

ORDINANCE NO. 19 - 1703

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 2-235 – “LOBBYING” TO PROVIDE AN EXEMPTION FROM LOBBYIST REGISTRATION FEES FOR PRINCIPALS AND EMPLOYEES OF TOWN BUSINESSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) Commission adopted a Code of Ethics on April 10, 2007 establishing standards of conduct for current and former town officials, employees and persons doing business with the Town; and

WHEREAS, the Town Commission subsequently amended the Code of Ethics on January 15, 2013, December 9, 2014, February 16, 2017, December 13, 2017 and March 13, 2018 to impose additional regulations on lobbyists, and to include an honor code for elected and appointed Town officials and employees and to address lobbyists’ appeals of fines for failure to file required expenditure reports; and

WHEREAS, on December 11, 2018, the Town adopted Ordinance No. 2018-1692 amending Section 2-235 of the Code (Lobbying) to revise the definition of “lobbyist “to specifically exclude any person whose representation is limited to interactions with town staff or appearances at a public meeting as a representative of a single family property owner for a design review or development approval application for the single family property owned by that property owner; and

WHEREAS, in order to encourage participation by the Surfside business owners and employees in the legislative and public hearing process, the Town Commission desires to further amend Section 2-235 of the Code of Ethics, Article VII, of the Town Code to provide an exemption from lobbyist registration fees for principals and employees of Town businesses (business principals, owners and employees) when appearing at a public meeting before the Town Commission or other Town board, where there is no special compensation or

reimbursement paid for the principal's appearance to express support or opposition to any item; and

WHEREAS, the Town Commission finds that the proposed change to Section 2-235 is in the best interests of the Town and will encourage public participation in the legislative and public hearing process.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:¹

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

Section 2. Town Code Amended. Section 2-235 – “Lobbying” of the Surfside Town Code of Ordinances is hereby amended and shall read as follows:

ARTICLE VII. - CODE OF ETHICS

* * *

Sec. 2-235. - Lobbying.

This section shall be applicable to all lobbyists as defined below, and shall also constitute a standard of conduct and behavior for all lobbyists. The provisions of this section shall be applied in a cumulative manner.

- (1) *Definitions.* For purposes of this section, the following words, terms and phrases shall have the meanings as indicated below:
 - a. *Town personnel.* Those town officers and employees specified to include the mayor and town commissioners, town board or town committee members, and all town employees.
 - b. *Lobbyist.* All persons, attorneys, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) any ordinance, resolution, action or decision of the town commission; (2) any action, decision, recommendation of a town board or committee; or (3) any action, decision or recommendation of town personnel during the time period of the entire

¹Additions to the text are shown in underline. Deletions are shown in ~~strikethrough~~. Additions made after first reading are shown in double underline. Deletions made after first reading are shown in ~~double-strikethrough~~.

decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the town commission, or a town board or committee. "Lobbyist" specifically includes the principal as well as any employee engaged in lobbying activities, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit community-based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; ~~and~~ any person who only appears as a representative of a neighborhood, homeowners or condominium association without compensation for the appearance, whether direct or indirect or contingent, to express support of or opposition to any item, ~~and~~ any person whose representation is limited to interactions with town staff or appearances at a public meeting as a representative of a single family property owner for a design review or development approval application for the single family property owned by that property owner.

c. *Principal.* All persons, firms, or corporations who employ a lobbyist.

(2) *Lobbyist registration, fees, renewal and withdrawal.*

a. All lobbyists shall register with the town clerk before engaging in any lobbying activities in the town. Every person required to register as a lobbyist shall:

i. Register as a lobbyist.

1. Complete the annual lobbyist registration form, as prepared by the town clerk, stating under oath his or her name, business address, ~~and~~ the name and business address of each person or entity which has employed the registrant to lobby, and the specific issue(s) on which the lobbyist has been employed to lobby. If the lobbyist represents a corporation or is a principal, owner or employee of a corporate or other entity, it shall also be identified.

2. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five-percent or more ownership interest in the corporation, partnership, or trust.

ii. Pay an annual lobbyist registration fee of \$250.00.

iii. Register and disclose terms for each principal represented.

