

ORDINANCE NO.

AN ORDINANCE REPEALING AND REPLACING CHAPTER 4-8 OF THE CITY CODE RELATING TO LOBBYING; AMENDING CHAPTER 2-7 OF THE CITY CODE RELATING TO COMPLAINTS BEFORE THE ETHICS REVIEW COMMISSION; AMENDING SECTION 2-2-62 OF THE CITY CODE RELATING TO FUNDING FOR AUSTIN FAIR CAMPAIGN FINANCE FUND; CREATING AN OFFENSE; CREATING A CIVIL PENALTY; AND SETTING FEES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Chapter 4-8 (*Regulation of Lobbyists*) is repealed and replaced with a new Chapter 4-8 to read:

§ 4-8-1 PURPOSE.

The council declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to any city officials their opinions on pending municipal questions and on current issues; and. Further that to preserve and maintain the integrity of the governmental decision-making process in the city, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to influence a City official on matters within their official jurisdictions, either by direct communication to the official, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

§ 4-8-2 DEFINITIONS.

In this chapter:

(1) APPEALABLE means a decision or action that is capable of being appealed to the city council or a city board, whether it is actually appealed or not. It does not include a decision or action that can be appealed only to city staff.

(1)-(2) CITY OFFICIAL means:

(a) the mayor, or mayor-elect;

- 1 (b) a council member, or council member-elect;
- 2 (c) a City employee, other than a City employee whose duties are solely
- 3 clerical; or
- 4 (d) a member of a City board or of a body created by the council and
- 5 listed by the city clerk under § 2-1-3(C) (*Boards Established*).

6 ~~(2)~~ (3) CLIENT means a person who compensates or reimburses another person to

7 lobby.

8 (4) COMMUNICATE DIRECTLY WITH or any variation of the phrase

9 means contact in person or by telephone; written communication,

10 electronic or otherwise; or direct contact through any other electronic

11 means of communication.

12 ~~(3)~~ (5) COMPENSATION means money, another thing of value, or a financial

13 benefit that is received or is to be received in return for, or in connection

14 with, services rendered or to be rendered.

15 ~~(4)~~ (6) EXPENDITURE means a payment, distribution, loan, advance,

16 reimbursement, deposit, or gift of money or anything of value, including a

17 contract, promise, or agreement to make an expenditure, regardless of

18 whether the contract, promise, or agreement is legally enforceable.

19 ~~(5)~~ (7) GIFT means a payment, subscription, advance, forbearance, rendering or

20 deposit of money, services, or anything of value, unless consideration of

21 equal or greater value is received. Gift does not include:

- 22 (a) a political contribution reported as required by law;
- 23 (b) a commercially reasonable loan made in the ordinary course of
- 24 business;
- 25 (c) an ordinary social contact;
- 26 (d) an ordinary business meeting, including a meal; or
- 27 (e) a gift received from the beneficiary's relative within the third degree
- 28 of consanguinity or affinity, or from a person living in the
- 29 beneficiary's household.

30 ~~(6)~~ (8) LOBBY means to communicate directly, ~~or through an intermediary,~~

31 ~~orally, in writing, or by electronic communication,~~ with a City official to

32 influence or persuade the City official to favor or oppose, recommend or

1 not recommend, vote for or against, or to take action or refrain from taking
2 action on a municipal question. For purposes of the registration thresholds
3 in Section 4-8-3 (*Registration Requirement*) “lobby” includes preparation
4 to lobby ~~and aiding another~~ by a person to lobby communicating directly.

5 ~~(7)-(9)~~ LOBBYIST means a person who lobbies.

6 ~~(8)-(10)~~ MUNICIPAL QUESTION means the proposal of, consideration of,
7 approval of, or negotiations concerning municipal legislation, an
8 administrative action, or another matter that is, or may in the future be,
9 subject to ~~a discretionary~~ an action or decision by a City official.

10 (a) ‘Municipal question’ includes, without limitation:

11 (i) possible action, including a recommendation, on a proposed
12 ordinance, resolution, or other action pending before the
13 council, a council committee, or a City board or task force;

14 (ii) a matter that ~~can be appealed~~ is appealable to a City board or to
15 the council;

16 (iii) a recommendation, report, regulation, policy, nomination_;
17 appointment, or sanction_; by or to the council, a council
18 committee or a City board.

