

METROPOLITAN BOARD OF ETHICAL CONDUCT

METRO NASHVILLE LOBBYIST REGISTRATION AND DISCLOSURE CODE *Council Ordinance BL2020-147, as amended by Council Ordinance BL2020-402*

Frequently Asked Questions

1. Who must register as a lobbyist?

A person who engages in lobbying for compensation.

Lobbying means communicating, directly or indirectly, with a legislative or executive branch official for purposes of influencing any legislative or administrative action. A person whose lobbying is incidental to regular, salaried employment is not a lobbyist. The term lobbyist does not include a person or entity that employs or arranges for a lobbyist to engage in lobbying on behalf of a person or entity for compensation; rather, such person is a “client,” also sometimes referred to as employer. (Metro Code § 2.196.020).

2. Does a client (or employer) of a lobbyist need to register?

No. In contrast with the Tennessee lobbying law, under the Metropolitan Code, the client (or employer), of a lobbyist, which may be any person or entity, including a corporation, association or governmental entity, is not required to register. (Metro Code § 2.196.040 (A)(4)(b)). A client however, must submit a sworn statement attesting to the accuracy of each lobbyist’s report where the lobbyist reports activities or expenditures made on that client’s behalf, either directly or indirectly. Such annual reports are due between January 1 and January 31 annually for the preceding year. (Metro Code § 2.196.060(A)(3)).

In addition, clients should be aware that a lobbyist registering under the Code must provide written proof of his or her authority to lobby on behalf of a specific client. (Metro Code § 2.196.040 (A)).

3. How does a lobbyist register?

Registration forms, additional guidance, and filing and payment instructions are available on the Metropolitan Clerk’s Office webpage (<https://www.nashville.gov/Metro-Clerk/lobbyist.aspx>).

4. When must a lobbyist register?

Lobbyists are required to register, each calendar year, not later than five (5) business days after becoming a lobbyist for a particular client. Note that it is not an act of lobbying that triggers the requirement to register, but rather the act of accepting employment as a lobbyist. A separate registration is required for each client of the lobbyist.

For lobbying services that are continuing into the next year, a lobbyist must renew his or her registration between December 15 and December 31 for the subsequent year.

5. Is there a registration fee?

Yes. There is an annual registration fee of one hundred dollars (\$100.00). The fee must be paid for each client, and in each year. Registration fees are non-refundable and non-transferable. (Metro Code § 2.196.040 (B), and (E)). Additional guidance on the registration and payment process can be found on the Metropolitan Clerk's webpage (<https://www.nashville.gov/Mero-Clerk/lobbyist.aspx>).

Where a lobbying agreement is continuing into a subsequent year, the annual registration fee must be paid between December 15 and December 31 for the subsequent year.

6. Are there conditions on a lobbyist's compensation as a lobbyist?

Yes. As of January 1, 2021, agreements for lobbying services in Metropolitan Nashville that contain a provision for a contingent fee or bonus are prohibited. (Metro Code § 2.196.040 (A)(4)). A fee or bonus is contingent if its payment is dependent on the outcome of the services being viewed by the client as favorable.

Note further, all agreements for lobbying services in Metropolitan Nashville are required to be in writing.

7. What reports must be filed by a lobbyist and a client of a lobbyist?

A lobbyist is required to file a Lobbying and Expenditure Report by January 31 to disclose gifts and expenditures made either on the lobbyist's behalf or a client's behalf for the previous calendar year. This Lobbyist Report Form and Schedules are available as a download on the Metropolitan Clerk's Office (<https://www.nashville.gov/Mero-Clerk/lobbyist.aspx>).

For calendar year 2021, reports will be filed by submitting the Form and any required Schedules, along with the client attestations, to metro.clerk@nashville.gov by January 31, 2021. Reports for subsequent years are expected to be submitted via an online reporting portal which will be available through the same webpage.

The client (or employer) of a lobbyist is not required to file a separate annual report under the Code. He or she, however, must submit a sworn statement attesting to the accuracy of the lobbyist's Annual Lobbying and Expense Report where the reported gifts and expenditures provided by the lobbyist were made on the client's behalf. (Metro Code § 2.196.060 (A)(3)). This requirement of each client's attestation applies, irrespective of whether the lobbyist made expenditures on the client's behalf.

