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**SPONSORED BY: Peña, Harris, Sanchez, Borrego**

**AMENDING THE LOBBYIST AND LOBBYIST ORGANIZATION REGISTRATION  
AND DISCLOSURE ORDINANCE AT SECTIONS 2-3-2, 2-3-3, 2-3-4, 2-3-5, AND  
2-3-7.**

**WHEREAS, the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance was last amended in 2003; and**

**WHEREAS, the City desires to encourage transparency and preserve and maintain the integrity of the governmental decision making process in the City.**

**BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:**

**SECTION 1. Chapter 2, Article 3, Subsection 2 of the Albuquerque Code of Ordinances is hereby amended as follows:**

To declare and identify all professional lobbyists who represent entities that attempt to influence and/or otherwise contribute to public or private discussion with City of Albuquerque public officials including the Mayor and the City Council as elected officials. [To declare that to further preserve and maintain the integrity of the governmental decision making process in the City, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to influence a City Official on matters within their official jurisdictions, either by direct communication to the official, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.]<sup>1</sup>

SECTION 2. Chapter 2, Article 3, Subsection 3 of the Albuquerque Code of Ordinances is hereby amended as follows:

§ 2-3-3 DEFINITIONS.

*CITY OFFICIAL.* ~~[A person holding the office of Mayor, City Councillor, or any member of any city board, committee or commission.]~~ [The Mayor or Mayor-Elect, all members of the Council or Councilors-elect, all members of boards, commissions and committees; all directors and the equivalent thereof for each department, division or section; assistant, associate or deputy department, division or section directors and the equivalent thereof; the Director of Council Services; the Chief Administrative Officer; Deputy or Assistant Chief Administrative Officers and the equivalent thereof and all other city employees appointed directly by the Council, Mayor or Chief Administrative Officer.]

...

[COMMUNICATE DIRECTLY WITH. Or any variation of the phrase means contact in person or by telephone; written communication, electronic or otherwise; or direct contact through any other electronic means of communication.]

...

*COMPENSATION.* Money, per diem, [other thing of value,] salary, fee or portion thereof or the equivalent in services rendered or in-kind contributions received or to be received directly or indirectly in return for lobbying services performed or to be performed.

SECTION 3. Chapter 2, Article 3, Subsection 4 of the Albuquerque Code of Ordinances is hereby amended as follows:

§ 2-3-4 REGISTRATION [AND ACTIVITY] STATEMENT[S] TO BE FILED; CONTENTS; MODIFICATION TO STATEMENT.

(A) Before any service or lobbyist campaigning covered by the Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance commences, any individual who is initially employed or retained as a lobbyist or any lobbyist organization shall register with the City Clerk filing a single registration statement under oath on a prescribed form showing:

- 1 (1) The lobbyist's or lobbyist organization's full name, permanent business
- 2 address and business address while lobbying or conducting lobbyist
- 3 campaigning;
- 4 (2) The name and address of each of the lobbyist's employers;
- 5 (3) The official action~~[, or issue,]~~ the lobbyist or lobbyist organization
- 6 supports or opposes;
- 7 (4) The name, address and telephone number of the lobbyist organization's
- 8 chairperson and treasurer and all parties having signature authorization for
- 9 the lobbyist organization's checking account, the name and address of the
- 10 bank where the lobbyist organization has its checking account and the [last
- 11 four digits of the] bank account number; and
- 12 (5) The name and address of the bank where the lobbyist has his/her
- 13 checking account for the checking account required in this Ordinance
- 14 when the lobbyist campaigns for or against an official action. The [last four
- 15 digits of the] checking account number. The name ~~[add]~~ [and] address of
- 16 any person who has signature authorization for such checking account.
- 17 (B) The City Clerk may charge a reasonable registration fee for the initial
- 18 registration by a lobbyist or lobbyist organization. No additional fee may be
- 19 charged for amendments to the original registration or for the annual
- 20 statement required in this section. Lobbyist organizations that file a lobbyist
- 21 campaign registration concerning an official action different from that
- 22 designated in a previous registration shall pay the registration fee required in
- 23 this subsection for each such subsequent registration. ~~[No registration fee~~
- 24 ~~shall be required of lobbyists receiving only reimbursement of personal~~
- 25 ~~expenses and no other compensation or salary for lobbying unless they are~~
- 26 ~~filing for the purpose of conducting lobbyist campaigning.]~~
- 27 (C) For each succeeding year that an individual is employed or retained as a
- 28 lobbyist by the same employer, and for whom all the information disclosed in
- 29 the initial registration statement remains substantially the same, the lobbyist
- 30 shall file a simple annual registration renewal 12 months following initial
- 31 registration and every 12 months thereafter for each of the lobbyist's
- 32 employers together with a short, abbreviated prescribed form for renewal. The
- 33 annual statement shall be in addition to any lobbyist campaign registration

