

*Metropolitan Government of
Nashville and Davidson County*

BEC

Board of Ethical Conduct

**MANUAL
FOR LOBBYISTS AND
CLIENTS OF LOBBYISTS**

DECEMBER 2020

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INTRODUCTION

This Lobbying Manual was developed for the purpose of providing general guidance to stakeholders and the public at large regarding the newly revised Metro Nashville lobbying ordinance, Second Substitute Council Ordinance BL2020-147, enacted on August 5, 2020, as further amended by Ordinance BL2020-402, enacted on September 16, 2020. The effective date of the newly revised lobbying ordinance, as amended, is January 1, 2021.

The stated purpose and intent of the recent revisions to the lobbying code is as follows: to promote, preserve and advance the public trust and confidence in our system of government by holding public officials, lobbyists, clients of lobbyists and others to ethical and transparent standards. More specifically, the revised ordinance seeks to: i) update the existing Metro lobbying ordinance; ii) align the Metro lobbying ordinance, where appropriate, with the Tennessee lobbying law enacted by the Tennessee General Assembly and implemented by the Tennessee Ethics Commission, and iii) address certain areas needing improvement as noted in the October 2019 audit of the lobbyist registration and disclosure process.

This manual was developed by the Metropolitan Board of Ethical Conduct (“BEC” or “Board”), with the benefit of public input. During the development process, public input was sought in the form of written submissions and oral public comments at certain public meetings of the BEC during the period of September through December, 2020.

Please note that the examples and illustrations used in this manual are offered for purposes of general guidance only, should not be considered legal advice and should not be relied upon when assessing compliance under actual circumstances. After reviewing the manual, if you have any questions concerning your own circumstances, you are encouraged to seek specific advice as to your particular facts.

METROPOLITAN BOARD OF ETHICAL CONDUCT

The Board of Ethical Conduct of the Metropolitan Government of Nashville and Davidson County was created by ordinance signed by Mayor Purcell on June 8, 2007, the year following the passage in Tennessee of the Comprehensive Governmental Ethics Reform Act of 2006. The Board of Ethical Conduct replaced and superseded an earlier council board of conduct first established in 2005.

As originally established, the Board of Ethical Conduct was charged with the following responsibilities: to receive, investigate and consider complaints that allege a violation of the standards of conduct by a Metropolitan Government elected official or member of a Metropolitan board or commission; to make various recommendations in response to a complaint, and to render advisory opinions at the request of persons under its jurisdiction at any time.

The authority of the Board of Ethical Conduct was expanded by ordinance signed by Mayor Cooper on August 5, 2020. This expanded authority concerns certain functions and responsibilities regarding the newly revised lobbying provisions of the Metro Code. Pursuant to this newly expanded authority, the Board is charged with the responsibility to:

- develop formal written policies and procedures setting forth prescribed forms and procedures to assist persons required to file statement by this chapter;
- issue advisory opinions relating to the requirements of the newly revised lobbying code;
- develop rules and regulations as may be appropriate for the administration of this chapter; and,
- conduct investigations, hold hearings and make recommendations regarding alleged violations of the lobbying code.

SEEKING ADVICE

If you have any questions concerning a specific situation after you review this manual, you may seek assistance from the Board of Ethical Conduct or others in the following ways:

- For basic, up-to-date information such as deadlines and fee amounts, and to access electronic registration forms, refer to the Lobbyist Regulation website maintained by the Metro Clerk's Office at <https://www.nashville.gov/Metro-Clerk/Lobbyist.aspx>.
- For simple questions, such as those concerning other administrative matters, you may contact the Metropolitan Clerk's Office, which is charged with administering the provisions of the lobbying ordinance. You may contact the Clerk's Office in person, by email at metro.clerk@nashville.gov, or by telephone at 615-862-6770.
- For more complex questions that may involve interpretation of one or more of the provisions of the Metro Code's lobbying provisions, you may seek a formal Advisory Opinion (AO) from the Metropolitan 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 Metro Clerk's Office.

LOBBYISTS AND CLIENTS

Definitions

Below are summaries of important definitions concerning lobbyists and clients of lobbyists. For a complete definition of each term, and for a comprehensive list of definitions relating to the lobbying ordinance, please refer to the cited references following each summary.

Lobbyist

Lobbyist is a person who engages in lobbying for compensation. (Metro Code §2.196.020)

Lobby or Lobbying

Lobby or Lobbying means communicating directly or indirectly with a legislative or executive branch official for purposes of influencing any legislative or administrative action. (Metro Code §2.196.020)

Influencing

Influencing is the promoting, supporting, modifying, opposing or delaying of any legislative or administrative action by any means. (Metro Code §2.196.020)

Note that furnishing information, statistics, studies or analysis at the request of an official is not “influencing.”

Also note that testifying at an official hearing conducted by officials is not “influencing.”

Compensation

Compensation is any fee, salary, payment, reimbursement or other valuable consideration, received or to be received by anyone acting as a lobbyist. (Metro Code §2.196.020)

Note that compensation does not include salary of an individual whose lobbying is “incidental to regular employment.” (Metro Code §2.196.020)

Client of a Lobbyist (Client)

Client of a lobbyist is any person or entity that employs, retains or otherwise arranges for a lobbyist to lobby on their behalf for compensation. (Metro Code §2.196.020)

Note that client is sometimes referred to as employer.

A lobbying firm is not considered an “employer” or a “client” of any lobbyist within the firm. (Metro Code §2.196.020)

A corporation, association or governmental entity may be a client of a lobbyist. (Metro Code §2.196.040 (A)(4)(b)).

Lobbyist Registration

Lobbyists are required to register within **five (5) business days of becoming a lobbyist**, and such registration must be by filing an electronic form prescribed by the Metropolitan Clerk. Lobbyist shall separately register for each client. (Metro Code §2.196.040 (A)(1))

Each year thereafter, if the lobbyist continues to lobby for a particular client, the lobbyist must register in the same manner by **December 31st** for the subsequent year. (Metro Code §2.196.040 (A)(2))

The Registration Form is available for download at the website maintained by the Metro Clerk's Office, <https://www.nashville.gov/Metro-Clerk/Lobbyist.aspx>. The following information must be included in the registration:

- The lobbyist's full and complete contact information, and that of the client of the lobbyist and, where the client is a corporation, association or governmental entity, the identification of the persons functioning as chief executive officer and chief financial officer for the client;
- The general subject matter on which the registrant lobbies and written proof of the registrant's authority to lobby on client's behalf;
- Certain disclosures, including of any immediate family member(s) of the lobbyist who is a legislative or executive branch official, or any business or partnership arrangements between lobbyist and a candidate for public office or a legislative or executive branch official;
- A signed statement by the lobbyist confirming that his or her lobbying agreement is in writing and does not contain any provisions for a contingent fee or bonus. (Metro Code §2.196.040 (A)(4))

An annual registration fee of **one hundred dollars (\$100)** must be paid for each client, such fee being non-refundable and non-transferable. (Metro Code §2.196.040 (B), and (E)).

For renewal registrations carried over from the previous year, the registration period runs from December 15 through December 31 for the next calendar year.

New or renewal registration is conducted by downloading the Registration Form on the Metro Clerk's Lobbyist webpage, and submitting the Form along with written proof of the lobbyist's authority to lobby on behalf of the client to the Metro Clerk.

The Metro Clerk's Office is in the process of creating a new lobbyist registration and payment portal which is expected to be available on the Metro Clerk's webpage at some point during 2021.

For registrations submitted before the new portal is complete and available for registrations, the registration process for new registrations and/or renewal registrations is as follows:

- please email the Registration Form and proof of client authorization to metro.clerk@nashville.gov; and
- send payment to the Metro Clerk's Office at 1 Public Square, Suite 205, Nashville, TN 37201 by mail or hand delivery within ten (10) business days after submission of the Registration Form.

It is expected that once the new lobbyist portal is available on the Metro Clerk's website in 2021, lobbyists will be able to register online, and may choose to pay online or by the method described above. If payment is submitted online, a credit card convenience fee will be added to the required payment due.

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 Metro Clerk's Office within **five (5) business days of termination** of their lobbying agreement. (Metro Code §2.196.050 (B)).

Forms for amendments and terminations of registration may be found online at the Metro Clerk's lobbying website.

Clients of Lobbyists

In contrast to the provisions of the State of Tennessee's lobbying act, which is administered by the Tennessee Ethics Commission, under the Metropolitan Nashville/ Davidson County lobbying code, clients of lobbyists (sometimes referred to as employers of lobbyists) are not required to register or to pay an annual registration fee.

Under the Metro code, persons, corporations, associations or governmental entities may be considered clients or employers of a lobbyist. (Metro Code §2.196.040 (A)(4)(b)). However, no client of a lobbyist- whether a person or corporation, association or government entity - is required to register.

Note, however, that although clients are not required to register, many of the provisions under the Metro lobbying code prohibit certain unlawful activities of clients of lobbyists to the same extent as lobbyists. Metro Code §2.196.070. Such prohibited acts are separately discussed in a following section of this manual.

In addition, the Code includes certain additional requirements applicable to clients of lobbyists:

Client authorization letter: A lobbyist registering under the Metropolitan lobbying code must provide written proof of his or her authority to lobby on a client's behalf. (Metro Code §2.196.040 (A)(4)(d)).