19 (iv) the development of specifications for, or the award of, a grant
20 or contract for more than \$50,000;

21 (v) rulemaking under Chapter 1-2 (*Adoption of Rules*); or

22 (vi) licensing.

23 (b) Unless it is also included in (a), “municipal question” does not
24 include:

25 (i) the non-~~discretionary~~ appealable, day-to-day decisions, routine
26 application, administration, and execution of city programs and
27 policies; or

28 (ii) routine, non-~~discretionary~~ appealable decisions on permitting,
29 platting, and design approval matters in connection with a
30 specific project or development; or

(iii) a technical building ~~safety~~ decision on a specific project, whether appealable or not, under Chapter 25-12 (*Technical Codes*).

~~(9)-(11)~~ PERSON has the meaning assigned by § 1-1-2 (*General Definitions*), except that it does not include a government or governmental subdivision or agency.

~~(10)-(12)~~ REGISTRANT means a person required to register under § 4-8-3 (*Registration Requirement*).

~~(11)-(13)~~ SUBSTANTIAL ECONOMIC INTEREST means holding stock, shares, or an ownership interest worth \$5,000 or more, or the ownership of five percent or more, of any business association, or other legal entity, that is not publicly traded.

§ 4-8-3 REGISTRATION REQUIREMENT.

(A) A person must register with the city clerk if the person:

~~(1)~~ receives, or is entitled to receive under an agreement under which the person is retained or employed, compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, \$2,000 or more in a calendar quarter from another person to lobby, regardless of whether the person receives any compensation or reimbursement for lobbying in addition to the person's remuneration for that employment; ~~and~~

~~(1)-(2)~~ spends 26 hours or more for which the person is compensated or reimbursed during the calendar quarter lobbying; or

~~(2)-(3)~~ makes a total expenditure of \$500 or more in a calendar quarter, not including the person's own travel, food, or lodging expenses or the person's own membership dues to lobby.

(B) If a person spends more than eight hours in a single day lobbying, the person is considered to have engaged in the activity for only eight hours during that day for purposes of subsection (A)(~~1~~)(a2).

~~(C)~~ Compensation or reimbursement for lobbying includes compensation or reimbursement that a person receives for preparing to lobby ~~or aiding a person to lobby~~. For example, compensation for preparing to lobby includes, without limitation, compensation received for participation in a strategy session, the review and analysis of municipal legislation or an administrative matter, and

1 research and communication related to a municipal question with the
2 registrant's employer, client, or another person. A person who does not lobby
3 is not required to register because of compensation received for only preparing
4 to do so without directly communicating.

5 ~~(C)~~

6 (D) Compensation or reimbursement for lobbying does not include compensation
7 or reimbursement for the following:

- 8 (1) requesting information, or inquiring only for informational purposes,
9 without seeking ~~directly or indirectly~~ to influence or persuade, about a
10 municipal law, ordinance, regulation, rule, policy, practice, or procedure
11 administered by the city;
- 12 (2) preparing or submitting an application or other required written document,
13 without seeking to influence or persuade, that only provides ~~only~~
14 information required by law, ordinance, rule, regulation, order, or
15 subpoena;
- 16 (3) communicating, ~~without seeking to influence or persuade, only~~ for the
17 purpose of ~~requesting~~ sharing information ~~for achieving to demonstrate~~
18 compliance with an audit, inspection, city investigation, or existing laws,
19 rules, and policies;
- 20 (4) providing, without seeking to influence or persuade, information consisting
21 of facts or data to a city official that the city official specifically requested
22 ~~in writing~~ regarding a municipal question, when the request was not
23 solicited by or on behalf of the person providing the information;
- 24 (5) communicating to a city attorney or a municipal judge concerning
25 litigation or adjudicative proceedings to which the City is a party, or
26 concerning adjudicative proceedings of the City;
- 27 (6) providing testimony, making an appearance, or any other type of
28 communication documented as part of a public record in a proceeding of
29 an adjudicative or judicial nature, including before the Municipal Court,
30 the Ethics Review Commission, and the Municipal Civil Service
31 Commission;
- 32 (7) providing only clerical assistance to another in connection with another
33 person's lobbying or preparation for lobbying;
- 34 (8) realizing financial gain as a result of a determination of a municipal
35 question as to real property that the person in question owns;

