

ORDINANCE NO. 20190619-172

AN ORDINANCE AMENDING 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 AND FINANCIAL DISCLOSURE FILING DEADLINES; AND AMENDING ORDINANCE NO. 20180911-002, THE FISCAL YEAR 2018-2019 FEES, FINES, AND OTHER CHARGES ORDINANCE TO AMEND LOBBYIST REGISTRATION FEES.

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

PART 1. Subsections (B) and (C) of City Code Section 4-8-4 (*Election by Business Entity*) are amended to read:

(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 all information required to be reported by the entity.

(C) If a business entity elects the option under Subsection (B)(1), [~~an~~] each lobbyist employee of the business entity who would otherwise be subject to the registration requirement is [~~not~~] required to [~~register or~~] file registration and activity reports [if] , and the business entity must:

- (1) [~~registers on behalf of~~] register and identify all of the business entity's employee lobbyists;
- (2) pay[s] the annual registration fee for the business entity and each of the employee lobbyists; and
- (3) completely report[s] the activity of the entity that is not fully reported by [each] its employee lobbyists [~~that is required to be reported by this chapter~~].

PART 2. Subsections (B), (D), and (E) of City Code Section 4-8-5 (*Registration*) are amended to read:

(B) The registration shall include:

- (1) the registrant's full name;

- (2) the registrant's permanent business street address, ~~[and]~~ business mailing address, and business email 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
 - (c) 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, the full name, business address, and occupation of the person.
- (C) A registrant and a registrant's employee lobbyists, if any, 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 registrant must file the activity report for the reporting period in which the registrant files the notice of termination.
- (E) If there is a change in the information reported on a registrant's registration form, including a new client or municipal matter, the registrant shall provide a written update to the information reported in the registrant's registration form not later than the tenth working day after the date the person first directly communicates with a City Official to lobby on a new municipal question or for a new client, or after the date of the change of any other information required to be reported.

PART 3. Subsection (D) of City Code Section 4-8-6 (*Activity Reports*) is amended to read:

- (D) A registrant and the employee lobbyists of a registrant, if any, shall file a quarterly activity report whether or not reportable activity has occurred during the preceding quarter. If no reportable events have occurred, a statement to that effect is sufficient for the report.

PART 4. Subsections (A) and (B) of City Code Section 4-8-9 (*Forms; Oaths; Review of Reports; Rules*) are amended to read:

- (A) Except as provided by Section [§ 4-8-9] 4-8-8(C) (*Appearance*), the city clerk may design and promulgate a form for any information required to be reported under this chapter. In this section "report" includes a registration, a report, and an update of, or an amendment to, a registration or a report. If the city clerk promulgates a form, a person required to file a report must file the report on the form.
- (B) A person filing a report shall file the report electronically, under procedures determined by the city clerk, in an electronic format that allows for a downloadable, searchable database for the general public. The city clerk may waive the electronic filing requirement or provide other reasonable accommodation to accommodate a disability pursuant to City Code Chapter 5-6 (*Discrimination Against a Person with Disabilities*), other law, or to facilitate prompt receipt of a report from a person who has suffered a business interruption or personal emergency as described in subsection (D) of Section 4-8-11 (*Late Filing Fee*). The city clerk shall post every report on the City's Web site not later than the second business day after the date the city clerk accepts the report. The city clerk shall create common queries for public accessibility, such as total compensation within ranges for a particular lobbyist, all clients of a particular lobbyist, and all lobbyists and their compensation within ranges for a particular municipal question or client.

PART 5. City Code Section 4-8-11 (*Late Filing Fee*) is amended to read:

§ 4-8-11 LATE FILING FEE

- (A) A person responsible for filing a late report is liable to the City for payment of a late filing fee. The amount of the late filing fee shall be set by ordinance. A late filing fee is not penal in nature, and is in addition to an available sanction for a late filing of a report. A person's payment of a late fee under this section does not discharge a person's liability for a criminal offense under this chapter.
- (B) The city clerk shall determine from any available evidence whether a report under this chapter is late.
 - (1) A report that is not timely filed is late.

