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February 8, 2023

ETHICS COMMISSION  
City of Long Beach  
California

The enclosed is being sent on behalf of the Ethics Commission's Lobbying Ad Hoc ("Lobbying Ad Hoc"). Please find the Lobbying Ad Hoc's recommended changes to Long Beach Municipal Code Ch. 2.08 ("Lobbyists") for the consideration by the full Ethics Commission enclosed as Attachment 1.

A copy of Long Beach Municipal Code Ch. 2.08 ("Lobbyists") is enclosed as Attachment 2 for reference purposes.

Very truly yours,

DAWN MCINTOSH, City Attorney

By

Taylor M. Anderson  
Deputy City Attorney

# **ATTACHMENT 1**

ETHICS COMMISSION  
RECOMMENDED AMENDMENTS TO LBMC CH. 2.08 (Lobbying Ordinance)

OVERVIEW

The Ethics Commission recommends the City Council request the City Attorney to prepare an ordinance amending the City's Lobbying Ordinance in Long Beach Municipal Code (LBMC) Ch. 2.08 (Ordinance) to expand the scope of the Ordinance with the changes outlined below in furtherance of transparency in government:

- Require disclosure of advocacy in addition to lobbying;
- Require registration by non-profit entities, neighborhood organizations, project area committees, and organizations representing business improvement districts;
- Reduce the thresholds that trigger disclosure of lobbying and advocacy contacts with City leadership;
- Require monthly disclosures with additional information regarding the subject of contacts with City leaders;
- Add a requirement that the time spent in preparation for a meeting counts towards hours lobbying and advocacy;
- Provide a foundation for City leadership to promote transparency through disclosure and audits of lobbying and advocacy contacts;
- Authorize appropriate enforcement mechanisms, e.g. administrative penalties;
- Fund audits of lobbyist and advocate registrations and education of those impacted by the changes; and
- Eliminate obsolete provisions of the Ordinance and otherwise reduce ambiguity regarding its scope.

BACKGROUND

The establishment of an Ethics Commission (Commission) was mandated by an amendment to the Long Beach City Charter (Charter) that was adopted as Measure CCC by 80,000 Long Beach voters in November 2018. The Commission has responsibility for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics.

The Commission held its first meeting in November 2019. From the Commission's first meeting, the topics most commonly raised during public comment pertain to lobbying and the need for greater understanding of the influences brought to bear on elected officials and staff.

On February 16, 2022, the Commission created an Ad Hoc Committee, comprised of Commissioners Susan Wise, Margo Morales, and Barbara Pollack to study the Ordinance. The Ad Hoc Committee was tasked to study best practices and lobbyist ordinances in other jurisdictions with a focus on areas where the City's Ordinance might need clarification and/or strengthening.

The Ad Hoc Committee reviewed existing ordinances from the following California jurisdictions: Los Angeles City, Oakland City, Orange County, Pasadena City, Sacramento City, San Francisco City and County, and San Diego City. In addition, existing ordinances for Austin, Texas; Seattle, Washington; and the federal government were reviewed. Staff completed a Lobbying Disclosure Requirements Survey, included as Appendix 1. With the assistance of City staff and pursuant to the City's Public Records Act, the Ad Hoc Committee requested copies of available calendars maintained by the Mayor and members of the City Council for the last six months of 2019.

Following review of the calendars and ordinances from other cities, the Ad Hoc Committee reported to the full Commission, which conducted a study session on June 29, 2022, to consider the information gathered and reviewed by the Ad Hoc Committee. The Commission instructed the Ad Hoc Committee to prepare recommended changes for submission to the City Council. This recommendation was adopted by the Commission on XXXX,YY, 2023.

## DISCUSSION

In light of Measure CCC, the public comments received, best practices in municipal government, and the materials reviewed by the Ad Hoc Committee, the Commission recommends the Ordinance is modified to increase the transparency of City decision-making.

Lobbying is not inappropriate or inherently problematic. Lobbying is one way in which the community exercises their First Amendment rights to free speech and to petition the government for redress. Through lobbying, businesses, non-profit entities, and neighborhood organizations help decision-makers understand the broad implications and possible unintended consequences of proposed actions on the business community and on non-profit entities and the interests they represent. Lobbying is important to informed decision-making and disclosure of its influences on decision-making builds trust in the outcomes and in City government.

Recommended changes to the Ordinance are outlined in detail below.

### **I. RECOMMENDATION #1 - Expand Scope of the Ordinance to Include "Advocacy"**

The Commission recommends expanding the scope of the Ordinance to include activities covered under "advocacy." The Commission proposes to define "advocacy" as "influencing or attempting to influence any action or decision-making of the City without reference to a specific legislative or administrative action by the City." The Commission recommends amendment of the title of the Ordinance to reflect the requirement to register for advocacy efforts.

The Ordinance would apply to "advocates," defined as any of the following who spend an aggregate amount of 10 hours or more contacting City officials and/or preparing communication documents or reports within a three (3) month period OR who make 3 or more contacts, whether in person, by telephone, or electronic means, with City officials within any one-month period:

1. A person who engages in advocacy on behalf of one or more clients for compensation;
2. Any business or organization, whose owner(s), officer(s) or employee(s) carry out advocacy on its behalf, whether or not such officers or employees are compensated.

3. Any person, business, or organization who solicits other persons to advocate on its behalf via email or other outreach methods to influence any action or decision-making of the City without reference to a specific legislative or administrative action by the City.

The threshold for registration by entities that engage in advocacy would be an aggregate amount of 10 hours or more in contacts with City officials and/or preparation of communication documents or reports prepared for City officials within a three-month period OR 3 or more contacts, whether in person, by telephone, or electronic means, with City officials within any one-month period. The Commission recommends including anything of economic value and expenditures (cost and time) for preparation and planning activities as well as time spent during contacts with City leaders to be counted towards time spent advocating. The decision to include time spent in preparation for a meeting or other contact with City leadership also would serve to ensure public disclosure of the sources of information that may influence decision-making.

The Ordinance defines “lobbying” to include attempts to influence legislative or administrative action. (see LBMC 2.08.020 J). Although the term “influence” is defined quite broadly under the Ordinance, lobbying registration generally follows only when there is a specific legislative or administrative matter pending. Efforts to obtain general support for a cause or business interest do not trigger registration for “lobbying” under the Ordinance but would be captured as “advocacy,” if this change is adopted.

Disclosure of advocacy by individuals, businesses and business groups, non-profit entities, and neighborhood organizations would bring greater transparency to the interests and considerations that influence City decision-making. This would include, for example, efforts undertaken to educate City decision-makers about a particular policy or a problem which may not require legislative or administrative action. In addition, it would capture non-profit advocacy to garner City support for a non-profit’s mission or a neighborhood organization’s concerns when undertaken without a specific request for legislative or administrative action.

## II. **RECOMMENDATION #2 - Include 501(c)(3) Non-Profits and Neighborhood Organizations**

The Commission recommends eliminating exemptions for the following people and groups in the Ordinance: neighborhood organizations, project area committees, and organizations representing City business improvement districts (collectively “neighborhood organizations”), 501(c)(3) non-profit entities with an operating budget of greater than \$50,000/year and uncompensated members or directors of non-profit organizations. It is the intent of the Commission to effectuate this change with language explicitly adding such organizations to the scope of the Ordinance and deleting the exemptions from the definition of “lobbyist” found in 2.08.020 K.4.c and h-j.

