

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2013-3

No. 84

**AN ORDINANCE AMENDING CHAPTER 2011-16 No. 336
RELATIVE TO LOBBYIST REGISTRATION**

Approved February 28, 2013

Be it ordained by the City of Providence:

The Code of Ordinances of the City of Providence, Chapter 2011-16, No. 336, 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) *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 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.

- b) *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.
- c) *Influencing a municipal decision* means acting directly or soliciting others to act for the purpose of promoting, opposing, amending, or influencing in any manner a municipal decision.
- d) *Lobbying* means seeking to influence a municipal decision as an appointed and compensated representative of another. 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 pursuant to Section 6.
- e) *Lobbyist* means any person who seeks to influence a municipal decision as an appointed and compensated representative of another.
- f) *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.
- g) *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. non-ministerial determinations of city officials, including, but not limited to, 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.
- h) *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.
- i) *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) Any ministerial action by a city official.
- c) 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.

- d) 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.
- e) 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.
- f) Any volunteer, employee, officer or director of a not-for-profit entity, lobbying on behalf of said not-for-profit entity, unless said lobbying constitutes more than incidental lobbying: (i) engaging in lobbying for more than 25 hours during a reporting year; or (ii) receiving more than \$2,500 during a reporting year for lobbying.
- g) Any attorney representing clients before any city board, committee, commission, court, or any other legally constituted municipal body.
- h) Any person requesting assistance in interpreting laws, regulations, city approvals or policies.
- i) Any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the city.
- j) Any person representing the owner of a single-family home that is owner-occupied seeking a variance or other zoning changes for improvements to the home.
- k) Any management decision as to the working conditions of collective bargaining employees that clearly relate to the terms of the collective bargaining agreements.

Section 4. Registration Required.

- a) Lobbyists shall register with the city clerk within thirty (30) days of 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 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, 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. Every lobbyist shall conspicuously display this identification badge on his or her clothing while in City Hall or city offices at all times.
- b) An annual fee of twenty five dollars (\$25) shall be paid by the lobbyist for each entity for which he or she lobbies. The fee shall be paid to the city clerk at the time of registration for deposit in the city's general fund.

Section 6. Reporting.

- a) Every lobbyist 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 (b) (i) through (b) (iv).
- b) 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 (b) (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 (b) (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.

c) All reports shall be on a form prescribed by the city clerk, and the reports shall be open for public inspection.

d) 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 a 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.

Any person, corporation, association, or lobbyist who is found to have violated any provision of this ordinance may be subject to administrative penalties imposed by the municipal integrity officer as the circumstances may merit upon notice and opportunity to be heard before the municipal integrity officer. Said penalties include the imposition of a fine not to exceed \$250 per violation and each day of violation shall constitute a new violation of this ordinance. Any violator who has been issued a fine may appeal said fine within twenty (20) days to the Providence Municipal Court.

Section 9. 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 10. 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 upon passage.

IN CITY COUNCIL
OCT 18 2012
FIRST READING
READ AND PASSED
Jim M. Smith
CLERK

IN CITY
COUNCIL
FEB 21 2013
FINAL READING
READ AND PASSED
[Signature]
PRESIDENT
David Hayes
ACTING CLERK

I HEREBY APPROVE
[Signature]
Mayor
Date: 2/28/13