Client sworn statements: Clients of lobbyists also must provide sworn statements attesting to the accuracy of a lobbyist's Annual Lobbying and Expense Report as to gifts and expenditures provided by the lobbyist which were made on that client's behalf. (Metro Code §2.196.060 (A)(3)).

Contingent fee prohibition: In addition, clients of lobbyists are directly prohibited from offering or paying a lobbyist any fee, compensation or bonus that is contingent on the outcome of the lobbying services. (Metro Code §2.196.090).

Invitations to events: Unless an exception applies, invitations by clients of lobbyists to council members that involve such things as entertainment, meals or beverages, must be extended to all members of a council committee or to the entire membership of Metro Council with documentation of the same submitted to the Metro Clerk's Office at least seven (7) days before the event. (Metro Code §2.196.060 (C)).

Annual Lobbying and Expense Reports

Every registered lobbyist must submit a sworn report of lobbying activities and expenses by **January 31st** for the previous calendar year. Reports are filed electronically (Metro Code §2.196.060). Reports must be completed for any year in which the lobbyist was registered, regardless of any subsequent amendments or withdrawals of registration. (Metro Code §2.196.050 (C)). There is a \$50 late filing fee for reports filed after January 31st. (Metro Code §2.196.060 (F)).

The annual reporting requires certain disclosures in the following categories:

- gifts and expenditures made by a lobbyist on behalf of a client
- gifts and expenditures made on the lobbyist’s own behalf, unrelated to a client
- invitations to council members to events, and related aggregate expenditures

Gifts and Expenditures on Behalf of Clients: Gifts and expenditures made by a lobbyist, or any person acting at the specific direction of the lobbyist, **on behalf of a client** must be reported if made for the purpose of benefitting a candidate for public office, a legislative or executive branch official or a member of the candidate’s or official’s staff, immediate family, campaign committee, or testimonial committee, as follows:

| Value of gifts/expenditures on behalf of a client | Legislative branch official, or their staff, immediate family or campaign committee- Metro Code §2.196.060 (A) (1) | Executive branch official, or their staff, immediate family, campaign committee or testimonial committee- Metro Code §2.196.060 (A) (2) | Candidates for public office in the legislative or executive branch or their staff, immediate family, campaign committee, or testimonial committee Metro Code §2.196.060 (A) (1) |
|--|---|--|---|
| Under \$25 | Do not include | Do not include | Do not include |
| Over \$25, but under \$50 | Do not include | Include | Do not include |
| Equal to or over \$50 | Include | Include | Include |

For each such gift or expenditure listed, the report must include the date, beneficiary, amount and circumstances of each gift or expenditure. (Metro Code §2.196.060 (A)).

A sworn statement from the client attesting to the report’s accuracy must be included. (Metro Code §2.196.060 (A)(3)).

Gifts and Expenditures Not Related to A Client: Gifts and expenditures made by a lobbyist or any person acting at the specific direction of the lobbyist on the **lobbyist's own behalf** and not related to a client must be reported in the same manner, and within the same value limits, as noted above. For candidates for public office and legislative branch officials and their staff, immediate family, campaign committees and testimonial committees, any gift or expenditure valued at \$50 or more must be included in the report. For executive branch officials, and their staff, immediate family, campaign committees and testimonial committees, any gift or expenditure valued at \$25 or more must be included in the report. (Metro Code § 2.196.060 (B)).

Invitations to Events: Unless any of the exceptions noted below applies, entertainment, food, refreshments, meals or beverages may be provided by a lobbyist or a client of a lobbyist to Council Members **only if** such invitations are extended to all members of a council committee or, in the alternative, to the entire membership of Metro Council. Copies of the invitation must be delivered to the Metro Clerk's Office and the invited council members at least seven (7) days before the event. (Metro Code § 2.196.060 (C)).

The event expenditures must be included in the annual report unless the same event was provided to the general public or at a regular scheduled meeting of an established association, or the aggregate cost of the gift or expenditure was within the limits set by ordinance under the Standards of Conduct, Metro Code §2.222.020. (Metro Code § 2.196.060 (C)).

If a lobbyist has not timely filed his or her annual report, the Metro Clerk will send a reminder letter. On **March 1st**, the Clerk will forward to the Board of Ethical Conduct a list of lobbyists who have failed to file their annual report or filed late without the required late filing fee. (Metro Code § 2.196.060 (F)).

PROHIBITIONS

The lobbying code expressly prohibits certain unlawful actions. Under Metro Code § 2.196.070(A), no lobbyists, clients of lobbyists or any person acting at the specific direction of a lobbyist or client of a lobbyist shall engage in any of the following prohibited acts:

Anything of Value

Offer or attempt to offer anything of value to a legislative or executive branch official or their immediate family based on a stated or tacit understanding that the official's vote, official action or judgment would be influenced.

Loans

Make a loan of money to any candidate for public office or legislative or executive branch official or to anyone on their behalf.

False Statements

Knowingly or willfully make or cause to be made any false statement or misrepresentation of facts concerning any matter for which the lobbyist is registered to lobby to any legislative or executive branch official.

Knowingly or willfully make or cause to be made any false statement or misrepresentation of facts concerning any matter which the lobbyist or a client of a lobbyist is required to disclose to the metropolitan clerk.

Payment for Services or Property

Pay or agree to pay compensation to a candidate or legislative or executive branch official for real or personal property or services substantially in excess of that charged in the ordinary course of business.

Credit Card

Permit a candidate, a legislative or executive branch official or a member of the candidate's or official's staff or immediate family, to use the credit or credit card of a lobbyist or client or controlled by a lobbyist or client.

Lodging Expenses

Pay lodging expenses of a legislative or executive branch official or their immediate family.

Additional Prohibited Acts of Lobbyists

Under Metro Code § 2.196.070 (B), the following constitute unlawful acts:

1. Instigating introduction of legislation in order to obtain lobbying employment of that legislation.

2. Refusing to disclose the identity of a client to a Metropolitan employee or elected official while lobbying on behalf of that client.

Lobbyist Identification

When engaging in lobbying activities, including speaking at public hearings or community meetings, a lobbyist must identify themselves by name and the client who they are representing. Metro Code §2.196.080.

Lobbyist Compensation

No client of a lobbyist shall offer or pay, and no lobbyist shall solicit or accept, any fee, compensation or bonus for lobbying wherein the amount is contingent upon achievement of an outcome deemed successful by the client. Metro Code §2.196.090.

Cooling-Off Period

No person shall register as a lobbyist within six (6) months of the voluntary cessation from certain executive branch employment in matters directly within their former responsibilities with Metro Government. Metro Code §2.196.100(A).

Nor may any person register as a lobbyist within six (6) months of leaving elected office. Metro Code §2.196.100(B).

Complaint Information

The Board of Ethical Conduct has authority under Metro Code §2.196.110 *et seq.* and Metro Code §2.222.040.A.5, to receive and investigate complaints from any person alleging that a lobbyist, client of a lobbyist or other person has violated the lobbying ordinance.

Complaints shall be referred to the Metropolitan Department of Law for evaluation as to both proper jurisdiction and whether the complaint states a claim, after which the law department will issue a report and recommendation to the Board. At an open meeting, the Board, after accepting or rejecting the report's recommendations, will either dismiss the complaint or call for a hearing on the complaint, which hearing shall be noticed and open to the public.

Penalties and Sanctions

Pursuant to Metro Code §2.196.130.A, following a hearing and decision by the Board of Ethical Conduct that an individual violated the provisions of the lobbying ordinance, the Board may administratively suspend the registration of a lobbyist or prohibit the person from registering as a lobbyist for a period of time up to two years.

The Board also may direct the Metro Clerk's Office to issue a citation to General Sessions Court.

Additionally, the Board may refer the matter to the district attorney for appropriate action, and /or to the director of law with a request that an appropriate civil action be instituted against the violator for restitution or other relief.

Anyone found by a court of competent jurisdiction to be in violation of the lobbying ordinance may be punished by a fine of up to fifty dollars (\$50) per day, per violation.

SAMPLE ILLUSTRATIONS AND DISCUSSION

Below are hypothetical illustrations involving registered lobbyists and persons who might be required to register as a lobbyist. Each illustration is followed by a brief discussion and analysis for purposes of providing general guidance as to compliance with Metro’s lobbying ordinance. Note that these illustrations are general in nature; in most cases, additional facts would be required in order to fully assess the matter if the hypotheticals were actual real-world situations.

Architect-of-Record (AOR) and Historic Commission (HC)*

An AOR submits a design project to the Codes Department for a construction permit. The Architect receives a call from the HC staff requesting a meeting to discuss a specific design detail about a railing. The railing meets all technical code requirements, but the HC staff seeks additional information regarding the “look” of the railing, which is in the HC review authority. The HC staff requests the AOR’s explanation regarding the “look” of the railing. The AOR meets with HC staff and convinces staff that the look of the rail is within the design guidelines based on the AOR’s expert opinion and subjective analysis.

Is this “lobbying” under the ordinance?

Discussion: Probably not. Here, AOR did not initiate any communications with the HC. Rather, the HC initiated the communication and requested that the AOR provide it with an explanation and information as to the design feature in question. Under the lobbying code definitions, the furnishing of information, statistics, studies or analyses at the request of a legislative or executive branch official to such official is not “influencing.” That the information or analyses provided were based on subjective evaluation or an expert opinion is not determinative.