Non-profits and neighborhood organizations serve important interests in the Long Beach community. They advocate on behalf of various segments of our community, for health and welfare of Long Beach residents, appreciation of the arts, education of our youth, and a myriad of other important interests. Members of City leadership support non-profits and neighborhood organizations through decision-making such as the award of grant funding or providing other City

support to their groups or efforts. Non-profits and neighborhood organizations have interests in property in Long Beach, in issues that may impact the community at large while serving their clients/members, for example with regard to housing issues, and available funding from limited budgets.

Non-profits and neighborhood organizations have access to elected officials, as well as other members of City leadership. While most non-profits limit lobbying to comply with the requirements of the Internal Revenue Code, they do advocate on behalf of their constituencies to influence actions taken by City leadership. At times, the interests pursued by a non-profit or neighborhood organization may diverge from the interests of a portion of the residents, business community or other part of the City. This provides a healthy backdrop for consideration by decision-makers. All points of view should be subject to the sunlight of disclosure under the Ordinance.

Non-profits take care to avoid extensive actions that fall within the definition of “lobbying” to comply with the Internal Revenue Code. Under the City Attorney’s auspices, we obtained an opinion of outside counsel to confirm that a requirement to register and disclose “advocacy,” as defined above, should not impact the legal status of the non-profits. A copy of the outside counsel opinion is attached as Appendix 2.

### **III. RECOMMENDATION #3 - Reduce the threshold for disclosure of lobbying contacts with City leadership**

The Commission recommends lowering the thresholds for the following requirements:

- The compensation threshold for Contract Lobbyists from \$3200 for a three-month period to \$1000 for a three-month period.
- The aggregate hours threshold for business or organization lobbyists from 50 hours within any three-month period to: (a) 3 or more contacts, whether in person, by telephone, or electronic means, with City officials within any one-month period or (b) 10 hours or more in contacts with City officials and/or the preparation of communication documents or reports within any three-month period.
- The expenditure threshold for an expenditure lobbyist from \$5000 or more in any calendar year to \$2000 or more in a calendar year.

For purposes of determining if a lobbyist or advocacy entity meets the threshold, time or money spent lobbying and time or money spent advocating are aggregated.

**Contract Lobbyist Threshold:** A contract lobbyist is an individual who lobbies on behalf of clients. Once a contract lobbyist meets the threshold to register, they must identify every client for which they lobby, regardless of the amount that client pays the contract lobbyist or the number of hours spent with City leaders on that client’s behalf. This change will capture contract lobbyists at the start of any lobbying effort.

Business or Organization Lobbyist Threshold: The Ordinance requires that business or organization lobbyists register if their lobbying activities exceed an aggregate amount of 50 or more hours within any 3-month period. With the existing trigger, the Ordinance does not require registration by an individual acting on behalf of an entity who meets with the Mayor and every member of the City Council separately for one hour every month (30 hours in a 3-month period). The individual may spend hundreds of hours preparing reports or studies, which they provide to City leadership, without triggering a requirement to register because the Ordinance is triggered only by the time spent communicating directly with a City leader.

The proposed change would capture potentially influential contacts that fall outside of the current Ordinance.

Expenditure Lobbyist Threshold: An expenditure lobbyist is an individual or entity seeking to initiate a “grass roots” campaign to encourage individuals to lobby on behalf of a position. An expenditure lobbyist urges other persons to influence City officials to take specific action. Where such a grass root initiative is underway, transparency is critical to provide an understanding that the contacts are part of a coordinated initiative. We do not have information regarding the number of additional expenditure lobbyist initiatives that will be captured with the reduced threshold but believe it is in the best interest of transparency to obtain registration for as many grass roots efforts as feasible. The revised threshold will ensure that the requirement will be imposed only where there is sufficient investment in an initiative to include in the expenses the required registration fee.

IV. **RECOMMENDATION #4 – Remove definition for “Activity Expense” and add a requirement that the time spent in preparation for a meeting counts towards hours lobbying is carried out on another’s behalf.**

The Commission recommends including any time spent in preparation for contacts with City officials by lobbyists as time spent lobbying for purposes of the definition of “lobbyist” under “business or organization lobbyist” in the Ordinance.” The Commission recommends including anything of economic value and expenditures (cost and time) for preparation and planning activities as well as time spent during contacts with City leaders to be counted towards time spent lobbying. The change to include time spent in preparation for a meeting or other contact with City leadership also would serve to ensure public disclosure of the sources of information that may influence decision-making.

The Commission also recommends removing the definition of “activity expense” as it is not used in the Ordinance.

V. **RECOMMENDATION #5 - Require lobbying and advocacy disclosures to include additional information and monthly disclosure reporting**

The Commission recommends changing the title of LBMC Section 2.08.090 to “Registration and Reporting Requirements.” Section 2.08.090.A should also be amended to require the following details:

- Mailing address (in addition to business address);
- A specific description of each municipal question, administrative action, or subject of an advocacy contact on which the registrant communicated and, if real property is the subject of the contact, the address or legal description of the property; and
- The names of all individuals involved in the lobbying or advocacy contact, including those engaged in preparation for the lobbying or advocacy contact, e.g. authors of reports provided to the City, but excluding purely clerical or administrative assistance.

Furthermore, the Commission recommends the City Council direct the City Clerk to amend the registration website to provide drop down menus with agenda item numbers or space to provide license or application numbers. If an individual or entity is serving multiple reportable roles (e.g. contract lobbyist and expenditure lobbying), the form should capture the dual roles in a single filing. The Commission also recommends that lobbyists file monthly disclosure report, rather than quarterly and submit the filing within 5 business days rather than 15.

The City Council intended the Ordinance to provide residents with information regarding influences on City decision-making. In several instances, the required registration disclosures do not provide sufficient information for members of the public to comprehend fully the nature of the matter discussed. The information must be available timely to be useful, particularly when a matter appears on the City Council agenda in the near term.

VI. **RECOMMENDATION #6 – Develop Disclosure Form for Use by City Officials and Require City leadership to disclose contacts with lobbyists and advocates, whether or not registered.**

The Commission recommends developing a form to be used by all City Departments, including the Mayor and members of the City Council and their staff, at the level of department head and within two reporting levels of the department head, to disclose contacts for any of the following:

- Any person influencing or attempting to influence a legislative or administrative action of the City; or
- Any person influencing or attempting to influence any action or decision-making of the City without reference to a legislative or administrative action by the City

The disclosure by City officials should include: the date of the contact, the matter discussed, information regarding the lobbyist’s or advocate’s client: Name, interest in the matter, and any real property at issue.



The Disclosure Forms prepared by City officials would be provided to the City Clerk within 5 business days of the end of each month and will be maintained by the City Clerk on a public website.

The disclosures by City officials will provide a check on filings by lobbyists and advocates. The disclosure forms prepared by City officials will provide transparency on efforts to impact or influence City decision-making on behalf of or in furtherance of grass-roots initiatives by businesses, non-profits, neighborhood organizations, and business improvement entities, whether or not those entities have registered as lobbyists or advocates.

The City does not have sufficient staffing in place to adequately monitor compliance with the Ordinance to the Commission's satisfaction. A new form of reporting would provide a tool to capture lobbying and advocacy contacts, verify the adequacy of lobbyist and advocacy filings and registration, and ensure greater transparency on influences in the City.

**VII. RECOMMENDATION #7 - Fund audits of lobbyist registrations and education of those impacted by the changes.**

Provide additional staffing and requisite funding for the City Clerk to conduct (1) education sessions upon approval of the changes and annually thereafter and (2) audits of lobbyist and advocate registrations and reports, as well as the disclosure reports prepared by City officials.

