

Sec. 1-7-101. Declaration of policy.

The City Council declares and finds as follows:

- A. City government functions to serve the needs of all citizens.
- B. The citizens of the City have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests.
- C. All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions and requirements, regardless of their background, training or other professional qualifications or license.
- D. Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of City government.
- E. It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions or attempt to deceive a City official through false communications; do not place a City official under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City official.
- F. It is in the public interest to adopt this division to ensure adequate and effective disclosure of information about efforts to lobby City government.

(Ord. No. 06-02, § 1, 2-14-06)

Sec. 1-7-102. Definitions.

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise. Other terms used in this division shall have the meanings set forth in the California Political Reform Act of 1974, as amended, and in the regulations of the California Fair Political Practices Commission, as amended, if defined therein.

- A. *City official* means the Mayor, Mayor Pro Tem, members of the City Council, City Council Executive Assistants, the City Manager, Assistant City Managers, Department Directors, Deputy Department Directors, the Police Chief, the Deputy Police Chief, the City Attorney, the City

Clerk, the Zoning Administrator, and members of the Planning Commission, the Community Services Commission, the Finance Commission, and any other commission that is advisory in nature.

- B. *Client* means any person on whose behalf lobbying is conducted. In the case of a coalition or association that employs or retains persons to conduct lobbying activities, the client is the coalition or association and not its individual members.
- C. *Compensation* means money or any other thing of value that is received, or is to be received, in return for, or in connection with, lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation includes the financial gain that a person may realize as a result of the determination of a municipal question, including gains in the form of a contingent fee. If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if for the purpose of evading the obligations imposed by this division, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported.
- D. *Contact* means all oral and written (including electronic) communications directed to a City official, including but not limited to telephone calls and messages, voicemail and answer machine messages, e-mail messages, mail, personally delivered material, meetings, and conversations.
- E. *Lobbyist* means a person who engages in lobbying, whether directly or through the acts of another. If an agent engages in lobbying for a principal, both the agent and the principal are lobbyists. A lobbyist includes but is not limited

to an in-house employee who engages in lobbying for his or her employer or for a client of the employer, and a land use project applicant who is not the record owner of the subject real property.

F. *Lobby or lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term "lobby or lobbying" does not include a communication:

1. Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;
2. Made by a public official or employee (including, but not limited to, an official or employee of the City of Irvine) acting in his or her official capacity;
3. Made in the course of, or in connection with the gathering, preparation or dissemination of news, information or commentary to the public, or in connection with a municipal question's possible effect upon or relevance to the media's right or ability to engage in such conduct.
4. Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
5. Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
6. Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;
7. Made in writing to provide information in response to an oral or written request by a City official for specific information, the content of which is compelled by law;

8. Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
9. Made on behalf of an individual with regard to that individual's employment or benefits;
10. Made by a fact witness or expert witness at an official proceeding; or
11. Made by a person solely on behalf of that individual or his or her relative.

G. *Lobbying firm* means:

1. A self-employed lobbyist, or
2. A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

H. *Municipal question* means a public policy issue of a discretionary nature pending before the City Council or another City body identified in the definition of City official, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term "municipal question" does not include the day-to-day application, administration, or execution of City programs and policies such as permitting, zoning and planning matters, but does include the amendment, modification or revision to the City's General Plan or Zoning Ordinance.

I. *Person* means an individual, business entity, trust, corporation, association, firm, partnership, committee, club, or any other organization or group of persons acting in concert.

J. *Registrant* means a person required to register under Section 1-7-103.

K. *Relative* means father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, spouse,

aunt, uncle, cousin, child or step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

(Ord. No. 06-02, § 1, 2-14-06; Ord. No. 06-06, § 1, 7-11-06)

Sec. 1-7-103. Persons required to register as lobbyists.

Except as provided otherwise in this division, a person who engages in lobbying must register with the City Clerk if, with respect to any client, the person engaging in lobbying activities receives or becomes entitled to receive compensation of \$10,000.00 or more in a calendar quarter.

(Ord. No. 06-02, § 1, 2-14-06; Ord. No. 06-06, § 2, 7-11-06)

Sec. 1-7-104. Exceptions.

The following persons are exempt from the provisions of this division.

A. *Media outlets.* A person who owns, publishes or is employed by:

1. A newspaper;
2. Any other regularly published periodical;
3. A radio station;
4. A television station;
5. A wire service; or
6. Any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration.
7. Any employee of such media outlet or other person engaged in gathering or preparing information for dissemination therein.

B. *Governmental entities.* Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the City.

C. *Unknown municipal questions.* A person who does not know and has no reason to know that a municipal question is pending at the time of contact with a City official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a City official and the person then engages in additional lobbying of the same official or other City officials with respect to that municipal question.

D. *Dispute resolution.* An attorney or other person whose contact with a City official is made solely as part of resolving a dispute with the City, provided that the contact is solely with City officials who do not vote on or have final authority over any municipal question involved.
(Ord. No. 06-02, § 1, 2-14-06)

Sec. 1-7-105. Registration.