Architect-of-Record (AOR) and Variance Before Planning Department*

An AOR is about to submit a design project to the Codes Department for a construction permit. The project, however, requires a variance for a design detail that is within the exclusive jurisdiction of the Planning Department. The AOR meets with the area Councilmember and a neighborhood group to explain the design intent and to request support for the design detail at the Planning Department public meeting. Afterwards, the area Councilmember and neighbors give their support to the variance. At the Planning Department public meeting on the variance, the AOR explains the intent of the design detail, and the area Councilmember speaks in favor of it. The variance is approved by the Planning Department.

Was this lobbying on the part of the AOR?

Discussion: Probably not. Ordinarily, it is not lobbying for a person to meet with an area councilmember to provide information regarding a potential or planned project, either as a courtesy or for such purposes as obtaining feedback or answering questions.

Nor does the fact that the AOR spoke with the councilmember make this conduct “lobbying.” Under the Code, lobbying is the seeking to influence a legislative or administrative action. Here there is no legislative action at issue. The area councilmember is a member of the legislative body and, under the facts set forth in the hypothetical, the Metro Council has no authority to take any action with respect to the specific change the AOR is seeking— a variance for a design detail that is exclusively within the jurisdiction of the Planning Department. What the AOR is seeking here is a non-ministerial administrative action, i.e., approval of a variance by the Planning Department.

Although AOR later does speak at a public meeting of the Planning Board in support of the variance, this also is not lobbying because “an individual testifying at an official hearing conducted by officials of the legislative or executive branch” is, by definition, not “influencing.”

Also note that on these limited facts, the AOR did not communicate with any one in the Planning Department and thus did not seek to influence administrative action on the variance other than by testifying at the public meeting.

There is a question, however, of whether the AOR could be found to have been lobbying when the AOR “requested support” for the variance from the area councilmember, who later spoke in favor of the variance at the public meeting. Lobbying is communicating with any official for the purpose of influencing any legislative or administrative action. To the extent that the AOR sought the legislator’s support and testimony at the public meeting, and to the extent the AOR provided information, statistics, studies or analysis to the legislator to obtain his agreement to speak in favor of the design variance, AOR was “communicating with an official for purposes of influencing administrative action,” in other words, seeking a legislator’s support for an administrative action.

As stated, however, there are insufficient facts given to determine whether the AOR’s communications with the area councilmember would be viewed as lobbying.

Urban Planning Tasks*

A potential project is planned for a site but would require a zoning change and code variances in order to move forward. Architect was contacted by the Developer (or Owner) to perform specific planning and pre-design services prior to entering into a design contract on the potential project. The specific pre-design services scope of work includes urban planning tasks, site analysis, and obtaining zoning changes and code variances from the Metro Departments. The Architect serves as the primary contact for all Metro Departments during the zoning changes and code variances process.

Is this lobbying on the part of the architect?

Discussion: Yes. Where a person is seeking to influence a legislative or executive action on behalf of a client for compensation, the person is engaged in lobbying. Here, the architect is hired to act on behalf of a client (the developer or owner), presumably for compensation. The services the architect is engaged in here includes lobbying: providing services that sought to influence or obtain urban planning and regulatory changes by Metro council and other departments. Lobbying includes seeking to influence or obtain regulatory changes, including, without limitation, code variance or zoning changes. As a result, the architect here must register as a lobbyist and comply with the provisions of the Metro lobbying regulation ordinance.

Code Interpretation

A project is planned, designed, approved and permitted by all Metro Departments. Afterwards, construction on the project commences. During construction, a changed condition at the site alters the construction of the project. As a result, a question arises as to whether the project, *as built*, would be compliant with the code's set-back provisions. Bringing the structure into compliance, however, would add construction costs to the project. The Planning Department raises a concern about code compliance of the structure under construction. The architect meets with staff at the Planning Department and asserts a novel interpretation of the set-back zoning provision. In seeking to convince the planning department to adopt their novel interpretation of the set-back provision, the architect seeks to avoid the additional project costs of bringing the structure into compliance with the standard and usual interpretation of the code's set-back provisions.

Is this lobbying on the part of the architect?

Discussion: It depends. Ordinarily, architects and other professionals are required to discuss questions of code interpretation with staff of Planning and other Metro departments in the ordinary course of developing and implementing a project. Such routine, good-faith exchanges and analysis among professionals with respect to how a code provision is to be read and applied to a particular project ordinarily would not be considered lobbying.

However, in certain extreme circumstances, seeking to convince officials of a novel interpretation of a long-standing code provision, particularly one that would be inconsistent with prior practice in interpreting the provision, might well be viewed as lobbying to the extent that, under the totality of circumstances in the particular situation, is it determined to be tantamount to seeking to influence or obtain a code variance, zoning change, or other regulatory change to benefit the particular project.

Close Personal Friendship

Stuart, a registered lobbyist in Metropolitan Nashville, has been a close personal friend of Mae for several years. Last year, Mae was elected to Metropolitan Council. Stuart wishes to invite Mae as his guest to the opening performance of the musical Hamilton at TPAC. Is this proper? If so, does he need to include it in his annual report?

Discussion: A lobbyist must disclose in his or her annual report certain gifts and expenditures to public officials based on the monetary value of the gift or expenditure. Here, Mae is a member of the legislative branch and the cost of the gift – a ticket to Hamilton – is valued at over \$100 (it's Hamilton after all). Therefore, if this gift were proper – it's not -- Stuart would have to disclose the date and amount of the gift to Mae, as well as the circumstances. However, there is another problem here.

Stuart's invitation to Mae involves entertainment. Therefore, he must comply with the Metro code provisions relating to invitations to events. Because the value of the ticket is over the permitted limit set forth in Metro Code § 2.222.020 for what a councilmember or metro official may accept for admission to an event, Stuart may only invite Mae to the event if he extends the same invitation either to Mae's entire council committee or to the entire Metro council membership. He also would be required to disclose the same by filing a copy of the invitation with the Metro Clerk's Office at least seven days in advance of the event.

Gifts and Early Political Support

Lam is a registered lobbyist and the neighbor of Samantha's. When he learned that Samantha was giving serious thought to running for Mayor, Lam gave Samantha a \$250 check to encourage her political career and support her run for office.

Must he disclose the amount if the transaction occurred two weeks before Samantha formally announced her candidacy for public office?

If Lam waits until after Samantha formally announces her candidacy to give her the check, and tells her to consider it a loan to be paid back only if she wins the election, is that proper? Must he disclose the amount?

Discussion: On these facts, Lam would need to disclose the \$250 that he gave to Samantha on his annual report irrespective of whether or not Samantha had formally announced her candidacy for public office at the time he gave her the check. A person becomes a "candidate for public office" where, as here, she accepts a contribution to that end.

In addition, Lam has violated the Metro lobbying code prohibiting loans to candidates and officials by converting the expenditure to a loan, even if repayment of the \$250 was dependent on the outcome of the election. A loan by a lobbyist to a candidate for public office or to a legislative or executive branch official, whether repayment is contingent or not, is prohibited. Loans by lobbyists and clients of lobbyists to candidates and officials are expressly designated as unlawful activity under the code.

Contingent Fee

Client A and Lobbyist B negotiated a flat fee for one year of B's services in lobbying a certain zoning change beneficial to Client A. Client A and Lobbyist B sign a written agreement setting forth the flat fee amount and monthly payment terms. Following the signing, Client A and Lobbyist B agree orally that if B can accomplish the task within 6 months, Client would pay him an additional 10%. Is this proper?

Discussion: No, under the revised Metro lobbying code, a client may not offer or pay, and a lobbyist may not solicit or accept any fee, compensation or bonus that is contingent on an outcome deemed favorable by the client. Any such compensation, whether contingent in whole or in part, is prohibited.

Moreover, registration forms require lobbyists to swear to the fact that their lobbying agreement is in writing and is not contingent on achieving a certain outcome. Here, as the oral agreement between A and B for an additional 10% fee was not included in the written agreement, lobbyist B's likely further violated the lobbying code insofar as B's sworn registration statement was false and inaccurate. It is unlawful for a lobbyist or client to knowingly or willfully make a false statement or misrepresentation in any matter in which the lobbyist or client is required to disclose to the metro clerk.

*These illustrations are based on those submitted by the AIA Middle Tennessee Government Relations Committee Chair, during the Board's public comment period, September 2020.

Chapter 2.196

LOBBYIST REGISTRATION AND
DISCLOSURE*

Sections:

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2.196.010 Purpose and intent.

It is the intent of the metropolitan council to promote, preserve and advance public trust and confidence in our system of government by holding others and ourselves to ethical and transparent standards. Public Officials, Lobbyists, and Clients of Lobbyists should be truthful and transparent in communications and interactions with each other and the public. No one should act in any manner that will undermine the public confidence and trust in our government or in our processes. In adopting this ordinance, the metropolitan council also recognizes the delicate balance sought in this lobbyist regulatory framework and the rights included in the First Amendment to the United States Constitution, particularly, the right of Freedom of Speech and the right to Petition the Government for a Redress of Grievances. (Ord. BL2020-147 § 1, 2020)

2.196.020 Definitions.

As used in this chapter, unless the context otherwise requires:

"Administrative action" means the taking of any recommendation, report or nonministerial action, the

making of any decision or taking any action to postpone any action or decision, action of the mayor in approving or vetoing any ordinance or resolution, the promulgation of a rule and regulation, or any action of a quasi-legislative nature, by an official in the executive branch; however, "administration action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch.

"Association" means a union, league, chamber of commerce, committee, club, or other membership organization.