The office of the City Clerk reviews lobbyist registrations for compliance with the reporting requirements. The City Clerk does not have the personnel or funding to conduct audits of the adequacy of the filings or compliance with the filing requirements. Upon approval of the changes noted above, there will be a need for a significant education effort for non-profits, neighborhood groups and business improvement districts, as well as lobbyists and advocates.

**VIII. RECOMMENDATION #8 – Clarify certain requirements of the Ordinance.**

Add a clause to the definition of "Lobbying" to provide clarity that lobbying takes place whether or not a specific item discussed is pending at the time of the contact, and includes contacts to seek to obtain consideration of a matter not on an agenda at the time of the contact.

Add a clause to provide clarity that the exemptions in 2.08.020 K.4.g applicable to discussions regarding bargaining unit agreements and working conditions apply only to those communications and not to other matters discussed in the same context.

**IX. RECOMMENDATION #9 – Enforcement.**

Currently, the Ordinance may be enforced by misdemeanor or infraction pursuant to Long Beach Municipal Code Chapter 1.32. The Commission recommends expanding enforcement in the Ordinance to include any civil and administrative remedies available, such as, administrative citations. Expanding the Ordinance to include multiple enforcement remedies will provide the City more options to ensure compliance with its requirements.

Lobbying Disclosure Requirements Survey  
Supplemental Information to the AD-Hoc Report  
June 29, 2022

What information is required to be disclosed by lobbyists (or electeds) regarding lobbying efforts?

	What city official the lobbyist met with?	Topics?	Position advocated for?	# of hours meeting with electeds or city officials?	Prep time?	Dates?	Unscheduled meetings?	Are electeds required to report anything?	Are non-profits exempt from reporting?	Notes
Long Beach	Yes	Yes	No	No	No	No	No	No	Yes	<a href="#">Ordinance</a> <a href="#">Ordinance Amendment</a> <a href="#">Lobbyist Registration &amp; Reporting Form</a>
Los Angeles	Yes (‘Agencies lobbied)	Yes (“Project”)	No	No	No	No	No	No	No	<a href="#">LA City Ordinance</a> Quarterly reports Required training every 2 years provided by EC, through the <a href="#">Lobbying Electronic Filing System</a> David Tristan, Exec Dir
Oakland	Yes (elected, city mgmt, city staff)	Yes	Yes	No	No	No	No	No		<a href="#">Oakland Lobbying Ordinance</a> <a href="#">Lobbyist Rules</a> <a href="#">Quarterly reports</a> Data dashboards Whitney Barazoto, Exec Dir
Pasadena	No	No	No	No	No	No	No	No		Pasadena does not have an ordinance/ disclosure requirements Mark Jomsky, City Clerk
Sacramento	Yes	Yes	Yes	No	No	No	No	No	No	<a href="#">Sacramento Lobbying Ordinance</a> Mindy Cupp, City Clerk

San Francisco (City & County)	Yes	Yes	Yes	No	No	Yes	No	No	Yes	<a href="#">San Francisco Lobbying Ordinance</a> SF seemingly has a very rich ethics program; <a href="#">website</a> is very informative, lots of resources including data dashboards; requires lobbyist training w/i one year of registration
San Diego	Yes	Yes	Yes	Yes	Yes		No	No	No	<a href="#">San Diego Lobbying Ordinance</a> 5 different forms <a href="#">Lobbying Disclosure Forms FAQ</a> <a href="#">Other lobbying docs</a> Must disclose the compensation earned for all ‘lobbying activities’ during reporting period – includes researching, monitoring, etc. Sharon Spivak, Exec Dir
Orange County	No	No	No	No	No	No	No	No		<a href="https://ocethics.com/lobbyists">https://ocethics.com/lobbyists</a> Denah Hoard, Exec Dir  ‘Registration only’ law
Austin	Yes	Yes	Yes	No	No	Yes	No	No	No	<a href="#">Austin Lobbying Ordinance</a> <a href="#">Bolder Advocacy FAQ</a> Provides a <a href="#">FAQ</a> for lobbyists Seems to focus on financial disclosures
Seattle	No	Yes	Yes	No	No	No	No	No		<a href="#">Seattle Lobbying Ordinance</a> <a href="#">Report sample</a> Primarily an expense report; required to include a narrative of subjects lobbied for
Federal										<a href="#">Lobbying Disclosure Act Guidance</a>

## RESOURCES AND ADDITIONAL NOTES:

<https://bolderadvocacy.org/wp-content/uploads/2018/06/CA-City-County-and-SD-Local-Lobbying-Ordinances.pdf>

State: <https://www.sos.ca.gov/campaign-lobbying/lobbying-disclosure-requirements/lobbying-forms-instructions>

**ARE NON-PROFITS COMPLETELY EXEMPTED?:**

**Long Beach – Yes**

**Los Angeles – No**

Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which receives funding from any federal, state or local government agency for the purpose of representing the interests of indigent persons and whose primary purpose is to provide direct services to those persons, if the individual or individuals represented by the organization before any City agency provide no payment to the organization for that representation. **This exemption shall not apply to direct contracts with a City official in other than a publicly noticed meeting, for the purpose of attempting to influence a City decision with regard to any City funding which the organization is seeking.**

**Oakland - No**

**Sacramento – No**

**San Francisco - Yes**

**San Diego – No**

Here is a paragraph from one of our fact sheets (attached):

- If you own or work for a business or organization, including a non-profit or charitable organization, and your lobbying activities are performed on behalf of your business or employer (and not on behalf of outside clients), then that business or employer may be an “Organization Lobbyist.” It will qualify as an “Organization Lobbyist” if its owners, compensated officers, or employees have a total of 10 or more separate lobbying contacts with City Officials on behalf of the business or organization within any 60 calendar day period.

I've attached three documents that should be helpful. We have a number of Fact Sheets on our website at [www.sandiego.gov/ethics](http://www.sandiego.gov/ethics) that detail our ordinances. I've attached two of them: one discusses non-profits and one discusses the exceptions to our local lobbying ordinance. I've also attached the complete ordinance in case you find it helpful.

**Austin**

Annual Lobbyist Registration Fee: \$300

**Lobby Registration Fee registrant whose only lobbying activity is lobbying on behalf of one or more 501(c)(3) nonprofit organizations: \$25**

Annual Lobbyist Registration Fee for a business association making the election under §4-8- 4(B)(1): \$100 for the business association, and \$50 for each employee-lobbyist of the business association

**If I work for a nonprofit organization and lobbying is only a portion of the services provided, how do I report compensation?**

**Per § 4-8-6 (B) registered lobbyists must make a reasonable allocation between compensation for lobby activity and compensation for other activities. The quarterly activity report only requires the amount of compensation allocated to lobbying. See §4-8-3(D)**

<https://www.ethics.state.tx.us/data/search/lobby/2021/2021RegisteredLobbyists.pdf>

<https://bolderadvocacy.org/wp-content/uploads/2018/08/Austin-factsheet.pdf>

## Seattle

## Long Beach

## Los Angeles

For every calendar quarter in which an individual qualifies or is registered as a lobbyist, the individual must file a disclosure statement. These quarterly reports detail information about the lobbyist's employer, activity expenses, City campaign contributions, City fundraising activity, campaign contributions and charitable donations behested by a City candidate or officeholder, services to a City committee, and contracts with the City.

