

ORDINANCE No. 179843 AS AMENDED

Establish registration and reporting requirements for Lobbying Entities and City Officials
(Ordinance; add Code Chapter 2.12)

The City of Portland ordains:

Section 1. The Council finds:

1. Robust public involvement in legislative and administrative decision making is essential to ensuring a representative city government.
2. Public involvement includes individuals who speak on their own behalf and other individuals who are authorized to speak and act on behalf of a group of citizens, organization, or business.
3. A group of citizens, organization, or business that authorize individuals to communicate to city officials on their behalf are called “lobbying entities.” Currently, Portland city government does not require lobbying entities to register their existence and report their lobbying activities.
4. To ensure a fair legislative and administrative decision making processes, it is essential that Council establish a system to register lobbying entities and for lobbying entities to report the lobbying activities of those authorized to speak and act on their behalf.
5. Regulation of lobbying entities establishes the transparency that fair and open government warrants by making public the views of lobbying entities and the actions of their authorized representatives.
6. The City has a compelling interest in encouraging open government processes to avoid even the appearance of favoritism. Public registration and reporting of the extent of lobbying entities to influence City decision making is essential to assuring a City government that is accountable to its citizens.
7. City recognized neighborhood associations and business districts, which abide by disclosure standards referenced in City Code section 3.96.020 G. should, in an effort to further increase transparency, make every effort to post meetings agendas and minutes in a centralized location easy for public access.
8. A local campaign poll, conducted on September 7, 2004, indicates support by citizens for initiatives that make transparent the influence of lobbyists on legislative and administrative decisions by city government.
9. While Portland prides itself on its efforts to achieve government accountability and transparency, the City is not alone in its endeavor to make visible the influence of

citizen opinion on city officials. Many jurisdictions, including Metro, the State of Oregon, San Diego, Los Angeles, New York, King County and Chicago have adopted successful systems for registering lobbyists.

10. The Council intends to provide a grace period during the first two calendar quarters following the effective date of the ordinance during which the ordinance applies but no fines will be imposed for violations of the Chapter. However, the City Auditor is encouraged to send warnings and information to those who maybe in violation of the Chapter.

NOW, THEREFORE, the Council directs:

- a. City Code Title 2 is amended by adding Chapter 2.12 as set forth in Exhibit A attached hereto and incorporated herein by reference.
- b. The Office of Neighborhood Involvement with direction from Council will explore means to consolidate the meeting minutes and official statements from city recognized neighborhood associations and business districts in a website that can be accessible to the public.
- c. The City Auditor will accept the registrations from lobbying entities and reports from city officials beginning on the effective date of this ordinance and will require submission of lobbyist reports for the calendar quarter beginning April 1, 2006.
- d. To give adequate time for awareness about the ordinance and compliance with the lobbyist registration and reporting requirements, the City Auditor will not seek penalties or enforcement for code violations occurring before October 1, 2006.
- e. The Commissioner of Public Utilities, with input from stakeholders and the City Auditor, will review the implementation and effectiveness of the established lobbyist registration system and report to Council by October 31, 2006 and October 31, 2007. The report may evaluate:
 - i. The enforcement mechanisms of the registration system
 - ii. The reporting requirements for the system
 - iii. The classification of a lobbyist as designated by the enacted system
 - iv. The exemptions specified in the system
 - v. The hourly threshold per quarter
 - vi. Any other issues that impact the effectiveness of the system

Section 2. This Ordinance shall be in full force and effect on April 1, 2006.

Passed by Council, December 21, 2005

Commissioner Sam Adams
Commissioner Dan Saltzman
Commissioner Erik Sten
Prepared by Mary Jo Markle
December 7, 2005

Gary Blackmer
Auditor of the City of Portland
By /S/ Susan Parsons

Deputy

BACKING SHEET INFORMATION

AGENDA NO. 1564 1602-2005

ACTION TAKEN:

DECEMBER 14, 2005 PASSED TO SECOND READING AS AMENDED DECEMBER 21, 2005 9:30 AM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 179843 AS AMENDED

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
ADAMS	X	
LEONARD		X
SALTZMAN	X	
STEN	X	
POTTER		X

Exhibit A

CHAPTER 2.12

REGULATION OF LOBBYING ENTITIES

(Added by Ordinance No. #####,
effective _____, 2005.)

Sections:

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
- 2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.
- 2.12.060 Declaration Required by Lobbyists
- 2.12.070 Reporting Requirements for City Officials.
- 2.12.080 Prohibited Conduct.
- 2.12.090 Verification of Reports, Registrations and Statements.
- 2.12.100 Public Nature of Reports, Registrations and Statements.
- 2.12.110 Auditor to Prescribe Forms, Accept Voluntary Filings and Provide Public Access to Filed Information.
- 2.12.120 Penalties.
- 2.12.130 Severability.

2.12.010 Purpose.

The City finds that, to preserve the integrity of its decision making processes, lobbying entities that engage in efforts to influence City officials, should report their lobbying efforts to the public.

