

ORDINANCE NO. 19-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, ENTITLED “LOBBYIST REGISTRATION,” BY ADDING SECTION 2-238 ENTITLED “PROHIBITING LOBBYING BY CAMPAIGN CONSULTANTS,” BY PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING TOWN COUNCIL MEMBERS FOR A PERIOD OF TIME AFTER AN ELECTION; PROVIDING FOR DEFINITIONS AND LIMITED EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) has a paramount interest in preventing corruption or the appearance of corruption which could result in the erosion of the public’s trust; and

WHEREAS, the appearance of corruption in the form of campaign consultants exploiting their influence with Town elected officials on behalf of private interests may erode public confidence in the fairness and impartiality of Town governmental decisions; and

WHEREAS, permitting a campaign consultant to lobby the Town Council for a certain period of time immediately following the swearing in of that consultant’s former clients(s)/ Council member(s) increases the likelihood of corruption or the appearance of corruption in the form of quid pro quo sale of official action; and

WHEREAS, as such, the Town Council desires to prohibit campaign consultants from lobbying members of the Town Council for a certain period of time following an election; and

WHEREAS, the Town Council finds that the adoption of this Ordinance is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:¹

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Section 2-238 of the Town Code.** The Town Council hereby amends Section 2-238 of the Town Code as follows:

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

ARTICLE V. - LOBBYIST REGISTRATION

Sec. 2-238. – Prohibited lobbying by campaign consultants.

1. No campaign consultant shall lobby the Town Council for a period of 12 months following the swearing in of any elected official(s) for whom the campaign consultant provided campaign consulting services within the past election cycle.
2. No lobbyist registered with the Town shall provide campaign consulting services for a candidate during an election cycle in the same calendar year in which that lobbyist is registered.
3. If a lobbyist violates the provisions of this section, such lobbyist shall be barred from lobbying the Town for a period of two years following the swearing in of the subject elected official.
4. Definitions.
 - a. "Campaign consultant" means any person or entity that receives or is promised economic consideration in exchange for campaign consulting services to a candidate for elected office in the Town.
 - (1) "Campaign consultant" shall include any individual who has an ownership interest of ten percent or greater in the campaign consultant, and any employee of the campaign consultant, except as otherwise excepted below.
 - (2) "Campaign consultant" shall not include:
 - (a) Any vendor for a campaign whose primary responsibility is to supply goods or services for a campaign.
 - (b) An employee of a campaign consultant whose sole duties are primarily clerical; or
 - (c) An employee of a campaign consultant who did not personally provide campaign consulting services.
 - b. "Campaign consulting services" means primary responsibility for campaign management or 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" shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.
 - 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 subject immediately preceding Town General Election/Special Election held for the purpose of electing a member of the Town Council.
- h. "Lobby" for purposes of this code section shall mean the act of seeking to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any member of the Town Council.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of April, 2019.

PASSED AND ADOPTED on second reading this _____ day of May, 2019.

TIM MEERBOTT
Mayor

Attest:

DEBRA E. EASTMAN, MMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
Town Attorney

First Reading

Moved By: _____

Seconded By: _____

Second Reading

Moved By: _____

Seconded By: _____

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott _____

Vice Mayor Sue Ellen Loyzelle _____

Council Member Robert "BJ" Duncan _____

Council Member Michael P. Callahan _____

Council Member Roger Coriat _____