

CITY OF MADISON, WISCONSIN

AN AMENDED FOURTH SUBSTITUTE
ORDINANCE _____

PRESENTED December 14, 2004
REFERRED CCOC _____

Amending Section 2.40(2)(c), creating new Sections 2.40(2)(d), (e), ~~and (f)~~ **and (g)**, renumbering current Sections 2.40(2)(d) through (h) to Sections 2.40(~~g~~)(**h**) through (~~k~~)(**l**), amending renumbered Sections 2.40(2)(~~h~~)(**i**), (~~i~~)(**j**), and (~~j~~)(**k**), repealing current Section 2.40(2)(i), renumbering current Sections 2.40(2)(j) through (n) to Sections 2.40(2)(~~l~~)(**m**) through (~~p~~)(**q**), amending renumbered Sections 2.40(2)(~~k~~)(**l**), (~~l~~)(**m**), and (~~n~~)(**o**) and Sections 2.40(3), (6), (7), (8), (9), (10), (11)(b) and (11)(e), creating Section 2.40(11)(f), amending Section 2.40(12), creating new Section 2.40(13), renumbering current Sections 2.40(13) and (14) to Sections 2.40(14) and (15), respectively, amending renumbered Section 2.40(14) and repealing current Section 2.40(15) of the Madison General Ordinances to modify portions of the lobbying ordinance.

REREFERRED _____
REPORTED BACK _____
ADOPTED _____ POF _____
RULES SUSPENDED _____
PUBLIC HEARING _____

MAYOR SIGNED _____
PUBLISHED _____

APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By

Comptroller's Office

AMENDED 4TH SUBST. ORD.
NUMBER _____
ID NUMBER 37309
LEGISTAR ID NUMBER 00059

Drafted by: Michael P. May, City Attorney

Date: September 23, 2005

Fiscal Note: Adoption of this ordinance amendment will have no direct budgetary impact. Any enforcement effort required to improve compliance would be accomplished by reallocation of existing Attorney's and Clerk's Office staff resources. No additional resources have been provided to support this effort.

SPONSORS: Mayor Cieslewicz, Aids. Van Rooy and Radomski

DRAFTER'S ANALYSIS: The Amended Fourth Substitute represents the proposed amendments as approved by the Common Council on September 20, 2005. The Amended Fourth Substitute makes a number of changes from existing law. These include:

- 1. Broaden Exemption for Madison Businesses.
The proposed ordinance broadens the exemption for Madison-based businesses. Except as set out below, any Madison-based business lobbying through an owner, director, officer, or employee (who is not hired as a lobbyist), would be exempt from the ordinance.

Approved as to form:

2. Coverage for Fund Seekers and Developers.
Regardless of any other exemptions, any person seeking more than \$10,000 in funding (including TIF) from the City in a calendar year would be subject to the ordinance, as would any person lobbying on a development of more than 40,000 square feet of non-residential space or more than 10 dwelling units. The City will establish a method of notifying these applicants of the registration requirements.
3. Limits of Business Exemption.
The business exemption is not available in a number of specific circumstances. These are:
 - (a) Outside paid lobbyists;
 - (b) Employees paid primarily to do lobbying (if an employee has no more than 5 days of contact with Covered City officials in a 6-month period, they are not a lobbyist);
 - (c) Trade associations or organizations (Chamber of Commerce, Realtors Association) or public policy advocacy organizations (Freedom From Religion Foundation, NRA).
4. Common Sense Exclusions.
Persons living or planning to live in their own single family home or duplex seeking necessary zoning changes for improvements to their homes or lots, and any person appealing their tax assessment to the Board of Review, are specifically excluded from the ordinance.
5. Clarifying Language.
Much of the standard clarifying language included in many prior drafts is carried forward, including that volunteers are not covered, that attorneys and architects do not have a blanket exclusion, that lobbyists and principals are required to provide information upon request of the City Attorney, and that training will be provided.
6. Lobbyists Filings.
The ordinance retains the obligation of both principal and lobbyist to make the appropriate filings, but places more of the burden on the lobbyist, rather than the principal.
7. Reporting Periods, Other Clarifications.
The ordinance moves to a 6-month period for reporting, to mirror the state law. A person who merely appears and registers at a public hearing without speaking is not lobbying.
8. Independent Contractors.
An additional minimal contacts exemption was added for any independent contractor working for a person or business located in Madison. These contractors (this could cover realtors, architects, engineers and perhaps others; it does not cover attorneys or contract lobbyists) could make covered contacts on five days in a reporting period, without having to register. In addition, a clarifying exemption for Design Professionals was added so that design work and responding to questions on design work is not covered by the ordinance.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (c) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:
 - "(c) "Business entity" means any organization or enterprise whether operated for profit or not for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, cooperative, limited liability company or association.
2. New Subdivision (d) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:
 - "(d) "Business owner" means a person that conducts commercial or other business operations (including non-profit activities). For purposes of the exemptions set forth in sub. (3)(i) of this ordinance, all individuals who are owners, employees, directors or officers of a business owner are entitled to the business owner's exemption when acting on behalf of the business owner. The exemptions contained in sub. (3)(i)1.,a. of this ordinance shall only apply to business owners who own or lease real property located in the City of Madison which is used on a substantial and continuing basis for its operations, provided, however, that for any business owner with business locations both within and without the City of Madison, any employee qualifying for the above exemption must be employed at the Madison location."
3. New Subdivision (e) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:

“(e) “Covered City official” means the following officials of the City of Madison: elected officials, members of **City of Madison** boards, committees and commissions, **individuals appointed by the Mayor and confirmed by the Common Council to boards, committees and commissions to represent the City of Madison**, department, division, and unit heads, assistants to the Mayor, Tax Incremental Financing Coordinator, and commissioned police officers holding the rank of lieutenant or above and commissioned fire department officers holding the rank of captain or above. On or before January 15 of each year, the City Clerk shall publish on-line at the City’s website a list of all positions that are “Covered City officials,” except for members of boards, committees and commissions.”

EDITOR’S NOTE: This definition modifies the current definition of “Official”, at Section 2.40(m), which is repealed by this ordinance.

4. New Subdivision (f) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:

“(f) “Design professionals” means architects, engineers, landscape architects, land surveyors or designer of engineering systems, licensed under ch. 443, Wisconsin Statutes, geologists, soil scientists and hydrologists licensed under ch. 470, Wisconsin Statutes, professional planners belonging to the American Institute of Certified Planners, cultural resource specialists as defined by the U.S. Secretary of Interior Professional Standards for Archeology and Historic Preservation, and photogrammetrists as certified by ASPRS, the Imaging and Geospatial Information Society.”

4. 5. New Subdivision ~~(f)~~ **(g)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:

“(f) **(g)** “Independent contractor” means an individual who (i) is retained by a person located within the City of Madison for a service other than lobbying, (ii) is not an employee of the person, and (iii) **is not an attorney, and (iv)** does not hold himself or herself out to the public as engaged in the business of representing others for the purpose of lobbying.”

5. 6. Current Subdivisions (d) through (h) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances are renumbered to Subdivisions ~~(g)~~ **(h)** through ~~(k)~~ **(l)**, respectively.

6. 7. Renumbered Subdivision ~~(h)~~ **(i)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

“(e)~~(h)~~**(i)**“Lobbying” means the practice of attempting to influence legislative or administrative action by oral, written or electronic communication with any covered City official, and includes time spent in preparation for such communication and appearances at public hearings or meetings or service on a committee in which such preparation or communication occurs. The mere appearance and registration in support, opposition or for informational purposes at a public hearing, without speaking or engaging in any further lobbying communications, is not itself an act of lobbying; if the individual otherwise engages in lobbying activities requiring registration under this ordinance, such appearances may be lobbying. Attorneys and architects are not exempt from this ordinance. However, a certain limited area of actions taken by them are not considered lobbying: the term “lobbying” does not include actions by licensed attorneys, the performance of which is prohibited under Sec. 757.30, Wis. Stats., to persons not licensed as attorneys; it does not include the practice of architecture, as defined in Sec. 443.01(5), Wis. Stats., and forbidden to unregistered persons under Sec. 443.02(2), Wis. Stats.”

