

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2011-16

No. 336 AN ORDINANCE AMENDING CHAPTER 2011-11, NO. 200, RELATIVE TO LOBBYIST REGISTRATION

Approved June 10, 2011

Be it ordained by the City of Providence:

The Code of Ordinances of the City of Providence, Chapter 2011-11, No. 200, is hereby amended as follows:

SECTION 1.

Section 1. Purpose.

The purpose of this ordinance is to create registration and disclosure requirements for individuals acting as municipal lobbyists. The registration will require lobbyists to provide pertinent information for the benefit of the general public, the mayor and the city council. This ordinance is not intended to discourage or prohibit the exercise of constitutional rights.

Section 2. Definitions.

Whenever used in this Ordinance, the following words and phrases shall have the definitions provided in this Section:

- a) *Advertising* means any communication disseminated by means of printing, mailing, electronic transmission, broadcasting or other medium.
- b) *Appointed Representative* means a person who receives compensation for lobbying.
- c) *Compensation* means any remuneration received or to be received for services rendered as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness, reimbursement for expenses, or any other form of recompense, and any combination of these. Where lobbying is incidental to a person's regular employment, his or her compensation for lobbying shall be reported as such and the lobbyist shall record the dollar amount of that portion of his or her compensation that is attributed to the time spent pursuing lobbying activities. In those instances, it shall not be necessary to disclose one's total salary or the percentage of one's time spent on lobbying. The lobbyist shall be

- d) required to disclose only his or her best good faith estimate of the dollar amount which corresponds to the portion of his or her time spent on lobbying activities.
- e) *City official* shall include members of the city council and their appointed advisory staff members; the mayor and his or her appointed advisory staff members; the internal auditor; the members and secretary of the board of canvassers; the director and the members of the water supply board; the superintendent of parks and the members of the board of park commissioners; all department heads; the license administrator and the members of the board of licenses; the chief of police; the fire chief; the commissioner of public safety; the city clerk; the city solicitor; superintendent of schools and his or her appointed advisory staff members; all members of the city's judiciary and all city magistrates and executive or administrative heads of any city judicial office, whether appointed or serving as an employee; and members of all municipal boards, including the school board, and commissions whether or not compensated.
- f) *Influencing a municipal decision* means affecting or attempting to affect any action by a city official on one or more municipal decisions by any method, including promoting, supporting, opposing, or seeking to modify or delay such action, and including, but not limited to providing or using persuasion, information, statistics, analyses or studies.
- g) *Lobbying* means any communication with the City of Providence mayor, city council member, or any city official for the purpose of influencing a municipal decision. This includes acting directly or soliciting others to act for that purpose. Attorneys representing clients before any city board, committee, commission, court, or any other legally constituted municipal body shall not be considered lobbying for the purpose of this ordinance.
- h) *Lobbyist* means any person who, as an appointed representative, seeks to influence a municipal decision. The term "lobbyist" shall include, but not be limited to, any attorney, accountant, or consultant engaged in activities described in Section 2 (e); provided, however, that an attorney shall not be considered a lobbyist while representing clients before any city board, committee, commission, court, or any other legally constituted municipal body; and provided further that the term "lobbyist" shall not include a person who, without compensation, seeks to influence a municipal decision on behalf of an organization exempt from federal taxation pursuant to section 501 (c)(3) of the Internal Revenue Code, or on behalf of an unincorporated association.

i) *Ministerial determination* means an act or duty as prescribed by law as part of the duties of an administrative office which does not require personal discretion.

j) *Municipal decision* means:

- i. the drafting, introduction, consideration, adoption, defeat, or repeal of any ordinance or resolution.
- ii. the amendment of any ordinance or resolution.
- iii. a report by a city official to the city council or city council committee.
- iv. contracts, including any determination made by any elected city official or an officer or employee of the city with respect to the procurement of goods, services, or construction; and any other decision of the city council or a city board or commission.
- iv. non-ministerial determinations, including any determination with respect to: zoning or the use, development, or improvement of real property; and the granting, denial or modification of a license or permit with regard to the use of real property.
- v. any other non-ministerial determination by a city official, or city board or commission.

j) *Municipal decision* does *not* include:

- i. any request for assistance in interpreting laws, regulations, city approvals or polices.
- ii. any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the city.
- iii. representing the owner of a single-family home that is owner-occupied seeking a variance or other zoning changes for improvements to the home.
- iv. any ministerial action by a city official.
- v. any management decision as to the working conditions of collective bargaining employees that clearly relate to the terms of the collective bargaining agreements.

k) *Quasi-public corporation* means a body corporate and politic acting as a public corporation, which has been organized pursuant to law and granted certain powers, rights and privileges by the local and/or state laws, while exhibiting a distinct legal existence from the city and/or state, and not constituting a department of city and/or state government, in order to perform a governmental function. For the purposes of this ordinance, agents and employees of public corporations and quasi-public corporations

shall be considered municipal employees. Quasi public corporations shall include, without limitation, Capital Center Commission, Narragansett Bay Commission, Providence Community Action Program, Providence Economic Development Partnership, Providence External Review Authority, Providence Housing Authority, Providence Plan, ProvPort, Providence Redevelopment Agency, Rhode Island Convention Center Authority, The Providence Center, and the Greater Providence-Warwick Convention and Visitor's Bureau.

