

2.40 LOBBYING REGULATED.

- (1) Legislative Intent. The Common Council finds that it is in the public interest that the fullest opportunity be afforded to the people of Madison to petition their government and to express freely to City officials and employees their opinions on legislation and on all City policies and activities. The Common Council also recognizes the right of the people of Madison to know who seeks to influence the actions of their City government. The Council finds that, in order to preserve the integrity of the City's decision-making processes, it is necessary to establish a procedure whereby persons acting as lobbyists are required to provide to the public full information as to their identity, the identity of their principal, their expenditures and their lobbying activities. It is not the intent of this ordinance to discourage or limit the exercise of constitutional rights.
- (2) Definitions.
 - (a) "Administrative action" means the proposal, drafting, development, consideration, or issuance of staff recommendations, whether those recommendations are required by ordinance, or requested by the Mayor or by a board, committee, commission or the Common Council. "Administrative action" does not include a purely ministerial action by a City official or employee and it does not include action related to an enforcement action commenced by a written order, a citation, or a summons and complaint.
 - (b) "Agency" means any City department, division, board, commission, or committee.
 - (c) "Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company or association.
 - (d) "Business Owner" means an individual who is lobbying on behalf of a business corporation of which he/she owns more than fifty percent (50%) 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 he/she is a general partner."
 - (e) "Legislative action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or defeat of any ordinance, resolution, amendment, report, nomination or other matter by the Common Council or by any board, committee or commission or committee or subcommittee thereof, or by a Common Council member acting in an official capacity. "Legislative action" also means the action of the mayor in approving or vetoing any ordinance or resolution, and the action of the mayor or any department, board, committee or commission or committee or subcommittee thereof in the development of a proposal for introduction to the Common Council.
 - (f) "Lobbying" means the practice of attempting to influence legislative or administrative action by oral, written or electronic communication with any 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 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.

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

- (h) “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 *by or at the request of the principal and/or lobbyist* in communicating with a 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.
 - (i) “Lobbyist” means an individual who is employed by a principal, or contracts for or receives economic consideration, other than reimbursement for actual expenses, from a principal and whose duties include lobbying on behalf of the principal, regardless of whether the individual’s duties on behalf of a principal are or are not limited exclusively to lobbying. A public official acting in an official capacity on behalf of his/her governmental unit is not acting as a lobbyist.
 - (j) “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.
 - (k) “Person” means an individual, corporation, association, firm, partnership, committee, club, organization, limited liability company, or group of persons who are voluntarily acting in concert. “Person” shall also include recognized employee organizations, associations and representatives thereof.
 - (l) “Principal” means any person who employs a lobbyist. If an association, corporation, limited liability company or partnership engages a lobbyist, an officer, employee, member, shareholder or partner of the association, corporation, limited liability company or partnership shall not be considered a principal.
 - (m) “Relative” means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, spouse, fiancé, fiancée, or registered domestic partner.
 - (n) “Reporting period” means each calendar quarter, including January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.
 - (o) “Working day” means any day except Saturday, Sunday or a holiday designated in Sec. 1.01(10) of these ordinances.
- (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 acting in his/her official capacity.
 - (e) Participation as a member of a *City of Madison* board, committee or commission or a committee or subcommittee thereof, or participation as a member of any

board, committee or commission, or a committee or subcommittee thereof, which body includes as a member thereof a City official appointed or designated as a member in his or her capacity as a City 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 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. (Cr. by Ord. 12,749, 1-22-01)
- (h) Individual Right to Lobby. Nothing in this ordinance may be applied so as to interfere with the right of any individual to engage in lobbying:
 - 1. 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.~~
 - 2. 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.
 - 3. By a Business Owner by communicating, on matters related to the business, solely with the Council member who represents the district in which the business of the Business Owner is located, provided, however, that a business may only utilize one location within tthe City for this exemption.

(i) De Minimus Exemption.

- 1. A principal shall not be required to register or report expenditures if the principal meets all of the following safe harbor provisions:
 - a. The principal does not employ or pay lobbyists who, individually or collectively, engage in lobbying on more than three (3) days during a reporting period, and,
 - b. The principal does not employ or pay lobbyists who, individually or collectively, engage in lobbying on more than five (5) days during a calendar year, and,
 - c. The principal does not have total lobbying expenditures of more than five hundred dollars (\$500) during a calendar year. The five hundred dollars (\$500) exemption is not available to any principal seeking to obtain funds from the City int he form of loans or grants or purchases exceeding ten thousand dollars (\$10,000) in a calendar year.
- 2. In the even a principal exceeds the safe harbor provisions of Subdivision (i)1., above, all lobbying time and expenses are included within any required registration and reporting requirements.

(Renumbered by Ord. 12,749, 1-2-01)

(4) Prohibited Practices.

- (a) No lobbyist may:
 - 1. Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition to the action.

2. Furnish to any City of Madison official or employee or candidate for City of Madison elective office, or to the official's or candidate's personal campaign committee:
 - a. Lodging.
 - b. Transportation.
 - c. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a candidate for City elective office, or to the candidate's personal campaign committee.
3. Contract to receive or receive compensation dependent in any manner upon the success or failure of any legislative or administrative action.
 - (b) No principal may engage in the practices prohibited under paragraph (a)2. This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.
 - (c) This subsection does not apply to food, meals, beverages or entertainment provided by the Mayor when acting in an official capacity.
 - (d) This subsection does not apply to the furnishing of anything of pecuniary value by an individual who is a lobbyist or principal to a relative of the individual or an individual who resides in the same household as the individual, nor to the receipt of anything of pecuniary value by that relative or individual residing in the same household as the individual.