"Board of ethical conduct" means the board established in Section 2.222.040, sometimes referred to as the "board".

"Business day" means every day, except Saturday, Sunday and holidays observed by the metropolitan government.

"Candidate for public office" means an individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any metropolitan government office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about a nomination for election or the election to metropolitan government office, and any individual who has been nominated for appointment as an official in the legislative or executive branch.

"Clerk" means the metropolitan clerk.

"Client" means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation, sometimes referred to as "employer".

A. "Client" specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation.

B. "Client" does not include the individual employees, officers, directors, or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization.

C. A lobbying firm or law firm is not deemed to be the client of any lobbyist within the firm.

"Compensation" means any salary received or to be received by anyone acting as a lobbyist, whether in the form of a fee, salary, payment, reimbursement or other

*Editor's note—Ord. BL2020-147, § 1, passed August 4, 2020, effective Jan. 1, 2021, repealed Ch. 2.196, §§ 2.196.010—2.196.100, which pertained to similar subject matter and derived from Ord. 91-1484 §§ 1—10, passed 1991; Ord. 95-1329 § 3, passed 1995; Ord. BL2010-810 § 1, passed 2011; Ord. BL2010-821 § 1, passed 2011.

valuable consideration and any combination thereof. Compensation does not include the salary of an individual whose lobbying is incidental to regular employment.

"Contribution" shall not be construed to include the following:

A. Services, including expenses provided without compensation by a candidate or individuals volunteering a portion or all of their time, on behalf of a candidate or campaign committee;

B. Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned wholly or in part, or controlled by any political party, political committee or candidate;

C. Nonpartisan activity designed to encourage individuals to vote or register to vote;

D. Any written, oral or electronically transmitted communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to public office; or

E. The use of real or personal property and the cost of invitations, food and beverages not exceeding one hundred dollars, voluntarily provided on an individual's residential premises for candidate related activities.

"Executive action" means the action of a commission, board, agency or other body in the metropolitan government that is not a part of the legislative or judicial branch.

"Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure; "expenditure" also includes any honorarium.

"Gift" to an officer or employee of the legislative branch of metro government means a payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, any of which are valued at fifty dollars or more, unless consideration of equal or greater value is received. A "gift" to an officer or employee of the executive branch of metro government means a payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, any of which are valued at twenty-five dollars or more, unless consideration of equal or greater value is received.

A. "Gift" does not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business,

or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative.

B. "Gift" does not include the waiver of a registration fee for a conference or educational seminar.

"Honorarium" means payment of money or anything of value for an appearance, speech or article, but "honorarium" does not include actual and necessary travel expenses which are not paid or reimbursed.

"Immediate family" means a spouse or minor child living in the household.

"Influencing" means promoting, supporting, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses. "Influencing" does not include the furnishing of information, statistics, studies or analyses requested by an official of the legislative or executive branch to such official, or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch.

"Legislative action" means introduction, sponsorship, debate voting or any other nonministerial official action or inaction on any ordinance, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a council committee or in the council.

"Lobby" or "lobbying" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch, for the purpose of influencing any legislative action or administrative action.

"Lobby" does not mean any of the following communications:

A. with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held;

B. from a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or rule making procedure;

C. from an editor or working member of the press, radio or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;

D. by an incumbent or prospective contractor or vendor, or an employee of the contractor or vendor, while engaged in selling or marketing to metro, or any metro department, board, or commission, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing,

or similar commercial information. However, the contractor or vendor, or employee of the contractor or vendor, shall be deemed to be a lobbyist if actively engaged in selling or marketing to an official in the executive branch or an official in the legislative branch whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract so marketed or sold;

E. with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan, incentive or any component of an economic development incentive package; provided, that any person who is otherwise required to register as a lobbyist under the provisions of this chapter shall not be deemed to fall within this exception.

"Lobbying firm" means any firm, corporation, partnership or other business entity that supplies lobbying services to others for compensation. A lobbying firm is not considered an "employer" or "client" of any lobbyist within the firm for purposes of this chapter.

"Lobbyist" means any person who engages in lobbying for compensation.

"Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, that person's own judgment upon the propriety of the action being taken. Ministerial action includes ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch.

"Official in the executive branch" means any member or employee of a commission, agency or other body in the executive branch who takes any administrative action.

"Official in the legislative branch" means any member, member-elect, any staff person or employee of the council.

"Person" means an individual, business entity, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

"Political contribution" or "Campaign contribution" means anything of value or any amount of money, in the form of an advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, digital currency, gift, pledge, purchase of a ticket to a testimonial or similar fundraising event, or subscription of money or anything of value and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of influencing a measure or nomination for election or the election of any person for public office or for the purpose of defraying any expenses of an officeholder incurred in connection with the performance

of the officeholder's duties, responsibilities, or constituent services; however, "political contribution" or "campaign contribution" does not mean volunteer services.

"Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

"Year" or "Annual" shall mean January 1st through December 31st. (Ord. BL2020-402 § 1, 2020; Ord. BL2020-147 § 1, 2020)

2.196.030 Administration of provisions—Powers and duties.

A. This chapter shall be administered by the metropolitan clerk. It shall be the duty of the metropolitan clerk:

1. To prescribe forms for statements, reports and other information required to be electronically filed by this chapter, and to furnish such forms to persons required to file such statements, reports and information;

2. To publish formal written policies and procedures or other information developed by the board of ethical conduct setting forth prescribed forms and procedures to assist persons required to file statements by this chapter and publish such policies, procedures, and information online;

3. To preserve such statements, reports and other information required to be filed by this chapter for a period of five years from date of receipt;

4. To develop a filing, coding and cross-indexing system by lobbyist name, by client, and by subject matter or any other way consistent with the purposes of this chapter;

5. To seek from the director of law board of ethical conduct, issue, and publish, upon proper request from any lobbyist or public official, advisory opinions upon the requirements of this chapter. Such advisory opinions shall follow the procedures set forth in subsection 2.222.040.B;

6. To accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

7. To make statements and other information filed with the clerk available for public inspection and copying during regular office hours, and to make copying facilities available at a charge calculated in the public records policy;

8. To prepare and publish such reports as may be deemed appropriate;

9. To promulgate any rules and regulations developed by the board of ethical conduct as may be appropriate for the administration of this chapter;

10. To make a list of all registered lobbyists prepared pursuant to this chapter available electronically. The metropolitan clerk shall update and make the list available prior to each meeting of the metropolitan council;

11. To electronically publish all information included in the annual reports filed by lobbyists; and

12. To develop, maintain, and periodically review and update internal written procedures for each critical process and task related to the administration of the lobbyist code.

B. It shall be the duty of the director of law to render opinions and give counsel to the metropolitan clerk and the board of ethical conduct regarding this chapter upon request and in a timely manner. (Ord. BL2020-402 § 2, 2020; Ord. BL2020-147 § 1, 2020)

2.196.040 Registration—Required when—Term—Fees.

A. 1. Every person qualifying as a lobbyist under this chapter shall register by filing an electronic form prescribed by the metropolitan clerk within five business days after accepting employment as a lobbyist, as defined in Section 2.196.020. A separate registration is required for each client a lobbyist represents.

2. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying for that client no later than December 31st for the subsequent year.

3. For the purpose of registration, the lobbyist has been employed once the client and lobbyist have entered into an engagement or contract.

4. The filing shall include each of the following:

a. The lobbyist's name, mailing address, business address, home address, telephone number and email address.

b. The name, mailing address, business address, telephone number and email address for each the client of the lobbyist, and in the case of a corporation, association or governmental entity, the names of the individuals performing the functions of chief executive officer and chief financial officer.

c. A listing of the general categories of subject matters on which the registrant lobbies. The list of general categories shall be available from the metropolitan clerk.

d. Written proof of the lobbyist's authority to lobby on behalf of the client.

e. The name home address, and position of any member of the lobbyist's immediate family who is an official within the legislative or executive branch.

f. The extent of any direct or indirect business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

g. A sworn statement signed by the lobbyist that any employment agreement between a lobbyist and the client of a lobbyist is in writing, and the agreement does not contain any provision wherein the fee or a bonus to be paid to the lobbyist is contingent upon success of the lobbyist.

B. At the time of registration, the lobbyist shall pay an annual filing fee of one hundred dollars for each client for whom they are filing the registration.

C. A person engaged in a communication that is not considered lobbying as defined in Section 2.196.020 need not register as a lobbyist under this section. A person engaged in a communication that is not considered lobbying as defined in Section 2.196.020 need not register as a lobbyist under this section.

D. All fees collected by the metropolitan clerk shall be paid into the general fund of the general services district.

E. The annual registration fee is non-refundable and non-transferable. (Ord. BL2020-147 § 1, 2020)

2.196.050 Amending or withdrawing a lobbyist registration.

A. A lobbyist must amend or update their registration statement within five business days of any event or circumstance that renders the registration statement inaccurate or incomplete.

B. Every person registered under this chapter shall file a written notice of withdrawal with the metropolitan clerk within five business days following the termination of a lobbying employment agreement between the lobbyist and a client. Such notice of withdrawal shall be retained by the metropolitan clerk for a period of five years, and the date of withdrawal shall be noted on the Registered Lobbyist Index posted on the metropolitan clerk's website. Lobbyists must update their registration statement within five business days of any event or circumstance that renders the registration statement inaccurate or incomplete.

