

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA, ADDING ARTICLE XI ENTITLED "LOBBYIST REGISTRATION" TO CHAPTER 2 OF THE SANTA ANA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. Article XI entitled "Lobbyist Registration" is hereby added to Chapter 2 of the Santa Ana Municipal Code to read, in its entirety, as follows:

ARTICLE XI. – LOBBYIST REGISTRATION

Sec. 2-905. – Purpose and Intent.

It is the purpose and intent of the City Council of the City of Santa Ana in enacting these regulations to promote public confidence and trust, preserve the integrity of local government decision-making, and provide members of the community with access to information about persons and organizations who attempt to influence decisions of City government through paid lobbyists. Through these regulations, lobbyists shall be required to register themselves and their clients and disclose the nature of their lobbying efforts, compensation, donations, and fundraising efforts and this information shall be accessible to members of the public.

Sec. 2-906. – Definitions.

- (a) "City official" shall mean any elected or appointed official of the City of Santa Ana, city officer as defined in Section 2-300 of this Code, member of the Council, as it may be amended from time to time.
- (b) "Client" means both the person who compensates a lobbyist or lobbying firm for the purpose of attempting to influence a legislative or administrative action and the person on whose behalf a lobbyist or lobbying firm attempts to influence such municipal action even if the lobbyist or lobbying firm is compensated by another person for such representation.
- (c) "Gift" shall have the same meaning as in Section 2-852(e) of this Code.
- (d) "Lobby" or "Lobbying" means communicating, for compensation, for the purpose of influencing a municipal legislative or administrative action or decision.
- (e) "Lobbyist" means any individual, business entity or organization, including a non-profit organization, that receives or becomes entitled to receive five hundred dollars (\$500) or more in consideration in a calendar month, other than reimbursement for reasonable travel expenses, to

communicate, directly or through his or her agents, on behalf of any other person or entity, with any elected or appointed official of the City for the purpose of influencing legislative or administrative action of the City of Santa Ana. This subsection shall apply only to this Article.

Sec. 2-907. – Registration required.

(a) Any individual or entity that qualifies as a lobbyist pursuant to this Code shall register with the Clerk of Council within fifteen (15) business days of qualifying as a lobbyist on a registration form provided by the City, and shall thereon disclose:

1. Lobbyist/lobbying firm;
2. Business mailing address;
3. Email address;
4. Telephone number;
5. The names of all owners of the lobbyist business;
6. The names of each individual lobbyist;
7. A description of the nature of the business entity or corporation;
8. The name, business address, telephone number, and email address of each client receiving lobbying services;
9. The nature of each client's business;
10. A brief description of the governmental decision that the lobbyist seeks to influence on each client's behalf, the desired outcome, and the names of the officials the lobbyist has contacted on each client's behalf;
11. The name of each person employed or retained by the lobbyist to engage in lobbying activities on each client's behalf; and
12. The date, amount, and description of any payment made to, or on behalf of any city official or member of an official's family. Payments to be disclosed include gifts, meals, fees, salaries, and any other form of compensation or remuneration.

(b) A lobbyist shall file an amendment to his or her registration and reporting form within fifteen (15) business days of representation of a new client or any change in the information required to be disclosed on the form related to existing clients.

(c) No person who qualifies as a lobbyist shall contact or communicate with any official of the City without first registering as a lobbyist and identifying himself or herself as a lobbyist.

(d) Lobbyists shall report to the Clerk of the Council the names of all officials contacted about a government decision eight (8) days prior to any public hearing on that decision.

(e) An entity or person that registers as a lobbyist retains that status through January 2 of the following calendar year unless it terminates that status by giving notice, in writing, on the form provided to the Clerk of the Council.

(f) Lobbyist registration expires on January 2 of each year and shall be renewed on or before January 3 or the next business day if the lobbyist requalifies as a lobbyist.

Sec. 2-908. – Exemptions from registration.

