



City of Coral Gables Implementing Order of the City Manager

Implementing Order No.: 2021-02 **Title:** Lobbying Rules

Ordered: August 24, 2021 **Effective:** August 24, 2021

AUTHORITY: Coral Gables Ordinance 2021-24

PURPOSE

On August 24, 2021, the City Commission adopted Ordinance 2021-24 amending the City's lobbying rules in order to make them consistent with Miami-Dade County's most recent lobbyist regulations and to address other concerns. The purpose of this Implementing Order is to adopt safeguards to ensure City staff is exercising the requisite due diligence to comply with Ordinance 2021-24. This Implementing Order adopts the City Attorney's Memorandum dated September 13, 2021, regarding "Lobbying Rules" (attached), as binding on City staff.

APPLICABILITY

This order applies to all City staff interacting with potential lobbyists. The Lobbyist Log attached hereto should be provided to and utilized by those individuals responsible for scheduling in all departments.

APPROVED BY:

Peter J. Iglesias, P.E.

City Manager

9/22/21

Date

CITY OF CORAL GABLES

CITY ATTORNEY'S OFFICE

MEMORANDUM

TO: Peter Iglesias, City Manager
Ed Santamaria, Assistant City Manager
Department Directors
Assistant Directors
Division Directors
Mayor's Chief Community Engagement & Policy Advisor
City Commission Aides

FROM: Miriam Soler Ramos, City Attorney

C: Billy Y. Urquia, City Clerk
Yolande Davis, Deputy City Clerk
Cristina M. Suárez, Deputy City Attorney
Stephanie M. Throckmorton, Assistant City Attorney
Gustavo Ceballos, Assistant City Attorney
Naomi Levi-Garcia

DATE: September 13, 2021

RE: Lobbying Rules

On August 24, 2021, the City Commission adopted Ordinance 2021-24 amending the City's lobbying rules in order to make them consistent with Miami-Dade County's most recent lobbyist regulations and to address other concerns.

This memorandum is intended as a quick-reference guide for City personnel to follow when interacting with potential lobbyists. It is important to note, however, that lobbyist registration rules are complex and often fact-specific. Therefore, please consult with our office if you are in doubt.

Definitions:

City personnel – employees who are entrusted with the day-to-day policy setting, operation, and management of city functions, *even though the ultimate responsibility rests with the City Commission.*

Encourage – influence, promote, support, oppose, or seek to modify, alter, amend, or delay any recommendation, action, or decision of the city commission, any city board/committee, or any city personnel.

Lobbyist – individual, firm, corporation, partnership employed/retained, *whether paid or unpaid*, by a principal or that contracts with a third-party for economic consideration to perform lobbying activities on behalf of a principal. Specifically *includes* principal (e.g. owner of the company) that lobbies as well as any employee that has been designated by the principal to perform lobbying activities.

Exceptions (those who do not need to register prior to engaging in lobbying activity):

1. Representative of a governmental entity;
2. Person who appears in his/her individual capacity for the purpose of self-representation;

3. Person who appears on behalf of a homeowner/neighborhood association *without compensation*;
4. Person requested to appear before the city commission, a city board/committee in a quasi-judicial proceeding where ex-parte communications are prohibited;
5. Person under contract with the city who communicates about issues related *only* to the performance of their services under the contract;
6. Foreign dignitaries;
7. Attorneys or other representatives retained solely for the purpose of representing individuals, corporations, or other entities during publicly noticed quasi-judicial proceedings where ex-parte communications are prohibited;
8. Person retained or employed by a principal whose normal scope of employment does not include lobbying activities and who is not engaged in lobbying activities;
9. Expert witnesses; and
10. Persons engaged in the following procurement matters:
 - a. appearance at pre-bid conference;
 - b. submission of a bid/proposal;
 - c. submission of a written question or response to bid/proposal;
 - d. presentation by technical experts provided it does not include advocacy or recommendation;
 - e. post-award contract management;
 - f. participation in market research process;
 - g. accessed contracts; or
 - h. emergency purchases.

Lobbying activity – attempt to influence/encourage passage/defeat of, or modification to, governmental actions (i.e. ordinances, resolutions, rules, regulations, executive orders, procurement actions, decision of the city commission, city boards/committees, and city personnel). Includes all forms of communication (i.e. written, oral, electronic, etc.) during the decision-making processing.

EXAMPLES:

- Plan expeditors – Where plan expeditors are representing clients at ticket appeal hearings, negotiating unsafe structure cases, or representing third parties on enforcement matters, said expeditors are lobbying. (RQO 04-148¹) Note: Expeditors trying to convince staff members to change their ultimate decision/recommendation regarding a particular discipline are likely engaging in lobbying activity and are required to register.
- Board members – A member of the board of directors of a corporation, who is appointed to served as the representative of the corporation in negotiations, is a principal and is required to register as a lobbyist. (RQO 08-41)
- Sales representatives – A company and its sales representatives must register as lobbyists when the sales representative seeks to influence a City committee (or personnel) regarding a possible trial or the purchase of one of its products. (RQO 06-65)
- Quasi-judicial hearings – Appearing on behalf of a private client in a publicly noticed quasi-judicial proceeding does *not* constitute lobbying. (RQO 10-19, 11-26). A quasi-judicial matter is not concluded until the time for resolving the disputes stemming from the quasi-judicial hearing has expired. Accordingly, attorneys may engage in settlement negotiations relating to the quasi-judicial matter *without* registering as a lobbyist. (RQO 13-04)
- Vendors – Vendors providing technical assistance, training, or advice, are *not* lobbyists unless they are also performing a sales function. (RQO 06-04).

¹ RQO refers to formal opinions issued by the Miami-Dade Commission on Ethics and Public Trust.

- Chamber of Commerce – A municipal chamber of commerce does not meet the exception for not-for-profit” or “neighborhood associations” and are required to register.
- Union representatives – Union representatives who are City employees but released from duty to attend to union affairs, do *not* have to register as lobbyists.

Process/Requirements:

All lobbyists and principals that lobby must register before engaging in lobbying activity through the Clerk’s online registration system. *Please note that the responsibility to register, pay applicable fees, and obtain required lobbyist training lies with the individual who is performing the lobbying activity.*

Elected and appointed officials and city personnel have a duty to be diligent in ascertaining whether the individual has registered as a lobbyist as required by the ordinance. This may be done by maintaining a written log that documents all oral communications/meetings with lobbyists, outside of a public meeting. The log should include the name of the lobbyist, the date of the lobbying activity, whether the lobbyist indicates he/she has registered, and the subject matter discussed. A sample log is attached hereto as **Exhibit A**.

Suggested process:

1. Ensure that all City employees who calendar meetings are informed of these requirements.
2. Train City employees calendaring meetings how to confirm whether an individual is registered to lobby by checking at: <https://www.coralgables.com/lobbyists-registration>
3. Prominently display signs regarding lobbyist registration in your office space (the City is printing and will be providing signs).
4. If an individual is not registered at the time the meeting is scheduled, please remind the individual that he/she must register before the appointment date.
5. Establish a system for maintaining the required log (Note that casual communications that occur outside of a calendared meeting, including non-scheduled telephone calls, can constitute lobbying activity and should be included in the log.)