2.12.020 Definitions.

As used in this Chapter unless the context requires otherwise:

- A. "Calendar quarter" means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. "Calendar year" means the period of January 1 through December 31.
- C. "City director" means the director or individual in charge of the following or its successors: the Office of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Neighborhood Involvement, the Office of Sustainable Development, the Office of Cable Communications and Franchise Management, the Portland Office of Emergency Management, the Bureau of Emergency Communications, the Bureau of Fire, Rescue and Emergency Services, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of

Environmental Services, the Bureau of Water Works, the Bureau of Development Services, the Bureau of Housing and Community Development, the Bureau of Planning, the Bureau of Revenue, and the Portland Development Commission.

- D.** “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Portland Planning Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.
- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:
 - 1.** Time spent by an individual representing his or her own opinion to a City official.
 - 2.** Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
 - 3.** Time spent by a City official or City employee acting in their official capacity as a official for the City.
 - 4.** Time spent submitting a bid, responding to related information requests, negotiating terms on a competitively bid contract.
 - 5.** Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.
 - 6.** Formal appearances to give testimony before public hearings or

meetings of City Council.

- H. “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I. “Lobbyist” means:
 - 1. Any individual who is authorized to lobby on behalf of a lobbying entity for money or any other consideration.
 - 2. Any individual not otherwise subject to subsection 2.12.020 J.1. who is authorized to lobby on behalf of a lobbying entity.
- J. “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.

2.12.030 Registration for Lobbying Entities.

- A. Within three working days after a lobbying entity spends a cumulative total of more than an estimated 16 hours during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
 - 1. The name, address, email, website and telephone number of the lobbying entity;
 - 2. A general description of the trade, business, profession or area of endeavor of the lobbying entity;
 - 3. The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf of the lobbying entity. The list must include:
 - a. Individuals who are paid to lobby for the interests of the lobbying entity.
 - b. Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
 - 4. The subjects and any specific official actions of interest to the lobbying entity.
- B. A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar

year.

- C. Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 16-hour threshold has been reached in each calendar year.
- D. An authorized representative of the lobbying entity must sign the registration required by this Section.
- E. Lobbying entities who do not anticipate spending over \$1000 per calendar quarter for the purpose of lobbying may sign and file with their registration a certificate of limited expenditure provided by the Auditor's office which affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A. 2. If a lobbying entity that files a certificate of limited expenditure spends over \$1000 in a calendar quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A. 2.

2.12.040 Quarterly Reporting Requirements for Lobbying Entities.

- A. A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 16 hours during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
 - 1. The specific subject or subjects of the official action of interest to the lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects and the date of the contact
 - 2. A good faith estimate of total moneys, if the total exceeds \$1000.00, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:
 - a. Food, refreshments, travel and entertainment;
 - b. Printing, postage and telephone;
 - c. Advertising, direct mail and email;

- d. Miscellaneous and gifts;
 - e. Compensation paid to lobbyists; and
 - f. Reimbursements to lobbyists for their expenses.
3. The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25.00 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B.** Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C.** A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D.** A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100(3).
- E.** The lobbying entity official must sign the declaration required by Section 2.12.090 A for each quarterly report.

2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.

In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Lobbying entities who employ lobbyists or otherwise authorize persons to lobby on their behalf if such lobbyists cumulatively spend not more than 16 hours lobbying on behalf of a lobbying entity during any calendar quarter.

- C. Any lobbying entity that satisfies all three of the following requirements:
1. Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
 2. Is an Internal Revenue Code Section 501 (c) 3 Organization; and
 3. Is formally recognized or acknowledged by the City of Portland through City Council resolution or ordinance.

2.12.060 Declaration Required by Lobbyists

Prior to offering public testimony before City officials, at the beginning of any meetings or phone calls with City officials, or in emails and letters, a lobbyist must declare which lobbying entity he or she is authorized to represent for that communication.

2.12.070 Reporting Requirements for City Officials

- A. City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
 2. Subject of lobbying;
 3. Value of gift, meal or entertainment; and
 4. Date of receipt.
- B. City officials shall file written reports after a lobbyist or lobbying entity has agreed to make a donation of personal or real property to the City. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
 2. Gift or donation requested;
 3. Purpose of donation; and
 4. Date of request.
- C. The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor on the last business day of every calendar quarter. City officials are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25.00 or if no

gifts or donations have been requested in the calendar quarter.

- D. Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.

2.12.080 Prohibited Conduct.

- A. No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B. The prohibitions in this Section shall not apply to:
 - 1. Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
 - 2. The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely representing that agency in his or her official capacity as an officer or employee of the public body;
 - 3. Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
 - 4. Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

2.12.090 Verification of Reports, Registrations and Statements.

- A. Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of

any oath otherwise required.

- B. No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not believe to be true and correct to every matter.

2.12.100 Public Nature of Reports, Registrations and Statements.

All information submitted to the City Auditor in any report, registration or statement required by this Chapter is a public record and will be posted on Office of the Auditor website within three business days.

2.12.110 Auditor's Duties.

In carrying out the provisions of this Chapter, the City Auditor:

- A. Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B. Shall accept registrations and reports in an electronic format;
- C. Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D. Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E. May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F. Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

2.12.120 Penalties.

A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$500.00 per violation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

2.12.130 Severability.

If any provision of this Chapter, or its application to any person or circumstance, is held invalid by any court, the remainder of this Chapter and its application to other persons and circumstances, other than that which has been held invalid, shall not be affected by such invalidity, and to that extent the provisions of this Chapter are declared to be severable.