Quarterly reports are due by the last day of the month following the end of a calendar quarter and must be filed through [LEFS](#).

Additional disclosure requirements apply, including filing reports within one business day after reaching certain levels of contribution or fundraising activity, filing copies of written communications to neighborhood councils, and filing copies of fundraising solicitations sent to 50 or more people.

Detailed filing requirements can be found under [“What Do I File?”](#).

A lobbyist is required to prepare and maintain detailed records needed to show compliance with the lobbying laws. This includes books, papers, receipts, invoices, fundraising information, contracts, and other documents. Records must be maintained for at least four years.

## Oakland

**3.20.110 - Quarterly disclosure.**

- For each calendar quarter in which a local governmental lobbyist was required to be registered, he or she shall file a quarterly report with the Public Ethics Commission. The reports shall be due no later than thirty (30) days after the end of the calendar quarter. The report shall contain the following information:
- The item(s) of governmental action and the name and address of the client(s) on whose behalf the local governmental lobbyist sought to influence.
- For each item of governmental action sought to be influenced, (1) the name of each City officer with whom the local governmental lobbyist communicated, (2) the name and title of any City board member or commissioner with whom the local governmental lobbyist communicated, and (3) the identity of any City employee with whom the local governmental lobbyist communicated identified only by the office or department in which the employee works and his or her job title.
- A brief narrative description (no longer than three (3) sentences) of the position advocated by the local governmental lobbyist on behalf of the identified client.
- If any local governmental lobbyist, or a registered client at the behest of a local governmental lobbyist, employs or hires an elected City officeholder, candidate for elected City office, a designated employee, or a member of the immediate family of one (1) of these individuals, the local governmental lobbyist shall disclose (1) the name of the person employed or hired, (2) a description of the services actually performed, and (3) the total payments made during the reporting period identified only by the following categories: less than two hundred fifty dollars (\$250.00); between two hundred fifty dollars (\$250.00) and one thousand dollars (\$1,000.00); greater than one thousand dollars (\$1,000.00) but less than ten thousand dollars (\$10,000.00); greater than ten thousand dollars (\$10,000.00).
- If any elected City officeholder or candidate for elected City office employs or hires a local governmental lobbyist to provide compensated services to the officeholder or candidate, the local governmental lobbyist shall disclose (1) the name of the person who employed or hired the local governmental lobbyist, (2) a description of the services actually performed, and (3) the total payments made during the reporting period identified only by the following categories: less than two hundred fifty dollars (\$250.00); between two hundred fifty dollars (\$250.00) and one thousand dollars (\$1,000.00); greater than one thousand dollars (\$1,000.00) but less than ten thousand dollars (\$10,000.00); greater than ten thousand dollars (\$10,000.00).
- If a local governmental lobbyist solicits any person to make a contribution to an elected City officeholder, candidate for City office or to any committee or fund controlled by such officeholder or candidate, the local governmental lobbyist shall disclose the names of the persons whom the local governmental lobbyist solicited, and the officeholder or candidate for whose benefit each solicitation was made. A solicitation does not include a request for a contribution made (1) in a mass mailing sent to members of the public, (2) in response to a specific request for a recommendation, (3) to a gathering which members of the public may attend, or (4) in a newspaper, on radio or television, or in any other mass media. A local governmental lobbyist does not "solicit" solely because his or her name is printed with other names on stationary or a letterhead used to request contributions. If a local governmental lobbyist makes a solicitation to more than fifty (50) individual members or employees of a corporation, union or other association that is a registered client of the local governmental lobbyist, or if the local governmental lobbyist makes a solicitation to all members or employees of a corporation, union or association that is a registered client of the local governmental lobbyist, the local governmental lobbyist may choose to disclose the name of the registered client instead of the names of the persons whom the local governmental lobbyist actually solicited.

- (Ord. 13469, § 1, 1-16-2018; Ord. 12803 § 3, 2007; Ord. 12782 § 3 (part), 2007; Ord. 12431 (part), 2002)

#### Drafting and Submitting Lobbyist Activity Reports

- 1. Go to <https://apps.oaklandca.gov/pec/> . Click the MY ACTIVITY REPORTS icon and then the REPORTS link in the text below. If you are already logged in to your account, you can click REPORTS on the main menu.
- 2. Select the reporting period from the dropdown list in the upper right corner to start a new report. When a new report is added a draft is saved and will be displayed in the Drafts table until submitted.
- 3. In the Clients Represented section, click the ADD icon to add the clients you represented during the period, compensation received, and whether you have reportable activity on behalf of that client. Note: If you added a new client after submitting your registration, add the client from the Registration page and amend your registration before proceeding.
- 4. In the Contacts with City Officials section, click the ADD icon to make an entry for each contact with a City Official made to influence a governmental (municipal) decision on behalf of a client or employer. Enter elected officials and board and commission members by name. Enter City employees by Department and Title only.
- 5. In the Employment of a City Official or Candidate section, click the ADD icon to enter a City officeholder, candidate, employee, or member of their immediate family employed by you (or a client at your behest) during the reporting period. Lobbyist Quick Start Guide Page 2 Ensuring fairness, openness, honesty, and integrity in City government
- 6. In the Employment by a City Official or Candidate section, click the ADD icon to enter a City officeholder, candidate, employee, or member of their immediate family, who employed you during the reporting period.
- 7. In the Political Contributions section, click the ADD icon to enter each person or organization you solicited for political contributions to a City officeholder or candidate during the reporting period.
- 8. You may exit the system and return to continue editing your draft report by locating the draft on the Reports page and clicking VIEW. You may also print out your draft from the Reports page.
- 9. Once the draft is complete, click REVIEW REPORT to check your report for accuracy. Click the BACK button to continue editing.
- 10. If the draft is satisfactory, check “I agree” in the declaration box at the bottom of the page and click SUBMIT.
- 11. Your Quarterly Activity Report is filed! You will receive a confirmation of your filing by email. Submitted filings are shown in the bottom section of both the Reports page and your Profile page You may print or download a copy of your report for your records from either location.

#### Sacramento

**2.15.120 Disclosure.**

The initial registration shall contain the name, primary contact, business address, telephone number, and email address of all persons required to register pursuant to this chapter, including the names of all owners of sole proprietorships and partnerships of fewer than 10 persons. If the registrant is a corporation, it shall also include the names of the president, secretary, chief financial officer, and agent for service of process, if any. Any business or organization registering under this chapter shall also briefly describe the nature of its business or organization. In addition to this information, the report shall contain the following:

- A. Contract Lobbyist. The name, business address, telephone number, and email address of each client, the nature of each client's business and the item of legislative or administrative action the lobbyist is seeking to influence on behalf of the client; and the name of each person employed or retained by the lobbyist to lobby on behalf of each client.
- B. Business or Organization Lobbyist. The names of owners, officers or employees conducting lobbying activities and the item of legislative or administrative action the lobbyist is seeking to influence.
- C. Expenditure Lobbyists. The item of legislative or administrative action the lobbyist is seeking to influence.
- D. All campaign contributions by a lobbyist or a client at the lobbyist's behest, to any city official, identified by name and by office, to a controlled committee, office holder's fund or legal expense fund, given personally or through an intermediary, totaling \$100 or more, made during the calendar quarter.
- E. Payment received by the reporting lobbyist for services as a consultant or in any other capacity for services rendered to a city agency, any city official or their controlled committees, any officeholder committee, or ballot measure committee. The dates of payment and name of each payer shall be included.
- F. The name, address, title, telephone number, and email address of the person responsible for preparing the report, together with that individual's signature attesting to the authority of the signatory and the accuracy and truthfulness of the information submitted. (Ord. 2021-0001 § 6; Ord. 2003-034 § 1)

**San Diego**

(a) Each lobbying firm's quarterly disclosure report shall contain the following information:

(1) the lobbying firm's name, address, and telephone number.