- (e) Paragraph (a)2. does not apply to the furnishing of anything of pecuniary value by a lobbyist or principal to an employee of that lobbyist or principal who is a City official if the thing of pecuniary value is not in excess of that customarily provided by the employer to similarly situated employees and if the City official receives no compensation for her or his services other than reimbursement for actual and necessary expenses incurred in the performance of her or his duties, nor to the receipt of anything of pecuniary value by that City official under those circumstances.
 - (f) Paragraph (a)2. does not apply to the furnishing of educational or informational material by a lobbyist or principal to a City official or employee, or acceptance thereof by a City official or employee.
 - (g) Paragraph (a)2. does not apply to the furnishing or receipt of a reimbursement or payment for actual and reasonable expenses permitted under Sec. 3.47(6) of these ordinances.
- (5) Corrupt Means to Influence Legislation; Disclosure of Interest. No person having a pecuniary or other interest, or acting as the agent of any person in procuring or attempting to procure the passage or defeat of any measure before the Council, may attempt in any manner to influence any member of the Council for or against the measure, without first making known to the member the real and true interest she or he has in the measure, either personally or as such agent. No person may give, or agree to give, or offer to give anything of value to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the Common Council upon the contingency or condition of the passage or defeat of the measure. No person may receive, or agree to receive anything of value for such service, upon such contingency or condition.
- (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), shall, *by the close of the first business day* ~~within five (5) working days~~ after the first lobbying communication made on his/her behalf, cause to be filed with the City Clerk a registration statement specifying the principal's name, business address, the general areas of legislative and administrative action which the principal is attempting to influence, the names of any City agencies in which the principal seeks to influence administrative action, and information sufficient to identify 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 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 the name of its chief executive officer, or in the case of a partnership or 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 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 which is not exempt under Subsection (3) ceases, the City Clerk shall terminate the principal's registration and any authorizations under Subsection (7) as of the day after the principal files a statement of cessation and expense statements under Subsection (10) for the period covering all dates on which the principal was registered.
- (c) Each principal registered under this section shall, **by the close of the first business day after** ~~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., 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 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 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 to register with the City Clerk.
- (7) Lobbyist Authorization. *By the close of the first business day after* ~~Before~~ engaging in lobbying on behalf of a principal, a lobbyist or the principal who employs a lobbyist shall file 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.
- (8) Restrictions on Lobbying. Except as authorized under Subsection (3), no person may engage in lobbying as a lobbyist unless the person has 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~~ *unless* the principal ~~is registered~~ *complies with the registration requirements* under Subsection (6).
- (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 makes a lobbying communication with respect to a legislative proposal or proposed administrative action not previously identified by the principal under Subsection (6)(a)6. or reported under this section during the period for which the principal is registered, the principal 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 has made or intends to make a lobbying communication. Such report is sufficient if it complies with Subsection (6)(a)6., 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.
- (10) Principal's Expense Statement.
- (a) Statement. Every principal ~~who makes expenditures or incurs obligations in an aggregate amount exceeding \$500 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~~ *shall* file with the City Clerk an expense statement covering each ~~preceding~~ 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 principal. The statement shall contain the following information:

1. *Every principal who makes expenditures or incurs obligations in an aggregate amount of less than \$500 in any reporting period for the purpose of lobbying which is not exempt under Subsection (3) shall, for that reporting period, so indicate by checking the appropriate box on the lobbying expense statement form available from the City Clerk. Every principal who makes expenditures or incurs obligations in an aggregate amount exceeding \$500 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 a complete expense statement for each such reporting period.*
2. 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. 3~~ 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. 4 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 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. 5 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 this subsection fulfills the requirements of this subsection.

(c) Exempt Activities. Lobbying expenditures made and obligations incurred for activities identified under Subsection (3)(a)-(f) 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)(a)-(f).

(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 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

with 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.

(11) Duties of the City Clerk.

- (a) The Clerk shall prescribe forms and instructions for preparing and filing registration applications under Subsection (6) and the statement required under Subsection (10).
- (b) At the time of initial registration and reregistration, the City Clerk shall provide the principal 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.**
- (c) Statements required under this section to be filed with the City Clerk shall be preserved for a period of three (3) years from the date of filing, shall constitute part of the public records of his or her office, and shall be open to public inspection.
- (d) The Clerk shall compile and make available information filed under this ordinance in ways designed to facilitate access to the information.
- (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.
- (f) **The City Clerk shall conduct annual training workshops concerning the laws related to lobbying.**

(12) Duties of the City Attorney.

- (a) ~~The City Attorney shall conduct annual workshops concerning the laws related to lobbying.~~
- (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.

(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 all other required filings under this ordinance. Such records shall be maintained for a period of not less than three years after the filing of such expense statements or other required filings. Such records shall be provided to

the City Attorney within 15 days of a request by the City Attorney for the production of such records.

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

- (a) Any principal 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 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.

~~(14)~~ (15) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included.

~~(15)~~ (16) Effective Date. This ordinance takes effect on January 1, 2001.
(Sec. 2.40 Cr. by Ord. 12,675, 9-25-00)