



Legislation Text

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031604

SUBSTITUTE 4

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A substitute ordinance relating to the regulation of lobbyists.

79-51 rp

79-53 rp

79-55 rp

79-57 rp

79-59 rp

79-61 rp

79-63 rp

81-73 cr

305-41 cr

305-43-cr

305-45 cr

305-47 cr

305-49 cr

305-51 cr

305-53 cr

305-55 cr

305-57 cr

305-59 cr

This ordinance creates a system for the registration and regulation of lobbyists and their employers. Its provisions include:

1. Lobbying is defined as any attempt to influence legislative or administrative action by oral or written communication with any city official.
2. A lobbyist is defined as someone who is employed by a principal or who contracts for or receives economic consideration other than reimbursement for actual expenses from a principal, and whose duties include lobbying on behalf of the principal's interests for 2 hours or more within a single 6-month period. Exemptions are provided for members of the media, and those who wish information from their elected representatives or to urge their representatives to support or oppose particular positions.
3. Lobbyists shall register with the city clerk in order to engage in lobbying. The cost of this registration shall be \$125 annually per principal. A principal who lobbies on his or her own behalf for 2 or more hours within a single 6-month period also is required to register and pay the fee.
4. Those who employ lobbyists shall file a disclosure statement every 6 months disclosing the amount of money and other resources expended for lobbying purposes as well as the matters sought to be influenced.
5. Practices of lobbyists and their employers that are prohibited are identified and violations are made enforceable by the city attorney.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Sections 79-51 to 79-63 of the code are repealed.

Part 2. Section 81-73 of the code is created to read:

81-73. Lobbying.

The registration fee for a lobbyist or principal to engage in lobbying shall be \$125 annually per principal, payable at the time of registration.

(See subch. 3 of ch. 305.)

Part 3. Subchapter 3 of ch. 305 of the code is created to read:

**CHAPTER 305
SUBCHAPTER 3
LOBBYING**

305-41 Purpose

305-43 Definitions

305-45 Lobbyists and Principals - Registration Required

305-47 Principals' Expense Statements

305-49 Termination of Lobbyist Status

305-51 Exceptions

305-53 Duties of the City Clerk

305-55 Prohibited Practices

305-57 Allegations of Violations

305-59 Suspensions, Violations and Penalties

305-41. Purpose. The common council declares that the operation of an open and responsible 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 officials of the executive or legislative branch their opinions on legislation, on pending administrative and other policy decisions, and on current issues. Essential to the continued functioning of an open government is the preservation of the integrity of the governmental decision-making process. In order to preserve and maintain the integrity of the process, the common council determines that it is necessary to regulate and publicly disclose the identity, expenditures and activities of persons who engage in, who hire others, or are hired to engage in efforts to influence actions of the legislative and executive branches.

305-43. Definitions . In this subchapter:

1. **ADMINISTRATIVE ACTION** means the proposal, drafting, development, consideration or issuance of staff recommendations, whether those recommendations are required by the code of ordinances, or requested by the mayor or by a board, committee, commission or the common council. It does not include a purely ministerial action by a city official or employee and does not include action related to an enforcement action commenced by a written order, a citation or a summons and complaint.

2. **CITY OFFICIAL** means any individual holding a position which is designated in the city positions ordinance as being required to file a statement of economic interests under s. 303-11.

3. **LEGISLATIVE ACTION** means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment, or defeat of any resolution, ordinance, amendment, report, nomination or other matter by the common council, a common council committee or subcommittee, or by a common council member or employee of the common council acting in an official capacity. "Legislative action" also means the action of the mayor in approving or vetoing any resolution or ordinance or portion thereof, and the action of any city official in the development of any matter or proposal for introduction to or consideration by the common council.

4. **LOBBYING** means any attempt to influence legislative or administrative action by oral or written communication with any city official. Lobbying shall not include appearances by a principal before a city board, commission or committee.

5. **LOBBYING EXPENDITURE** means an expenditure related to the performance of lobbying, whether paid in the form of an advance or subsequent reimbursement.