7. 8. Renumbered Subdivision ~~(i)~~ **(j)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

“(f)~~(i)~~**(j)** “Lobbying communication” means an oral, written or electronic communication with any covered City official that attempts to influence legislative or administrative action, unless exempted under Subsection (3) of this ordinance.”

8- 9. Renumbered Subdivision ~~(j)~~ **(k)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

~~"(g)(j)(k)"~~"Lobbying expenditure" means an expenditure related to the performance of lobbying, whether received in the form of an advance or subsequent reimbursement. The term includes an expenditure for conducting research or for providing or using information, statistics, studies or analyses in communicating with a covered City elected official, employee, or member of a City board, committee or commission that would not have been incurred but for lobbying. "Lobbying expenditure" also includes all expenditures required to be reported in Sub. (10)(a)1.a. - e."

9- 10. Current Subdivision (i) of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is hereby repealed.

EDITOR'S NOTE: Current Section 2.40(2)(i) currently reads as follows;

"(i) "Official" includes elected officials, members of boards, committees and commissions, department, division, and unit heads, assistants to the Mayor, and commissioned police officers holding the rank of lieutenant or above and commissioned fire department officers holding the rank of captain or above."

It is replaced by new Section 2.40(2)(e).

10- 11. Current Subdivisions (j) through (n) of Subsection (2) of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances are hereby renumbered to Subdivisions ~~(j)~~**(m)** through ~~(p)~~**(q)**, respectively.

11- 12. Renumbered Subdivision ~~(j)~~**(m)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

~~"(j)(l)(m)"~~"Person" means an individual, ~~corporation, association, firm, partnership, committee, club, organization, limited liability company, or group of persons who are voluntarily acting in concert.~~ or business entity. "Person" shall also include recognized employee organizations, associations and representatives thereof."

12- 13. Renumbered Subdivision ~~(m)~~**(n)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

~~"(k)(m)(n)"~~"Principal" means any person who employs a lobbyist. ~~If an association, corporation, limited liability company or partnership~~ a business entity engages a lobbyist, ~~an no~~ officer, employee, member, shareholder or partner of the ~~association, corporation, limited liability company or partnership shall not~~ business entity shall be considered a principal."

13- 14. Renumbered Subdivision ~~(e)~~**(p)** of Subsection (2) entitled "Definitions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

~~"(m)(e)(p)"~~"Reporting period" means each ~~calendar quarter, including six month period from January 1 through March 31; April 1 through June 30; July 1 through September 30; and October~~ June 30 and July 1 through December 31."

14- 15. Subsection (3) entitled "Exemptions" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

"(3) Exemptions. This ordinance does not apply to the following activities:

- (a) Lobbying through communications media or by public addresses to audiences made up principally of persons other than City of Madison officials, except that lobbying communications for which expenditures are required to be reported under Sub. (10)(a)1.e. are not exempt.
- (b) Except as provided in Sub. (10)(a)1.e., news or feature reporting, paid advertising activities or editorial comment by working members of the press, and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station or television station.
- (c) Requests by a member of the Common Council, or by a board, committee, or commission, for information from City employees and the furnishing of the requested information by City employees, acting in their official capacity.