A. *Separate registrations.* A person required to register as a lobbyist under Section 1-7-103 must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form.

B. *Initial registration.* An initial registration form relating to a client must be filed by a person required to register under Section 1-7-103 within 30 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant City officials, prior to official city action relating to the subject matter of the lobbying activity.

C. *Subsequent annual registration.* Except as provided in paragraph E of this Section, subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.

D. *Required disclosures.* Initial or subsequent registration shall be on a form prescribed by the City Clerk and shall include, to the extent applicable:

1. The full name, phone number, permanent address, and nature of the business of:
 - a. The registrant;

- b. The client;
 - c. Any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;
 - d. Any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which in whole or in major part plans, supervises, or controls the registrant's lobbying activities on behalf of the client;
 - e. Any lobbying firm for which the registrant is an agent or employee with respect to the client; and
 - f. Each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;
2. A statement of all municipal questions on which the registrant has lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby; and
 3. If the registrant is a former City official or employee, a statement that the registrant's lobbying activities have not violated and will not foreseeably violate Section 1-6-107 of this Municipal Code. Also the registrant shall list any positions held as a City official or employee during the past year.

E. *Termination of registration.* A registrant shall file a notice of termination of registration with the City Clerk if the registrant is no longer required by Section 1-7-103 to register. A filing under this paragraph E does not relieve the registrant of reporting requirements imposed for the reporting period in question.

F. *Fee.* At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the City, and the City Clerk shall collect, a fee in an amount to be determined by the City Council. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be used to offset the costs of administering this division and the costs of handling disclosure filings. (Ord. No. 06-02, § 1, 2-14-06)

Sec. 1-7-106. Activity reports.

A. *Required disclosures.* Except as provided in Section 1-7-104, each registrant shall file with the City Clerk a separate report signed under oath concerning the registrant's lobbying activities for each client from whom, or with respect to whom, the registrant received compensation of \$10,000.00 or more for lobbying during the prior calendar quarter. The report for the preceding calendar quarter shall be filed between the first and fifteenth day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. The report shall be on the form prescribed by the City Clerk and shall include, with respect to the previous calendar quarter, to the extent applicable:

1. The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed;
2. A list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
3. A list of the City officials contacted by the registrant on behalf of the client with regard to a municipal question;
4. A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;
5. The name and position of each City official or City official's relative who is employed by the registrant.

B. *Preservation of records.* Each registrant shall obtain and preserve all books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this Section for five years from the date of filing of the report containing such items.

C. *No activity or changes.* No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

D. *Contingent fees.* A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement.

(Ord. No. 06-02, § 1, 2-14-06; Ord. No. 06-06, § 3, 7-11-06)

Sec. 1-7-107. Restricted activities.

A. *Personal obligation of City officials.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City official under personal obligation to such lobbyist or person.

B. *Improper influence.* A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

C. *False appearances.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

D. *Prohibited representations.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any City official.

(Ord. No. 06-02, § 1, 2-14-06)

Sec. 1-7-108. Identification of clients.

A. *Appearances.* To the extent otherwise permitted by law, each person who lobbies or engages another person to lobby appearing before the City Council or another City body identified in the definition of "City official" shall complete a speaker identification card prior to that appearance and shall orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether or not he or she is registered as a lobbyist.

B. *Oral lobbying contacts.* Any registrant who makes an oral lobbying contact with an official shall, at the time of the initial lobbying contact with each official, identify himself or herself as a registered lobbyist and identify the client or clients on whose behalf the lobbying contact is made.

C. *Written lobbying contacts.* Any registrant who makes a written lobbying contact (including an electronic communication) with a City official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

(Ord. No. 06-02, § 1, 2-14-06; Ord. No. 06-06, § 4, 7-11-06)

Sec. 1-7-109. Timeliness of filing registrations and reports.

A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

- A. It is properly addressed with postage and handling charges prepaid; and
- B. It bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

(Ord. No. 06-02, § 1, 2-14-06)

Sec. 1-7-110. Administration.

The City Clerk shall:

- A. Provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance;
- B. Review for completeness and timelines of registrations and reports;
- C. Maintain filing, coding, and cross-indexing systems to carry out the purposes of this important provision of the Ethics Code, including:
 1. A publicly available list of all registered lobbyists, lobbying firms, and their clients; and

2. Computerized systems designed to minimize the burden of filing and maximize public access to materials filed;
 - D. Make available for public inspection and copying at reasonable times the registrations and reports filed;
 - E. Retain registrations and reports in accordance with the California Public Records Act; and
 - F. Upon receipt of a complaint filed with the Clerk's office alleging that a violation of the rules applicable to lobbyists may have been committed, forward information to the City Manager's Office to determine whether to file a complaint and initiate an investigation. Lobbyists who knowingly violate this division may be liable in a civil action brought by the City Attorney for up to \$1,000.00 per violation.
- (Ord. No. 06-02, § 1, 2-14-06)