6. **LOBBYIST** means any person who is employed by a principal or who contracts for or receives economic consideration other than reimbursement for actual expenses from a principal, and whose duties include lobbying on behalf of the principal for 2 or more hours within a single reporting period. A person lobbying for 2 or more hours within a single reporting period for a firm of which he or she is a member shall be deemed as representing a person other than himself or

herself and deemed a lobbyist.

7. PERSON means any individual, corporation, association, firm, limited liability company, partnership, committee, club, organization or group of persons who are voluntarily acting in concert. "Person" also includes a recognized employee organization, association and its representatives.

8. PRINCIPAL means any person who employs a lobbyist, or contracts for the services of a lobbyist, or lobbies on behalf of his or her own corporation, association, limited liability company or partnership. "Principal" also includes: a government department, agency and organization of another political subdivision within the state of Wisconsin; another state; or the federal government.

9. REAL PARTY IN INTEREST means any person, other than an intermediary, for whom a lobbyist acts.

10. REGISTRANT means any person required to register under this subchapter.

11. RELATIVE means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, spouse, fiancé, fiancée or registered domestic partner.

12. REPORTING PERIOD means either that 6-month period beginning with January 1 and ending on June 30 each year or that beginning with July 1 and ending on December 31 each year.

305-45. Lobbyist and Principal - Registration Required.

1. Any person meeting the definition of a lobbyist shall, within 15 days of meeting the definition, register with the city clerk on forms provided therefor. The forms shall include the following:

a. The full name, occupation and principal place of employment of the lobbyist, and the address, telephone number and e-mail address of the lobbyist relating to the principal place of employment.

b. The identity of the legislative or administrative matter for which the lobbyist has been retained.

c. The name, occupation, and principal place of business of the person who is directing the lobbying activities and whose interests the lobbyist is representing, and the address, telephone number and e-mail address of the person represented relating to the principal place of business.

d. Any direct or indirect economic interest in the legislative or administrative matter that the lobbyist may have, as well as the direct or indirect economic interest of the real party in interest.

e. The name, telephone number, address and e-mail address of an agent listed by the principal who shall be designated the official contact for the principal in all matters pertaining to lobbying.

f. The name, telephone number, address and e-mail address listed by the principal of any individual authorized to sign documents on behalf of the principal.

g. A statement that the registrant has received a copy of the rules and regulations relating to the provisions of this subchapter.

2. The lobbyist shall at the time of registration file with the city clerk a written authorization, signed by the principal, for the lobbyist to represent the principal. In those instances in which a lobbyist represents multiple principals, the lobbyist shall file a separate authorization for each principal.

3. In the event a principal engages in lobbying for 2 or more hours within a single reporting period, the principal shall within 15 days register with the city clerk pursuant to sub. 1.

4. Any person required to register under this section shall pay at the time of registration the fee provided in s. 81-73. The following shall be exempt from paying the fee: a government department, agency or organization of another political subdivision within the state of Wisconsin; another state; or the federal government.

5. A registrant shall amend his or her original registration filing with the city clerk so that his or her file reflects at all times the areas of legislative and administrative action that the registrant is attempting to influence. The file shall also identify the file number of committee reports, resolutions, ordinances or administrative actions that are the subject of a registrant's lobbying activities.

6. When appearing before a common council committee, a registrant shall orally identify himself or herself as a lobbyist or principal before engaging in lobbying. At a common council, committee, board or commission meeting, a city official may require oral disclosure of whom a lobbyist is representing, the specific legislation or administrative matter for which a lobbyist has been retained, and any economic interest a lobbyist or principal may have in the matter.

7. Unless otherwise noted in this subchapter, a registrant shall notify the city clerk of any changes of the circumstances set forth in his or her original registration within 10 days of the changes taking place.

305-47. Principals' Expense Statements.