(2) the name, business or mailing address, and telephone number of each client registered by the lobbying firm during the reporting period (except that if the client is a coalition or membership organization, such identifying information need not be disclosed for any of its members who also qualify as clients under section 27.4002), along with the following information for that client:

(A) the total compensation, rounded to the nearest \$1,000, that the lobbying firm became entitled to receive from that client during the reporting period for lobbying activities related to lobbying contacts that (i) took place during the reporting period, or (ii) took place on a contingency fee basis during a prior reporting period. The lobbying firm shall also state whether it lobbied on a contingency basis during the reporting period without becoming entitled to receive the contingent amount from the client.



- (B) the specific municipal decision(s) for which the lobbying firm lobbied on behalf of the client during the reporting period, and the outcome(s) sought by the client;
- (C) the name and department of each City Official who was subject to lobbying by the lobbying firm with regard to that specific municipal decision;
- (D) the name of each lobbyist employed by the lobbying firm who engaged in lobbying with regard to that specific municipal decision; and,
- (E) if the lobbying firm did not engage in any lobbying for the client during the reporting period, a statement to that effect shall be made instead of providing the information required by subsections (a)(2)(B) through (a)(2)(D).

### San Francisco

**LOBBYIST DISCLOSURES.** For each calendar month, each lobbyist shall submit the following information no later than the fifteenth calendar day following the end of the month:

- (1) **Contact lobbyists.** Each contact lobbyist shall report to the Ethics Commission the following information:
  - (A) The name, business address and business telephone number of each person from whom the lobbyist or the lobbyist's employer received or expected to receive economic consideration to influence local legislative or administrative action during the reporting period.
  - (B) The name of each officer of the City and County of San Francisco with whom the lobbyist made a contact during the reporting period.
  - (C) The date on which each contact was made.
  - (D) The local legislative or administrative action that the lobbyist sought to influence, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract, and the outcome sought by the client.
  - (E) The client on whose behalf each contact was made.
  - (F) The amount of economic consideration received or expected by the lobbyist or the lobbyist's employer from each client during the reporting period.
  - (G) All activity expenses incurred by the lobbyist during the reporting period, including the following information:
    - (i) The date and amount of each activity expense;
    - (ii) The full name and official position, if any, of the beneficiary of each activity expense, a description of the benefit, and the amount of the benefit;
    - (iii) The full name of the payee of each activity expense if other than the beneficiary;
    - (iv) Whenever a lobbyist is required to report a salary of an individual pursuant to this subsection (c)(1), the lobbyist need only disclose whether the total salary payments made to the individual during the reporting period was less than or equal to \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to \$10,000, or greater than \$10,000.

### Orange County

"Lobbying activities" means any oral, written, or electronic communication to a County Supervisor, made directly or indirectly, for the purpose of persuading or influencing official actions or decisions of the Orange County Board of Supervisors. Provided, however, **lobbying activities shall not include:**

1. A request for information or inquiry about the facts or status of any matter when the request is not made to attempt to influence official action, or

2. A written comment filed in the course of a public proceeding or any other communication that is made on the record at a public meeting, or
3. A written communication as a petition for official action and required to be a public record pursuant to County procedures provided it is publicly recorded and disclosed before the vote or action, or
4. A written response to a request by a County Supervisor or other County employee for specific information, or
5. A communication made by an elected official or public employee acting in his or her official capacity, or
6. A response to a public notice soliciting communications from the public and directed to the County Supervisor or other County employee specifically designated in the notice to receive such communications, or
7. A communication by an attorney or advocate made solely in connection with his or her duties representing a party to an administrative proceeding the decision of which is reviewable by a court pursuant to California Code of Civil Procedure Section 1094.5.
8. A written communication applying for a County grant or responding to a County solicitation for goods or services.

**Austin**

**Seattle**

**Who must file?**

To qualify for required disclosure under the ordinance a person must:

1. Be paid to lobby, as a contractor or as some part of their regular employment duties; and
2. Not qualify for one of these exemptions:
  - a. Only lobby in public sessions of the City Council or its Committees, or;
  - b. Lobby four days or less during any calendar quarter (appearances before public sessions of the City Council or its Committees don't count), or;
  - c. Only lobby on behalf of any local, state or federal government and do this as only a part of their regular employment duties, i.e. a person who is specifically paid to be lobbyist for a government must register and disclose under the ordinance.

Anyone who is paid to lobby and wishes to voluntarily register and report may do so at any time.

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## Lobbying and Advocacy by Non-Profit Entities

### BACKGROUND:

Long Beach Municipal Ordinance Ch. 2.08 Lobbyists exempts 501(c)(3) entities, neighborhood associations, project area committees, and organizations representing City business improvement districts from the definition of “lobbyist.” Ch 2.08.020 K.4.h-j. Some cities exempt only 501(c)(3) organizations that provide direct services to indigents (e.g., Los Angeles), from registration and disclosure of under lobbying rules, while others have no exemption for non-profit entities (e.g., San Diego). The Ethics Commission is preparing recommendations for modification of the Lobbyists ordinance to increase transparency regarding influences on City official decision making. We have received public comment regarding the exemption for non-profits and through review of calendars of certain elected officials, noted frequent contact with non-profit organizations active in Long Beach.

The non-profit sector is diverse and influential. Under the Internal Revenue Code, some non-profit entities are formed to promote the interests of its business members, e.g., 501(c)(6), while others provide direct services to individual clients, e.g., 501(c)(3). Regardless of form, the non-profit sector is influential. For certain entities, notably 501(c)(3) entities, the IRS rules distinguish between advocacy and lobbying. In general, “lobbying” involves the assertion of a position with respect to a specific piece of introduced legislation, while “advocacy” supports an organization’s mission without reference to specific proposed legislation. The IRS allows entities organized under Section 501(c)(3) to engage in lobbying but to a very limited extent, while it allows 501(c)(6) entities to engage in lobbying without restriction.

In our effort to increase transparency, we are considering a recommendation to eliminate the exemption for non-profit entities. In doing so, we do not want to cover only “lobbying” that falls within the narrow definition of the IRS code, but also to reach “advocacy,” when the advocacy relates, directly or indirectly, to specific decisions by City officials.

### EXAMPLES:

These are a few examples of situations that suggest the types of contacts that we are considering, as we look for ways to increase transparency in government decision making:

1. Non-profit A solicits its board members and donors to contact their Council members about budget priorities. The solicitation provides a specific list of items Non-profit A wants covered by the budget, including items contained in the draft budget and items that were not included in the draft budget. For purposes of this example, assume the entity would meet the definition of Expenditure Lobbyist, Section 2.08.020 K.3, but for the non-profit exemption status of the entity. The entity, not its officers or members, would be required to register and disclose this initiative.
2. Non-profit B has paid staff who meet regularly with elected officials to identify the specific projects funded with a City set-aside for organizations such as Non-profit B. The meetings do not include discussion of the funding mechanism but are intended to

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ensure continued availability of the funds. The entity would be required to register and disclose these meetings.

