

ORDINANCE NO. ORD-10-0006

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 2.08
REGARDING REGULATION OF PERSONS WHO LOBBY
PUBLIC OFFICIALS

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 2.08 is hereby added to the Long Beach Municipal Code to read in its entirety as follows:

Chapter 2.08

LOBBYISTS

2.08.010 Interpretation.

Unless the term is specifically defined in this Chapter or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000, et seq., shall govern the interpretation of this Chapter.

2.08.020 Definitions.

For the purposes of this Chapter, the following definitions shall be applicable.

A. "Activity expense" means any payment made by a lobbyist to or directly benefiting any City official, City official-elect or member of his or her immediate family. Activity expenses include gifts, honoraria, consulting fees, salaries and any other form of compensation, but do not include campaign contributions.

B. "Administrative action" means the proposal, drafting,

1 development, consideration, advocacy, or recommendation of any rule,
2 regulation, agreement or contract, permit, license or hiring action.

3 C. "City official" means any public official, legislative staff member
4 or City employee who participates in the consideration of any legislative or
5 administrative action other than in a purely clerical, secretarial or
6 ministerial capacity. It shall also include any City board or commission
7 member, or City representative to any joint powers authority to which the
8 City is a party, and any consultant to the City.

9 D. "Consultant" means an individual who, pursuant to a contract
10 with the City:

11 1. Makes a governmental decision whether to:

- 12 a. Approve a rate, rule, or regulation;
- 13 b. Adopt or enforce a law;
- 14 c. Issue, deny, suspend, or revoke any permit,
15 license, application, certificate, approval, order, or similar authorization or
16 entitlement;
- 17 d. Authorize the City to enter into, modify, or renew a
18 contract provided it is the type of contract which requires City approval;
- 19 e. Grant City approval to a contract which requires
20 City approval and in which the City is a party or to the specifications for
21 such a contract;
- 22 f. Grant City approval to a plan, design, report, study
23 or similar item;
- 24 g. Adopt or grant City approval of policies, standards
25 or guidelines for the City, or for any subdivision thereof.

26 2. Serves in a staff capacity with the City and in the capacity
27 performs the same or substantially all the same duties for the City that
28 would otherwise be performed by an individual holding a position specified

1 in the City's conflict of interest code.

2 E. "Client" means a person who is represented by a lobbyist.

3 F. "Compensation" includes, but is not limited to, money of any
4 denomination or origin; goods or services or anything of value, delivered
5 or rendered; or promises to perform or provide services or contractual
6 arrangements or awards.

7 G. "Gift" means gift as defined in the California Political Reform
8 Act, Government Code Section § 81000, et seq., as amended from time to
9 time.

10 H. "Influencing" means the purposeful communication, either
11 directly or through agents, promoting, supporting, modifying, opposing,
12 causing the delay or abandonment of conduct, or otherwise intentionally
13 affecting the behavior of a City official or official-elect, by any means,
14 including, but not limited to, providing or using persuasion, information,
15 incentives, statistics, studies or analyses; excepted from this definition is
16 communication made as a part of a noticed governmental public meeting;

17 I. "Legislative action" means the drafting, introduction,
18 consideration, modification, enactment or defeat of any resolution,
19 ordinance, amendment thereto, report, nomination or other action of the
20 Mayor, City Council, Redevelopment Agency of the City of Long Beach,
21 Housing Authority of City of Long Beach, any joint powers authority of
22 which the City is a party, or City board or commission, acting in its official
23 capacity.

24 J. "Lobbying" is the influencing or attempting to influence a
25 legislative or administrative action of the City.

26 K. "Lobbyist", unless exempt under subsection 4 hereunder,
27 means:

28 1. Contract Lobbyist. A person who engages in lobbying on

1 behalf of one or more clients (acting individually or through agents,
2 associates, employees or contractors) and who has received or has
3 entered into an agreement for compensation of three thousand two
4 hundred dollars (\$3,200.00) or more ("threshold compensation") for
5 engaging in lobbying during any consecutive three-month period.