1 and disclosure statement that the lobbyist may be required to file under the  
2 provisions of this Ordinance.

3 (D) Whenever there is a modification of the facts required to be set forth by  
4 this section or there is a termination of the lobbyist's employment as a  
5 lobbyist before the end of the year, the lobbyist shall notify the City Clerk  
6 within one month of such occurrence.

7 (E) Lobbyists and lobbyist organizations shall file a separate registration with  
8 the City Clerk for each official action the lobbyist or lobbyist organization  
9 supports or opposes. When lobbyists or lobbyist organizations support or  
10 oppose an official action other than the official action identified in any  
11 previous registration they have filed with the City Clerk, they shall file an  
12 additional separate registration for each such official action supported or  
13 opposed.

14 [(F) A registrant shall file activity reports until the registrant terminates the  
15 registrant's registration. A registrant who ceases reportable activity may  
16 terminate the registrant's registration by filing a notice of termination. The  
17 registrant must file the activity report for the reporting period in which the  
18 registrant files the notice of termination.

19 (1) Each registrant shall file between the first and tenth day of April,  
20 July, October, and January a report of the registrant's lobbying activities  
21 during the previous calendar quarter. The report shall be on a form  
22 prescribed by the City Clerk and shall include:

23 (a) a complete and current statement of the information required to  
24 be reported under ROA § 2-3-4;

25 (b) the amount of compensation or reimbursement paid by each  
26 client for lobbying, reported in categories prescribed by the City  
27 Clerk;

28 (c) the name and title of the City Official lobbied;

29 (d) total expenditures on lobbying broken down into the following  
30 categories, provided that cumulative expenditures of more than \$50  
31 per City official in a designated reporting category shall be itemized  
32 by the date, name, and address of the recipient, the amount, and the  
33 purpose of the expenditure;

- (i) reimbursement to others;
- (ii) food and beverages;
- (iii) transportation and lodging;
- (vi) gifts, other than awards and mementos;
- (v) entertainment;
- (iv) awards and mementos;
- (vii) honorariums;
- (viii) expenditures made for the attendance of city council members at political fund-raisers or charity events;
- (ix) expenditures made by the registrant, or by others on the registrant's behalf or with the registrant's direction, for broadcast or print advertisements, direct mailings, and other media communications if:
- (I) the communications are made to a person other than a member, employee, or stockholder of an entity that reimburses, retains, or employs the registrant; and
- (II) the communications support or oppose, or encourage others to support or oppose, a municipal question or candidate; and
- (x) payments made by the registrant, or by others on the registrant's behalf or with the registrant's direction, to persons who are paid to assist or prepare the lobbyist on a municipal question to influence a City official through broadcast or print advertisements, social media, direct mailing, or other media communications, including political experts, strategists, pollsters, media consultants, and public relations consultants, excluding purely clerical or administrative assistance;
- (d) each business entity in which the registrant knows, or should know, that a City official is a proprietor, partner, director, officer, manager, employer, employee, or in which a City official has a substantial economic interest, and with which the registrant has engaged in an exchange of money, goods, services, or anything of

1 value if the total of the exchanges is \$500 or more in a calendar  
2 quarter, identified by:

3 (i) the name and address of the business entity;

4 (ii) the City official; and

5 (iii) the date, amount, and nature of the exchange;

6  
7 (e) if the mayor, a councilor, a relative of the mayor or a councilor  
8 within the third degree of consanguinity or affinity, or a person living  
9 in the mayor's or a councilor's household is employed by the  
10 registrant, the name of the employer, the name of the person  
11 employed, and the nature of the employment.

