

ORDINANCES OF 2018- CHAPTER 9

CITY OF BOSTON



IN THE YEAR TWO THOUSAND EIGHTEEN

AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY OF BOSTON CODE, ORDINANCES, REGARDING LOBBYIST REGISTRATION AND REGULATION

WHEREAS, It is important that government employees and elected officials conduct themselves in a responsible manner and administer their duties in order to serve the best interests of the public; and,

WHEREAS, Increasing transparency and accountability in government promotes public confidence and serves the public interest; and,

WHEREAS, Having greater access to information concerning organizations and individuals that seek to influence actions of government employees and officials through registration and disclosure requirements will promote transparency in government.

NOW THEREFORE,

Be it ordained by the City Council of Boston, as follows:

Section 1.

The City of Boston Code, Ordinances, is hereby amended in Chapter 2 by adding after section 2-14, the following new section 2-15:

2-15.1 Title and Purpose.

This section shall be known as the "Lobbyist Registration and Regulation Ordinance." The purpose of this section is to promote good governance and to ensure transparency in government by requiring registration and disclosure of lobbying activities; to create fairness and consistency by applying the same rules to all persons engaged in lobbying activities; and to reinforce the community's trust in the integrity of its government by guaranteeing convenient, timely access to information about attempts to influence the government's decisions.

2-15.2 Definitions.

As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:

Administrative Action means any decision on, or any proposal, consideration, enactment or making of any rule, regulation, or any other official nonministerial action or non-action by any executive department, or by any employee of an executive department on any matter which is within the official jurisdiction of the executive branch, or any matter within the official jurisdiction of any city employee.

City employee means an employee of the city of Boston, including a person holding elected office, employees of the Mayor, of the Boston City Council, and employees of the departments of the city, members of city commissions and boards, and any other individual or group of individuals specifically authorized by law, including any appointed, non-employee member of any City agency, including an employee of the Boston Redevelopment Authority, d/b/a the Boston Planning and Development Agency, the Economic Development Industrial Corporation, the Boston Public Health Commission, Boston Licensing Board, or Boston Water and Sewer Commission.

Client means any person, corporation, partnership, association, organization, including not-for-profit, or other entity that retains, employs, or designates any person or organization to carry on lobbying activities on behalf of such client.

Legislative Action means the introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto or other official action or non-action on any ordinance, resolution, motion, order, appointment, application, or other matter pending or proposed in the City Council or any committee or subcommittee thereof.

Lobbyist shall mean every person retained, employed or designated by any client or lobbying entity, with or without compensation to engage in lobbying or lobbying activities. The term "lobbyist" shall not include any officer or employee of the City of Boston, the Commonwealth of Massachusetts, any political subdivision of the State, or any legislatively-created corporation, authority, agency or commission, or the United States when discharging his or her official duties. The term "lobbyist" shall not include any uncompensated volunteer of a not-for-profit entity who seeks to influence legislative or administrative action solely on behalf of that entity.

Lobbying or Lobbying Activities shall mean any attempt to influence:

- a) any legislative action made by the City Council or any member thereof with respect to the introduction, passage, defeat, or substance of any local legislation or resolution;
- b) any administrative action made by the Mayor to support, oppose, approve, or disapprove any local legislation or resolution, whether or not such legislation or resolution has been introduced in the City Council;
- c) any decision or administrative action made by an employee of the city with respect to the procurement of goods, services or construction, including the preparation of contract specifications, or the solicitation, award or administration of a contract, or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies;

- d) any decision made by the Mayor, the City Council, or city employee with respect to the approval, denial, or postponement of a decision concerning the development of real property or zoning, including zoning approval;
- e) any legislative or administrative action concerning the adoption, defeat or postponement of a standard, rate, rule or regulation promulgated pursuant to any local or special law; the adoption or rejection of a policy position. For purposes of these sections and subsection policy shall mean a plan or course of action which is applicable to a class of persons, proceedings, or other matters and which is designed to influence or determine the subsequent decisions and actions of any city employee, including, but not limited to, a plan or course of action which would constitute a regulation. The term shall not include the adjudication or determination of any rights, duties, or obligations of a person made on a case by case basis, including but not limited to the issuance or denial of a license, permit, or certification or a disciplinary action or investigation involving a person.