(9) serving as a member of a city board, commission, or task force when the person's communications relate solely and directly to the person's public service on the city entity;

~~(10) communicating for the purpose of achieving compliance with existing laws, rules, policies, and procedures, including communications to show qualification for a non-discretionary, non-appealable, exception of general applicability that is available under existing laws, rules, policies, and procedures; or~~

~~(11)~~ (10) reimbursement for the person's own travel, food, lodging, or membership dues to communicate with a City official on a municipal question.

(E) The Ethics Review Commission shall review the thresholds in this section every fourth year, and make a recommendation to council regarding whether the thresholds should be changed to maintain substantially equivalent thresholds, considering the cost of living and other relevant factors.

§ 4-8-4 ELECTION BY BUSINESS ENTITY.

~~(A)~~ This section ~~only~~ applies to a business entity that has one or more employees that are subject to the registration requirement of this chapter ~~if the employees:~~

~~(1) only lobby for the business entity's own interests; and~~

~~(2)~~ (A) ~~neither the business entity nor the employees lobby for other clients.~~

(B) The business entity may elect to:

(1) register and report as a business entity; or

(2) have each employee lobbyist register and report individually.

(C) If a business entity elects the option under subsection (B)(1), an employee of the business entity who would otherwise be subject to the registration requirement is not required to register or file activity reports if the business entity:

(1) registers on behalf of all of the business entity's employee lobbyists;

(2) pays the annual registration fee for the business entity and each of the employee lobbyists; and

(3) completely reports the activity of each employee lobbyist that is required by this chapter.

(D) If a business entity elects the option under subsection (~~AB~~)(2), and each lobbyist employed by the business entity who is subject to the registration requirement registers and files activity reports as required by this chapter, the business entity need not also register and file reports if all of the activity required to be reported by the business entity is included one of more of the reports filed by the lobbyists employed by the business entity.

§ 4-8-5 REGISTRATION.

(1) A person who meets a threshold under § 4-8-3 (*Registration Requirement*) shall register not later than the fifth working day after the person first ~~lobbies~~directly communicates with a City official.

(B) The registration shall include:

(1) the registrant's full name;

(2) the registrant's permanent business street address and business mailing address;

(3) the name and address, and the nature of the business of each client on whose behalf the registrant will lobby;

(4) a specific description of each municipal question on which the registrant will lobby; and, if applicable:

(a) if real property is the subject of the municipal question, an address or legal description of the real property; and

(b) the subject matter from a list of subjects provided on the registration form by the city clerk; and

~~(5)~~ for each person employed or retained by the registrant (excluding purely clerical or administrative assistance) for the purpose of assisting in, or preparing for, lobbying;

~~(a)~~, the full name, business address, and occupation of the person; ~~and~~

~~(b)-(c) each municipal question to which the person's activities were related, described in the manner required for the registrant.~~

(C) A registrant shall file activity reports until the registrant terminates the registrant's registration. A registrant who ceases reportable activity may terminate the registrant's registration by filing a notice of termination. The

1 registrant must file the activity report for the reporting period in which the
2 registrant files the notice of termination.

3 ~~(D)~~ On the date of registering, and on the anniversary of that date each year
4 thereafter until the registration is terminated, a registrant shall pay to the City,
5 and the city clerk shall collect, an annual registration fee. The city clerk shall
6 deposit a registration fee into a separate account within the General Fund.

7 ~~(+)(D)~~ The amount of the registration fee applicable to a lobbyist, which may vary
8 with circumstance, shall be set by ordinance.

9 (E) If there is a change in the information reported on a registrant's registration
10 form, including a new client or municipal matter, the registrant shall provide a
11 written update to the information reported in the registrant's registration form
12 not later than the ~~fifth~~tenth working day after the date the person lobbies a City
13 official on a new municipal question or for a new client.

14 § 4-8-6 ACTIVITY REPORTS.