- 1) *Violation* refers to any individual act or item of non-compliance with the provisions of this chapter.

Section 3. Exceptions.

The following persons or actions shall be exempt from the provisions of this ordinance:

- a) Any elected public official or the official's designee acting in his or her official capacity, or any municipal employee acting within the scope of his or her employment.
- b) News media employees or agents who in the ordinary course of business write, publish, or broadcast news items, editorials, or other comments or paid advertisements which directly or indirectly urge legislative action, if those persons engage in no other lobbying activities in connection with that action.
- c) Any persons engaged in drafting legislation, resolutions, rules, or other proposed documents for consideration by the city council or the mayor, provided that such persons are not appointed representatives compensated for their work, and do not attempt to influence a municipal decision associated with such legislation, resolution, rule or other document.
- d) Any person appearing solely for himself or herself before any city board, committee, commission, court, or any other legally constituted municipal body to testify in support of or in opposition to legislation or municipal decision.
- e) Any persons representing any recognized 501 (c) (3) organization seeking funding from a Community Development Block Grant or other grant in an amount less than \$25,000 per year.

Section 4. Registration Required.

- a) Lobbyists shall register with the city clerk prior to their first lobbying activity.
- b) Lobbyists shall file registrations in accordance with procedures set forth by the office of the city clerk, which shall include an option for online registration.

- c) The city clerk's register of lobbyists required under this ordinance shall be made available to the public for review online. The city clerk shall not include the residential street address of natural persons who are lobbyists in the register.
- d) Lobbyists shall certify, under oath, that the information contained on their registration and reporting forms are true and correct in all aspects subject to the pains and penalties of perjury.

Section 5. Identification badge.

- a) An identification badge shall be issued by the city clerk to every person who shall qualify as a lobbyist as provided in this Ordinance. The badge shall include the word "Lobbyist" in bold print as well a photo of the lobbyist, the name of the lobbyist, the year of issuance, the registration number of the lobbyist, and the name of his/her employer, and the name of the client being represented. The color of the identification badge shall be changed each year. Every lobbyist shall conspicuously display this identification badge on his or her clothing while in City Hall or city offices at all times of the day.
- b) An annual fee of one hundred fifty dollars (\$150) shall be paid by the lobbyist. The fee shall be paid to the city clerk at the time of registration for deposit in the city's general fund. Lobbyists employed by organizations exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code, or by unincorporated associations with operating budgets of less than \$250,000 shall pay an annual fee not exceeding twenty-five dollars (\$25). No additional fee need be paid by a lobbying firm, non-profit or unincorporated association for additional registrants from the same entity.

Section 6. Reporting.

- a) Every lobbyist and every person, private or public corporation, or association that engages any person to act as a lobbyist concerning municipal decisions shall individually file with the city clerk a lobby report form or forms developed by the city clerk. The reports shall minimally identify the lobbyist by name, his/her employer, the employer's address, telephone number, email address, the name of the client represented, any salary or compensation related to lobbying, and the lobbyist's activities, including the city official(s) and municipal decision(s) concerned, as well as identifying other information as described in subsections (c) (i) through (c) (iv).