Lobbying or lobbying activities shall not include the following:

- a) a request for a meeting, a request for the status of an action or any similar administrative request, if the request does not include an attempt to influence a city employee;
- b) an act made in the course of participation in an advisory committee or task force;
- c) providing information in writing in response to a written request for specific information by a city employee;
- d) an individual expressing an opinion, filing a complaint or tip, seeking information or advice, or requesting constituent services regarding a matter that does not involve possible financial benefit to the individual or a business with which the individual is involved or whose interests the individual is representing;
- e) an individual expressing an opinion, filing a complaint or tip, seeking information or advice, or requesting constituent services regarding a matter that involves possible benefits to the individual's owner-occupied home;
- f) an act required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation or other action;
- g) a communication made to a city employee or official with regard to the status of a judicial proceeding or a criminal or civil law enforcement inquiry, investigation or proceeding; or an act made in compliance with written board or agency procedures regarding an adjudicatory proceeding or evidentiary proceedings conducted by any department, board, commission or employee; attorneys, consultants, or advocates representing a client solely in an appearance at a publicly noticed meeting of a City board or commission, including boards or commissions of agencies made up of employees as defined in Section 2-15.2;
- h) a petition for action by the city made in writing and required to be a matter of public record pursuant to established procedures of the city;
- i) any act done in furtherance of obtaining a non-discretionary city approval, such as applying for a permit or license;
- j) an act made on behalf of an individual with regard to that individual's benefits, employment or other personnel matters;
- k) a response to a request for proposals or similar public invitation by a city employee for information relevant to a contract; provided, however, that any communication to a city employee seeking to encourage the City to procure a particular type of item or service, or

to consider a particular vendor, is a lobbying communication not subject to this exception;

- l) participation in a bid conference;
- m) an appeal or request for review of a procurement decision;
- n) designated union representatives negotiating a collective bargaining agreement with city representatives, and unions communicating with their members;
- o) newspapers and other periodicals and radio stations and television stations, and owners and employees thereof, provided that their activities are limited to the gathering or dissemination of news items, editorials or other comment, or paid advertisements;
- p) persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an entity covered by these provisions.

Lobbying Entity means an organization, including not-for-profits and political action committees, engaging in lobbying activities, consisting of at least one lobbyist, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.

Municipal Lobbying Compliance Commission means the commission established in Section 2-15.4.

Procurement means the buying, purchasing, renting, leasing or otherwise acquiring or disposing, by contract or otherwise, of supplies, services or construction, or the acquisition or disposition of real property or any interest therein, including, but not limited to, the purchase, lease or rental of any such real property or the granting of easements or rights of way therein.

2-15.3 Registration and Reporting Requirements.

The City Clerk shall keep a record containing all information required to be filed under this ordinance, which shall be in the form of an electronic database that shall be open and accessible for public inspection. The penalty for a late statement shall be in the amount of \$50.00 per day up to the twentieth day and an additional \$100.00 per day for every day after the twentieth day until the statement is filed.

Each lobbyist, lobbying entity, and client retaining the services of a lobbyist shall file an annual registration statement with the City Clerk on forms it prescribes and provides. The annual registration statement shall be completed not later than December 15 of the year preceding the registration year, except that any person or entity that first qualifies as a lobbyist, lobbying entity, or client after January 1 of the registration year shall register within 10 days after so qualifying. Notice of termination of status as a lobbyist, lobbying entity, or client shall also be filed promptly with the City Clerk.

The annual filing fee for a lobbying entity to register shall be \$300.00. The annual filing fee for a client shall be \$150.00. The annual filing fee for a lobbyist shall be \$150.00. The City Clerk may, in its discretion and upon written request, waive the filing fees for a not-for-profit client, a lobbying entity which registers to exclusively represent not-for-profit clients, a client that

employs fewer than 10 persons and has been in business for fewer than 5 years, or a lobbyist that registers to exclusively represent such client.