- (d) Actions taken by a public official or employee acting in his/her official capacity.
- (e) Participation as a member of a ~~board, committee or commission~~ City of Madison board, committee, commission, task force or similar body or a committee or subcommittee thereof, or participation as a member of any other board, committee, commission, task force or similar body that includes as a member thereof a City official appointed or designated as a member in his or her capacity as a City of Madison official.
- (f) Requests by a City employee, acting in an official capacity, for information from any person and the furnishing of the information by that person. Requests by any person for information from a City employee and the furnishing of the information by that employee are also exempt.
- (g) Lobbying through communications which are specifically identified as services required to be furnished under a contract or tariff with the City; provided that such services are fully described in annual service reports submitted by the contractor to a City agency and made available for public inspection.
- (h) Any person acting as an unpaid volunteer.
- ~~(h)~~ (i) Individual Right to Lobby.
 - 1. Except as set forth in Subs. (3)(j) and (k) below, Nothing in this ordinance may be applied so as to require registration or reporting or interfere with the right of any individual to engage in activities that might otherwise be considered lobbying:
 - a. By a business owner on behalf of his, her or its business; or
 - b. By any individual or business owner appearing before any covered City official where the person is appearing at the request of a covered City official or City employee for the sole purpose of responding to questions or requests for information from the covered City official or a City employee.
 - c. By an independent contractor provided that he or she does not make lobbying communications **on behalf of a single person on more than three (3) days within a reporting period, or on behalf of more than one person** on more than **six (6) five (5)** days within a reporting period.
 - 2. Except as set forth in Sub. (3)(k) below, nothing in this ordinance may be applied so as to require registration or reporting or interfere with the right of any individual to engage in activities that might otherwise be considered lobbying:
 - ~~1-a.~~ Solely on her or his own behalf; or
 - 2. On behalf of a business corporation of which he/she owns more than 50 percent of the shares, of a firm of which he/she is the sole owner, or of a single member limited liability company of which he/she is the sole member, or of a partnership in which the individual is a general partner.
 - ~~3-b.~~ By communicating solely with a Council member who represents the district in which the individual resides, whether or not such communication is made on behalf of the individual or on behalf of another person; or
 - c. By a representative of the owner of an owner-occupied single family home or duplex, or of the owner of a lot on which the owner is to build an owner-occupied single family home or duplex, requesting a variance or other zoning change for improvements to the single family home or duplex or lot; or
 - d. By any person or his, her or its representative challenging a tax assessment before the Board of Review.
- (j) The exemptions in Sub.(i)1. are not available to any of the following individuals:
 - 1. Any individual holding himself or herself out to the public as engaged in the business of representing others for the purpose of lobbying.
 - 2. Any individual employed by a trade association or organization, any organization that has a membership of or is acting on behalf of two or more business entities, or any organization that has as a **primary** purpose advocacy on issues of public policy.
 - 3. Any individual employed by a business owner if one of his or her primary job duties is lobbying, provided, however, that it shall be conclusively established that lobbying is not one of an individual's primary job duties if he or she does not make lobbying communications on more than 5 days within a reporting period.
- (k) Provided that the City gives notice of the registration and reporting requirements under this Sec.2.40 to the person seeking City assistance or approval, the exemptions in Sub. (i)1. and 2. are not available with respect to any lobbying activities or expenditures incurred:
 - 1. In seeking direct cash assistance from the City in the form of a loan, grant, TIF funding, or similar assistance (not including for this purpose the provision of goods or services directly

- to the City or a City agency) in an amount greater than ten thousand dollars (\$10,000) in a calendar year; or
- 2. In seeking approval of any development or redevelopment as defined in MGO § 20.04(8) located within the City of Madison that is reasonably expected to include over 40,000 gross square feet in a non-residential building or buildings or ten (10) dwelling units.

(l) Design professionals providing the services within the definition of their profession, but only when preparing submittals requested for City approvals, when responding to questions of City staff or at public meetings, or when presenting information only to City staff or at a public meeting.

15- 16. Subsection (6) entitled "Registration" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

“(6) Registration.