12  
13 (2) A registrant shall make a reasonable allocation of compensation  
14 between compensation for lobby activity and compensation for other  
15 activities.

16  
17 (3) Each registrant shall obtain and preserve all accounts, bills, receipts,  
18 books, papers, and documents necessary to substantiate an activity report  
19 required to be made under this section for two years from the date of filing  
20 the report.

21  
22 (4) A registrant shall file a quarterly activity report whether or not  
23 reportable activity has occurred during the preceding quarter. If no  
24 reportable events have occurred, a statement to that effect is sufficient for  
25 the report.]

26  
27  
28 SECTION 4. Chapter 2, Article 3, Subsection 5 of the Albuquerque Code of  
29 Ordinances is hereby amended as follows:

30 ~~§ 2-3-5 ENFORCEMENT OF ACT; INVESTIGATIONS BY THE CITY ATTORNEY;~~  
31 ~~DUTIES OF THE CITY CLERK.~~

32 ~~(A) The City Attorney shall adopt procedures for processing complaints and~~  
33 ~~notifications of violations.~~

1 ~~(B) Upon the sworn complaint of any person who has reason to believe, and~~  
2 ~~presents an affidavit listing the basis for such complaint, that there is, or has~~  
3 ~~been a violation of the Lobbyist and Lobbyist Organization Registration and~~  
4 ~~Disclosure Ordinance, the City Attorney shall investigate the allegation when~~  
5 ~~there is reason to believe such person, lobbyist, lobbyist organization or~~  
6 ~~lobbyist's employer is, or has been, acting in violation of the Lobbyist and~~  
7 ~~Lobbyist Organization Registration and Disclosure Ordinance.~~

8 ~~(C) When the City Attorney has reason to believe that any person, lobbyist,~~  
9 ~~lobbyist organization or lobbyist's employer has violated or is violating any~~  
10 ~~provision of the Lobbyist Registration Ordinance, he shall notify the~~  
11 ~~suspected violator of the alleged violation and hold an informal meeting~~  
12 ~~before initiating further action.]~~

13 [§ 2-3-5 POWERS AND DUTIES OF THE CITY CLERK; CITY ATTORNEY;  
14 ENFORCEMENT OF ACT.

15  
16 (A) In addition to any other powers and duties specified by law, the City Clerk  
17 shall have the power and duty to administer and enforce all the provisions of  
18 this subchapter, prepare uniform forms for the statements and reports  
19 required by this subchapter and promulgate such rules as he or she deems  
20 necessary for the proper administration of this subchapter.

21  
22 (B) The City Clerk shall work with city agencies and the city council to develop  
23 notices and advertisements to be placed in print and electronic media  
24 intended to reach persons and organizations doing business with the city that  
25 will inform them of the requirements set forth in this subchapter.

26  
27 (C) The City Clerk shall develop an online training program for lobbyists. Such  
28 program shall include information and training regarding conduct that may  
29 subject lobbyists and clients to the criminal and civil penalties set forth in this  
30 subchapter. As soon as practicable, the City Clerk, in conjunction with the City  
31 Attorney, shall incorporate an anti-corruption component in such training.  
32

1 (D) The City Clerk shall develop a protocol to review sources of information  
2 that may assist the City Clerk in identifying lobbyists required to file  
3 statements of registration pursuant to section 2-3-4 of this subchapter who  
4 have not filed. Such review shall include, but need not be limited to, the  
5 following sources:

6 (1) statements of registration filed with the Secretary of State Lobbyist  
7 Regulation;

8 (2) notices of appearances or meetings compiled by city departments, the  
9 City Council, or other City Boards or Commissions; and

10 (3) any other source the City Clerk determines appropriate to identify  
11 lobbyists

12  
13 (E) The City Attorney shall adopt procedures for processing complaints and  
14 notifications of violations.