C. An annual lobbying and expense report must be completed for a year in which a lobbyist was registered, regardless of any subsequent amendment or withdrawal of registration. (Ord. BL2020-147 § 1, 2020)

2.196.060 Annual lobbying and expense report requirements—Invitations and gifts.

A. Every lobbyist registered under this chapter shall electronically file with the metropolitan clerk a sworn report regarding lobbying activities and expenses no later than January 31st for the previous year. The report shall contain the following:

1. An itemized list, by date, beneficiary, amount and circumstance of the transaction, of each gift or expenditures of fifty dollars or more made by the lobbyist on behalf of the client or anyone acting at the specific direction of the lobbyist on behalf of the client to benefit a candidate for public office, an official in the legislative branch, a member of the candidate or official's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of a candidate for public office or such official;

2. An itemized list by date, beneficiaries, amount and circumstance of the transaction of each gift or expenditure of twenty-five dollars or more made by the lobbyist on behalf of the client or anyone acting at the specific direction of the lobbyist on behalf of the client to benefit an official in the executive branch, a member of the official's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of such official;

3. Such report shall include a sworn statement from the client attesting to the accuracy.

B. Every lobbyist registered under this chapter shall electronically file with the metropolitan clerk a sworn report regarding their own lobbying activities and expenses not related to a client no later than January 31st for the previous year. The report shall contain the following:

1. An itemized list, by date, beneficiaries, amount and circumstance of the transaction, of each gift or expenditures of fifty dollars or more made by the lobbyist or anyone acting at the specific direction of the lobbyist to benefit a candidate for public office, an official in the legislative branch, a member of the candidate or official's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of a candidate for public office or such official;

2. An itemized list by date, beneficiaries, amount and circumstance of the transaction of each gift or expenditures of twenty-five dollars or more made by the lobbyist or anyone acting at the specific direction of the lobbyist to benefit an official in the executive branch, a member of the official's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of such official.

C. 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 days in advance of the event by the client of a lobbyist or lobbyist paying for the event and must be included in their annual lobbying and expense reports unless:

1. the same equal opportunity is provided to the general public;

2. is provided at a scheduled meeting of an established and recognized association that has regular meetings; or

3. the total aggregate cost of the expenditure or gift does not exceed the limits set forth in Section 2.222.020.

D. In determining the threshold for the reporting levels required by this chapter of an event attended by more than one official of the legislative branch, a staff member, or immediate family member, a lobbyist may attribute only the actual cost for any gift or expenditure to each such official or member in attendance.

E. Any person providing funds to make a gift or expenditure other than a political contribution for the purpose of lobbying shall comply with the reporting requirements of this section whenever the purpose of such funds is to assist directly or indirectly an official of the executive or legislative branch, or any educational institution to lobby a specific program or programs on which legislative action is pending. Such person shall also report the source and amount of the funds which such gift or expenditure is made.

F. The clerk shall send a reminder letter to lobbyists who have not filed their client's Annual Lobbying and Expense Reports by February 5th. On March 1st, the clerk shall provide the board of ethical conduct a list of missing reports. A person responsible for filing a late report shall include a fifty dollar filing fee which shall be in addition to any other fees due. (Ord. BL2020-402 § 3, 2020; Ord. BL2020-147 § 1, 2020)

2.196.070 Unlawful activities designated.

A. No lobbyist, lobbyist's client, or anyone acting at the specific direction of a client or lobbyist shall:

1. Offer or attempt to offer anything of value to an official in the legislative or executive branch, or to the official's immediate family, based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

2. Make a loan of money to any candidates for public office, officials in the legislative or executive branch, or to anyone on their behalf. No candidate for public office, official in the legislative or executive branch, or a member of that person's staff or immediate family, shall solicit or accept a loan from a lobbyist.

3. Knowingly or willfully make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the lobbyist is registered to lobby to any official in the legislative or executive branch or any matter which the client of a lobbyist or lobbyist is required to disclose to the metropolitan clerk.

4. Pay or agree to pay a candidate for public office or an official in the legislative or executive branch compensation for real or personal property or services substantially in excess of that charged in the ordinary course of business.

5. Permit a candidate for public office, an official in the legislative or executive branch, or a staff member or a member of the candidate or official's immediate family, to use the credit or credit card of a client or lobbyist or any other credit or credit card over which the client or lobbyist has control.

6. Pay the lodging expenses of an official in the legislative or executive branch or immediate family of the official.

B. No lobbyist shall:

1. Instigate the introduction of legislation for the purpose of obtaining employment to lobby of that legislation.

2. While engaging in lobbying on behalf of a client refuse to disclose to a metropolitan employee or elected official upon request the identity of the client.

C. No official in the legislative or executive branch or a member of the official's staff or immediate family shall solicit or accept anything of value in violation of subsection A of this section.

D. No official in the legislative or executive branch shall accept travel expenses, meals or lodging if payment of the travel expenses, meals or lodging violates this section or constitutes a prohibited gift. (Ord. BL2020-402 § 4, 2020; Ord. BL2020-147 § 1, 2020)

2.196.080 Lobbyist identification.

When speaking at a public hearing, presenting or speaking at a community meeting, or engaging in lobbying activities, a lobbyist must identify themselves by name and the client they are representing or speaking on behalf of at that time. (Ord. BL2020-147 § 1, 2020)

2.196.090 Lobbyist compensation.

A. No employer of a lobbyist shall offer or pay, and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer. (Ord. BL2020-147 § 1, 2020)

2.196.100 Cooling off period.

A. A department head or employee of the mayor's office shall not be registered as a lobbyist within six months of voluntary cessation of their official responsibilities in matters which were directly within their former official responsibilities or employment with metro government. For this section, "official responsibility" means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with other, either personally or through subordinates, to approve, disapprove or otherwise direct metropolitan government action.

B. An elected official shall not be registered as a lobbyist within six months following the voluntary termination of office or leaving elected office. (Ord. BL2020-402 § 5, 2020; Ord. BL2020-147 § 1, 2020)

2.196.110 Complaints procedures.

A. Complaint procedures:

1. Any person may submit a complaint alleging that any one or more person, lobbyist, or client of a lobbyist has violated the provisions of this chapter.

2. The complaint must be filed electronically with the metropolitan clerk and be signed by the complainant and notarized, and must contain the following:

a. Complainant's legal name, current mailing address, home address, and a valid telephone number and email address;

b. Names and contact information of the individuals who committed the alleged violation, if possible;

c. Summary of the facts giving rise to the complaint;

d. Explanation of why those facts constitute a violation of this chapter; and

e. Any supporting documentation of the violation.

3. Upon receipt, the clerk shall:

a. Provide a copy of the complaint to the director of law, and to the members of the board of ethical conduct electronically.

b. Provide the complainant and the named persons with a copy of the complaint, hearing procedures, board actions, penalties and sanctions, enforcement procedures and appeal rights of the board of ethical conduct, and of this Code electronically and by U.S. Postal Service by certified mail.

4. Once a complaint has been received by the members of the board, and until a written decision has been issued by the board, no member of the board shall participate in any communication regarding the allegations or merits of the complaint, outside of the board's public meetings or hearings, except as contemplated by these procedures.

5. The department of law will evaluate the complaint, applying the law of this chapter to the facts alleged in the complaint, and shall undertake an investigation as may be deemed necessary, to determine if such complaint alleges facts, which if proven true, could be deemed to be a violation of this chapter. Within fourteen business days from its receipt of the complaint, the department of law will issue a report concluding whether the facts alleged in the complaint, if true, would give rise to a violation of this chapter, and including a recommendation to either dismiss the complaint or hold a hearing on the complaint. The department of law shall provide its report to the chair of the board of conduct, and shall file it with the clerk on the same day.

6. Within three business days of receiving the department of law's report, the chair of the board of ethical conduct shall set a meeting of the board, which meeting is open to and noticed to the public. The clerk shall also provide notice of the meeting to the director of law electronically. The clerk shall provide notice of the meeting to the complainant and the named persons electronically and by U.S. Postal Service by certified mail.

7. At the board's meeting, the board shall evaluate the department of law's report, and may accept or reject the department of law's recommendation. At this meeting, the board may decide to dismiss the complaint or call for a hearing on the complaint and set a date for the hearing.

8. Whether or not the board holds a hearing on the complaint or dismisses the complaint, it shall issue a decision in writing. Any decision shall require the affirmative vote of at least four members of the board. If a hearing is to be held, the decision will not be issued until after the hearing is held.

