

Article 1. Compensated Legislative Advocates

1-9-101: TITLE AND FINDINGS:

This article shall be referred to as the *BEVERLY HILLS MUNICIPAL LEGISLATIVE ADVOCACY ORDINANCE*. In adopting this ordinance, the city council makes the following findings:

- A. City government functions to serve the interests of all citizens.
- B. The citizens of Beverly Hills have a right to know the identity of interests which attempt to influence the decisions of city government through compensated representatives.
- C. Complete disclosure of the efforts and financing of legislative advocates is essential to maintaining public confidence in the integrity of city government.
- D. It is in the public interest to ensure that legislative advocates do not misrepresent facts, the positions of their clients or others, or otherwise attempt to mislead or deceive city decision makers.

1-9-102: DEFINITIONS:

The following terms used in this article shall have the meanings set forth below. For any term not specifically defined herein, the definitions shall be as set forth in the California political reform act of 1974, as amended, and in the regulations of the California fair political practices commission, if defined therein.

ATTEMPTING TO INFLUENCE: Promoting, supporting, opposing, seeking to modify, or seeking to delay municipal legislation by any means, including, without limitation, providing or generating political contacts, presenting information, statistical analyses or studies.

CITY OFFICIAL: The mayor, any member of the city council, and any member of a city of Beverly Hills commission, and any city employee who participates in the consideration of any municipal legislation other than in a purely clerical, secretarial or ministerial capacity.

CLIENT: Any person who provides compensation to a legislative advocate for legislative advocacy, whether the compensation is provided directly, indirectly or through an intermediary.

COMPENSATION: Monetary or in-kind payment or remuneration in an amount in excess of fifty dollars (\$50.00), or the expectation of such remuneration, for engaging in the legislative advocacy. Compensation does not include the salary of an employee who devotes less than twenty percent (20%) of that employee's work time to legislative advocacy during any one year and who engages in legislative advocacy only on behalf of a single employer. Compensation also does not include reimbursement of or payments for reasonable travel or business expenses, such as copying, telephone charges and meals.

CONTRACTOR: A person that agrees to construct, or constructs, a building or other structure, or who provides or installs specialized portions of the construction. A contractor shall not

include any person who prepares the plans or designs of a building or other structure.

DIRECT COMMUNICATION: Appearing as a witness before, talking to (either in person or by telephone), corresponding with, or answering questions or inquiries from, any city official either personally or through an agent who acts under one's direct supervision or control.

ENGAGEMENT LETTER: An engagement letter is the written agreement between the client and legislative advocate that includes one or more of the following: (1) scope of work, (2) the responsibilities and obligations of each of the respective parties, or (3) fee estimates or quotes.

LEGISLATIVE ADVOCACY: Includes the following and similar conduct for compensation when the conduct is related to attempting to influence municipal legislation:

- A. Engaging in, either personally or through an agent, written, electronic, or oral direct communication with a city official;
- B. Drafting ordinances, resolutions, or regulations;
- C. Attempting to influence the position of any third party on municipal legislation or an issue relating to municipal legislation by any means, including, but not limited to, engaging in community or media relations activities;
- D. Advising clients regarding strategy for legislative advocacy.

LEGISLATIVE ADVOCATE: Any individual who is compensated or who is hired, directed, retained or otherwise becomes entitled to be compensated for engaging in legislative advocacy and makes a direct communication with a city official. For example, a legislative advocate may include attorneys, permit expeditors, and architects or designers. However, notwithstanding the definition, a legislative advocate shall not include contractors.

MUNICIPAL LEGISLATION: Any legislative, quasi-judicial, or administrative matter proposed by or pending before the city council or any city commission or any discretionary matter proposed or pending before the city manager or any department head. "Municipal legislation" includes, without limitation, those matters involving the granting, denial, amendment, revocation, or restriction of any license, permit or entitlement for use (including all land use permits); the consideration, adoption, amendment or repeal of all municipal ordinances; and the consideration and award of bids and proposals for city contracts. "Municipal legislation" does not include purely ministerial actions. A development application shall be considered to be pending before the city council or a city commission or city staff once any preliminary material, including an application for concept review, has been filed with the city.

1-9-103: EXEMPTIONS:

The following persons are exempt from the requirements of this article:

- A. Any public official or employee of a public entity acting in his or her official capacity and within the scope of his or her employment by the public entity.
- B. Any person who is engaging in legislative advocacy without compensation.

C. Any person whose only activity is submitting a bid on a competitively bid contract, who submits a written or oral response to a request for more information, or who participates in an oral interview process. This exemption shall not apply to any person who attempts to influence the actions of any city official with regard to any such contract outside an interview or public meeting.

D. Any person making a request of the city staff for advice or for an interpretation of laws, regulations, or city approvals or policies; or who responds to a request from a City Official. However, this exemption shall not include any substantive discussion of that advice or interpretation.

E. Any ministerial action: An action is ministerial if it does not require the city official involved to exercise discretion concerning any outcome or course of action.