15 (A) Each registrant shall file between the first and tenth day of April, July,
16 October, and January a report of the registrant's lobbying activities during the
17 previous calendar quarter. The report shall be on a form prescribed by the city
18 clerk and shall include:

19 (1) a complete and current statement of the information required to be reported
20 under § 4-8-~~65~~ (*Registration*);

21 (2) the amount of compensation or reimbursement paid by each client for
22 lobbying, reported in the following categories unless reported as an exact
23 amount:

24 (a) \$0 if no compensation or reimbursement is received;

25 ~~(b)~~ less than \$ ~~5,000~~;

26 ~~(e)-(b)~~ at least \$ ~~5,000~~ but less than \$10,000;

27 ~~(d)-(c)~~ at least \$10,000 but less than \$25,000;

28 ~~(e)-(d)~~ at least \$25,000 but less than \$50,000;

29 ~~(f)-(e)~~ at least \$50,000 but less than \$100,000;

30 ~~(g)-(f)~~ at least \$100,000 but less than \$200,000;

1 ~~(h)-(g)~~ at least \$200,000 or more but less than \$300,000;

2 (h) at least \$300,000 but less than \$400,000;

3 (i) at least \$400,000 but less than \$500,000, reported as an exact amount.

4 (3) total expenditures on lobbying broken down into the following categories,
5 provided that cumulative expenditures of more than \$50 per day per City
6 official in a designated reporting category shall be itemized by the date,
7 name, and address of the recipient, the amount, and the purpose of the
8 expenditure:

9 (a) reimbursement to others;

10 (b) food and beverages;

11 (c) transportation and lodging;

12 (d) gifts, other than awards and mementos;

13 (e) entertainment;

14 (f) awards and mementos;

15 (g) honorariums;

16 ~~(g)-(h)~~ expenditures made for the attendance of city council members at
17 political fund-raisers or charity events;

18 ~~(h)-(i)~~ expenditures made by the registrant, or by others on the registrant's
19 behalf or with the registrant's direction, for broadcast or print
20 advertisements, direct mailings, and other media communications if:

21 (i) the communications are made to a person other than a member,
22 employee, or stockholder of an entity that reimburses, retains,
23 or employs the registrant; and

24 (ii) the communications support or oppose, or encourage others to
25 support or oppose, municipal questions; and

26 ~~(i)-(j)~~ payments made by the registrant, or by others on the
27 registrant's behalf or with the registrant's direction, to persons who
28 are paid to assist or prepare the lobbyist on a municipal question to
29 influence a City official through broadcast or print advertisements,
30 social media, direct mailing, or other media communications,

1 including political experts, strategists, pollsters, media consultants,
2 and public relations consultants, ~~and others who assist or help in these~~
3 ~~areas~~, excluding purely clerical or administrative assistance;

4 ~~(4) each expenditure, gift, or honorarium of \$100 or more in value made by~~
5 ~~the registrant, or anyone acting on behalf of the registrant, to benefit a City~~
6 ~~official, for each expenditure the report must:~~

7 ~~(a) be itemized by date, beneficiary, and amount;~~

8 ~~(b) include a description of the transaction, with:~~

9 ~~(i) a description of the expenditure, gift, or honorarium;~~

10 ~~(ii) a description of the occasion giving rise to the transaction; and~~

11 ~~(iii) a description of the purpose of the transaction;~~

12 ~~(5) the aggregate of all expenditures, gifts, and honorariums less than \$100~~
13 ~~made by the registrant, or anyone acting on behalf of the registrant, to~~
14 ~~benefit a City official;~~

15 ~~(6)~~ (4) each business entity in which the registrant knows, or should know, that a
16 City official is a proprietor, partner, director, officer, manager, employer,
17 employee, or in which a City official has a substantial economic interest,
18 and with which the registrant has engaged in an exchange of money,
19 goods, services, or anything of value if the total of the exchanges is \$500
20 or more in a calendar quarter, identified by:

21 (a) the name and address of the business entity;

22 (b) the City official; and

23 (c) the date, amount, and nature of the exchange;

24 ~~(7)~~ (5) if the mayor, a council member, a relative of the mayor or a council
25 member within the third degree of consanguinity or affinity, or a person
26 living in the mayor's or a council member's household is employed by the
27 registrant, the name of the employer, the name of the person employed,
28 and the nature of the employment.

