CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION

ARTICLE 3: LOBBYIST REGISTRATION

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CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-1 SHORT TITLE.

§ 2-3-1 SHORT TITLE.

This Ordinance may be cited as the "Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance."

(Ord. 62-2001; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-2 INTENT.

§ 2-3-2 INTENT.

To declare and identify all professional lobbyists who represent entities that attempt to influence and/or otherwise contribute to public or private discussion with City of Albuquerque public officials including the Mayor and the City Council as elected officials.

(Ord. 62-2001)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-3 DEFINITIONS.

§ 2-3-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. Means City of Albuquerque.

CITY OFFICIAL. A person holding the office of Mayor, City Councillor, or any member of any city board, committee or commission.

COMMITTEE. A committee created by the Mayor or City Council, including all standing committees of the City Council, and all City Boards, Committees and Commissions created by City Charter, ordinance, or resolution or governed under the provisions of the Public Boards, Commissions and Committee Ordinance, ROA 1994, §§ 2-6-1-1 et seq.

COMPENSATION. Money, per diem, salary, fee or portion thereof or the equivalent in services rendered or in-kind contributions received or to be received directly or indirectly in return for lobbying services performed or to be performed.

CONTRIBUTION. A gift, subscription, loan, advance or deposit of any money or other thing of value, including the fair market value of an in-kind contribution, that is made or received for the purpose of influencing City Officials regarding an official action.

EXPENDITURE. A direct or indirect payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value but does not include a lobbyist's own personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer.

LOBBYING. Attempting to influence:

- (1) A decision related to any matter to be considered or being considered by the City Council, any Council Committee or any Council matter requiring action by the Mayor or awaiting action by the Mayor; or
 - (2) An official action.

LOBBYIST. Any individual who is directly or indirectly compensated for the specific purpose of lobbying; is designated by an individual, interest group, or organization or entity to represent it on a substantial or regular basis for the purpose of lobbying; or in the course of his

employment is engaged in lobbying on a substantial or regular basis. "Lobbyist" does not include:

- (1) An individual who appears on his own behalf in connection with an official action.
- (2) Any elected or appointed officer of the state or its political subdivisions or an Indian tribe or pueblo acting in his official capacity.
- (3) An employee of the state or its political subdivisions, specifically designated by an elected or appointed officer of the state or its political subdivision, who appears before the City Council, Council Committee, or a rulemaking proceeding only to explain the effect of legislation or a rule on his agency or political subdivision, provided the elected or appointed officer of the state or its political subdivision keeps for public inspection, and files with the secretary of state, such designation.
- (4) Any designated member of the staff of the Mayor of the City of Albuquerque, provided the Mayor keeps for public inspection and files with the City Clerk such designation.
- (5) A member of the City Council or the staff of the City Council when addressing legislation.
- (6) Any witness called by a Council Committee or administrative department to appear before that committee or department in connection with legislation or an official action.
- (7) An individual who provides only oral or written public testimony in connection with a City Council or Committee or in a rulemaking proceeding and whose name and the interest on behalf of which he testifies have been clearly and publicly identified.
- (8) A publisher, owner or employee of the print media, radio or television, while gathering or disseminating news or editorial comment to the general public in the ordinary course of business.
- (9) A representative or officer of an officially recognized Albuquerque Neighborhood Association or Homeowners Association who speaks on behalf of that Association.

LOBBYIST CAMPAIGN or LOBBYIST CAMPAIGNING. The direct or indirect receipt of contributions and/or expenditure of funds to influence the public and/or City Officials regarding an official action by a lobbyist or a lobbyist organization. Each official action the lobbyist organization supports or opposes shall be a separate lobbyist campaign.

LOBBYIST ORGANIZATION. A person who directly or indirectly receives contributions and/or makes expenditures to influence the public and/or City Officials regarding an official action.

LOBBYIST'S EMPLOYER. The person whose interests are being represented and by whom a lobbyist is directly or indirectly retained, compensated or employed.

OFFICIAL ACTION. The action or non-action of a City Official related to any legislative, policy making or rulemaking proceeding or any proposed ballot measure as defined in the Charter of the City of Albuquerque.

PERSON. An individual, partnership, association, committee, federal, state or local governmental entity or agency, however constituted, public or private corporation or any other organization or group of persons who are voluntarily acting in concert, including both for profit and non-profit entities.