- (a) ~~Every principal who makes expenditures or incurs obligations for the purpose of engaging in lobbying which is not exempt under Subsection (3), lobbyist shall, within five (5) working days after the first lobbying communication made on his/her behalf, cause to be filed by the lobbyist, file with the City Clerk a registration statement specifying the principal's lobbyist's name, business address, the general areas of legislative and administrative action which the principal lobbyist is attempting to influence, the names of any City agencies in which the principal lobbyist seeks to influence administrative action, and information sufficient to identify the principal who has hired the lobbyist and the nature and interest of the principal. The statement shall be signed by an individual identified under Paragraph 5. below who is authorized to represent the principal, and shall be verified the lobbyist. The statement shall include:~~
1. ~~If the principal is an individual, the name and address of the individual's employer, if any, or the individual's principal place of business if self-employed, and a description of the business activity in which the individual or the individual's employer is engaged.~~
 2. ~~If the principal is a business entity, a description of the business activity in which the principal is engaged and, in the case of a corporation, the name of its chief executive officer, or in the case of a partnership or limited partnership, the name of its general partner, in the case of a manger-managed limited liability company, the name of its manager, in the case of a general partnership, limited liability partnership, or member-managed limited liability company, the names of the partners or members.~~
 3. ~~If the principal is an industry, trade or professional association, a description of the industry, trade or profession which it represents, including a specific description of any segment or portion of the industry, trade or profession which the association exclusively or primarily represents and the name of the chief executive officer and the approximate number of its members.~~
 4. ~~If the principal is not an individual, business entity or industry, trade or professional association, a statement of the principal's nature and purposes, including a description of any industry, trade, profession or other group with a common interest which the principal primarily represents or from which its membership or financial support is primarily derived and the approximate number of its members.~~
 5. ~~The name and position or relationship to the principal of any designee who is authorized to sign other documents required under this subsection or Subsections (7), (9) and (10).~~
 6. Each proposed legislative or administrative action in connection with which the principal lobbyist has made or intends to make a lobbying communication during the period to which the registration applies. The proposed legislative or administrative action is sufficiently identified if it is sufficient to permit a person to ascertain without extraordinary diligence:
 - a. the specific item of legislative or administrative action or private sector business or other activity which the effort is intended to affect and how it is intended to be affected;
 - b. the industries, trades, or professions, or segments or portions thereof, that would be principally affected by the effort;
 - c. in the case of an appropriation, the City program or person for which the appropriation is proposed and the approximate amount, if known; and
 - d. such additional information as the Clerk deems necessary for compliance with this Subsection.

- (b) The registration shall expire on December 31 of each year. If all lobbying by ~~or on behalf of the principal~~ the lobbyist which is not exempt under Subsection (3) ceases, the City Clerk shall terminate the ~~principal's lobbyist's~~ registration and any authorizations under Subsection (7) as of the day after the ~~principal lobbyist~~ files a statement of cessation and expense statements under Subsection (10) for the period covering all dates on which the principal lobbyist was registered.
- (c) Each ~~principal lobbyist~~ registered under this section shall, before ~~the principal or a lobbyist for the principal~~ attempts to influence legislative or administrative action in any general area or City agency not previously filed with the City Clerk, provide written notice to the City Clerk of the specific area or agency in which the ~~principal or a lobbyist for the principal~~ will attempt to influence legislative or administrative action ~~and in relation to which a lobbyist is employed.~~ Such notice is sufficient if it complies with Subsection (6)(a)~~6-5,~~ above.
- (d) Every person who appears before any board, committee, or commission or before the Common Council, shall indicate on a form supplied by the City Clerk whether s/he is a registered lobbyist; whether s/he represents a person or organization other than herself or himself; whether s/he is being paid or expects to be paid for the representation; the name, address and telephone number of the person she or s/he represents; his/her relationship (ownership, employment, etc.) to the person or organization s/he represents; whether her/his appearance is incidental to paid other duties for this person or organization; and whether she or he understands the duty of a lobbyist to register with the City Clerk.