6 2. Business or Organization Lobbyist. Any business or
7 organization, whose owner(s), officer(s) or employee(s) carry out lobbying
8 on its behalf, in an aggregate amount of fifty (50) hours or more within any
9 three month period, whether or not such officers or employees are
10 specifically compensated to engage in lobbying; provided that the
11 activities of officers shall be considered lobbying only if those officers
12 receive compensation by the business or organization beyond
13 reimbursement for their reasonable, travel, meals or incidental expenses;
14 or

15 3. Expenditure Lobbyist. A person who makes payments or
16 incurs expenditures of five thousand dollars (\$5,000.00) or more during
17 any calendar year in connection with carrying out public relations,
18 advertising or similar activities with the intent of soliciting or urging, directly
19 or indirectly, other persons to communicate directly with any City official in
20 order to attempt to influence legislative or administrative action. The five
21 thousand dollars (\$5,000.00) threshold shall not include:

22 a. Compensation paid to contract lobbyists or
23 employees for lobbying; or

24 b. Dues payments, donations, or other economic
25 consideration paid to an organization, regardless of whether the dues
26 payments, donations or other economic consideration are used in whole
27 or in part to lobby.

28 4. Exemptions to "lobbyist" are:

- 1 a. Any public official acting in his or her official
2 capacity or acting within the scope of his or her employment or
3 appointment;
- 4 b. The media, when limiting its action to the ordinary
5 course of news gathering or editorial activity, as carried out by members of
6 the press. "Media" shall mean newspapers or any other regularly
7 published periodical, radio or television station or network or information
8 published on the Internet. This exemption shall also apply to neighborhood
9 newsletters, flyers or gazettes;
- 10 c. Persons reimbursed for only their reasonable
11 travel, meals or incidental expenses, including but not limited to,
12 uncompensated members or directors of non-profit organizations such as
13 chambers of commerce;
- 14 d. Persons whose communications regarding any
15 legislative or administrative action are limited to appearing or submitting
16 testimony at any public meeting held by the City or any of its agencies,
17 offices, or departments, as long as the communications thereto are public
18 records available for public review. Notwithstanding the foregoing, persons
19 who otherwise qualify as lobbyists must register and disclose their
20 lobbying activities directed toward City officials, in the same manner and
21 to the same extent such registration and disclosure is required of all other
22 lobbyists;
- 23 e. Persons submitting bids or responding to requests
24 for proposals, provided the provision of such information is limited to direct
25 conversation or correspondence with the official or department specifically
26 designated to receive such information;
- 27 f. Persons providing oral or written information
28 pursuant to a subpoena or otherwise compelled by law or regulation, or in

1 response to an official request provided that the request and response
2 thereto are public records available for public review;

3 g. Persons whose communications relate to:

4 (i) The establishment, amendment,
5 administration, implementation or interpretation of a collective bargaining
6 agreement or a memorandum of understanding between the City and a
7 recognized employee association.

8 (ii) Management decisions as to the working
9 conditions of represented employees that clearly relate to the terms of a
10 collective bargaining agreement or memorandum of understanding
11 between the City and a recognized employee association.

12 (iii) Proceedings before the City's Civil Service
13 Commission.

14 h. Boardmembers or employees of non-profit 501(c)
15 (3) corporations.

16 i. Members of neighborhood associations or project
17 area committees.

18 j. Boardmembers and employees of organizations
19 representing City business improvement districts.

20 L. "Organization" means any person that is not an individual.

21 M. "Person" means any individual, domestic or foreign corporation,
22 for-profit or non-profit entity, firm, association, syndicate, union, chamber
23 of commerce, joint-stock company, partnership of any kind, limited liability
24 company, common-law trust, society, or any other group of persons acting
25 in concert.

26 2.08.030 Registration.

27 Lobbyists shall register with the City Clerk within fifteen (15) days
28 after qualifying as a lobbyist under Section 2.08.020.

1 2.08.040 Annual registration renewal.

2 A lobbyist shall renew his or her registration by January 15 or each
3 year unless he or she has terminated their status as a lobbyist pursuant to
4 Section 2.08.050, by such date.

5 2.08.050 Termination of lobbyist status.

6 After initial registration, annual registration renewal will not be
7 required if a declaration attesting to the termination of lobbying services
8 within the City has been filed with the City Clerk no later than January 15.