1. Every principal shall, no more than 30 days after the end of each reporting period, file with the city clerk an expense statement covering the preceding reporting period, if the principal has made lobbying expenditures of \$500 or more within that reporting period. The statement shall contain the following information:

a. The total amount of lobbying expenditures made and obligations incurred for lobbying activities by the principal and all lobbyists for the principal. With respect to expenditures and obligations, the following shall be included:

a-1. Compensation to lobbyists and to the principal or officers or employees of the principal.

a-2. Lobbying expenditures made and obligations incurred for paid advertising and any other activities conducted for the purpose of urging members of the general public to attempt to influence legislative or administrative action, if the amount exceeds \$500 during the reporting period.

a-3. If the amount of lobbying expenditures and obligations included in the total under this paragraph made or incurred by any one lobbyist for the principal exceeds \$200 during the reporting period, the name and address of the lobbyist and the total amount of the lobbying expenditures made or obligations incurred during the reporting period shall be listed.

b. A detailed description of each subject area in which the principal attempted to influence legislative or administrative action during the reporting period, including all of the following:

b-1. The subject matter and specific issues in the proposals on which the principal attempted to influence legislative or administrative action in each subject area.

b-2. A contemporaneous record disclosing the time and resources spent on each attempt to influence legislative or administrative action in each subject area. The contemporaneous record shall be submitted on a form provided by the city clerk. This form shall include an itemization of the time spent meeting with city officials as well as any other activity which involved lobbying.

c. The name of any city official to whom the principal or any lobbyist for the principal provided reimbursement authorized under s. 303-9-2-a, and the date and amount reimbursed.

2. If a principal has made lobbying expenditures of less than \$500 in a reporting period, the principal shall file a statement to that effect with the city clerk.

3. A lobbyist whose activities and expenditures are required to be reported by a principal under sub. 1, shall provide to the principal any information that the principal determines is needed to prepare the statement.

4. All accounts, bills, receipts, books, papers and other documents necessary to substantiate an expense statement filed pursuant to this section shall be obtained, organized and preserved by the principal and any lobbyist engaged by the principal for 3 years after the filing of the expense statement.

5. There shall be an additional fee in the amount of \$25 for the late filing of any report required by this section.

305-49. Termination of Lobbyist Status. Upon termination of a person's engagement or employment as a lobbyist, the principal shall notify the city clerk in writing on a form provided therefore by the city clerk.

305-51. Exceptions.1. The provisions of this subchapter shall not apply to:

a. A city official, provided he or she is solely engaged in matters of governmental interest concerning his or her respective governmental body and the city.

b. A person who owns, publishes, or is employed by a newspaper, any regularly published periodical, a radio station, a television station, a wire service or any other bona fide news medium that, in the ordinary course of business, disseminates news, letters to the editor, editorial or other comment, or paid advertisements that directly or indirectly oppose or promote legislation or administrative action provided the person does not engage in other activities that require registration under this section and does not represent another person in connection with influencing legislation. This paragraph does not exempt a person whose relation to the news media is only incidental to a lobbying effort or when a position taken or advocated by a media outlet, reporter or editor directly affects or seeks to influence legislation in which the media outlet, reporter or editor has a direct or indirect financial interest.

c. A person who, without compensation and not as part of or in the ordinary course of his or her regular employment, presents the position of a civic organization such as a taxpayer's association, a community organization or other organization, however formally or informally organized. This paragraph does not exempt a person when a position taken or advocated directly impacts, affects, or seeks to influence legislation in which that person has a direct or indirect financial interest.

d. A person who presents the position of a religious organization on matters involving the religious beliefs of the organization.

e. A member of the State Bar of Wisconsin, acting on behalf of a client in an attorney-client relationship, while performing a duty or service which can be performed lawfully only by an attorney licensed to practice law in the state of Wisconsin.

f. A representative appearing on behalf of an owner before the board of review as authorized by s. 70.47(8)(b), Wis. Stats.

g. Requests for information from a city official and the furnishing of that information when the official is acting in an official capacity.

h. Requests for interpretation of existing laws or ordinances; contract or bidding inquiries; or grant applications.