The following persons or entities are exempt from registration as a lobbyist:

- (a) Any public official acting in his or her official capacity and any government official or employee acting within the scope of his or her employment.
- (b) A person acting without any compensation or consideration other than reimbursement or payment of reasonable travel expenses.
- (c) Any person representing themselves in attempting to obtain decisions related to their own property or business.
- (d) Any person appearing solely as a speaker at, or providing written statements that become part of the record of a public hearing or enforcement proceeding at the city.
- (e) Any person whose only activity is submitting a bid on a competitively bid contract, submitting a written response to or participating in an oral interview related to a request for proposals or qualifications, or negotiating the terms of a written agreement with any city agency following a request for proposals or request for qualifications process.
- (f) Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which receives funding from any federal, state, or local government agency for the purpose of representing the interests of indigent persons and whose primary purpose is to provide direct services to those persons, if the individual or individuals represented by the organization before any City agency provide no payment to the organization for that representation. This exemption shall not apply to direct contacts with a city official in any situation other than a publicly noticed meeting, for the purpose of attempting to influence a City decision with regard to any city funding the organization is seeking nor to any person employed by the organization with respect to his or her activities related to the organization.
- (g) A newspaper or other regularly published periodical, radio or television station or network, including any individual who owns, publishes or is employed by such entity, when in the ordinary course of business, it publishes or broadcasts news, editorials or other comments, or paid advertising, which directly or indirectly attempts to influence City officials or employees regarding current or future City legislation, administrative decisions, or City Council elections or local initiative measures, if such entity or individual engages in no other activities to influence a municipal decision.

Sec. 2-909. – Required disclosure reports.

- (a) Annual reports.
 - 1. Lobbyists shall file yearly disclosure reports with the Clerk of Council on a form prepared by the Clerk of Council specifying in detail the following:
 - a) The nature of the issues they are trying or tried to influence through lobbying of City officials;

b) Identify each client and the amount of compensation received from each client for communicating using any means with City officials for the purpose of influencing a municipal legislative or administrative action or decision;

c) All campaign contributions and gifts to elected City officials;

d) All fundraising activities conducted on behalf of City elected officials;

e) All contributions or gifts to political campaigns;

f) All contributions or gifts made at the behest of City elected officials;

g) All contributions or gifts to political campaigns made at the behest of elected City officials;

h) All contributions or gifts to religious institutions made at the behest of elected City officials;

i) All contributions or gifts to non-profit organizations made at the behest of elected City officials;

j) All payments received by the lobbyist for services as a consultant to the City or any City agency;

k) Any compensated work done for a political campaign of an elected City official; and

l) Past lobbying activity in the City.

2. Yearly disclosure reports shall be filed with the Clerk of Council no later than October 1st starting in 2023.

(b) Quarterly Political Contributions Reports. Lobbyist shall file quarterly reports regarding contributions to an elected City official or the controlled committee of an elected City official.

1) All reports will be on a form prepared by the Clerk of Council.

2) Each report will be filed with the Clerk of Council no later than January 1st, April 1st, July 1st, and September 1st of every year starting in 2023.

(c) Quarterly Fundraising Activity Reports. Lobbyists shall file a quarterly report with the Clerk of Council if the lobbyist, within the last 12 months:

1) Engaged in fundraising activities on behalf of an elected City official and/or an elected City official's controlled committee and knows or has reason to know that the fundraising activity resulted in a contribution or contributions; or

2) Delivered or acted as an intermediary for one or more contributions to an elected City official and/or any of an elected City official's controlled committees.

3) All reports will be on a form prepared by the Clerk of Council.

4) Each report will be filed with the Clerk of Council no later than January 1st, April 1st, July 1st, and September 1st of every year starting 2023.

Sec. 2-910. – Online disclosure of report forms and reports.