9 2.08.060 Active status.

10 All registrations, renewals and terminations will be deemed filed on
11 the date received by the City Clerk. A lobbyist shall be deemed active for
12 the duration of the year of registration ending December 31, unless a
13 declaration attesting to termination of lobbying services within the City is
14 filed.

15 2.08.070 Registration fees.

16 Persons subject to the registration requirements of this ordinance
17 shall pay an annual fee of one hundred dollars (\$100.00). Persons
18 registering for the first time on or after June 30 of a given year shall pay a
19 reduced registration fee of fifty dollars (\$50.00).

20 A. The applicable registration fee is due at the time of registration
21 or registration renewal. Payment will be deemed delinquent thereafter.
22 Delinquency fees may be assessed as specified in subsection (C) below,
23 if payment occurs after the due date.

24 B. In addition to the annual fee, each registrant shall pay twenty-
25 five dollars (\$25.00) per client for whom lobbying is undertaken for
26 compensation in excess of five hundred dollars (\$500.00). The fees for
27 clients as of the date of initial registration shall be submitted with the
28 registration. The fees for subsequent clients will be due and submitted at

1 the time of the submission of the relevant quarterly report as required
2 pursuant to Section 2.08.110 below.

3 C. A fine of twenty-five dollars (\$25.00) per day for delinquent fees,
4 up to a maximum of five hundred dollars (\$500.00), will be assessed until
5 compliance with the registration provisions herein.

6 2.08.080 Required registration information.

7 Registration statements shall contain the information set forth in
8 Section 2.08.090.

9 2.08.090 Disclosure.

10 The initial registration shall contain the name, business address,
11 telephone and fax numbers of all persons required to register pursuant to
12 this Chapter, including the names of all owners of sole proprietorships and
13 partnerships of fewer than ten (10) persons. If the registrant is a
14 corporation, it shall also include the names of the president, secretary,
15 chief financial officer, and agent for service of process, if any. Any
16 business or organization registering under this act shall also briefly
17 describe the nature of its business or organization and contacted
18 individual. In addition to this information, the report shall contain the
19 following:

20 A. Contract Lobbyist. The name, business address, telephone
21 number of each client, the nature of each client's business and the item(s)
22 of legislative or administrative action the lobbyist is seeking to influence on
23 behalf of the client; and the name of each person employed or retained by
24 the lobbyist to lobby on behalf of each client.

25 B. Business or Organization Lobbyist. The names of owners,
26 officers or employees conducting lobbying activities and the item(s) of
27 legislative or administrative action the lobbyist is seeking to influence.

28 C. Expenditure Lobbyists. The item(s) of municipal legislative or

1 administrative action the lobbyist is seeking to influence.

2 D. Payment received by the reporting lobbyist for services as a
3 consultant or in any other capacity for services rendered to a City agency,
4 any City official or any City official-elect or their controlled committees, any
5 officeholder committee, or ballot measure committee. The dates of
6 payment and name of each payer shall be included.

7 E. The name, address, title and telephone number of the person
8 responsible for preparing the report, together with that individual's
9 signature attesting to the authority of the signatory and the accuracy and
10 truthfulness of the information submitted.

11 2.08.100 Subsequent disclosures.

12 For each calendar quarter following the quarter in which the
13 lobbyist was required to register, the lobbyist must file a quarterly report in
14 duplicate with the City Clerk not later than fifteen (15) calendar days after
15 the end of the qualifying quarter whether or not any lobbying activities
16 have occurred during such period. Electronic reporting may also be
17 permitted by the City Clerk. Each quarterly report shall contain the same
18 information as required to be disclosed in the initial registration, for those
19 activities occurring in that quarter. If a lobbyist has terminated all lobbying
20 activities during such quarter, the lobbyist may file a declaration of
21 termination with the quarterly report. The final quarterly report shall
22 include disclosure of any lobbying activities during the quarter of
23 termination.

24 2.08.110 Quarterly reports.

25 Quarterly reports are to be filed in duplicate by April 15, July 15,
26 October 15 and January 15, for the prior calendar quarter, and are
27 delinquent thereafter. Electronic reporting may also be permitted by the
28 City Clerk.