PRESCRIBED FORM. A form prepared and prescribed by the City Clerk.

RULEMAKING PROCEEDING. A formal process conducted by a City agency, board or commission for the purpose of adopting a rule, regulation, standard, policy or other requirement of general applicability and does not include adjudicatory proceedings.

(Ord. 62-2001; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-4 REGISTRATION STATEMENT TO BE FILED; CONTENTS; MODIFICATION TO STATEMENT.

§ 2-3-4 REGISTRATION STATEMENT TO BE FILED; CONTENTS; MODIFICATION TO STATEMENT.

- (A) Before any service or lobbyist campaigning covered by the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance commences, any individual who is initially employed or retained as a lobbyist or any lobbyist organization shall register with the City Clerk filing a single registration statement under oath on a prescribed form showing:
- (1) The lobbyist's or lobbyist organization's full name, permanent business address and business address while lobbying or conducting lobbyist campaigning;
 - (2) The name and address of each of the lobbyist's employers;
 - (3) The official action the lobbyist or lobbyist organization supports or

opposes;

- (4) The name, address and telephone number of the lobbyist organization's chairperson and treasurer and all parties having signature authorization for the lobbyist organization's checking account, the name and address of the bank where the lobbyist organization has its checking account and the bank account number; and
- (5) The name and address of the bank where the lobbyist has his/her checking account for the checking account required in this Ordinance when the lobbyist campaigns for or against an official action. The checking account number. The name add address of any person who has signature authorization for such checking account.
- (B) The City Clerk may charge a reasonable registration fee for the initial registration by a lobbyist or lobbyist organization. No additional fee may be charged for amendments to the original registration or for the annual statement required in this section. Lobbyist organizations that file a lobbyist campaign registration concerning an official action different from that designated in a previous registration shall pay the registration fee required in this subsection for each such subsequent registration. No registration fee shall be required of lobbyists receiving only reimbursement of personal expenses and no other compensation or salary for lobbying unless they are filing for the purpose of conducting lobbyist campaigning.
- (C) For each succeeding year that an individual is employed or retained as a lobbyist by the same employer, and for whom all the information disclosed in the initial registration statement remains substantially the same, the lobbyist shall file a simple annual registration renewal 12 months following initial registration and every 12 months thereafter for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal. The annual statement shall be in addition to any lobbyist campaign registration and disclosure statement that the lobbyist may be required to file under the provisions of this Ordinance.
- (D) Whenever there is a modification of the facts required to be set forth by this section or there is a termination of the lobbyist's employment as a lobbyist before the end of the year, the lobbyist shall notify the City Clerk within one month of such occurrence.
- (E) Lobbyists and lobbyist organizations shall file a separate registration with the City Clerk for each official action the lobbyist or lobbyist organization supports or opposes. When lobbyists or lobbyist organizations support or oppose an official action other than the official action identified in any previous registration they have filed with the City Clerk, they shall file an additional separate registration for each such official action supported or opposed.

(Ord. 62-2001; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-5

ENFORCEMENT OF ACT; INVESTIGATIONS BY THE CITY ATTORNEY; DUTIES OF THE CITY CLERK.

§ 2-3-5 ENFORCEMENT OF ACT; INVESTIGATIONS BY THE CITY ATTORNEY; DUTIES OF THE CITY CLERK.

- (A) The City Attorney shall adopt procedures for processing complaints and notifications of violations.
- (B) Upon the sworn complaint of any person who has reason to believe, and presents an affidavit listing the basis for such complaint, that there is, or has been a violation of the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance, the City Attorney shall investigate the allegation when there is reason to believe such person, lobbyist, lobbyist organization or lobbyist's employer is, or has been, acting in violation of the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance.
- (C) When the City Attorney has reason to believe that any person, lobbyist, lobbyist organization or lobbyist's employer has violated or is violating any provision of the Lobbyist Registration Ordinance, he shall notify the suspected violator of the alleged violation and hold an informal meeting before initiating further action.

(Ord. 62-2001; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-6 REGISTRATION STATEMENT; PRESERVATION AS PUBLIC RECORD.

§ 2-3-6 REGISTRATION STATEMENT; PRESERVATION AS PUBLIC RECORD.

