

Blue Ribbon Task Force

Overview of Local Governmental Lobbyist Ordinance

Chapters of Ethics Provisions

- 12.02 General Provisions and Definitions
- 12.04 Campaign Finance Review and Ethics Board
- 12.05 Elections
- 12.06 Municipal Campaign and Officeholder Contributions
- 12.08 Prohibition of Gifts
- 12.10 Revolving Door Ordinance
- 12.12 Local Governmental Lobbyist**
- 12.14 Concurrent Employment of City or Agency Employees or Councilmembers
- 12.15 Prospective Employment

Intent of Ethics Provisions

1. Regulate conduct and ethics
2. Apply to City and Redevelopment Agency, or joint powers or subsidiary agency of the City
3. Provisions are in addition to state and federal law
4. All city officials, including candidates, commissions and committees, employees, and persons doing business with the City/Agency are expected to fully comply with all applicable provisions, as well as other City ethics policies and regulations

History

1980--Citizen's Task Force created and made recommendations that:

1. Required Lobbyist registration with each client and written authorization from each client
2. Fee set by Council Resolution
3. Required Lobbyist Reporting if receive \$5,000 as local governmental lobbyist in any semiannual period and required semiannual reporting:
 - All payments received during preceding semiannual period as compensation for services;
 - Each expenditure of \$100 or more used to influence municipal governmental action including purpose and to whom paid;
 - Names of any papers, periodicals or magazines or other publications in which the lobbyist has caused to be published during preceding quarter to influence directly or indirectly any municipal governmental action;
 - The municipal governmental action which the lobbyist is or was employed to support or oppose.
4. Violation – Misdemeanor

ORD. NOS. 20184 and 20366, 8-8-80 and 11-29-80



History

1987—Ethics Ordinance amended to:

1. Include Redevelopment Agency employees
2. Delete reporting and fee requirements for lobbyists
3. Delete criminal liability and added civil damages of \$5,000 or the value of any gift or services rendered in violation of Chapter (Ethics Ordinances) whichever is greater.

1993—Ethics Board established to monitor compliance with Ethics Ordinance and investigate complaints

2003—Ethics Board name changed to Elections Commission

2004—Blue Ribbon Task Force appointed. Lobbyist Ordinance unchanged since 1987.

Purpose of Lobbyist Ordinance

1. Availability of information regarding activity
2. Ensure that no person acts as a lobbyist before registering
3. Disclosure of Lobbyist's clients
4. Provides method to obtain compliance
5. Tracking mechanism for public reference/record

Purpose of Lobbyist Ordinance

6. Regulate/prohibit activities:

- Personal obligation of City Officials
- Deception of City officer, as to material fact pertinent to any governmental action
- Improper influence
- False appearances
- Representations regarding vote or action

Definition of Local Governmental Lobbyist

Lobbyist—Means any individual who receives \$2,000 or more in economic consideration in a calendar month, other than reimbursement of reasonable travel expenses, or whose principal duties as an employee are to communicate directly or through his/her agents with any public official, officer or designated employee for the purpose of influencing any governmental, legislative or administrative actions of the City or Redevelopment Agency.

Violations/Penalties

Enforcement by San Jose Elections Commission

1. Enforcement is complaint driven. Elections Commission can not initiate investigation.
2. Commission has authority to impose civil penalties.
3. Penalties of up to \$5,000 for each sustained complaint.

Role of City Attorney

1. Legal advice to the San Jose Elections Commission related to non-complaint matters or general interpretations.
2. No participation in investigations or reviews of complaints, except for procedural questions.

Role of City Clerk

1. Registration
2. Cessation of Employment
3. Noncompliance—Order to Show Cause
4. Availability of Information/Records Maintenance

Registration

- No person shall act as a lobbyist before registering as a lobbyist with the City Clerk
- Lobbyist shall file a **“Lobbyist Registration Statement”**
- Within 15 days of obtaining a new client, Lobbyist shall file an **“Amendment to Lobbyist Registration Statement”**
- Lobbyist shall register annually and, at that time, resubmit the required information

Cessation of Employment

- Lobbyist who has terminated all activities requiring registration shall notify the City Clerk
- Lobbyist must complete a **“Lobbyist Notice of Termination”**
- If Lobbyist commences activities, Lobbyist must complete forms mentioned previously

Noncompliance—Order to Show Cause

- City Clerk shall issue an order to show cause to any unregistered person upon request by any officer or designated employee.
- Order must specify the time, date and place where the person shall appear to provide evidence to the Elections Commission that s/he has complied with the registration requirements or is exempt.
- Elections Commission makes determination and Clerk and City Attorney implement it.

Availability of Information/Records Maintenance

- Repository for Lobbyist registration forms
- Forms are open to public inspection and part of the Public Record
- Retains information for 5 years
- Information available on the internet and updated weekly

<http://www.sanjoseca.gov/clerk/default.asp>