16. 17. Subsection (7) entitled "Lobbyist Authorization" Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

"(7) Lobbyist Authorization. At the time of registration under this ordinance, a lobbyist or principal shall ~~Before engaging in lobbying on behalf of a principal a lobbyist or the principal who employs a lobbyist shall file cause to be filed with the City Clerk a written authorization for the lobbyist to represent the principal, signed by or on behalf of the principal. A lobbyist or principal shall file a separate authorization for each principal represented by a lobbyist. Such authorization shall include the lobbyist's name, current mailing address, business telephone number, and whether the lobbyist is a contract lobbyist or an employee on such forms as the City Clerk shall direct. Such authorization shall include the lobbyist's name, current mailing address, business telephone number and whether the lobbyist is an employee of the principal.~~"

17. 18. Subsection (8) entitled "Restrictions on Lobbying" Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

"(8) Restrictions on Lobbying. Except as authorized under Subsection (3), no person may engage in lobbying as a lobbyist unless the person has complied with the registration requirements under Subsection (6)(a) and the authorization under Subsection (7) has been filed. ~~been authorized to act as a lobbyist for the principal whom the lobbyist represents under Subsection (7). Except as authorized under Subsection (3), no principal may authorize its lobbyist to engage in lobbying until the principal is registered under Subsection (6).~~"

18. 19. Subsection (9) entitled "Identification of Legislative and Administrative Proposals" Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

"(9) Identification of Legislative and Administrative Proposals
(a) ~~Except as authorized under Subsection (3), no person may engage in lobbying as a lobbyist on behalf of a principal and no principal may authorize a lobbyist to engage in lobbying on its behalf unless, no later than the end of the fifth working day after the principal lobbyist makes a lobbying communication with respect to a legislative proposal or proposed administrative action not previously identified by the principal under Subsection (6)(a)5. or reported under this section during the period for which the principal is registered, the principal lobbyist reports to the City Clerk in such manner as the Clerk may prescribe, each proposed legislative or administrative action in connection with which the principal lobbyist has made or intends to make a lobbying communication. Such report is sufficient if it complies with Subsection (6)(a)5., above. With respect to a lobbying communication relating to the capital or operating budget, the principal shall further identify from among topics provided by the Clerk the topic or topics of its lobbying communications, if any. The report shall be made by a person who is identified by the principal under Subsection (6)(a)5.~~

~~(b) Any person who is not a principal may register with the City Clerk an interest in any proposed Council action or administrative action."~~

19. 20. Subsection (10) entitled "Principal's Expense Statement" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

"(10) Principal's Expense Statement on Behalf of Principal.

(a) Statement. Every principal who makes expenditures or incurs obligations in an aggregate amount exceeding ~~\$500~~ 1,000 in any reporting period for the purpose of engaging in lobbying which is not exempt under Subsection (3) shall, for the remainder of that calendar year, file with the City Clerk an expense statement covering each preceding reporting period. Failure to file such statement is a certification that lobbying expenditures have not exceeded \$1,000 for the reporting period. Such statement shall be filed on or before ~~April 30, July 31, October 31,~~ and January 31. The statement shall be signed under the penalty for making false statements provided in Subsection (13)(c), by ~~an individual identified under Section (6)(a)5. who is authorized to represent the lobbyist, if so authorized by the principal, or by the principal.~~ the lobbyist, if so authorized by the principal, or by the principal. The statement shall contain the following information:

1. The aggregate total amount of lobbying expenditures made and obligations incurred for lobbying activities by the principal and all lobbyists for the principal, excluding lobbying expenditures and obligations for the principal's clerical employees and lobbying expenditures and obligations specified in Paragraphs 2. and 4. below. With respect to expenditures and obligations included in the amount reported under this paragraph:
 - a. Lobbying expenditures made and obligations incurred for lobbying shall include compensation to lobbyists for lobbying, whether in cash or in kind, and reimbursements to lobbyists and to the principal or officers or employees of the principal for lobbying or expenses.
 - b. Except as provided in Subparagraph c., lobbying expenditures made and obligations incurred in preparing for lobbying shall be included in the aggregate total.
 - c. A reasonable estimate of lobbying expenditures made and obligations incurred for conducting, compiling or preparing research, information, statistics, studies or analyses used in lobbying shall be included in the aggregate total. Lobbying expenditures and obligations shall not be reported under this paragraph if the use in lobbying occurs more than three (3) years after the completion of the research or the compilation or preparation of the information, statistics, studies or analyses. If the research, information, statistics, studies or analyses are used by the principal both for lobbying and for purposes other than lobbying, the principal shall allocate the lobbying expenditures and obligations among the purposes for which the research, information, statistics, studies or analyses are used and include the portion allocated to lobbying in the aggregate total.
 - d. Lobbying expenditures made and obligations incurred for providing or using research, information, statistics, studies or analyses in lobbying shall be included in the aggregate total.
 - e. Lobbying expenditures made and obligations incurred for paid advertising and any other activities conducted for the purpose of urging members of the general public to attempt to influence City of Madison legislative or administrative action shall be included in the aggregate total.
2. If a lobbyist is an employee, officer or director of a principal and the lobbyist is paid a salary or given consideration other than reimbursement of expenses, the aggregate total amount of lobbying expenditures made or obligations incurred by the principal for office space, utilities, supplies and compensation of employees who are utilized in preparing for lobbying communications. Any lobbying expenditures made or obligations incurred for the office overhead costs which are included in the amount reported under Subdivision (a)1. shall not be included in the amounts reported under this Subdivision (a).
3. The principal's ~~quarterly~~ expense report shall include a record disclosing each lobbying communication. The record shall be supplied on a form provided by the City Clerk and shall include identification of each covered City official contacted, the number of times each official received a lobbying communication, the subject of each communication, and the identity of the lobbyist who made the communication.

4. The total lobbying expenditures made and obligations incurred for personal travel and living expenses.
- (b) Estimates.
 1. If the principal compensates or reimburses a lobbyist or employee both for lobbying activities or expenses which are not exempt under Subsection (3) above and for other activities or expenses, for the purposes of Subdivision (a)1.a. or f., the lobbyist or principal may estimate and report the portion of the compensation or reimbursement paid for nonexempt lobbying activities or expenses.
 2. Any reasonable estimate or allocation made in good faith under Subdivision (a)1.c. or 3. or of this subsection fulfills the requirements of this subsection.
 - (c) Exempt Activities. Lobbying expenditures made and obligations incurred for activities identified under Subsection (3) are not required to be reported under Subsection (10)(a), regardless of whether the principal or a lobbyist for the principal also engages in lobbying activities which are not identified in Subsection (3).
 - (d) Reports by Lobbyist. A lobbyist whose activities and expenditures are required to be reported by a principal under Subsection (10)(a) shall provide to the principal information which the principal determines is needed to prepare the statement. The principal shall file a copy of the information, signed by the lobbyist under the penalty for making false statements provided in Subsection (13)(c) with the City Clerk at the time of filing the statement under Subsection (10)(a).
 - (e) Records. Each principal and each lobbyist engaged by a principal shall obtain, organize and preserve all accounts, bills, receipts, books, papers and other documents necessary to substantiate the expense statement for three (3) years after the date of filing the expense statement. A principal may permit its authorized lobbyist to maintain any of the records identified in this subsection on its behalf.
 - (f) Suspension for Failure to File a Complete Expense Statement. If a principal, or a lobbyist if authorized to file on behalf of the principal, fails to timely file a complete expense statement under this Subsection, the City Clerk may suspend the privilege of any lobbyist to lobby on behalf of the principal. Upon failure of a principal to file the required expense statement, the Clerk shall mail written notices to the principal and to any lobbyist for whom a written authorization has been filed under Subsection (7) to act as a lobbyist for the principal informing them that unless the principal files the delinquent statement within ten (10) business days after the date of mailing of the notices, no lobbyist may lobby on behalf of the principal. The privilege of any lobbyist to lobby on behalf of the principal shall be restored immediately upon the filing of the delinquent statement. The notices shall be sent by certified mail to the last-known addresses of the principal and lobbyist. Any principal or lobbyist who is aggrieved by a suspension of lobbying privileges under this subsection may request a hearing under Section 9.49 of these ordinances regarding the suspension."