Each registration and disclosure statement as required by the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance shall be preserved by the City Clerk for a period of five years from the date of filing as a public record, open to public inspection at any reasonable time. All such reports filed with the City Clerk shall be listed on the City's website within one week of submission and will be periodically updated. Unless an action or prosecution is pending that requires preserving the report, it may be destroyed five years after the date of filing.

(Ord. 62-2001; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-7

COMPLIANCE; ENFORCEMENT; HEARING AND APPEAL PROCESS.

§ 2-3-7 COMPLIANCE; ENFORCEMENT; HEARING AND APPEAL PROCESS.

- (A) The City Clerk shall advise and seek to educate all persons required to perform duties pursuant to this Ordinance. This includes advising all registered lobbyists and lobbyist organizations at least annually of the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance's deadlines for submitting registration. All prescribed forms shall be clear and easy to complete.
- (B) The City Attorney may conduct thorough examinations of reports and conduct any investigations to determine whether this Ordinance has been violated. Any person who believes that this Ordinance has been violated may file a written complaint with the City Attorney pursuant to the requirements of § 2-3-5 of this Ordinance. The City Clerk shall adopt procedures for processing complaints and notifications of violations.
- (C) The City Attorney shall seek first to insure voluntary compliance with the provisions of this Ordinance pursuant to § 2-3-5. A person who violates this Ordinance shall be given fifteen (15) consecutive calendar days notice to correct the matter or request a hearing before a City Hearing Officer before fines are imposed. The fifteen day notice shall begin to run on the day the notice is mailed or served in person. The request for hearing shall be submitted to the City Clerk.
- (D) Notices under this section shall be deemed properly served and received when the notice has been personally served on the lobbyist or lobbyist organization or sent by registered or certified mail return receipt requested to the last known address of the lobbyist or lobbyist organization.
- (E) When the lobbyist, lobbyist organization or person who has been given the fifteen days notice has submitted to the City Clerk a written request for a hearing within the fifteen days allowed in § 2-3-7(C) of this Ordinance, a hearing shall be conducted within thirty (30) consecutive calendar days from the day the City Clerk receives the request for hearing. The hearing shall be conducted by a City Hearing Officer at a time and place designated by the Hearing Officer. All witnesses shall be sworn or affirmed and the hearing shall be recorded. The Hearing Officer shall file all findings, conclusions and final orders with the City Clerk and mail a copy to the City Attorney and parties to the hearing at the time of such filing.
- (F) An appeal may be taken from any final order issued by the Hearing Officer by filing a Petition for Writ of Certiorari to the District Court of the Second Judicial District within thirty (30) days after the Hearing Officer files the findings, conclusions and final order with the City Clerk. The petition shall be limited to the record of the proceedings before the Hearing

Officer. The petitioner shall file a true and correct copy of the record of the proceedings before the Hearing Officer with the District Court within thirty (30) days after filing the Petition for Writ of Certiorari. The Hearing Officer or City Clerk shall charge the petitioner a reasonable fee for the cost of time and materials to reproduce the record. The decision of the hearing officer shall be affirmed unless the decision is found to be arbitrary, capricious or an abuse of discretion unsupported by evidence in the record taken as a whole or otherwise not in accordance with law.

- (G) The Hearing Officer shall prepare a written report of his or her findings and decision within ten (10) City working days after the hearing and shall provide copies to the parties and the City Attorney and shall file the findings, conclusions and the final order with the City Clerk.
- (H) Any person who files a statement required by this Ordinance, including but not limited to registration and disclosure statements, after the deadline imposed by this Ordinance or any person who files a false or incomplete statement shall be liable for and shall pay the City at or from the time initially required for the filing, fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the statement until the complete report is filed up to a maximum of five hundred dollars (\$500.00). Any person who knowingly and willfully violates any of the provisions of this Ordinance shall be punished by a fine of up to five hundred dollars (\$500.00) and may have his lobbyist or lobbyist organization registration revoked or his lobbying or lobbying campaigning activities enjoined for up to three (3) years.

(Ord. 62-2001; Am. Ord. 38-2002; Am. Ord. 5-2003)

CHAPTER 2: GOVERNMENT / ARTICLE 3: LOBBYIST REGISTRATION / § 2-3-8 LOBBYING CAMPAIGN DISCLOSURE, BANK ACCOUNT AND EXPENDITURE REQUIREMENTS AND RETENTION OF RECORDS.