1. Complete the annual principal registration form, as prepared by the town clerk, prior to conducting any lobbying for each principal (client) being lobbied. Such application shall include a requirement that the lobbyist state under oath, his or her name, business address, the name and business address of each person or entity by which s/he has been employed to lobby, the specific issue on which the lobbyist has been employed to lobby, as well as a letter of permission signed by the person, entity, principal or the principal's representative, stating that the lobbyist is authorized to represent him/her/it, together with a disclosure of the terms and amount of compensation paid by each principal to the lobbyist. Each lobbyist and his/her

principal shall attach a copy of a fee letter and specify whether any ~~bonuses, success fees, or other~~ consideration or fee shall be received for such lobbying activities. In the alternative, such lobbyist shall submit to the town clerk a joint affidavit, sign by the lobbyist and his/her principal, disclosing the terms 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.

2. Pay an annual principal registration fee of \$100.00.

3. If multiple lobbyists from the same firm represent the same principal, then only one principal registration form and principal registration fee of \$100.00 is required to be filed for that principal. All lobbyists from the same firm who represent the same principal must file a separate lobbyist registration form and a lobbyist registration fee of \$250.00. All lobbyist are required to file an expenditure report as outline below in 2 (a) (iv). Any lobbyist from the same firm may submit all the necessary documents to the Town Clerk on behalf of the firm.

iv. File a lobbyist expenditure report.

1. By January 15 of each year, all lobbyists shall submit to the town clerk a signed statement under oath listing all lobbying expenditures for the preceding calendar year. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events, and town personnel on whose behalf or benefit the expenditure was made. A statement shall be filed even if there have been no expenditures during the reporting period. Annual statements shall be required until such time as the lobbyist files a notice of withdrawal of lobbying activities with the town clerk.

2. The town clerk shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed, a fine of \$50.00 per day shall be assessed for reports filed after the due date. Any lobbyist who fails to file the required expenditure report by February 15 shall be automatically suspended from lobbying until all fines are paid, unless the fine has been appealed to the Miami-Dade Commission on Ethics and Public Trust. A lobbyist or principal may appeal a fine and may request a hearing before the Miami-Dade Commission on Ethics and Public Trust. A request for hearing on the fine must be filed with the Miami-Dade Commission on Ethics and Public Trust, with a copy to the Town Clerk, within 15 calendar days of receipt of the notification of the failure to file the required disclosure form.

v. File a notice of withdrawal. Each person who withdraws as a lobbyist for a particular principal (client) shall file an appropriate notice of withdrawal.

b. All lobbyist and principal registration forms, expenditure reports, notices of withdrawal, and applicable fees shall be submitted to the town clerk. Such forms may be amended from time to time administratively.

c. Exemption from lobbyist registration fees: A principal, owner or employee of any business located in the Town of Surfside, including a corporation, partnership, company or other entity, who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support for or opposition to any item before the Town Commission or board, shall register with the Clerk and comply with all requirements imposed

on lobbyists in this section, and must provide disclosure as to what capacity he/she is appearing before the Town Commission or board, but shall not be required to pay any lobbyist registration fees.

(3) *Expiration of lobbyist and principal registrations.* All lobbyist and principal registrations expire December 31 of each year.

* * *

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. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other appropriate word.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective on second reading upon adoption.

PASSED AND ADOPTED on first reading this 10th day of September, 2019.

PASSED AND ADOPTED on second reading this 10th day of October 2019.

On Final Reading Moved by: Vice Mayor Gielchinsky

On Final Reading Second by: Commissioner Karukin

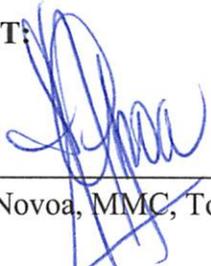
FINAL VOTE ON ADOPTION:

Commissioner Barry Cohen	<u>Yes</u>
Commissioner Michael Karukin	<u>Yes</u>
Commissioner Tina Paul	<u>Absent</u>
Vice Mayor Daniel Gielchinsky	<u>Yes</u>
Mayor Daniel Dietch	<u>Yes</u>



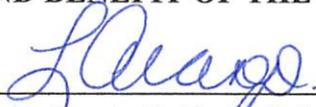
Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Helfman Cole & Bierman, P.L.,
Town Attorney