20- 21. Subdivision (b) of Subsection (11) entitled "Duties of the City Clerk" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

- "(b) At the time of initial registration and re-registration, the City Clerk shall provide the ~~principal~~ lobbyist with a copy of the City's lobbyist law and any related material which the Clerk determines will serve the purposes of this ordinance. ~~Each principal shall sign a statement acknowledging receipt of these materials.~~"

21- 22. Subdivision (e) of Subsection (11) entitled "Duties of the City Clerk" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

- "(e) Any person who believes a violation has occurred may file a written inquiry complaint form with the City Clerk who shall refer the matter to the City Attorney."

22- 23. Subdivision (f) of Subsection (11) entitled "Duties of the City Clerk" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:

- "(f) The City Clerk, in consultation with the Organizational Development and Training Unit, shall conduct semi-annual training workshops concerning this ordinance."

23- 24. Subsection (12) entitled "Duties of the City Attorney" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

- "(12) Duties of the City Attorney.

- (a) The City Attorney shall ~~conduct~~ participate in the annual workshops concerning the laws related to lobbying conducted by the City Clerk.
- (b) Upon receipt of a referral from the City Clerk, the City Attorney shall review alleged violations of this section to determine whether the allegation has merit. The City Attorney may summarily dismiss any allegation which s/he finds to be without merit.
- (c) If the City Attorney believes an allegation has merit, s/he shall prepare and file a complaint in Municipal Court. The complaint shall identify the provision of this ordinance alleged to be violated.
- (d) No later than April 1 of each year, the City Attorney shall file a report with the Mayor and the Common Council concerning actions s/he has taken under this section and the disposition of those actions, including a summary of its determinations.
- (e) The City Attorney may commence a civil action to require forfeitures for any violation of this section."

24- 25. New Subsection (13) entitled "Duty to Cooperate" of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is created to read as follows:

"(13) Duty to Cooperate. Principals and lobbyists are required to keep and maintain legible copies of all accounts, bills, receipts, books, papers and other documents necessary to substantiate any expense statement and other required filings under this ordinance. Such records shall be maintained for a period of not less than three (3) years after the filing of such expense statements or other required filings. Such records or other information requested in relation to any investigation under this ordinance shall be provided to the City Attorney within 15 days of a request by the City Attorney for the production of such records."

25- 26. Current Subsections (13) and (14) of Section 2.40 of the Madison General Ordinances are renumbered to Subsections (14) and (15), respectively.

26- 27. Renumbered Subsection (14) of Section 2.40 entitled "Lobbying Regulated" of the Madison General Ordinances is amended to read as follows:

~~"(13)~~ (14) Penalties.

- (a) Any ~~principal lobbyist~~ who violates any provision of this ordinance may be required to forfeit not more than \$5,000. ~~In the case of a partnership, each of the partners is jointly and severally liable for any forfeiture imposed under this ordinance.~~
- (b) Any ~~lobbyist~~ principal who violates any provision of this ordinance may be required to forfeit not more than \$1,000.
- (c) Any ~~lobbyist who falsifies information provided under Subsection (10)(d) or any principal who files or any person who files or causes to be filed on behalf of any principal a falsified statement under Sub.(10)~~ may be required to forfeit not more than \$1,000 in addition to any forfeiture imposed under any other provision of this ordinance.
- (d) Any principal, lobbyist or other individual acting on behalf of a principal who files a statement under Subs. (7), (9), or (10) which he or she does not believe to be true may be required to forfeit not more than \$1,000 in addition to any forfeiture imposed under any other provision of this ordinance."

27- 28. Current Subsection (15) of Section 2.40 entitled "Effective Date" of the Madison General Ordinances is hereby repealed.

EDITORS NOTE:

Section 2.40(15) of the Madison General Ordinances currently reads as follows:

"(15) Effective Date. This ordinance takes effect on January 1, 2001."