3. Property Issues: Non-profits may want to use City land or property owned by the non-profit in certain ways. The non-profits meet with City officials regarding land use and zoning, how certain property may be used to fulfill City priorities, e.g., construction of low-income housing, recreation facilities, safety or other projects that would require zoning changes, building permits, issuance of bonds, award of housing vouchers, etc. These non-profits would be required to register and disclose.
4. Non-profit C provides direct services to Long Beach homeless people. The entity strives to coordinate the services it provides with services provided by the City. A paid officer of the non-profit meets with City officials to request support for such coordination; additional City personnel may be needed to implement effective coordination. Non-profit C would be required to register and disclose this effort.

It is our intent to bring transparency to the influences on City decision-making, whether those influences derive from direct lobbying on a specific matter upcoming on the City Council's agenda, or advocacy on behalf of an underserved portion of our population or an industry operating in the City that directly or indirectly impacts decision-making on a specific matter. Importantly, such non-profit advocacy may influence decisions by the City Council to consider a matter that is not otherwise planned.

But the Ethics Commission does not want to create tax issues for non-profit entities or prevent non-profits from communicating their plans and needs to the City leaders. We would, therefore, characterize the scope of the recommendation for non-profits as "Lobbying and Advocacy." We would not recommend that the ordinance require non-profit entities to identify whether a contact constitutes lobbying or advocacy, but rather would require the non-profit to identify the subject matter of the contact, to include the recommendation or specific action sought.

Questions for Knowledgeable Non-profit Tax Counsel:

- (1) Please review the second paragraph above. Are the sentences accurate? Are these statements about what the IRS allows and how it distinguishes between lobbying and advocacy accurate? Can they be stated in a way that provides more clarity?
- (2) Can 501(c)(3) organizations provide the level of detail required above without unintentionally jeopardizing their non-profit status? Put another way, will the registration and notice requirement above cause permissible advocacy under the IRS Code to become impermissible lobbying?
- (3) If the answer to (2) is that we would cause non-profits unnecessary tax issues as a consequence of the changes discussed above, is there another way we can achieve the transparency we seek without the potential harm to non-profits in our City?

## ATKINSON, ANDELSON, LOYA, RUUD &amp; ROMO

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OUR FILE NUMBER:

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 38588704.1

September 22, 2022

***VIA EMAIL ONLY***

Taylor Anderson  
 Deputy City Attorney  
 Office of the City Attorney  
 Departmental Counsel Division  
 411 W. Ocean Blvd., 9th Floor  
 Long Beach, CA 90802

**Re: Nonprofit Organizations and Questions re Advocacy and Lobbying.**

Dear Taylor:

You requested our advice as to certain questions the Ethics Commission has identified regarding nonprofit political and lobbying activities. These questions have arisen as part of the Ethics Commission's evaluation of policy recommendations to the City Council regarding the City's Lobbyist Ordinance.

The Ethics Commission's specific questions are listed below, followed by my responses:

**Question #1.** Please review the second paragraph above. Are the sentences accurate? Are these statements about what the IRS allows and how it distinguishes between lobbying and advocacy accurate? Can they be stated in a way that provides more clarity?

The second paragraph referenced in this question generally relates to the distinction between 501(c)(6) trade organizations and 501(c)(3) public charities, each of their limits on lobbying activities, and the distinction between lobbying and advocacy. I have suggested some revisions I believe are advisable to the language in the second paragraph, as reflected below:

The non-profit sector is diverse and influential. Under the Internal Revenue Code, some non-profit entities are formed to promote the common business interests of its business members and generally improve the business industry of which its members are a part, e.g., 501(c)(6), while others provide charitable ~~direct~~ services to the public ~~individual-clients~~, e.g., 501(c)(3). Regardless of form, the non-profit sector is influential. For certain entities, notably 501(c)(3)

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entities, the IRS rules distinguish between advocacy and lobbying. In general, “lobbying” involves the assertion of a position with respect to a specific piece of introduced legislation, while “advocacy” supports an organization’s mission ~~without and may or may not~~ reference ~~to~~ specific proposed legislation. While all “lobbying” is “advocacy”, not all “advocacy” is “lobbying”. The IRS allows entities organized under Section 501(c)(3) to engage in lobbying but to a very limited extent, while it allows 501(c)(6) entities to engage in lobbying without restriction as long as the lobbying furthers the organization’s exempt purpose.

As you can see, one distinction that I have made with my suggested revisions relates to the difference between advocacy and lobbying. Advocacy can include any promotion of an organization’s core message. For example, it could include educating the public on issues relating to homelessness if that is the organization’s exempt purpose. While it certainly need not constitute lobbying, it could include an organization’s advocacy for the passage of certain legislation. In short, lobbying can be viewed as a subset of advocacy.

**Question #2.** Can 501(c)(3) organizations provide the level of detail required above without unintentionally jeopardizing their non-profit status? Put another way, will the registration and notice requirement above cause permissible advocacy under the IRS Code to become impermissible lobbying?

Lobbying activities are generally defined as attempts to influence “legislation”. The term “legislation” includes “action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.” Reg. § 1.501(c)(3)-1(c)(3)(ii).

Many activities relating to proposed or pending legislation or molding public opinion on legislative matters can qualify as lobbying. An organization is regarded as attempting to influence legislation if the organization contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation. Reg. § 1.501(c)(3)-1(c)(3)(ii). Likewise, an organization will be considered to engage in lobbying if it advocates the adoption or rejection of legislation. Id.

Certainly a number of the example situations you have identified as being types of contemplated reportable transactions by nonprofit organizations would constitute lobbying transactions that fall within the IRS limitations on lobbying activities. For example, a nonprofit’s solicitation of the general public to contact council members about budget items would constitute grass-roots lobbying activities. See IRC Reg. § 56-4911-2(d)(4).

Other example situations you have identified may not fall within the definition of lobbying. See your example number 2 relating to a nonprofit whose staff meets with elected officials to identify projects funded with a City set-aside for organizations such as the nonprofit, with no discussion of the funding mechanism. This scenario appears similar to an example set forth in Regulation

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Section 56-5911-2(d)(4). Regulation § 56-5911-2(d)(4) discusses the fact that the term “any attempt to influence any legislation” will not include an attempt to influence or persuade an executive body to form or acquire property to be used for a public park, as opposed to “attempts to persuade a legislative body, a member thereof, or other governmental official or employee, to promote the appropriation of funds for such an acquisition or other legislative authorization of such an acquisition.” The regulation uses as an example the fact that a nonprofit would not be considered to be influencing legislation if it proposed to a Park Authority that it purchase a particular tract of land for a new park, even though the purchase would require the Park Authority to seek appropriations to support a new park. The Regulation notes that the organization would be influencing legislation if it provided the Park Authority with a proposed budget to be submitted to a legislative body.

Here, some of the sample activities you have identified as reportable would constitute lobbying activities and some of the proposed reportable transactions will include activities which are broader than the IRS’s definition of lobbying. The issue then becomes whether the required disclosure of lobbying activities would negatively affect reporting nonprofit organizations with respect to the IRS limitations on lobbying activities, and/or whether it would turn activities which otherwise would not constitute lobbying activities into potentially impermissible lobbying activities.

I do not believe that the mere reporting of such contacts and activities and the reporting of the nonprofit’s recommendation or specific action sought would have an impact on the nonprofit with respect to the IRS’s limitations on lobbying activities. If the underlying action or contact by the nonprofit does not constitute lobbying, the mere reporting of the contact and action sought should not change the nature of the activity so as to result in action which would otherwise not be considered to be lobbying to by reason of the reporting requirement constitute impermissible lobbying activities. As such, I do not believe the proposed mere registration and notice requirement will negatively affect the nonprofit in terms of the IRS’s restrictions on lobbying.