No later than January 20th, April 20th, July 20th and October 20th of each year, every lobbyist shall provide to the City Clerk a statement, under oath, listing: (i) all campaign contributions as defined in section 1 of chapter 55 of the General Laws; (ii) the identification of each client for whom the lobbyist provided lobbying activities or services; (iii) names of pieces of legislation, legislative action, administrative action, or the decisions of city employees that the lobbyist acted to promote, oppose, or influence; (iv) a statement of the lobbyist's position, if any, on each such piece of legislation, legislative action, administrative action or decision; and (v) the identification of the client or clients on whose behalf the lobbyist was acting with respect to each such piece of legislation, legislative action, or decision. The disclosure shall be required regardless of whether the lobbyist specifically referenced the particular piece of legislation or other decision while acting to promote, oppose, or influence it.

No later than January 20th, April 20th, July 20th and October 20th of each year, every lobbying entity and client shall provide to the City Clerk a statement, under oath, listing: (i) all campaign contributions as defined in section 1 of chapter 55 of the General Laws; (ii) whether he or she is receiving compensation for the lobbying activities; (iii) expenditures incurred or paid separately by such lobbying entity or client during the reporting period in connection with each decision, legislation, legislative action or administrative action of a city employee that it sought to promote, oppose or influence and the total amount thereof incurred or paid separately by such lobbying entity or client during the reporting period.

Statements provided under this section shall be postmarked or electronically filed, as determined by the City Clerk, no later than the prescribed date.

2-15.4 Municipal Lobbying Compliance Commission; Penalties and Enforcement.

There shall be a Municipal Lobbying Compliance Commission ("Commission") comprising five (5) Commissioners to be appointed by the Mayor after a public hearing to be held by the City Council, so long as one is an attorney with experience in public ethics law, the City Clerk, or their designee, the City Council President, or such other Councilor designated from time to time by the Council President, and two (2) members selected at-large by the Mayor. The City Council President and the City Clerk, or their designees, shall serve ex-officio. The purpose of the Commission shall be to investigate and make findings, pursuant to the following provisions, relative to compliance with the Lobbyist Registration and Regulation Ordinance.

All Commissioners, with the exception of the City Council President and the City Clerk, shall serve coterminous with the Mayor and any vacancies shall be filled by the Mayor of Boston for the unexpired term. The Commissioners shall annually elect a Commission Chairperson. Commissioners shall serve without compensation and shall be classified as Special Municipal Employees for purposes of the State Ethics Law, M.G.L. c. 268A.

Subpoena power shall be exercised by the Chairperson of the Commission, or his or her designee, upon majority vote of the Commission. All proceedings under this section shall be conducted pursuant to chapter 30A of the General Laws.

Within 30 days after completion of deliberations, the Commission shall publish a written report of its findings and conclusions. Upon a finding that there has been a violation, the Commission may issue an order: (i) requiring the violator to cease and desist such violation; (ii) requiring the violator to file any report required pursuant to this act; (iii) suspending the violator for a specified period from engaging in any lobbying communications or revoking violator's registration; (iv) requiring the violator to pay a civil penalty of not more than \$300 per day for each violation. The Commission may file a civil action in superior court to enforce this order. The Commission shall order the City Clerk to issue and collect civil penalties on its behalf.

The Commission shall automatically disqualify any person convicted of a felony in violation of chapter 3, chapter 55, or chapter 268A of the General Laws from acting or registering as a lobbying agent for a period of 10 years from the date of conviction.

The Commission shall have authority to promulgate regulations for the administration of this act.

2-15.5 Exemption from regulations for certain public employees.

This section shall not apply to employees or agents of the federal government or any agency thereof, the Commonwealth, or of a city, town, district or regional school district who are acting in their capacity as such employees or agents. This section also shall not apply to any person requested to appear before the City Council or a committee thereof; provided, that such person performs no other act to influence legislation; and provided further, that the name of such person be recorded in the official records of the City Council or a committee thereof.

Section 2.

Severability

If any provision of CBC 2-15 shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Section 3.

Effective Date.

The provisions of this ordinance shall be effective 180 days after its passage.

Filed in Council: September 26, 2018

In City Council SEP 26 2018
Passed
Maureen Treney City Clerk
Approved OCT 15 2018
[Signature] Mayor