2. Nothing in this subchapter shall be applied to or interfere with the right of any person to communicate with the common council member who represents the district in which the person resides, whether or not this communication is made on behalf of the person or on behalf of another person.

305-53. Duties of the City Clerk.

1. The city clerk shall be the custodian of all completed registrant forms and reports. The clerk shall prepare and keep a file in which shall be entered the name and business address of each registrant as well as the general areas of legislative and administrative action and specific matters to which the lobbying activities of the registrant relate.
2. The information contained in reports filed pursuant to this section shall be compiled by the city clerk and shall be forwarded on a biannual basis to the mayor and the common council.
3. The city clerk shall make available on the city website all registration information filed under s. 305-45 and all expense statements filed under s. 305-47.
4. All reports filed pursuant to this section shall be preserved by the city clerk for a period of 7 years from the date of filing.
5. The city clerk shall make available to all interested parties a manual describing the methods of registration and reporting for registrants.

305-55. Prohibited Practices.

1. No lobbyist may:
 2. a. Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition thereto.
 - b. Offer or give to any city official, directly or indirectly, anything of pecuniary value if it could reasonably be expected to influence the official's vote, actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the official.
 - c. Contract to receive or receive compensation dependent in any manner upon the success or failure of any legislative or administrative action.
2. No principal may engage in the practices prohibited under sub. 1. This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.
3. Subsection 1-b does not apply to the furnishing of anything of pecuniary value by an individual who is a lobbyist or principal to a relative of the individual or an individual who resides in the same household as the individual, nor to the receipt of anything of pecuniary value by that relative or individual residing in the same household as the individual.
4. Subsection 1-b-3 does not apply to the furnishing of educational or informational material by a lobbyist or principal to a city official, or acceptance thereof by a city official.
5. This section does not apply to the furnishing or receipt of a reimbursement or payment for actual and reasonable expenses authorized under s. 303-9 for the activities listed in that section.
6. This section does not prohibit lodging, transportation, food, meals, beverages, money or any other thing of pecuniary value permitted and reported under ch. 11, Wis. Stats.

305-57. Allegations of Violations.

1. a. The city clerk shall accept from any individual, either personally or on behalf of an organization or governmental body, a sworn statement under oath on a form provided by the city clerk which states the name of any person alleged to have committed a violation of this subchapter and which sets forth the particulars thereof. The statement shall remain confidential. The city clerk shall immediately forward the sworn statement to the city attorney for review and shall forward to the accused within 10 days a copy of the sworn statement.
 - b. If the city attorney determines that the sworn statement does not allege facts sufficient to constitute a violation of this subchapter, the city attorney shall so notify the city clerk, the complainant and the accused.
 - c. If the city attorney determines that the sworn statement alleges facts that, if true, would be sufficient to constitute a violation of this subchapter, the city attorney may make a further investigation with respect to such alleged violation and prepare and file a summons and complaint in municipal court if appropriate.
2. No later than April 1 of each year, the city attorney shall file a report with the mayor and the common council concerning actions the city attorney has taken under this section and the disposition of those actions, including a summary of its determinations.

305-59. Suspensions, Violations and Penalties.

1. Failure to comply with the provisions of s. 305-45 within 10 days of written notification from the city clerk shall result in a suspension of lobbying privileges. The privilege of any principal to lobby, or a lobbyist to lobby on behalf of a principal, shall be restored immediately upon filing the delinquent report. The notices shall be sent by first class, prepaid mail to the address listed by both the principal and the lobbyist in an envelope bearing the return address of the city clerk.
2. Any lobbyist who violates any provision of this subchapter shall be required to forfeit a sum not to exceed \$1,000 and shall not be eligible for registration as a lobbyist for a period not to exceed 3 years.
3. Any principal who violates any provision of this subchapter shall be required to forfeit a sum not to exceed \$5,000.

Part 4. This ordinance takes effect July 1, 2005.

APPROVED AS TO FORM

Legislative Reference Bureau
Date:_____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date:_____
LRB04047-5
RGP
12/21/04