9. Any decision shall require the affirmative vote of at least four members of the board.

10. The decision shall be filed with the clerk, and provided to the complainant and to the individuals named in the complaint. (Ord. BL2020-147 § 1, 2020)

2.196.120 Hearing procedures.

A. Hearing procedures:

1. If the board of conduct calls for a hearing on a complaint, the hearing shall be conducted as follows:

a. The hearing shall be noticed to and open to the public, in accordance with these procedures.

b. Notice of hearing shall be provided to the complainant and to the individual named in the complaint (together, the "parties").

c. The parties may, but are not required to, submit material to the board. If a party does wish to submit such material to the board, the party must file the material with the clerk, and provide a copy of the same to the other parties, at least seven business days prior to the hearing. The clerk shall provide a copy of the same to the board members and the department of law.

d. The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the board at the hearing. Each party has the right to the assistance of legal counsel. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

e. All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses will be subject to cross-examination. Each party must file with the clerk a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven business days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the board may permit such an unnamed witness to be called by a party if, in the board's judgment, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

f. Board members may ask questions of any party, counsel, or witness at any time during the hearing.

g. The board may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party.

h. The board may continue a hearing to a later date.

i. The director of law or a metropolitan attorney shall be present during the hearing to advise the board.

j. The board shall abide by any applicable policies, rules, or procedures promulgated by the board as otherwise permitted in chapter 2.222. (Ord. BL2020-147 § 1, 2020)

2.196.130 Actions, penalties, sanctions, enforcement and appeals of decisions of the board.

A. Actions:

1. If, after a hearing, the board decides that an individual violated the procedures set forth in this chapter, then the board shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:

a. Recommend to the council that the elected official or member of the board or commission be censured;

b. Recommend to the violating elected official or member of a board or commission resign their respective position;

c. Suspend the registration of the lobbyist or prohibit the person from registering as a lobbyist for a period of up to two years. The metropolitan clerk shall act to prohibit or suspend registration upon a decision by the board following the procedures set forth in this Section 2.196.140;

d. Direct the metropolitan clerk to issue a citation;

e. Refer the matter to the district attorney general for appropriate action; and/or,

f. Refer the matter to the director of law with a request that appropriate civil action be instituted by the metropolitan government for restitution or other relief.

2. The board of ethical conduct may take into account the following mitigating factors and include them in the written record of the vote:

a. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.

b. Prompt corrective action. The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.

c. Prompt self-reporting. The violator is found to have reported promptly the violation to the clerk or the board of ethical conduct.

3. The board of ethical conduct may take into account the following aggravating factors and include them in the written record of the vote:

a. Intent. The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

b. Repeat violation. The violator previously has been found by the board of ethical conduct or by a court of competent jurisdiction to have violated the same or similar provisions.

c. Obstruction of investigation. The violator is found to have obstructed the investigation of the board of ethical conduct into the same violation.

B. Penalties: In addition to the suspension and registration prohibition actions noted in subsection A. of this section, anyone found by a court of competent jurisdiction to be in violation of this chapter may be punished by a fine of up to fifty dollars per day per violation.

C. Sanctions: Upon receipt of a recommendation from the board that an elected official or member of a board or commission be censured by the council, the chairman of the rules-confirmations-public elections committee shall timely file one or more resolutions with the metropolitan clerk, for the next regularly scheduled council meeting to do one or more of the following:

1. Providing for censure of the member, which resolution shall require twenty-one affirmative vote to be adopted.

2. Providing for the removal of the censured member of council from any or all committees and/or removal as chairman of a committee of the council which resolution shall require twenty-one affirmative vote to be adopted.

3. Providing for the censure or removal of a board/commission member which resolution shall require twenty-one affirmative votes to be adopted.

D. Enforcement:

1. Board recommendations and complaints regarding violations by employees, other than elected officials, of the standards set forth in this chapter shall be made to the appointing authority. Decisions of the appointing authority regarding violation of the standards of conduct set forth herein by employees within the classified service may be appealed to the civil service commission in accordance with the civil service rules adopted pursuant to Section 12.06 and 12.07 of the Metropolitan Charter.

2. The metropolitan clerk shall issue citations at the direction of the board.

E. Appeals: Any suspension or revocation under this chapter may be appealed by writ of certiorari to the Circuit or Chancery Courts of Davidson County within sixty days from the date of the action taken by the board. (Ord. BL2020-147 § 1, 2020)

Appendix B- Rules and Procedures

BOARD OF ETHICAL CONDUCT

I. PROCEDURES AND ORGANIZATIONAL RULES (AMENDED November 9, 2020)

The Board was established pursuant to Metropolitan Code Section 2.222.040 with the functions to receive and consider complaints that allege a violation of the standards of conduct by a Metropolitan Government elected official or member of a Metropolitan board or commission. Pursuant to its authority under Section 2.222.040, the Board has authority to make various recommendations in response to a complaint, and also has authority to render advisory opinions at the request of persons under its jurisdiction at any time.

The Board's authority was expanded pursuant to Second Substitute Council Ordinance BL2020-147, as amended by Ordinance BL2020-402, effective January 1, 2021. This new authority relates to the Metro Code regarding Lobbyist Registration and Disclosure, Chapter 2.196 ("this Chapter"). Pursuant to its authority under Chapter 2.196, the Board is charged with developing formal written policies and procedures setting forth prescribed forms and procedures to assist persons required to file statements required by this Chapter; to issue advisory opinions relating to the requirements of Chapter 2.196 pursuant to the procedures set forth by Section 2.222.040; to develop rules and regulations as may be appropriate for the administration of this Chapter; and to conduct investigations, hold hearings and make recommendations regarding alleged violations of the lobbyist code.

1. Purpose

To establish a written policy governing the internal organization of the Council Board of Ethical Conduct ("Board"), and formal procedures for the conducting of affairs entrusted to the Board as prescribed by Metropolitan Code of Laws § 2.222.040 and Metropolitan Code of Laws Chapter 2.196.

2. Organizational Rules

A. **Annual election of officers.** The Board shall meet at least annually, including on the first Monday in March, effective on the date of adoption of this AMENDED policy. The council member pro tempore is eligible to serve as an officer.

B. **Procedure upon existence of a vacancy.** If the Metropolitan Clerk becomes aware of a vacancy on the Board, the Clerk shall notify the appointing organization. The appointing organization shall file with the Metropolitan Clerk evidence of its selection of the member to fill the vacancy.

3. Procedures pursuant to Metropolitan Code of Laws § 2.222.040

A. **Filing of complaints.** Complaints must be filed with the Metropolitan Clerk ("Clerk"). The office of the Clerk is located at 1 Public Square, Suite 205, Nashville, TN 37201 and its regular business hours are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding observed holidays. The complaint filed with the Clerk must be signed by the complainant and notarized, and must contain the following: (1) Complainant's legal name, current mailing address, and a valid telephone number and/or email address; (2) Name of the person or persons who committed the alleged violation(s); (3) Summary of the facts giving rise to the complaint; and (4) Explanation of why those facts constitute a

violation of the Standards of Conduct pursuant to Metropolitan Code of Laws § 2.222.020.

The Clerk will notify the complainant of this policy.

B. Department of Law's report and process for meeting to evaluate the report. The Department of Law shall provide its report regarding the complaint to the Chair of the Board and shall file the report with the Clerk. The Clerk will provide a copy of the Department of Law's report via email and U.S. mail to each Board member as soon as practicable. Upon receipt of the Department of Law's report, the Chair of the Board will call a meeting of the Board to evaluate the complaint. The Clerk will coordinate with Board members to secure a date and time for the meeting to evaluate the Department of Law's report. The Clerk shall provide notice of the meeting to the public, Director of Law, the complainant, and persons named in the complaint. Notice of the meeting shall be provided to the complainant via email if available and U.S. mail.

C. Procedures at meeting to evaluate Department of Law's report. At the meeting called by the Chair, the Board shall consider the averments contained within the complaint and the report submitted by the Department of Law. Upon conclusion, the Board shall make a determination of whether to set a hearing on the complaint or whether to dismiss the complaint, in whole or in part. No testimony will be taken at the meeting to evaluate the Department of Law's report. No written materials other than the complaint and the Department of Law's report will be considered at the meeting. The Clerk shall record the actions taken by the Board.

4. Procedures pursuant to Metropolitan Code of Laws § 2.196.110.

A. Filing of complaints. Complaints must be filed with the Metropolitan Clerk ("Clerk") using the prescribed form (Complaint Form- Lobbying: 2020-01LC). Such form is available [here](#), or can be obtained from the office of the Clerk, located at 1 Public Square, Suite 205, Nashville, TN 37201 during its regular business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding observed holidays. The complaint form must be filed electronically with the Clerk and signed by the complainant and notarized, and must contain the following: (1) Complainant's legal name, current mailing address, home address, and a valid telephone number and email address; (2) Names and contact information of the individuals who committed the alleged violation, if possible; (3) Summary of the facts giving rise to the complaint; and (4) Explanation of why those facts constitute a violation of Chapter 2.196, and any supporting documentation of the violation.

B. Processing of Complaint. Upon receipt, the Clerk will provide an electronic copy of the complaint to the Director of Law, and Board members, and provide the complainant and the named persons with a copy of the complaint hearing procedures, Board Actions, Penalties and Sanctions, Enforcement Procedures and Appeal Rights, and this Code electronically and by U.S. Postal Service by certified mail.

C. Department of Law's report and process for meeting to evaluate the report. The Department of Law shall provide its report regarding the complaint to the Chair of the Board and shall file the report with the Clerk within fourteen (14) business days from its receipt of the complaint. Within three (3) business days of receiving the Department of Law's report, the Chair of the Board will set a meeting of the Board. The Clerk shall provide notice of the meeting to the public, Director of Law, the complainant, and persons named in the complaint. Notice of the meeting shall be provided to the complainant via email if available and U.S. mail by certified mail.

D. Procedures at meeting to evaluate Department of Law's report. At the meeting called by the Chair, the Board shall evaluate the Department of Law's report, and may accept or reject its recommendation. At this meeting, the Board may decide either to dismiss the complaint, in whole or in

part, or to call for a hearing on the complaint and set a date, and such decision shall require the affirmative vote of at least four members.

E. Board Decision. The Board shall issue its decision in writing, either following the meeting in which it voted to dismiss the complaint or if a hearing is scheduled, after the hearing is held. The written decision of the Board is to be filed with the Clerk, who shall provide a copy to all parties.