29 ~~(B) Notwithstanding any other provision of this section, compensation or~~
30 ~~reimbursement required to be reported under subsection (A)(2) shall be~~
31 ~~reported as an exact amount if the compensation or reimbursement received~~
32 ~~exceeds \$200,000.~~

1 ~~(C)~~-(B) A registrant shall make a reasonable allocation of compensation between
2 compensation for lobby activity and compensation for other activities.

3 ~~(D)~~-(C) Each registrant shall obtain and preserve all accounts, bills, receipts, books,
4 papers, and documents necessary to substantiate an activity report required to
5 be made under this section for two years from the date of filing the report.

6 ~~(E)~~-(D) A registrant shall file a quarterly activity report whether or not reportable
7 activity has occurred during the preceding quarter. If no reportable events have
8 occurred, a statement to that effect is sufficient for the report.

9 **§ 4-8-7 PROHIBITIONS.**

10 (A) A registrant or client, or a person acting for a registrant or client, may not give
11 to a City official, a relative of the City official within the third degree of
12 consanguinity or affinity, or a person living in the City official's household, a
13 gift or series of gifts that exceed \$100 in value in the aggregate in a calendar
14 year. This subsection does not permit or provide an exception for a gift that is
15 otherwise prohibited by law, including § 2-7-62 (*Standards of Conduct*).

16 (B) A registrant or client, or a person acting for a registrant or client, may not
17 knowingly make a false or misleading statement or misrepresentation to a City
18 official, or, ~~knowing~~ cause a copy of a document the person knows to contain
19 a false statement, ~~cause a copy of the document~~ to be received by a City
20 official without notifying the official in writing of the truth.

21 (C) A person may not retain another person to lobby, or engage in an activity
22 directly related to lobbying, on a contingent fee basis. A person may not accept
23 employment to lobby, or engage in an activity directly related to lobbying, on a
24 contingent fee basis. It is an affirmative defense to this subsection that:

25 (1) a person's compensation was contingent on the occurrence of an event
26 other than the ~~passage or defeat~~ outcome of a municipal question; and

27 (2) a contingent fee is a standard and customary method of payment for the
28 employment of a person in that profession.

29 **§ 4-8-8 APPEARANCE.**

30 (A) A registrant, or a person acting for a registrant, speaking before the council, a
31 City board, or a body created by the council and listed by the city clerk under §
32 2-1-3(C) (*Boards Established*), shall register to speak before that appearance
33 and, before speaking, orally identify:

1 (1) the person speaking;

2 (2) the registrant, if the person is acting for a registrant; and

3 (3) the client the registrant represents.

4 (B) A registrant, or a person acting for a registrant, shall at the beginning of an oral
5 communication with a City official identify:

6 (1) the person speaking;

7 (2) the registrant, if the person is acting for a registrant; and

8 (3) the client the registrant represents.

9 ~~(C) Each City department or office shall provide a reasonably practicable method~~
10 ~~for recording the information required by subsection (D). If a department or~~
11 ~~office has a receptionist desk where visitors routinely check in, the department~~
12 ~~or office may satisfy this requirement with a sign-in sheet at the receptionist's~~
13 ~~desk that is designed to elicit the information required by subsection (D).~~

14 ~~(D)~~ (C) A person who communicates in person with a City official ~~for compensation~~
15 on behalf of another person on a municipal question shall disclose in writing to
16 the city department, or office:

17 (1) the name and address of the person;

18 (2) the name of the City official with whom they are meeting;

19 (3) the name of the client or person on whose behalf the appearance or contact
20 is made; and

21 (4) a statement regarding whether the person has received or expects to receive
22 compensation for the appearance or contact.

23 ~~(E)~~ (D) Subsection ~~(DC)~~ does not apply to:

24 (1) a City official or employee; or

25 (2) an appearance or communication on an intergovernmental matter if the
26 person is an officer or employee of a government agency.

27 (E) Each City department or office shall provide a reasonably practicable method
28 for recording the information required by subsection (C). If a department or
29 office has a receptionist desk where visitors routinely check in, the department

1 or office may satisfy this requirement with a sign-in sheet at the receptionist's
2 desk that is designed to elicit the information required by subsection (C).