**Question #3.** If the answer to (2) is that we would cause non-profits unnecessary tax issues as a consequence of the changes discussed above, is there another way we can achieve the transparency we seek without the potential harm to non-profits in our City?

If the Ethics Commission so desires, in an attempt to soften the perceived impact of the registration requirement on nonprofits, it could limit the disclosure requirements of the nonprofit to identification of the subject matter of the contact without inclusion of the specific action sought. By taking this action, the nonprofit will be disclosing the matter at issue without disclosing what position the nonprofit has advocated on the matter. Having said that, given the conclusion to Question #2, above, this limitation is likely not be necessary.

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If you have any questions regarding the matters outlined above, please feel free to call me.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A handwritten signature in black ink, appearing to read "Cindy Arellano", written in a cursive style.

Cindy Strom Arellano



# **ATTACHMENT 2**

## CHAPTER 2.08 LOBBYISTS

### 2.08.010 Interpretation.

Unless the term is specifically defined in this Chapter or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000 et seq., shall govern the interpretation of this Chapter.

(ORD-10-0006 § 1, 2010)

### 2.08.020 Definitions.

For the purposes of this Chapter, the following definitions shall be applicable:

- A. "Activity expense" means any payment made by a lobbyist to or directly benefiting any City official, City official-elect or member of his or her immediate family. Activity expenses include gifts, honoraria, consulting fees, salaries and any other form of compensation, but do not include campaign contributions.
- B. "Administrative action" means the proposal, drafting, development, consideration, advocacy or recommendation of any rule, regulation, agreement or contract, permit, license or hiring action.
- C. "City official" means any public official, legislative staff member or City employee who participates in the consideration of any legislative or administrative action other than in a purely clerical, secretarial or ministerial capacity. It shall also include any City board or commission member, or City representative to any joint powers authority to which the City is a party, and any consultant to the City.
- D. "Consultant" means an individual who, pursuant to a contract with the City:
  - 1. Makes a governmental decision whether to:
    - a. Approve a rate, rule or regulation;
    - b. Adopt or enforce a law;
    - c. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
    - d. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract which requires City approval;
    - e. Grant City approval to a contract which requires City approval and in which the City is a party or to the specifications for such a contract;
    - f. Grant City approval to a plan, design, report, study or similar item;
    - g. Adopt or grant City approval of policies, standards or guidelines for the City, or for any subdivision thereof.
  - 2. Serves in a staff capacity with the City and in the capacity performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.
- E. "Client" means a person who is represented by a lobbyist.

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- F. "Compensation" includes, but is not limited to, money of any denomination or origin; goods or services or anything of value, delivered or rendered; or promises to perform or provide services or contractual arrangements or awards.
- G. "Gift" means gift as defined in the California Political Reform Act, Government Code Section 81000 et seq., as amended from time to time.
- H. "Influencing" means the purposeful communication, either directly or through agents, promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the behavior of a City official or official-elect, by any means, including, but not limited to, providing or using persuasion, information, incentives, statistics, studies or analyses; excepted from this definition is communication made as a part of a noticed governmental public meeting.
- I. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any resolution, ordinance, amendment thereto, report, nomination or other action of the Mayor, City Council, Redevelopment Agency of the City of Long Beach, Housing Authority of City of Long Beach, any joint powers authority of which the City is a party, or City board or commission, acting in its official capacity.
- J. "Lobbying" is the influencing or attempting to influence a legislative or administrative action of the City.
- K. "Lobbyist", unless exempt under Subsection 4. hereunder, means:
1. Contract lobbyist. A person who engages in lobbying on behalf of one (1) or more clients (acting individually or through agents, associates, employees or contractors) and who has received or has entered into an agreement for compensation of three thousand two hundred dollars (\$3,200.00) or more ("threshold compensation") for engaging in lobbying during any consecutive three (3) month period;
  2. Business or organization lobbyist. Any business or organization, whose owner(s), officer(s) or employee(s) carry out lobbying on its behalf, in an aggregate amount of fifty (50) hours or more within any three (3) month period, whether or not such officers or employees are specifically compensated to engage in lobbying; provided that the activities of officers shall be considered lobbying only if those officers receive compensation by the business or organization beyond reimbursement for their reasonable, travel, meals or incidental expenses; or
  3. Expenditure lobbyist. A person who makes payments or incurs expenditures of five thousand dollars (\$5,000.00) or more during any calendar year in connection with carrying out public relations, advertising or similar activities with the intent of soliciting or urging, directly or indirectly, other persons to communicate directly with any City official in order to attempt to influence legislative or administrative action. The five thousand dollars (\$5,000.00) threshold shall not include:
    - a. Compensation paid to contract lobbyists or employees for lobbying; or
    - b. Dues payments, donations, or other economic consideration paid to an organization, regardless of whether the dues payments, donations or other economic consideration are used in whole or in part to lobby.
  4. Exemptions to "lobbyist" are:
    - a. Any public official acting in his or her official capacity or acting within the scope of his or her employment or appointment;
    - b. The media, when limiting its action to the ordinary course of news gathering or editorial activity, as carried out by members of the press. "Media" shall mean newspapers or any other regularly published periodical, radio or television station or network or information published on the internet. This exemption shall also apply to neighborhood newsletters, flyers or gazettes;
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- c. Persons reimbursed for only their reasonable travel, meals or incidental expenses, including but not limited to, uncompensated members or directors of nonprofit organizations such as chambers of commerce;
  - d. Persons whose communications regarding any legislative or administrative action are limited to appearing or submitting testimony at any public meeting held by the City or any of its agencies, offices, or departments, as long as the communications thereto are public records available for public review. Notwithstanding the foregoing, persons who otherwise qualify as lobbyists must register and disclose their lobbying activities directed toward City officials, in the same manner and to the same extent such registration and disclosure is required of all other lobbyists;
  - e. Persons submitting bids or responding to requests for proposals, provided the provision of such information is limited to direct conversation or correspondence with the official or department specifically designated to receive such information;
  - f. Persons providing oral or written information pursuant to a subpoena or otherwise compelled by law or regulation, or in response to an official request provided that the request and response thereto are public records available for public review;
  - g. Persons whose communications relate to:
    - (i) The establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or a memorandum of understanding between the City and a recognized employee association.
    - (ii) Management decisions as to the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of understanding between the City and a recognized employee association.
    - (iii) Proceedings before the City's Civil Service Commission.
  - h. Board members or employees of nonprofit 501(c)(3) corporations;
  - i. Members of neighborhood associations or project area committees;
  - j. Board members and employees of organizations representing City business improvement districts.
- L. "Organization" means any person that is not an individual.
- M. "Person" means any individual, domestic or foreign corporation, for-profit or nonprofit entity, firm, association, syndicate, union, chamber of commerce, joint-stock company, partnership of any kind, limited liability company, common-law trust, society, or any other group of persons acting in concert.

(ORD-10-0006 § 1, 2010)

### **2.08.030 Registration.**

Lobbyists shall register with the City Clerk within fifteen (15) days after qualifying as a lobbyist under Section 2.08.020.

(ORD-10-0006 § 1, 2010)

### **2.08.040 Annual registration renewal.**

A lobbyist shall renew his or her registration by January 15 or each year unless he or she has terminated their status as a lobbyist pursuant to Section 2.08.050, by such date.