II. HEARING PROCEDURES **Metropolitan Code of Laws § 2.222.040 and § 2.196.110.**

1. Purpose.

A. To establish written procedures outlining the method and mode of proof and argument for hearings under Metropolitan Code of Laws § 2.222.040(C)(2) (standards of conduct) and Metropolitan Code of Laws § 2.196.120 (lobbying code). Pre-hearing procedures are contained in the Metropolitan Code of Laws §§ 2.222.040(C) and 2.196.110.

B. The Board encourages, where appropriate, the parties to voluntarily discuss with each other the concerns raised in the complaint in order to avail themselves of any opportunity for informal resolution of the matter. Efforts at resolution, while encouraged, are not required.

C. Hearing procedures set forth herein are intended to supplement procedures contained in the Metropolitan Code of Laws § 2.222.040(C) and Metropolitan Code of Laws § 2.196.120. If there is any conflict between these procedures and those Code sections, the procedures set forth in the ordinance shall control.

2. Procedures.

A. Professionalism. Hearings shall be conducted in a professional manner.

B. Order of Proceedings. Both parties have the right to testify, produce and examine witnesses, cross-examine adverse witnesses, and introduce such other evidence that is relevant and material to the issues determined by the Board. The order of the proceedings shall be as follows:

i. Hearing is called to order.

ii. Any preliminary motions, stipulations, or agreed orders are entertained.

iii. **Opening Statements.** Both parties may, but are not required to, present opening statements to the Board. If the parties so elect, the complainant shall present his or her opening statement, followed by the respondent.

iv. **Presentation of Evidence.**

a. **Complainant's Case in Chief.** The complainant shall present evidence supporting his or her case against the Respondent. For each witness called, the complainant questions, the respondent cross-examines, the complainant redirects, and the respondent re-crosses.

b. **Respondent's Case in Chief.** The respondent may present evidence

supporting his or her case. For each witness called, the respondent questions, the complainant cross-examines, the respondent redirects, and the complainant re-crosses.

c. **Rebuttal.** After the respondent rests, the complainant may present rebuttal evidence in the mode set forth in section iv.a.

v. **Closing Arguments.** After the close of evidence, the parties may present closing arguments. If the parties so elect, the complainant shall present his or her closing argument, followed by the respondent, followed by a rebuttal by the complainant.

C. Burden of Proof. The complainant shall have the burden of proving the alleged violation by a preponderance of the evidence.

D. Board Discretion. The Board has discretion to limit the number of witnesses and time permitted for each party to present evidence and argument.

E. Legal Counsel. The Board may call on its legal counsel for input at any stage of the proceedings. The Board may enter into Executive Session to hear and consider advice from the Board's attorney.

End of Document

Appendix C – Forms

- i. Registration Form
- ii. Amendment to Registration
- iii. Withdrawal Form
- iv. Complaint Form
- v. Reporting Form

**THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
METROPOLITAN CLERK'S FORM – LCREG v.2021**

LOBBYIST REGISTRATION FORM

Section 2.196.040 of the Metropolitan Code requires that every person qualifying as a lobbyist shall register by filing an electronic registration form within five (5) business days after accepting employment as a lobbyist. A separate registration is required for each client a lobbyist represents.

Submit form via email to the Metropolitan Clerk's Office: metro.clerk@nashville.gov, and mail or hand deliver payment of the registration fee within ten (10) business days after submission of registration to:

Metropolitan Clerk, 1 Public Square, Suite 205, Nashville, TN 37201

A. LOBBYIST INFORMATION:

NAME _____ DATE SUBMITTED _____

MAILING ADDRESS _____

BUSINESS ADDRESS _____

HOME ADDRESS _____

TELEPHONE _____ EMAIL ADDRESS _____

B. CLIENT INFORMATION:

NAME OF CLIENT _____

NATURE OF CLIENT'S BUSINESS _____

NAME/TITLE OF CLIENT REPRESENTATIVE _____

MAILING ADDRESS _____

BUSINESS ADDRESS _____

TELEPHONE _____ EMAIL ADDRESS _____

IF CLIENT IS A CORPORATION, ASSOCIATION OR GOVERNMENTAL ENTITY, PROVIDE THE NAME OF THE INDIVIDUALS PERFORMING THE FOLLOWING FUNCTIONS:

CHIEF EXECUTIVE OFFICER _____

CHIEF FINANCIAL OFFICER _____

**THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
METROPOLITAN CLERK'S FORM, LCREG-AMDT. V. 2021**

LOBBYIST AMENDED REGISTRATION FORM

Section 2.196.050 of the Metropolitan Code requires that a lobbyist amend or update their registration statement within five (5) business days following any event or circumstances that renders the registration statement inaccurate or incomplete.

Please fill in any and all applicable fields requiring amendment or updating to ensure the registration statement that you filed as a lobbyist on behalf of this client is accurate and complete. Submit form via email to the Metropolitan Clerk's Office: metro.clerk@nashville.gov.

AMENDMENT OF REGISTRATION STATEMENT

An event or change of circumstances on _____, 20____, has rendered as inaccurate or incomplete the registration statement that I filed on _____, for lobbying services to my client _____.

As a result, I hereby amend or update that registration statement as follows:

A. LOBBYIST INFORMATION:

NAME _____

MAILING ADDRESS _____

BUSINESS ADDRESS _____

HOME ADDRESS _____

TELEPHONE _____ EMAIL ADDRESS _____

B. CLIENT INFORMATION:

NAME OF CLIENT _____

NATURE OF CLIENT'S BUSINESS _____

NAME/TITLE OF CLIENT REPRESENTATIVE _____

MAILING ADDRESS _____

BUSINESS ADDRESS _____

TELEPHONE _____ EMAIL _____

IF CLIENT IS A CORPORATION, ASSOCIATION OR GOVERNMENTAL ENTITY, PROVIDE THE NAME OF THE INDIVIDUALS PERFORMING THE FOLLOWING FUNCTIONS:

CHIEF EXECUTIVE OFFICER _____

CHIEF FINANCIAL OFFICER _____

C. LIST GENERAL CATEGORIES OF SUBJECT MATTER ON WHICH REGISTRANT WILL LOBBY:

D. IF ANY MEMBER OF THE LOBBYIST'S IMMEDIATE FAMILY IS AN OFFICIAL WITHIN THE LEGISLATION OR EXECUTIVE BRANCH, LIST THE NAME, HOME ADDRESS, AND POSITION OF THE FAMILY MEMBER:

E. EXPLAIN THE EXTENT OF ANY DIRECT OR INDIRECT BUSINESS ARRANGEMENTS OR PARTNERSHIPS BETWEEN LOBBYIST AND ANY CANDIDATE FOR PUBLIC OFFICE OR ANY OFFICIAL IN THE LEGISLATIVE OR EXECUTIVE BRANCH:

I AFFIRM THAT THE INFORMATION PROVIDED IN THIS AMENDED LOBBYIST REGISTRATION FORM IS TRUE AND ACCURATE.

Signature of Lobbyist

Date:

[NO FEE FOR THIS FORM]

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
METROPOLITAN CLERK'S FORM- LCREG-W v. 2021

LOBBYIST WITHDRAWAL FORM

Section 2.196.050 of the Metropolitan Code requires that a lobbyist file a written notice of withdrawal within five (5) business days following the termination of a lobbying employment agreement between the lobbyist and a client of the lobbyist.

Submit form via email to the Metropolitan Clerk's Office: metro.clerk@nashville.gov.

LOBBYIST INFORMATION:

NAME _____ DATE WITHDRAWAL SUBMITTED _____

MAILING ADDRESS _____

PHONE _____ FAX _____

EMAIL ADDRESS _____

CLIENT INFORMATION:

NAME _____ NATURE OF BUSINESS _____

NAME/TITLE OF CLIENT REPRESENTATIVE _____

MAILING ADDRESS _____

PHONE _____ FAX _____

EMAIL ADDRESS _____

DATE REPRESENTATION ENDED _____

I AFFIRM THAT THE INFORMATION CONTAINED IN THIS NOTICE OF WITHDRAWAL IS TRUE AND ACCURATE AND THE ABOVE-NAMED CLIENT IS AWARE OF THIS WITHDRAWAL.

Signature of Registered Lobbyist

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
Complaint Form - Lobbying: 2020-01LC

Section 2.196.110 of the Metropolitan Code permits any person to submit a complaint alleging that any person, lobbyist, or client of a lobbyist has violated the provisions of the Metropolitan Lobbyist Registration and Disclosure Chapter of the Metropolitan Code.

Complainant Information

Name _____

Mailing Address _____

Home Address _____

Telephone _____ Email _____

Please list the individual(s) whom you allege violated Chapter 2.196 of the Metropolitan Code of Laws

Name _____

Address _____

Telephone _____ Email _____

Name _____

Address _____

Telephone _____ Email _____

(ATTACH ADDITIONAL PAGES AS NEEDED)

The Code requires that the complainant summarize the facts which give rise to the Complaint, and provide an explanation of why those facts constitute a violation of the Lobbyist Chapter of the Metropolitan Code. Supporting documentation may be submitted, as well.

**THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
METROPOLITAN CLERK’S FORM –LC Rept v.2021**

ANNUAL LOBBYING AND EXPENSE REPORT

Chapter 2.196 of the Metropolitan Code was amended in 2020. The amended language made changes to certain provisions of the Metropolitan Lobbyist Chapter of the Metropolitan Code, including those relating to the annual reporting of lobbying activities by a registered lobbyist.