3 **§ 4-8-9 FORMS; OATHS; REVIEW OF REPORTS; RULES.**

- 4 (A) Except as provided by § 4-8-9 (C) (*Appearance*), the city clerk may design and
5 promulgate a form for any information required to be reported under this
6 chapter. In this section “report” includes a registration, a report, and an update
7 of, or an amendment to, a registration or a report. If the city clerk promulgates
8 a form, a person required to file a report must file the report on the form.
- 9 (B) A person filing a report shall file the report electronically, under procedures
10 determined by the city clerk, in an electronic format that allows for a
11 downloadable, searchable database for the general public. The city clerk shall
12 post every report on the City’s Web site not later than the second business day
13 after the date the city clerk accepts the report. The city clerk shall create
14 common queries for public accessibility, such as total compensation within
15 ranges for a particular lobbyist, all clients of a particular lobbyist, and all
16 lobbyists and their compensation within ranges for a particular municipal
17 question or client.
- 18 (C) A person filing a report under this chapter must swear to the truthfulness of the
19 information reported. A report is a public record, and is available for public
20 inspection, without a public information request, during the city clerk’s
21 business hours.
- 22 (D) By filing electronically a person required to file a report states under oath
23 before the city clerk that the facts stated in the report are true to the best of the
24 person's knowledge or belief. If a person is not an individual, an authorized
25 officer or agent of the person must file the report, and the authorized officer or
26 agent who files the report states under oath before the city clerk that the facts
27 stated in the report are true to the best of the authorized officer’s or agent 's
28 knowledge or belief.
- 29 (E) A report filed with the city clerk under this chapter is under oath by the person
30 or individual who files, or who is required to file, the report regardless of the
31 absence of, or a defect in, the jurat or affidavit of verification, including a
32 signature.
- 33 (F) A false statement in a report filed under this chapter is subject to perjury and
34 other penal provisions related to making false statements.

1 (G) Not later than the 30th business day after a report is filed, the city clerk shall
2 review the report for facial compliance, timeliness, and apparent completeness.
3 Not later than the fifth business day after finding an apparent violation, the
4 clerk shall notify the person responsible for filing the report of the apparent
5 violation. If the report is not corrected by the 14th day after the ~~regular deadline~~
6 ~~for filing~~ registrant receives notification of an apparent violation from the
7 ~~report~~ City Clerk, the clerk shall forward a copy of the report to the city
8 attorney and to the Ethics Review Commission.

9 (H) The city clerk may adopt rules under Chapter 1-2 (*Adoption of Rules*) to
10 administer and enforce this chapter.

11 § 4-8-10 AUDIT.

12 The city auditor shall annually conduct an audit of a statistically representative
13 random sample of lobby registrants, but not less than five per cent of registrants, to
14 ensure that registrants' filings are in compliance. Not later than the 14th business
15 day after finding an apparent violation, the auditor shall notify the city clerk, the
16 city attorney, and the Ethics Review Commission.

17 § 4-8-11 LATE FILING FEE.

18
19 (A) A person responsible for filing a late report is liable to the City for payment of
20 a late filing fee. The amount of the late filing fee shall be set by ordinance. A
21 late filing fee is not penal in nature, and is in addition to an available sanction
22 for a late filing of a report. A person's payment of a late fee under this section
23 does not discharge a person's liability for a criminal offense under this chapter.
24

25 (B) The city clerk shall determine from any available evidence whether a report
26 under this chapter is late.

27
28 (1) A report that is not timely filed is late.

29
30 (2) A registration is not properly filed without the required fee- being paid
31 timely. Accordingly, a registration filed without the required fee being paid
32 timely is late.

33 (C) On making a determination that a report is late, the clerk shall immediately
34 send, by registered mail, a notice of the determination to the person responsible

1 for the filing, notifying the person of the fee for late filing, and charging the
2 fee.

3 (D) If the late fee is not paid before the 10th day after the date on which the notice
4 is received by the person responsible for filing the report, the person is liable to
5 the City for an additional late fee.