15  
16 (F) Upon the sworn complaint of any person who has reason to believe, and  
17 presents an affidavit listing the basis for such complaint, that there is, or has  
18 been a violation of the Lobbyist and Lobbyist Organization Registration and  
19 Disclosure Ordinance, the City Attorney shall investigate the allegation when  
20 there is reason to believe such person, lobbyist, lobbyist organization or  
21 lobbyist's employer is, or has been, acting in violation of the Lobbyist and  
22 Lobbyist Organization Registration and Disclosure Ordinance.

23  
24 (G) When the City Attorney has reason to believe that any person, lobbyist,  
25 lobbyist organization or lobbyist's employer has violated or is violating any  
26 provision of the Lobbyist Registration Ordinance, he shall notify the  
27 suspected violator of the alleged violation and hold an informal meeting  
28 before initiating further action.

29  
30 (H) The City Clerk shall annually conduct an audit of a random sample of lobby  
31 registrants to ensure that registrants' filings are in compliance.

32 (1) The City Clerk shall provide the Mayor and City Council with an annual  
33 report relating to the administration and enforcement of the provisions of



1 this subchapter The annual report shall also include any recommendations  
2 regarding amendments to City lobbying, ethics or public accountability  
3 laws, and recommendations regarding the scope of the City Clerk's powers  
4 and duties. The annual report shall be published on the City Clerk's  
5 website.  
6

7 SECTION 5. Chapter 2, Article 3, Subsection 7 of the Albuquerque Code of  
8 Ordinances is hereby amended as follows:

9 § 2-3-7 COMPLIANCE; ENFORCEMENT; HEARING AND APPEAL PROCESS.

10 (A) The City Clerk shall advise and seek to educate all persons required to  
11 perform duties pursuant to this Ordinance. This includes advising all  
12 registered lobbyists and lobbyist organizations at least annually of the  
13 Lobbyist and Lobbyist Organization Registration and Disclosure Ordinance's  
14 deadlines for submitting registration. All prescribed forms shall be clear and  
15 easy to complete.

16 (B) The City Attorney may conduct thorough examinations of reports and  
17 conduct any investigations to determine whether this Ordinance has been  
18 violated. Any person who believes that this Ordinance has been violated may  
19 file a written complaint with the City Attorney pursuant to the requirements of  
20 § 2-3-5 of this Ordinance. The City Clerk shall adopt procedures for processing  
21 complaints and notifications of violations.

22 (C) The City Attorney shall seek first to insure voluntary compliance with the  
23 provisions of this Ordinance pursuant to § 2-3-5. A person who violates this  
24 Ordinance shall be given fifteen (15) consecutive calendar days notice to  
25 correct the matter or request a hearing before ~~[a City Hearing Officer]~~ [the  
26 Board of Ethics] before fines are imposed. The fifteen day notice shall begin to  
27 run on the day the notice is mailed or served in person. The request for  
28 hearing shall be submitted to the City Clerk.

29 (D) Notices under this section shall be deemed properly served and received  
30 when the notice has been personally served on the lobbyist or lobbyist  
31 organization or sent by registered or certified mail return receipt requested to  
32 the last known address of the lobbyist or lobbyist organization.