1-9-104: PROHIBITIONS:

No legislative advocate shall knowingly and willfully:

A. Deceive or attempt to deceive any city official with regard to any material fact pertinent to any proposed or pending municipal legislation;

B. Cause any communication to be sent to any city official in the name of a nonexistent person, or in the name of a person without the consent of such person.

1-9-105: REGISTRATION:

A. ~~Within ten (10) days after a legislative advocate begins to engage in legislative advocacy that includes direct communication with a city official other than in an open public meeting~~ receives an executed engagement letter, the legislative advocate shall register as a legislative advocate with the city clerk on a form provided by the city for that purpose. The registration form shall include the name, telephone number, business address, e-mail address and fax number of the legislative advocate and the legislative advocate's employer, the identity of the client, the contact information for the client, a description of the specific business in which the client is involved, a description with specificity of the matter of municipal legislation the legislative advocate is attempting to influence, and the outcome desired by the client. The form shall also include the estimate of fees to be generated. The estimate of fees shall be a check-box on the form that will provide a range of fees as follows: up to \$25,000, \$25,001 to \$50,000, \$50,001 to \$75,000, and \$75,001 and above. The form shall also include a description of legislative advocacy conducted during the previous twelve (12) months that was not previously reported to the city by the legislative advocate.

Any form submitted by a legislative advocate shall be signed under penalty of perjury, shall be available for public view in the city clerk's office as well as posted on the city's website in a searchable database and shall be forwarded by the city clerk to each city official, the city manager and the city attorney.

1-9-106: DISCLOSURE AT PUBLIC MEETINGS:

At any time that a legislative advocate engages in legislative advocacy at a city council or city

commission meeting, the legislative advocate shall announce the specific matter being addressed and shall identify the client who is being represented by the legislative advocate.

1-9-107: NOTICE OF TERMINATION:

Upon termination of a legislative advocate's role concerning a project, the legislative advocate shall file a notice of termination with the city. The notice shall be filed on the form provided by the city.

1-9-1078: REMEDIES FOR VIOLATIONS:

Pursuant to the administrative remedies and procedures set forth in chapter 3 of this title, any person who knowingly and willfully violates any provision of this article, may be assessed an administrative penalty not to exceed five hundred dollars (\$500.00) per violation.

Additionally, the city prosecutor is delegated the authority to investigate any charge that a person has knowingly and willfully violated this article. If the city prosecutor determines that there is probable cause to believe that a legislative advocate has knowingly, ~~willfully~~willfully and materially violated the provisions of this article, the city prosecutor may request that the city conduct an administrative hearing to determine whether such a violation has occurred and, if so, whether the legislative advocate should be prohibited from engaging in legislative advocacy for a period of time.

Upon the request of the city prosecutor, a hearing officer shall be retained and an administrative hearing shall be conducted substantially in accordance with the procedures set forth in chapter 3 of this title for conducting hearings on administrative citations.

If, after conducting a hearing pursuant to this section, a hearing officer determines that the legislative advocate has knowingly, willfully and materially violated the provisions of this article, then for the first violation of this article, the hearing officer may prohibit the legislative advocate from engaging in legislative advocacy for a period of up to six (6) months, for a second violation, the hearing officer may prohibit the legislative advocate from engaging in legislative advocacy for a period of up to one year, and for a third or subsequent violation, the hearing officer may prohibit the legislative advocate from engaging in legislative advocacy for a period of up to four (4) years. The hearing officer may issue an order prohibiting the legislative advocate from engaging in legislative advocacy for a period of less than the maximum period set forth in this paragraph if the hearing officer determines that mitigating circumstances justify a lesser period of prohibition.

If the hearing officer determines that the legislative advocate has knowingly, willfully and materially violated the provisions of this article, or if the legislative advocate accepts the allegation of knowing, willful and material violation and waives the opportunity for a hearing, then the city's website shall identify the legislative advocate and indicate that the legislative advocate has violated the city's regulations governing legislative advocacy. The website identification shall remain posted on the website for one year.

Notwithstanding the provisions of chapter 3 of this title, any decision by a hearing officer pursuant to this section shall be a final decision and not subject to appeal or review by the city council.

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"EXPENDITURE LOBBYIST" means any person, other than any government entity, or officer or employee of a government entity acting in an official capacity, who receives Compensation or makes payments or incurs expenditures of \$5,000 or more during any calendar year for carrying out public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, or studies with the intent of soliciting, requesting or urging, directly or indirectly, other persons to communicate directly with a City official in order to influence local legislative or administrative action.

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In addition, Expenditure Lobbyists shall indicate they are filing as Expenditure Lobbyists. If the Expenditure Lobbyist is a corporation, the form shall include the names of the corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized payments to influence local legislative and administrative action, and any person who owns more than 20 percent of the corporation. If the Expenditure Lobbyist is a partnership, the form shall include the name of each partner if the entity has fewer than 5, or the name of the partner with the greatest ownership interest if the entity has 5 or more partners. If the Expenditure Lobbyist is any other type of business entity, the form shall include the name of each person with an ownership interest if the entity has fewer than 5 owners, or the name of the person with the greatest ownership interest in the entity, if the entity has 5 or more owners.

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