§ 2-3-8 LOBBYING CAMPAIGN DISCLOSURE, BANK ACCOUNT AND EXPENDITURE REQUIREMENTS AND RETENTION OF RECORDS.

(A) Bank Accounts. Each lobbyist organization shall establish one and only one campaign bank checking account for each lobbyist campaign. Each lobbyist campaign shall be for or against only one official action. Lobbyists participating in lobbyist campaigning shall establish one and only one campaign bank checking account for each lobbyist campaign when such lobbyist campaigning activity is not reported by a lobbyist organization. All contributions received for the benefit of lobbyist campaigning shall be deposited into the single checking account required in this section and all disbursements shall be made from that account. Each lobbyist participating in lobbyist campaigning and each lobbyist organization shall file with the bank at which the lobbyist campaign checking account has been established a letter authorizing

the release of information concerning that account to the City Attorney or his designee and shall submit a copy of the letter of authorization to the City Clerk. Upon the request of the City Attorney, the lobbyist or lobbyist organization shall provide to the City Attorney all bank records, cancelled checks, and any other financial information relating to the lobbyist campaign as may be requested by the City Attorney. When a contribution is deposited in the single checking account required by this Ordinance, the name of each contributor whose contribution is being deposited shall be recorded on the bank deposit slip.

(B) Disclosure of Lobbyist Campaigning Activities.

- (1) Each lobbyist or lobbyist organization that conducts any lobbyist campaigning shall file with the City Clerk disclosure statements, each of which shall be cumulative, signed under oath by the lobbyist or treasurer or chairperson of the lobbyist organization, and set forth to 5:00 p.m. of the day preceding the filing of each statement the following:
- (a) The total of contributions, which shall include all contributions received, regardless of whether the contribution has been deposited in the bank checking account. This report shall show the amount of each anonymous contribution received.
- (b) The name and street address of each contributor, the contributor's principal business or occupation, the name and address of the contributor's employer, and the nature of the contributor's or the contributor's employer's business, together with the total cumulative value contributed by the contributor.
- (c) All expenditures made on behalf of the lobbyist campaign, including any reimbursements and the nature thereof, and the name and address of the person or business to whom payment was made.
- (d) In kind contributions shall be reported as to both contributions to the lobbyist or lobbyist organization or any expenditure made on behalf of the lobbyist or lobbyist organization. The fair market value of such goods or services shall be reported.
- (e) Lobbyist campaign loans as contributions and any subsequent repayment of loans credited against contributions and returned contributions as credits against contributions.
- (2) The statements required by this section shall be filed as follows: the first statement shall be filed within five (5) City working days after the registration with the City Clerk that designates the official action the lobbyist or lobbying organization supports or opposes. The first statement shall show all contributions received and all expenditures made at any time in the past up to 5:00 p.m. of the day immediately prior to the date of filing. The first statement shall include all expenditures made and contributions received prior to registering with

the City Clerk as well as such expenditures made and contributions received after the registration required under § 2-3-4 of this Ordinance. Additional statements shall be filed with the City Clerk every twenty-eight (28) calendar days from the date of the original registration until the lobbyist or lobbying organization provides a final statement. In the event no expenditures have been made and no contributions have been received during any of the required reporting periods, the lobbyist or lobbyist organization shall not be required to file a statement for that time period but shall be required to submit a letter to the City Clerk stating that no contribution and expenditure activity occurred during the reporting period. The final disclosure statement shall include or be accompanied by a sworn statement that all lobbying campaigning has ceased on or before the date of such statement as to the official action designated in the registration. The final statement shall show all expenditures and contributions and may be filed at any time.

- (3) Anonymous Contributions. No anonymous contributions shall be accepted by a lobbyist or lobbyist organization for purposes of conducting a lobbyist campaign. Anonymous contributions accepted shall be given to a non-profit charity or to the City's General Fund. The transfer of such funds to the non-profit charity or the City's General Fund shall be reported in the disclosure statement due after such transfer.
- (4) Retention of Records. Each lobbyist and lobbyist organization shall keep financial records of the lobbyist campaign for a period of one year following the certification to the City Clerk that all lobbying campaigning has ceased and shall make available to the City or its auditors for inspection the records of all contributions and expenditures, cancelled checks, invoices, receipts, bank statements, bills of sales, statements of accounts, leases, rental agreement and all other financial records pertinent to the lobbyist campaign.

(Ord. 5-2003)