1 2.08.120 Records retention.

2 Copies of the records pertaining to the above-required reports shall
3 be preserved by the lobbyist for inspection and audit for a period of four
4 years from date of production.

5 2.08.130 Lobbyist identification.

6 When appearing in a lobbying capacity at a public meeting of the
7 City Council or other City board or commission, a contract lobbyist shall
8 identify himself/herself and the client(s) on whose behalf he/she is
9 appearing, and a business or organization lobbyist shall identify
10 himself/herself and the business or organization he/she represents.

11 2.08.140 Prohibitions.

12 It shall be unlawful for any lobbyist to commit any one of the
13 following acts:

14 A. Unauthorized Communications. Sending or causing any
15 communication to be sent to any City official in the name of any non-
16 existent person or in the name of an existing person without the express
17 or implied consent of such person.

18 B. Fictitious Persons. Contacting any officer of the City in the name
19 of any non-existent person or in the name of any existing person, except
20 with the consent of such existing person.

21 C. Indirect Violations. Attempting to evade the requirements of this
22 ordinance through indirect efforts or through the use of agents, associates,
23 intermediaries or employees.

24 D. Creation of Obligations. Performing or sponsoring any act with
25 the purpose and intent of placing any City official under personal
26 obligation to the lobbyist.

27 2.08.150 Gifts.

28 It shall be unlawful for any lobbyist to deliver or cause to be

1 delivered any gift to any City official, and for any City official to accept any
2 gift from a lobbyist.

3 2.08.160 The City Clerk.

4 The City Clerk shall:

5 A. Oversee compliance with this Chapter including creation of all
6 forms and explanatory materials.

7 B. Provide quarterly reports to the Mayor and City Council on
8 lobbyist activities, and pending complaints and enforcement proceedings
9 and provide an annual report to the Mayor and City Council including a
10 description of educational programs and materials that have been
11 produced regarding this Chapter and providing any recommendations for
12 amendment of this Chapter. Press releases summarizing the contents of
13 the reports shall be prepared and distributed with the respective reports.

14 C. Accept all required filings under this Chapter.

15 2.08.170 Criminal penalties.

16 Any person who knowingly or willfully violates or causes any other
17 person to violate any provision of this Chapter is guilty of a misdemeanor.

18 2.08.180 Injunction.

19 The City Attorney may seek injunctive relief in the courts to enjoin
20 violations of or to compel compliance with the provisions of this Chapter.

21 2.08.190 Practice restrictions.

22 No person convicted of a violation of this Chapter may act as a
23 lobbyist or otherwise attempt to influence municipal legislation for
24 compensation for one year after such conviction.

25 2.08.200 Limitation of actions.

26 Prosecution for violation of any provision of this Chapter shall be
27 commenced within four (4) years after the date on which the violation
28 occurred.

1 2.08.210 Cost of litigation.

2 The court may award costs of litigation including reasonable
3 attorney's fees to the prevailing party in any action to compel compliance
4 with the provisions of this Chapter.

5 2.08.220 Review of regulations.

6 On or before the first anniversary of the effective date of this Chapter, the
7 City Council shall review the effectiveness of these regulations, and shall enact
8 modifications, if necessary.

9
10 Section 2. The City Clerk shall certify to the passage of this ordinance by
11 the City Council and cause it to be posted in three (3) conspicuous places in the City of
12 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
13 Mayor.

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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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3 I hereby certify that the foregoing ordinance was adopted by the City
4 Council of the City of Long Beach at its meeting of March 2, 2010, by the
5 following vote:

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7 Ayes: Councilmembers: Lowenthal, DeLong, O'Donnell,
8 Schipske, Andrews, Gabelich,
9 Lerch.

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11 Noes: Councilmembers: None.

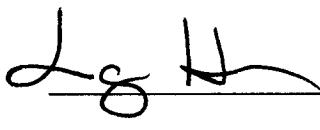
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13 Absent: Councilmembers: Garcia, Reyes Uranga.

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17  _____
City Clerk

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Approved: 3/1/10
(Date)

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Mayor

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