Every lobbying firm or lobbyist required to file a registration form or disclosure report shall use the Clerk of the Council's electronic filing system to file such forms or reports online. It is unlawful for a lobbying firm to file a registration form or disclosure report unless a duly authorized owner or officer has reviewed the contents and electronically verified under penalty of perjury that he or she believes the contents to be true, correct, and complete based on personal knowledge or on information and belief. In the event the Clerk's online filing system is not capable of accepting a required form or report, a lobbying firm or lobbyist shall file that form or report in an electronic format with the Clerk on or before the deadline.

Sec. 2-911. – Registration fee.

The City may charge a lobbyist registration fee including fees related to the annual renewal and penalties to cover the costs associated with administering the lobbyist registration and disclosure program. The fees shall be in such amounts established by resolution of the City Council.

Sec. 2-912. – Disclosure reports made available to the public.

The Clerk of Council shall make all lobbyist registration and disclosure reports available online to the public and copies available through the Clerk of Council's office.

Sec. 2.913. – Powers and duties of the Clerk of the Council.

(a) The Clerk of the Council may issue a notice of filing obligations to any person or entity who a City official or other person has reason to believe should file a registration form or disclosure report. Before sending the notice, the Clerk shall determine whether facts exist to warrant sending a notice. If, within ten (10) business days after the Clerk has sent a written notice, the person or entity either complies with this Chapter or furnishes satisfactory evidence to the Clerk that he or she is exempt from the filing obligations, a violation will be deemed not to have occurred.

(b) The Clerk of the Council shall report apparent violations of this Chapter to the City Attorney's Office.

(c) The Clerk of the Council shall preserve all registration forms and disclosure reports required to be filed under this Chapter for a period of five (5) years from the date of filing. These registration forms and disclosure reports shall constitute part of the public records and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.

(d) The Clerk of the Council shall have the power to adopt all reasonable and necessary procedures to implement this Chapter.

Sec. 2.914.- Appearance of an unregistered lobbying.

If a lobbyist who has not registered appears at a public meeting of an legislative body of the City to make a presentation on behalf of a client, the lobbyist will be permitted to make the presentation upon stating, on the record, the following: 1) The lobbyist's full name, business address and telephone number; 2) The name, business address, and telephone number of any individual or entity by whom the lobbyist is employed, retained or engaged for compensation to perform lobbying services in the city; and 3) The legislative or administrative action of the city with respect to which the lobbyist has been employed, retained or engaged.

The lobbyist shall be required to file the required registration form and pay the registration fee and any penalty fee set by resolution, to the Clerk of the Council within seven (7) business days of such presentation.

Sec. 2-915. – Penalty for violation.

- (a) Every violation of the provisions of this Article may be charged as either a misdemeanor or as an infraction in the discretion of the citing officer or city attorney and, upon conviction thereof, shall be punishable as provided for in section 1-8 of this Code.
- (b) Each day any violation of any said provision of this chapter shall continue shall constitute a separate offense.
- (c) Any person convicted of violating this Article may not act as a lobbyist within the City or otherwise attempt to influence City legislation for compensation for one year after such a conviction.
- (c) Residents of the City of Santa Ana shall have standing to bring a civil action for enforcement of this Article.
- (d) Use of criminal enforcement and/or administrative citations shall not prevent or preclude the city from seeking injunctive relief and civil penalties in court for violations of this Article.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 3. This Ordinance shall become effective thirty (30) days after its adoption.

Section 4. The Clerk of Council shall certify the adoption of this Ordinance and shall cause the same to be published as required by law.

ADOPTED this ____ day of _____, 2022.

VICENTE SARMIENTO
Mayor

APPROVED AS TO FORM

SONIA R. CARVALHO
City Attorney

By: _____
Laura A. Rossini
Chief Assistant City Attorney

AYES:	Councilmembers: _____
NOES:	Councilmembers: _____
ABSTAIN:	Councilmembers: _____
NOT PRESENT:	Councilmembers: _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2022, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

DAISY GOMEZ
Clerk of the Council
City of Santa Ana