the board 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 county may pursue, including injunctive relief.

(c) (1)

The board of county commissioners may void a contract entered into in connection with a procurement matter where the county mayor or his or her respective staff, one or more county commissioners or their respective staff, or a member of the pertinent procurement committee has been lobbied in violation of the black-out-period restrictions of section 2-355.

(2)

The board of county commissioners may reject a bid or proposal or may void a contract entered into in connection with a procurement matter where the county mayor, one or more county commissioners, or a candidate for mayor or county commission has received a campaign contribution in violation of the restrictions provided at section 2-355.1.

(d)

Except as set forth in the voidable-contract provisions of subsection (c), the validity of any action taken by the board or any county officers or employees or advisory bodies shall not be affected by the failure of any person to comply with the provisions of this article.

(Ord. No. 94-22, § 4, 11-29-94; Ord. No. 98-03, § 2, 1-27-98; Ord. No. 2002-15, § 3, 10-15-02; Ord. No. 2008-13, § 3, 7-8-08; Ord. No. 2008-14, § 2, 7-8-08)

Secs. 2-357—2-370. - Reserved.