- (2) A registration or report is not properly filed without ~~[the]~~ a required fee being paid timely. Accordingly, a registration or report filed without the required fee being paid timely is late. The city clerk may use an electronic form that will prevent a filer from submitting a required report until all registration, renewal, or late fees owed by a registrant or employee lobbyist are paid.
- (C) The city clerk may not extend a deadline or waive a late fee caused by an inadvertent error or omission of a person responsible for filing a report, or the error or omission of the person's authorized officer or agent.
- (D) The city clerk may extend a deadline for a period of up to 30 days and may waive up to two late fees if the registrant or person responsible for filing a report is unable to timely file a report due to:
- (1) a business interruption caused by a natural catastrophic event (such as tornado, flood, fire, hurricane, or earthquake), a serious weather-related event (such as heavy winds, ice, or snow), or other unsafe condition affecting the person's business or access to the person's business that is not caused by the person; or
- (2) a personal emergency related to: (a) the death, disability, or serious medical condition of the person, or the person's relative within the second degree of consanguinity or affinity; or (b) a natural catastrophic event.
- (E) Except to provide public testimony at a meeting subject to the requirements of the Texas Open Meetings Act, a lobbyist may not lobby a City Official unless all fees have been paid and all required reports have been filed.
- (~~[E]~~F) On making a determination that a report is late, the clerk shall immediately send, by ~~[registered]~~ email or other traceable method, a notice of the determination to the person responsible for the filing, notifying the person of the fee for late filing, and charging the fee.
- (~~[D]~~G) If the late fee is not paid before the 10th day after the date on which the notice is ~~[received]~~ sent by the city clerk to the person responsible for filing the report, the person is liable to the City for an additional late fee.
- (1) Until the person files the report, the clerk shall send a written notice by email to the person every 10th day. ~~[After the first notice, the clerk need not send notices by registered mail.]~~ The person is liable for an

additional late fee each time the clerk sends a 10-day notice up to a cumulative maximum of \$500. The clerk need not send additional notices when the total of the late fee has reached the maximum amount and may not send the notices more frequently than every 10th day.

([E]H) The clerk shall provide a copy of each notice sent under this section to the city attorney.

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

([G]J) A report [~~subject to a fee, for which the fee is not paid,~~] is not properly or timely filed in compliance with this chapter if the registrant or lobbyist responsible for filing the report has failed to pay any fee owed under this Chapter prior to, or at the time of, the filing.

PART 6. Subsection (A) of City Code Section 4-8-12 (*City Attorney's Report*) is amended to read:

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

- (1) the number of referrals by the city clerk, city auditor, and other City departments;
- (2) the number of citizen complaints;
- (3) the number of investigations opened by the city attorney, whether on account of a referral or on the city attorney's own initiative;
- (4) the number of cases settled;
- (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.

PART 7. Subsection (C) of City Code Section 4-8-15 (*Affirmative Defenses*) is amended to read:

- (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:
- (1) 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 [§] Section 4-8-10 (*Audit*), in the registration or report originally filed; or
 - (2) filed a complete and correct report in compliance with an extended deadline and lobbying restrictions in accordance with subsections (D) and (E) of Section 4-8-11 (*Late Filing Fee*).

PART 8. Subsection (A) of City Code Section 2-7-76 (*Filing Dates for Statements*) is amended to read:

§ 2-7-76 - FILING DATES FOR STATEMENTS.

Statements required by this article shall be received by the city clerk by [~~4:45~~]11:59 p.m. on the last day required. When the last day falls on a Saturday or Sunday, or on an official City holiday as established by city council, the deadline for receipt by the city clerk is extended to [~~4:45~~]11:59 p.m. of the next day which is not a Saturday or Sunday or official City holiday.

PART 9. Council amends Exhibit A to Ordinance No. 20180911-002, the Fiscal Year 2018-2019 Fees, Fines, and Other Charges Ordinance, to amend lobbyist registration fees as follows:

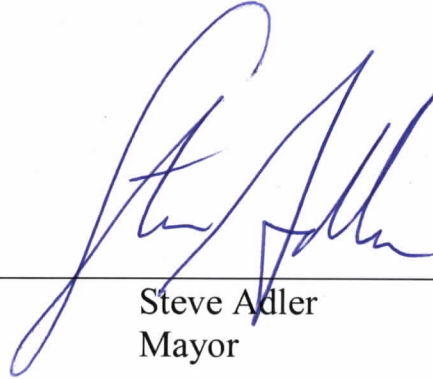
Annual Lobby Registration Fee for a ~~[regular employee]~~ registrant whose only lobbying activity is lobbying on behalf of one or more ~~[of a]~~ 501(c)(3) nonprofit organizations ~~[and whose only lobbying activity is for the person's regular employer]~~: \$25.

PART 10. This ordinance takes effect on July 1, 2019.

PASSED AND APPROVED

____ June 19 _____, 2019

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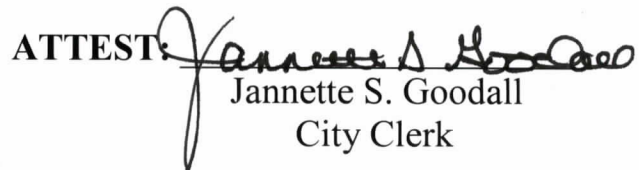
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:


Jannette S. Goodall
City Clerk