PLEASE NOTE that as amended, the Metropolitan Lobbying Chapter requires every registered lobbyist to electronically file a sworn report regarding lobbying activities and expenses no later than January 31st for the previous calendar year. A person filing a report later than January 31st must pay a \$50 late filing fee. On March 1, lobbyists who have failed to file the sworn report or pay an applicable late fee will be reported to the Board of Ethical Conduct.

This report incorporates by reference all attached Schedules - A through D. Each client of a lobbyist must submit a sworn Schedule A and B to the lobbyist, which must be attached to the report when filed. Schedules C and D report the lobbyist’s own lobbying activities and expenditures.

File by emailing the report to metro.clerk@nashville.gov. If filing after January 31, please submit the report along with a check in the amount of \$50 paid to Metropolitan Government to:

Metropolitan Clerk, 1 Public Square, Suite 205, Nashville, TN 37201

Please refer to Chapter 2.196 of the Metropolitan Code, including Sections 2.196.020 and 2.196.060, for definitions and guidelines pertaining to this report.

LOBBYIST INFORMATION:

NAME _____

MAILING ADDRESS _____

PHONE _____

EMAIL _____

THE CALENDAR YEAR HEREBY BEING REPORTED IS JANUARY 1 TO DECEMBER 31, 20____.

“YOU” OR “YOUR” ON THIS FORM REFERS TO THE LOBBYIST.

SECTION 1: GIFTS AND EXPENDITURES ON BEHALF OF A CLIENT

SCHEDULE A. Gifts/Expenditures to Candidates for Public Office or Legislative Branch Officials on Behalf of a Client

1. Report on **Schedule A**, an itemized list of each transaction for which you or anyone acting at your specific direction made a gift or expenditure of fifty dollars (\$50.00) or more on behalf of a client to benefit a candidate for public office, or an official in the legislative branch, or a member of the candidate’s or official’s staff or immediate family, or a campaign or testimonial committee established for the benefit of a candidate for public office or such official.
2. Report on **Schedule A**, an itemized list of each transaction for which you or anyone acting at your specific direction provided entertainment, food, refreshments, meals or beverages for Metro Council members on behalf of a client during the calendar year being reported that was not provided to the general public or at a regularly scheduled meeting of an established and recognized association, if the total aggregate cost for the year for any Council Member was more than \$25.00 for the food, refreshments, meals, or beverages provided or more than \$100.00 for the entertainment provided.

SCHEDULE B. Gifts/Expenditures to Executive Branch Officials on Behalf of a Client

3. Report on **Schedule B**, an itemized list of each transaction for which you or anyone acting at your specific direction made a gift or expenditure of twenty-five dollars (\$25.00) or more on behalf of a client to benefit an official in the executive branch, or a member of the official’s staff or immediate family, or a campaign or testimonial committee established for the benefit of such official.

SECTION 2: GIFTS AND EXPENDITURES ON LOBBYIST’S BEHALF

SCHEDULE C: Gifts/Expenditures to Candidates for Public Office or Legislative Branch Officials on Lobbyist’s Behalf

- 4. Report on **Schedule C**, an itemized list of each transaction for which you or anyone acting at your specific direction made a gift or expenditure of fifty dollars (\$50.00) or more on your own behalf to benefit a candidate for public office, or a legislative branch official, or a member of the candidate’s or official’s staff or immediate family, or a campaign or testimonial committee established for the benefit of a candidate for public office or such official.

- 5. Report on **Schedule C**, an itemized list of each transaction for which you or anyone acting at your specific direction provided entertainment, food, refreshments, meals or beverages for Metro Council members on your own behalf during the calendar year being reported that was not provided to the general public or at a regularly scheduled meeting of an established and recognized association, if the total aggregate cost for the year for any Council Member was more than \$25.00 for the food, refreshments, meals, or beverages provided or more than \$100.00 for the entertainment provided.

SCHEDULE D: Gifts/Expenditures to Executive Branch Officials on Lobbyist’s Behalf

- 6. Report on **Schedule D**, an itemized list of each transaction for which you or anyone acting at your specific direction made a gift or expenditure of twenty-five dollars (\$25.00) or more on your own behalf to benefit an official in the executive branch, or a member of the official’s staff or immediate family, or a campaign or testimonial committee established for the benefit of such official.

OATH

I DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION PROVIDED IN THIS LOBBYING AND EXPENSE REPORT IS TRUE AND ACCURATE.

LOBBYIST NAME [PRINTED] _____

LOBBYIST SIGNATURE _____

DATE _____

SCHEDULE A

GIFTS / EXPENDITURES TO CANDIDATES OR LEGISLATIVE BRANCH OFFICIALS ON BEHALF OF CLIENT

Notice to Lobbyist: Use a separate Schedule A for each Client for whom you were registered as a lobbyist during the report year.

LOBBYIST NAME _____

CLIENT NAME _____

| | First name, last name and title of beneficiary | Indicate beneficiary's affiliation/relationship to legislative branch official/candidate | Circumstances of gift or expenditure, including, if applicable, for the provision of entertainment, food, refreshments, meals or beverages to member(s) of Metro Council | Amount | Date gift or expenditure was made |
|----|--|--|--|--------|-----------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

IF THERE ARE NO GIFTS OR EXPENDITURES TO REPORT, LOBBYIST SHALL SO INDICATE BY INITIALING HERE: _____

ATTESTATION BY CLIENT: I DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION PROVIDED IN THIS SCHEDULE IS TRUE AND ACCURATE.

NAME AND TITLE (PRINT)

SIGNATURE

DATE: _____

SCHEDULE B

GIFTS / EXPENDITURES TO EXECUTIVE BRANCH OFFICIALS ON BEHALF OF A CLIENT

Notice to Lobbyist: Use a separate Schedule B for each Client for whom you were registered as a lobbyist during the report year.

LOBBYIST NAME _____

CLIENT NAME _____

| | Full name and official title, including Metro department or agency, of beneficiary | Indicate beneficiary's affiliation/relationship to executive branch official | Amount | Circumstances of gift or expenditure | Date gift or expenditure was made |
|----|--|--|--------|--------------------------------------|-----------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

IF THERE ARE NO GIFTS OR EXPENDITURES TO REPORT, LOBBYIST SHALL SO INDICATE BY INITIALING HERE: _____

ATTESTATION BY CLIENT: I DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION PROVIDED IN THIS SCHEDULE IS TRUE AND ACCURATE.

NAME AND TITLE (PRINT)

SIGNATURE

DATE: _____

SCHEDULE C

GIFTS / EXPENDITURES TO CANDIDATES AND LEGISLATIVE BRANCH OFFICIALS ON LOBBYIST'S OWN BEHALF

| | First name, last name and title of beneficiary | Indicate beneficiary's affiliation/relationship to candidate/legislative branch official | Amount | Circumstances of gift or expenditure, including, if applicable, for the provision of entertainment, food, refreshments, meals or beverages to member(s) of Metro Council | Date gift or expenditure was made |
|----|--|--|--------|--|-----------------------------------|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

Use the same format for additional sheets, if necessary.

IF THERE ARE NO GIFTS OR EXPENDITURES TO REPORT FOR THIS SCHEDULE, LOBBYIST SHALL SO INDICATE BY INITIALING HERE: _____

LOBBYIST NAME: _____

LOBBYIST SIGNATURE: _____

DATE REPORT SUBMITTED: _____

SCHEDULE D

GIFTS / EXPENDITURES TO EXECUTIVE BRANCH OFFICIALS ON LOBBYIST'S OWN BEHALF

| | First name, last name and title of beneficiary | Indicate beneficiary's affiliation/relationship to executive branch official | Amount | Circumstances of gift or expenditure | Date gift or expenditure was made |
|----|---|---|---------------|---|--|
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |

Use the same format for additional sheets, if necessary.

IF THERE ARE NO GIFTS OR EXPENDITURES TO REPORT FOR THIS SCHEDULE, LOBBYIST SHALL SO INDICATE BY INITIALING HERE: _____

LOBBYIST NAME: _____

LOBBYIST SIGNATURE: _____

DATE REPORT SUBMITTED: _____

Appendix D- Key Dates and Timeline

| Event /Action | Deadline/ Date | Fees / Sanctions |
|--|--|---|
| File initial registration form, electronically | Within five (5) business days of employment as lobbyist | Annual Fee of \$100 for each registration (register per client) |
| | | |
| File registration if continuing as lobbyist for same client in subsequent year | By December 31st for the subsequent year | Annual Fee of \$100 for each registration (register per client) |
| | | |
| File amendment or update of registration | Within five (5) business days of occurrence of event or circumstances requiring amendment or update | |
| | | |
| File written notice of withdrawal of registration as lobbying | Within five (5) business days of termination of lobbying agreement | |
| | | |
| File Annual Report Lobbying and Expense | By January 31st for previous calendar year | |
| | | |
| Late filing of Lobbying and Expense Report | After January 31st | \$50 late filing fee of annual Lobbying and Expense Report |
| | | |
| Reminder to file sent by Metro Clerk's Office | By February 5 | |
| | | |
| List of lobbyists failing to file annual report sent to BEC for processing of possible violations | March 1 | Possible citation and court ordered fine of up to \$50 per day per violation, suspension or other sanctions following BEC administrative process |