- b) Any function to which the entire membership of the city council or of any legally constituted council committee or commission within the city council is invited, which is sponsored by any person, corporation, or association having engaged any person to act as a lobbyist or by any lobbyist, shall be deemed a lobbying activity, and any funds expended or incurred for that function shall be set forth in the lobby report.
- c) Reports shall be filed with the city clerk, both by the person, corporation, or association having engaged any person to act as a lobbyist, and by the lobbyist, as follows:
- i. At the time of initial registration as a lobbyist, a report shall be filed which shall include the subjects of concern or of interest to the employer and any city officials responsible for making municipal decisions related to those subjects, and further identifying information as described in subsection (a) above.
 - ii. Quarterly reports to be filed for the periods from January through March, April through June, July through September, and October through December. Reports shall be filed not later than the 15th day of the month following the reporting period. Quarterly reports shall include the lobbyist's salary or compensation related to lobbying, the lobbyist's activities, including the city official(s) contacted and municipal decision(s) concerned, and also shall include any expenditure, gift, honorarium, or campaign contribution, in cash or in-kind equal to (\$25.00) or more for each occurrence concerning any city official paid or incurred by the person who engages the lobbyist and the lobbyist.
 - iii. A final report shall be filed not later than January 15th of each year. The report shall include all money or anything of value which in the aggregate exceeds two hundred fifty dollars (\$250) provided or promised to any city official within the preceding calendar year. "Money" and "anything of value" in this subsection and in subsection (c) (iv) of this section shall mean any fee, salary, commission, expense, allowance, forbearance, forgiveness, royalty, rent, capital gain, gift, loan, reward, favor or service, gratuity or special discount, or any other form of recompense that constitutes income under the Federal Internal Revenue Code. In the event no compensation has been paid or received, and no expenses have been paid or incurred during the preceding calendar year, an annual report stating such information shall be filed not later than January 15th.
 - iv. Not later than January 15th of each year, every person, corporation, or association specified in this subsection shall provide an exact copy of the report required in subsection (c) (iii) to the Rhode Island Ethics Commission and to any city official to

whom the person, corporation, or association provided or promised money or anything of value which in the aggregate exceeds two hundred fifty dollars (\$250) within the preceding calendar year.

- d) All reports shall be on a form prescribed by the city clerk, and the reports shall be open for public inspection.
- e) Every lobbyist and every person, private or public corporation, or association that engages any person to act as a lobbyist shall keep, for at least five years, all documentation related to the reports required to be filed under this section.

Section 7. Duties and powers of the city clerk.

The city clerk shall have the authority to perform any duties that are necessary to implement the provisions of this Ordinance. Without limiting the generality of the foregoing, the city clerk shall:

- a) Designate forms for the making of the required lobby reports.
- b) Develop one register for all lobbyists.
- c) Adopt rules and regulations to carry out the purposes of this Ordinance.
- d) Post lobbyist registration instructions, and rules and regulations pertaining to this Ordinance on the city website, and have the same available in printed form in the city clerk's office.
- e) Notify city officials and, through the city website, members of the public, of the on-line access to the lobbyists' register and reporting forms.
- f) Where information has been received through observation by or written complaint to the city clerk to indicate that any person, corporation, association, or lobbyist has failed to register or file reports or has filed an incomplete or inaccurate report, the city clerk may, for good cause shown, extend the dates upon which reports are required to be filed or require the person, corporation, association, or lobbyist to correct any incomplete or inaccurate report, as the case may be. Upon a failure of the lobbyist to show good cause, the city clerk, with such assistance as he or she may request from the city solicitor, investigate said complaints and act in accordance with Section 8 hereof.

Section 8. Administrative penalty for violations.

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Section 8. Administrative penalty for violations.

Any person, corporation, association, or lobbyist who is found to have intentionally violated any provision of this ordinance may be subject to administrative penalties imposed by the city clerk as the circumstances may merit upon notice and opportunity to be heard before the city clerk. Said penalties include the imposition of a fine not to exceed \$250 per day of violation not to exceed \$25,000 in any calendar year and/or the removal of such lobbyist from the city clerk's register of lobbyists and prohibition of lobbying activity until the following year or until compliance is established.

Section 9. Lobbying without compliance prohibited.

No person shall appear as a lobbyist before the city council or any municipal committee or engage in any lobbying activity unless his or her name appears upon the register for lobbyists. No person, private or public corporation, or association shall directly or indirectly employ any person as a lobbyist unless the name of that person, corporation, or association and the lobbyist are duly entered on the register as provided by this Ordinance. No person shall be employed as a lobbyist for compensation dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with the action of the city council or mayor. Any person, corporation, or association violating this section shall be subject to the penalties set forth in Section 8.

Section 10. Review by the City Council

The council may periodically review the administration and implementation of the provisions of this ordinance. Based upon that review, the city council may take necessary legislative action to strengthen the administration and enforcement of this ordinance.

Section 11. Severability

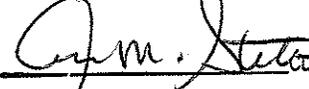
If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

SECTION 2. This ordinance shall take effect on July 1, 2011.

IN CITY COUNCIL

MAY 19 2011

FIRST READING
READ AND PASSED


CLERK

APPROVED



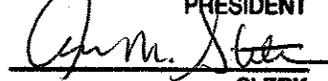
MAYOR

6-10-11

IN CITY
COUNCIL

JUN - 2 2011

FINAL READING
READ AND PASSED


PRESIDENT

CLERK