Entertainment, food, refreshments, meals, or beverages that are provided by a lobbyist or client of a lobbyist, may be provided to Council Members if such invitations are extended to either the entire membership of a council committee or the entire membership of the Metro Council. A copy of the invitation shall be delivered to the Metro Clerk's Office and to each member of the Council Committee or each member of the entire Council at least seven (7) days in advance of the event by the client of a lobbyist or lobbyist paying for the event and must be included in the Annual Lobbying and Expense Reports unless:

- a. the same equal opportunity is provided to the general public;
- b. the entertainment, food, refreshments, meals, or beverages is provided at a scheduled meeting of an established and recognized association that has regular meetings; or
- c. the total aggregate cost of the expenditure or gift does not exceed the limits set forth in Section 2.222.020 of the Metropolitan Code.

Under Metro Code Section 2.222.020(s), a member of the Metro Council may accept meals, beverages, or food with a value of \$25 or less from a single source in any calendar year. A member of the Metro Council may also accept free or discounted admissions, tickets, and access to events from any single source of an aggregate value in any calendar year of \$100 or less.

8. When must the annual report be filed by a lobbyist?

The annual report covers the period from January 1 through December 31. The report is due by January 31 of the subsequent year.

9. What happens if a lobbyist does not file an annual report on time or fails to pay the late reporting fee?

There is a \$50 late filing fee for annual reports filed after **January 31st**. (Metro Code §2.196.060 (F)). If a lobbyist has not timely filed his or her annual report or, if applicable, paid the late fee (for filings after January 31), the Metropolitan Clerk will send a reminder letter by February 5.

On March 1st, the Clerk will forward to the Board of Ethical Conduct a list of lobbyists who failed to file their annual report or filed late without paying the required late filing fee as of that date. (Metro Code §2.196.060 (F)).

10. Are there restrictions on what a lobbyist or client of a lobbyist can do?

Yes. Every lobbyist and client of lobbyist should carefully read and be familiar with those activities that are deemed to be unlawful under the Metropolitan lobbying code. (Metro Code §2.196.070)

The prohibitions listed in the Code include activities related to: providing, or even attempting to provide, anything of value based on the stated or tacit understanding that an official's judgment would be influenced thereby; making false statements or misrepresentations; making a loan to officials or candidates for public office; paying or agreeing to pay a candidate or official for services or property substantially in excess of that charged in course of ordinary business; permitting a candidate, official or their immediate family to use credit or a credit card over which the lobbyist has control; paying for lodging expenses for a candidate, official or their immediate family; instigating legislation in order to obtain lobbying employment; and, while lobbying, refusing to disclose the client identity upon request of a Metropolitan employee or elected official.

11. When does a lobbyist’s registration expire?

Registration expires on December 31 of the year of registration. For lobbying services that are continuing into the next year, a lobbyist must renew his or her registration between December 15 and December 31 for the subsequent year and pay the annual registration fee. Registrations submitted prior to December 15 will be considered required filings for the existing calendar year, rather than a new or continuing registration for the subsequent year.

12. How does a lobbyist amend or withdraw a registration?

A lobbyist must amend or update their registration statement within five (5) business days of any event or circumstance that renders the statement inaccurate or incomplete. (Metro Code §2.196.050 (A)).

Lobbyists must file a written notice of withdrawal with the Metropolitan Clerk’s Office within five (5) business days of termination of their lobbying agreement. (Metro Code §2.196.050 (B)).

Both amendment and withdrawal forms are available online at the Metropolitan Clerk’s lobbying website.

13. Where may a person seek additional guidance on whether registering is required for their particular circumstances?

In general, a person seeking guidance about whether or not they are required to register as a lobbyist under the Metropolitan lobbying code should review the Lobbying Code and Board of Ethical Conduct’s manual for lobbyists and clients of lobbyists, including its hypothetical illustrations.

For more complex questions that may involve interpretation of one or more of the provisions of the Metropolitan’s lobbying code to a specific set of facts and circumstances, you may seek a formal Advisory Opinion (AO) from the Board of Ethical Conduct. The facts of the situation must be provided in writing and be stated with specificity. For more information concerning AOs, please refer to the link labelled “Advisory Opinions,” on the Lobbyist Regulation website maintained by the Metropolitan Clerk’s Office.

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