6
7 (1) Until the person files the report, the clerk shall send a written notice to the
8 person every 10th -day. After the first notice, the clerk need not send
9 notices by registered mail. The person is liable for an additional late fee
10 each time the clerk sends a 10-day notice up to a cumulative maximum of
11 \$500. The clerk need not send additional notices when the total of the late
12 fee has reached the maximum amount. and may not send the notices more
13 frequently than every 10th day.

14
15 (E) The clerk shall provide a copy of each notice sent under this section to the
16 city attorney.

17
18 (F) The clerk shall deposit and use money received from late fees in the manner
19 prescribed in this chapter for a registration fee.

20
21 (G) A report subject to a fee, for which the fee is not paid, is not properly filed in
22 compliance with this chapter.

23 **§ 4-8-12 CITY ATTORNEY'S REPORT.**

24 (A) The city attorney shall at least quarterly submit a written public report to the
25 Audit and Finance Committee, and make an oral report in an open session of
26 the Audit and Finance Committee, on the enforcement of this chapter,
27 including:

28 (1) the number of referrals by the city clerk, city auditor, and other City
29 departments;

30 (2) the number of citizen complaints;

31 (3) the number of investigations opened by the city attorney, whether on
32 account of a referral or on the city attorney's own initiative;

33 (4) the number of cases settled;

34 (5) the number of subpoenas for documents issued;

- (6) the number of witnesses subpoenaed;
- (7) the number of cases tried;
- (8) the number of cases in which a fine was imposed;
- (9) the number of cases in which a fine was not imposed or the person was adjudged not liable;
- (10) the amount of fines assessed and collected; and
- (11) the number of city attorney staff hours devoted for the period for the enforcement of this chapter.

§ 4-8-13 SUSPENSION.

- (1) This section applies to a person who has been convicted twice for three different incidents within a 24-month period for a criminal violation of this chapter.
- (2) Following the person's third conviction, ~~and following each subsequent conviction, for within~~ a violation of this chapter 24-month period, the person's lobby registration ~~is~~ shall be suspended for 60 days after the date the third or subsequent conviction becomes final.
- (3) During the period that the person's lobby registration is suspended, the person commits an offense if the person lobbies for compensation.

§ 4-8-14 CRIMINAL PENALTY.

- (A) A person ~~who commits an offense who intentionally or knowingly~~ violates this chapter, or a rule adopted by the city clerk under this chapter, ~~commits. An~~ offense under this Chapter is a Class C misdemeanor punishable as provided by §1-1-99 (*Offenses; General Penalty*).
- (B) Each failure to file a report, failure to disclose information required by this chapter, failure to perform a required act, or commission of a prohibited act, is a separate offense.
- (C) Each day that a violation persists is a separate offense.
- (D) The penalties provided for in this section are in addition to any other remedies available under City ordinance or state law.

~~(E) A culpable mental state is not required for a violation of this chapter and need not be proved.~~

§ 4-8-15 AFFIRMATIVE DEFENSES.

(A) It is an affirmative defense to a prosecution for a failure to register under this chapter that:

- (1) the person owns, publishes, or is employed by a news medium that in the ordinary course of business disseminates news, editorial, or other comment, or paid advertisements that directly or indirectly oppose or promote municipal questions, if:
 - (a) the person's only activity is in connection with the preparation and publication of the news medium; and
 - (b) the position taken or advocated by the news medium does not directly affect or seek to influence a municipal question in which the news medium outlet has a direct financial interest;
- (2) the person's only activity is to encourage or solicit a member, employee, or stockholder of an entity by whom the person is reimbursed, employed, or retained to communicate directly with a City official to influence a municipal question;
- (3) the person's only activity is an expenditure to attend a meeting or entertainment event attended by one or more City officials, if the cost of the meeting or entertainment event is not paid, in whole or in part, by the person or the person's client;
- (4) the person's only activity is an expenditure for the purchase of copies of City documents;
- (5) the person's only activity is in connection with employment by a registrant for the purpose of assisting in lobbying, the person does not communicate with a City official on a municipal question, and the person's reportable activity is reported by the registrant;
- (6) a person whose only activity is public testimony at a meeting open to the public, regardless of whether the person is compensated for the testimony, or whether the person makes expenditures in connection with preparation for the testimony;

(7) a person who is appointed to a City board or task force, whose communication with a City official is solely and directly related to that public service, and who does not otherwise meet a threshold under § 4-8-3 (Registration Requirement);

(B) It is an affirmative defense to a prosecution under this chapter that compensation is an element of the offense and the alleged compensation is solely from sources described in § 4-8-3(C) (Registration Requirement).