1 (E) When the lobbyist, lobbyist organization or person who has been given the  
2 fifteen days notice has submitted to the City Clerk a written request for a  
3 hearing within the fifteen days allowed in § 2-3-7(C) of this Ordinance, a  
4 hearing shall be conducted within thirty (30) consecutive calendar days from  
5 the day the City Clerk receives the request for hearing. The hearing shall be  
6 conducted by ~~[a City Hearing Officer]~~ [the Board of Ethics] at a time and place  
7 designated by the [Board of Ethics]. All witnesses shall be sworn or affirmed  
8 and the hearing shall be recorded. The ~~[Hearing Officer]~~ [Board of Ethics] shall  
9 file all findings, conclusions and final orders with the City Clerk and mail a  
10 copy to the City Attorney and parties to the hearing at the time of such filing.

11 (F) An appeal may be taken from any final order issued by the ~~[Hearing Officer]~~  
12 [Board of Ethics] by filing a Petition for Writ of Certiorari to the District Court  
13 of the Second Judicial District within thirty (30) days after the ~~[Hearing Officer]~~  
14 [Board of Ethics] files the findings, conclusions and final order with the City  
15 Clerk. The petition shall be limited to the record of the proceedings before the  
16 ~~[Hearing Officer]~~ [Board of Ethics]. The petitioner shall file a true and correct  
17 copy of the record of the proceedings before the ~~[Hearing Officer]~~ [Board of  
18 Ethics] with the District Court within thirty (30) days after filing the Petition for  
19 Writ of Certiorari. The ~~[Hearing Officer]~~ [Board of Ethics] or City Clerk shall  
20 charge the petitioner a reasonable fee for the cost of time and materials to  
21 reproduce the record. The decision of the hearing officer shall be affirmed  
22 unless the decision is found to be arbitrary, capricious or an abuse of  
23 discretion unsupported by evidence in the record taken as a whole or  
24 otherwise not in accordance with law.

25 (G) The ~~[Hearing Officer]~~ [Board of Ethics] shall prepare a written report of ~~[his~~  
26 ~~or her]~~ [the Board's] findings and decision within ten (10) City working days  
27 after the hearing and shall provide copies to the parties and the City Attorney  
28 and shall file the findings, conclusions and the final order with the City Clerk.

29 (H) Any person who files a statement required by this Ordinance, including but  
30 not limited to registration and disclosure statements, after the deadline  
31 imposed by this Ordinance or any person who files a false or incomplete  
32 statement shall be liable for and shall pay the City at or from the time initially  
33 required for the filing, fifty dollars (\$50.00) per day for each regular working

1 day after the time required for the filing of the statement until the complete  
2 report is filed up to a maximum of five hundred dollars (\$500.00). Any person  
3 who knowingly and willfully violates any of the provisions of this Ordinance  
4 shall be punished by a fine of up to five hundred dollars (\$500.00) and may  
5 have his lobbyist or lobbyist organization registration revoked or his lobbying  
6 or lobbying campaigning activities enjoined for up to three (3) years. [All  
7 penalties contained herein are non-exclusive, and do not foreclose other  
8 remedies available by law. The City reserves the right to refer any conduct,  
9 regardless of whether it is covered by the Code of Ethics, the Election Code,  
10 the Open and Ethical Elections Code, and/or rules promulgated by the Board  
11 and/or the City Clerk, to any agency or law enforcement agency with  
12 competent jurisdiction for criminal or civil prosecution.]  
13

14 SECTION 6. SEVERABILITY CLAUSE. If any section, paragraph, word or  
15 phrase of this ordinance is for any reason held to be invalid, or unenforceable  
16 by any court of competent jurisdiction, such decision shall not affect the  
17 validity of the remaining provisions of this ordinance. The Council hereby  
18 declares that it would have passed this ordinance and each section,  
19 paragraph, sentence, clause, word or phrase thereof irrespective of any  
20 provision being declared unconstitutional or otherwise invalid.  
21

22 SECTION 7. COMPILATION. Sections 1 through 5 of this ordinance shall  
23 amend, be incorporated in and made part of the Revised Ordinances of  
24 Albuquerque, New Mexico, 1994.  
25

26 SECTION 8. EFFECTIVE DATE. This ordinance shall take effect five days  
27 following publication by title and general summary.  
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31