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(ORD-10-0006 § 1, 2010)

#### **2.08.050 Termination of lobbyist status.**

After initial registration, annual registration renewal will not be required if a declaration attesting to the termination of lobbying services within the City has been filed with the City Clerk no later than January 15.

(ORD-10-0006 § 1, 2010)

#### **2.08.060 Active status.**

All registrations, renewals and terminations will be deemed filed on the date received by the City Clerk. A lobbyist shall be deemed active for the duration of the year of registration ending December 31, unless a declaration attesting to termination of lobbying services within the City is filed.

(ORD-10-0006 § 1, 2010)

#### **2.08.070 Registration fees.**

Persons subject to the registration requirements of this ordinance shall pay an annual fee set by resolution of the City Council. Persons registering for the first time after June 30 of a given year shall pay a reduced registration fee set by resolution of the City Council.

- A. The applicable registration fee is due at the time of registration or registration renewal. Payment will be deemed delinquent thereafter. Delinquency fees may be assessed as specified in Subsection C below, if payment occurs after the due date.
- B. In addition to the annual fee, each registrant shall pay a fee set by resolution of the City Council per client for whom lobbying is undertaken for compensation in excess of five hundred dollars (\$500.00). The fees for clients as of the date of initial registration shall be submitted with the registration. The fees for subsequent clients will be due and submitted at the time of the submission of the relevant semi-annual report as required pursuant to Section 2.08.110 below.
- C. A fine of twenty-five dollars (\$25.00) per day for delinquent fees, up to a maximum of five hundred dollars (\$500.00), will be assessed until compliance with the registration provisions herein.

(ORD-11-0021, § 1, 2011; ORD-10-0006 § 1, 2010)

#### **2.08.080 Required registration information.**

Registration statements shall contain the information set forth in Section 2.08.090.

(ORD-10-0006 § 1, 2010)

#### **2.08.090 Disclosure.**

The initial registration shall contain the name, business address, telephone and fax numbers of all persons required to register pursuant to this Chapter, including the names of all owners of sole proprietorships and partnerships of fewer than ten (10) persons. If the registrant is a corporation, it shall also include the names of the president, secretary, chief financial officer, and agent for service of process, if any. Any business or organization registering under this act shall also briefly describe the nature of its business or organization and contacted individual. In addition to this information, the report shall contain the following:

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- A. Contract lobbyist. The name, business address, telephone number of each client, the nature of each client's business and the item(s) of legislative or administrative action the lobbyist is seeking to influence on behalf of the client; and the name of each person employed or retained by the lobbyist to lobby on behalf of each client.
  - B. Business or organization lobbyist. The names of owners, officers or employees conducting lobbying activities and the item(s) of legislative or administrative action the lobbyist is seeking to influence.
  - C. Expenditure lobbyists. The item(s) of municipal legislative or administrative action the lobbyist is seeking to influence.
  - D. Payment received by the reporting lobbyist for services as a consultant or in any other capacity for services rendered to a City agency, any City official or any City official-elect or their controlled committees, any officeholder committee, or ballot measure committee. The dates of payment and name of each payer shall be included.
  - E. The name, address, title and telephone number of the person responsible for preparing the report, together with that individual's signature attesting to the authority of the signatory and the accuracy and truthfulness of the information submitted.

(ORD-10-0006 § 1, 2010)

#### **2.08.100 Subsequent disclosures.**

For each six (6) month period following the date in which the lobbyist was required to register, the lobbyist must file a semi-annual report in duplicate with the City Clerk not later than fifteen (15) calendar days after the end of the qualifying period whether or not any lobbying activities have occurred during such period. Electronic reporting may also be permitted by the City Clerk. Each semi-annual report shall contain the same information as required to be disclosed in the initial registration, for those activities occurring in that period. If a lobbyist has terminated all lobbying activities during such period, the lobbyist may file a declaration of termination with the semi-annual report. The final semi-annual report shall include disclosure of any lobbying activities during the period of termination.

(ORD-11-0021, § 2, 2011; ORD-10-0006 § 1, 2010)

#### **2.08.110 Semi-annual reports.**

Semi-annual reports are to be filed on or before July 15 and January 15 of each year, for the prior six (6) month period, and are delinquent thereafter. Electronic reporting may also be permitted by the City Clerk.

(ORD-11-0021, § 3, 2011; ORD-10-0006 § 1, 2010)

#### **2.08.120 Records retention.**

Copies of the records pertaining to the above-required reports shall be preserved by the lobbyist for inspection and audit for a period of four (4) years from date of production.

(ORD-10-0006 § 1, 2010)

#### **2.08.130 Lobbyist identification.**

When appearing in a lobbying capacity at a public meeting of the City Council or other City board or commission, a contract lobbyist shall identify himself/herself and the client(s) on whose behalf he/she is

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appearing, and a business or organization lobbyist shall identify himself/herself and the business or organization he/she represents.

(ORD-10-0006 § 1, 2010)

#### **2.08.140 Prohibitions.**

It shall be unlawful for any lobbyist to commit any one (1) of the following acts:

- A. Unauthorized Communications. Sending or causing any communication to be sent to any City official in the name of any nonexistent person or in the name of an existing person without the express or implied consent of such person.
- B. Fictitious Persons. Contacting any officer of the City in the name of any nonexistent person or in the name of any existing person, except with the consent of such existing person.
- C. Indirect Violations. Attempting to evade the requirements of this Chapter through indirect efforts or through the use of agents, associates, intermediaries or employees.
- D. Creation of Obligations. Performing or sponsoring any act with the purpose and intent of placing any City official under personal obligation to the lobbyist.

(ORD-10-0006 § 1, 2010)

#### **2.08.150 Gifts.**

It shall be unlawful for any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept any gift from a lobbyist.

(ORD-10-0006 § 1, 2010)

#### **2.08.160 The City Clerk.**

The City Clerk shall:

- A. Oversee administration of this Chapter including creation of all forms and explanatory materials.
- B. Post all submitted reports on the internet within a reasonable time of receipt of the reports.
- C. Accept all required filings under this Chapter.

(ORD-11-0021, § 4, 2011; ORD-10-0006 § 1, 2010)

#### **2.08.170 Criminal penalties.**

Any person who knowingly or willfully violates or causes any other person to violate any provision of this Chapter is guilty of a misdemeanor.

(ORD-10-0006 § 1, 2010)

#### **2.08.180 Injunction.**

The City Attorney may seek injunctive relief in the courts to enjoin violations of or to compel compliance with the provisions of this Chapter.

(ORD-10-0006 § 1, 2010)

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**2.08.190 Practice restrictions.**

No person convicted of a violation of this Chapter may act as a lobbyist or otherwise attempt to influence municipal legislation for compensation for one (1) year after such conviction.

(ORD-10-0006 § 1, 2010)

**2.08.200 Limitation of actions.**

Prosecution for violation of any provision of this Chapter shall be commenced within four (4) years after the date on which the violation occurred.

(ORD-10-0006 § 1, 2010)

**2.08.210 Cost of litigation.**

The court may award costs of litigation including reasonable attorney's fees to the prevailing party in any action to compel compliance with the provisions of this Chapter.

(ORD-10-0006 § 1, 2010)

**2.08.220 Review of regulations.**

On or before the first anniversary of the effective date of this Chapter, the City Council shall review the effectiveness of these regulations, and shall enact modifications, if necessary.

(ORD-10-0006 § 1, 2010)