(C) It is an affirmative defense to a prosecution for filing a late report, incomplete, or incorrect report that the person responsible for filing the report filed a complete and correct report not later than the 14th business day after the date the person responsible for filing the report becomes aware of the error or omission, other than by or after a filed complaint, or an audit under § 4-8-10 (Audit), in the registration or report originally filed.

PART 2. City Code Section 2-7-41(*Complaints*) is amended by correcting a typographical error in subsection (F) and adding a new subsection (G) to read:

(F) The commission may consider a possible violation of a provision within the jurisdiction of the commission on the commission's own initiative. Within seven days of the commission's decision to consider a possible violation, the commission shall draft a written complaint specifying each code section or charter provision alleged to have been violated, shall file a copy of the complaint with the city clerk, and shall provide a copy of the complaint to the city attorney and to the respondent. Not later than the 15th working day after the drafting of the complaint, the commission shall notify in writing the respondent of the date for the preliminary hearing.

(G) A member of the commission may not take any part in a deliberation, vote, or decision regarding a sworn complaint alleging a violation by the council member that nominated the commission member.

PART 3. The caption and subsection (A) of City Code Section 2-7-49 (*Campaign and Lobbying Violations*) are amended to read:

§2-7-49 CAMPAIGN [~~AND LOBBYING~~] VIOLATIONS.

(A) This section applies to violations of Chapter 2-2 (*Campaign Finance*) [~~Chapter 4-8 (Regulation of Lobbyists)~~], and Article III, Section 8, of the City Charter (*Limits on Campaign Contributions and Expenditures*).

PART 4. City Code Chapter 2-7 is amended by adding a new Section 2-7-50 to read:

1 **§ 2-7-50 LOBBYING VIOLATIONS.**

- 2 (A) This section applies to violations of Chapter 4-8 (*Regulation of Lobbyists*).
- 3 (B) For an allegation in a complaint relating to a violation of Chapter 4-8, the
4 commission shall hold only a preliminary hearing, and shall not hold a final
5 hearing.
- 6 (C) The commission shall refer an allegation for which the commission finds a
7 reasonable basis to believe that there may be a violation to the city attorney for
8 prosecution.
- 9 (D) This section does not limit the prosecutorial discretion of the city attorney.

10 **PART 5.** Subsection (A)(1) of City Code Section 2-2-62 (*Funding for Austin Fair*
11 *Campaign Finance Fund*) is amended to read:

- 12 (1) the [~~a \$300~~] registration fee for persons required to register as
13 compensated lobbyists under Chapter 4-8 (*Regulation of Lobbyists*) of the
14 City Code;

15 **PART 6.** The City Clerk is authorized to charge the following fees for fiscal year 2016 -
16 2017 beginning on the effective date of this ordinance:

17 Annual Lobby Registration Fee: ~~\$350~~100.

18 Annual Lobby Registration Fee for a regular employee of a 501(c)(3) nonprofit
19 organization, whose only lobbying activity is for the person's regular employer:
20 ~~\$50~~25.

21 Annual Lobby Registration Fee for a business association making the election
22 under §4-8-5(B)(1): ~~\$350~~100 for the business association, and \$50 for each
23 employee-lobbyist of the business association.

24 Lobbyist Late Filing Fee for each notice that the clerk sends to the late filer: \$50.

25 **PART 7.** Subsection (C) of City Code Section 2-1-21 (*Eligibility Requirements and*
26 *Removal*) shall remain in place after the effective date of this ordinance unless the council
27 amends Subsection(C) and adopts amendments clarifying and strengthening the conflict
28 of interest provisions found in Chapter 2-7 (*Ethics and Financial Disclosure*) and Section
29 2-1-24 (*Conflict of Interest and Recusal*).

30 **PART 7. PART 8.** This ordinance takes effect on ~~January~~June 1, 2017.

PASSED AND APPROVED

_____, 2016

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§
§

Steve Adler
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk