

ORDINANCE NO. 2021 - 08

A BILL

FOR AN ORDINANCE OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, ADDING ARTICLE IX TO CHAPTER 2 OF THE CITY CODE PERTAINING TO THE REGULATION OF LOBBYISTS.

WHEREAS, lobbying involves private interests seeking access to public servants, seeking to influence public servants, and seeking to obtain special public benefits; and

WHEREAS, because of their public nature, lobbying activities need to be disclosed to the public; and

WHEREAS, the City Council of the City of Aurora, Colorado (the "City"), finds and determines that, to ensure transparency and the integrity of the City's decision-making processes, it is appropriate to establish a regulatory system that allows the public to have timely access to information about attempts to influence the City's decisions; and

WHEREAS, it is the Council's intent that such system will apply the same rules to all persons engaged in lobby activities and will prohibit improper influence on City officials and employees in the decision-making process.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding an article, to be numbered Article IX to Chapter 2 which article reads as follows:

**ARTICLE IX. REGULATION OF LOBBYISTS**

**Sec. 2-951. Legislative intent.**

**It is the intent of the City Council to provide for the submission of pertinent information pertaining to those persons and their representatives who seek to influence the outcome of the City's decision-making processes, such information to serve as a public record in order that the citizens of Aurora may know of municipal lobbying activities.**

**Sec. 2-952. Definitions.**

**The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

- (1) **Communication** means a transmittal of information, data, ideas, opinions, or anything of a similar nature, by oral, written, or any other means to a covered official.
- (2) **Covered official** means:
- a. The Mayor and members of the City Council;
  - b. The City Manager and any Deputy or Assistant City Manager;
  - c. The director of any City Department or agency, and any deputy or assistant director, or division manager;
  - d. The Chief of Police, the Fire Chief, and any deputy or division chief of the Police or Fire Department;
  - e. The City Attorney and any Deputy City Attorney;
  - f. The appointed members of the Board of Adjustment and Appeals, the Building Code and Contractors Appeals and Standards Board, the Planning and Zoning Commission, and the Civil Service Commission;
  - g. The Court Administrator and the Presiding Judge; and
  - h. Any candidate who has been elected to office but not yet sworn in. For purposes of this definition, a candidate is considered elected to office on the date the City Council adopts its resolution declaring the results of the election.
- (3) **Expenditure** means a payment, distribution, loan, advance, deposit, or gift of money or anything of value directly connected to the purpose of lobbying, including any contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.
- (4) **Lobbying** means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing the covered official to favor or oppose, recommend or not recommend, vote for or against, or to take or refrain from taking any official action.
- a. "Lobbying" excludes communications by persons who are not otherwise registered as lobbyists and:
    - i. Who limit their activities to appearances for the purpose of giving testimony or providing information to the City Council or a committee thereof, or a City board or commission at a public hearing or meeting; or
    - ii. Who give testimony or provide information at the request of public officials or employees and who clearly identify themselves and the interest for whom they are testifying or providing information.
- (5) **Lobbyist** means any individual, including an attorney, who is self-employed or is employed or otherwise retained by any other person or organization, no matter the organization's legal or IRS designation:
- a. For the purpose of engaging in lobbying; or

- b. Whose scope of work requires him or her to lobby from time to time.
- c. "Lobbyist" does not include:
  - i. Any elected official, any City official, any person duly appointed to a City board, commission or other such body, or any City employee; provided the elected official, City official, person duly appointed to a City board, commission or other such body, or City employee is acting in his or her official capacity; or
  - ii. An attorney when representing a client or self in a pending or imminent publicly- noticed judicial or quasi-judicial proceeding; provided that the attorney must register as a lobbyist before engaging in an ex-parte communication regarding such a proceeding or its settlement. Whenever engaged in lobbying activities, attorneys must follow all of the rules set forth in this article and may not use the attorney-client privilege as a defense to the registration requirement.

(6) **Official action** means any action in the City of Aurora that involves:

- a. Any legislative matter, including the drafting, introduction or sponsorship of any ordinance, resolution, amendment, motion, or other matter, whether or not in writing, pending or proposed for consideration by the City Council or a committee thereof;
- b. Any development application, including the review, recommendation for or against, approval, denial, administration, or enforcement of any permit, site plan, rezoning, variance, or other action that would change the character or appearance of real property and any improvements thereon;
- c. Any contract to which the City, or any agency or instrumentality thereof, is a party, including the review, recommendation for or against, approval, denial, administration, or enforcement of any such contract, purchase order, lease, concession, franchise, grant, or other obligation; or
- d. The review, issuance, denial, administration, or enforcement of any permit or license for which the City is the issuing authority.

**Sec. 2-953. Annual registration statement required.**

- (1) **Registration required.** Before conducting any lobbying, a lobbyist shall file a registration statement with the City Clerk. In every succeeding year where a lobbyist intends to lobby covered officials, the lobbyist shall file an annual registration statement with the City Clerk by no later than January 15. Notwithstanding this deadline, a lobbyist must file an annual registration pursuant to this section each year prior to conducting any lobbying during that year. The City Clerk will make the filed registrations available to the public online within a reasonable time, not to exceed seven business days from the date of receipt.

- (2) ***Form of statement.*** The City Clerk shall prepare forms for the registration statement and other information required to be filed by this article and furnish such forms and information for use by persons subject to the requirements herein.
- (3) ***Information required.*** Each registration statement shall contain the following information:
  - a. The lobbyist's full name, lobbyist's employer, business mailing and email address, and business telephone number;
  - b. The name, business mailing and email address, and business telephone number of each client;
  - c. Who reimburses, retains or contracts with the lobbyist to lobby on any official action;
  - d. On whose behalf the lobbyist lobbies on any official action; and
  - e. By whom the lobbyist is paid or to be paid for such lobbying.
  - f. The matters of official action on which the lobbyist lobbies; and
  - g. The name of any covered official with whom the lobbyist has any familial relationship or is engaged in any business or employment relationship.
- (4) ***Amendments.*** If at any time, after a registration statement is filed pursuant to this article, any information required by this section changes in any way from that which is stated on the registration statement, the lobbyist shall supplement such information in writing within five days from the date upon which such change occurs.
- (5) ***Certificate of registration.*** Upon the filing of a registration statement in accordance with the requirements of this section, the City Clerk shall issue a certificate of registration to the lobbyist. Such certificate shall be valid for a period of one year from the date of issuance.

**Sec. 2-954. Quarterly financial report.**

- (1) ***Reports required.*** A financial report shall be filed each annual quarter with the City Clerk by each lobbyist. The report shall be filed no later than the fifteenth day of April for the first quarter of the year, fifteenth day of July for the second quarter of the year, fifteenth day of October for the third quarter of the year, and fifteenth day of January for the last quarter of the previous year, and each subsequent quarter in which the lobbyist receives any income or makes any expenditures for lobbying.
- (2) ***Form of report.*** The City Clerk shall prepare forms for the quarterly financial report and other information required to be filed by this article and furnish such forms and information for use by persons subject to the requirements herein.
- (3) ***Information required.*** Each quarterly financial report shall contain the following information:
  - a. The lobbyist's full name, business or occupation, business mailing

address, business telephone number, and name of employer, if applicable;

- b. The name of and total gross income for lobbying received from each client or other for whom the lobbyist lobbied during the previous quarter; and
  - c. A statement of expenditure directly benefitting a covered official. When a lobbyist reports an expenditure for lobbying a covered official, the following information shall be provided:
  - d. An itemized list and the estimated value of any gift, entertainment, or direct expenditure equal to or in excess of \$75.00 to, on behalf of, or benefitting the covered official for lobbying purposes, including, but not limited to: monies, tickets, gratuities, expressed agreements, or any tangible thing of value of any amount;
    - i. The \$75.00 amount set forth in subsection (3)(d) of this section shall be adjusted by an amount based upon the percentage change over a four-year period in the U.S. Bureau of Labor Statistics Consumer Price Index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lower dollar. The first adjustment shall be done in the first quarter of 2024 and then every four years thereafter.
  - e. The name of the client or employer on whose behalf money is expended;
  - f. The name and title of the covered official lobbied; and
  - g. The date lobbied and the official action on which the covered official was lobbied.
- (4) *Attorney as lobbyist.* Notwithstanding any other provision of this article, an attorney who is a lobbyist is required to disclose information about the clients for whom he or she lobbies in accordance with this article to the same extent as a lobbyist who is not an attorney.

**Sec. 2-955.** Termination of lobbyist status.

A lobbyist may terminate his or her registration by filing an amendment pursuant to section 2-953(d).

**Sec. 2-956.** Exceptions.

The provisions of this Article shall not apply to:

- (1) Any newspaper or other regularly published periodical, radio or television station, including any individual who owns, publishes or is employed by any such newspaper, periodical, radio or television station, which, in the ordinary course of business, publishes news items, editorials or other comments or paid advertisements which directly or indirectly urge action upon any official action, if such newspaper, periodical, radio or television station or individual engages in

- no further or other activities in connection with action upon such official action.
- (2) Any individual communicating and/or appearing on his own behalf, or appearing without compensation or consideration on behalf of an ad hoc committee, with respect to any official action, whether in support thereof or in opposition thereto, and pursuant to a procedure mandated by state or federal law, or local ordinance or rule or regulation.
  - (3) Any communication concerning the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement between the City and a recognized employee organization.
  - (4) Any communication concerning management decisions regarding the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements pursuant to (c) above.

**Sec. 2-957. Employment of unregistered person.**

No person shall employ for pay or any other consideration or agree to pay any consideration to an individual to engage in lobbying covered officials, unless such individual is a registered lobbyist or agrees to register in accordance with section 2-953(a).

**Sec. 2-958. Rules and regulations.**

The City Clerk may promulgate rules and regulations, to be approved by resolution by City Council, to define, interpret, implement and enforce the provisions of this article and to prevent the evasion of the requirements of this article. In accordance with section 2-3 of this code, the City Clerk shall promulgate rules and regulations to provide for show-cause hearings as required herein.

**Sec. 2-959. Prohibited practices.**

It shall be unlawful to violate, or fail to comply with, the provisions of this article. No person engaging in lobbying shall:

- (1) Do so without first registering pursuant to Sec. 2-953;
- (2) Make any agreement under which any consideration is to be given, transferred, or paid to any covered official contingent upon the passage or defeat of any legislation or the decision to take or refrain from taking any other official action;
- (3) Attempt to influence any covered official by means of deceit or by threat of violence or economic or political reprisal against or political or personal advantage to any person or property, with intent thereby to alter or affect such covered official's decision, vote, or opinion concerning any official action which is to be considered or performed by him or her or the agency or body of which he or she is a member;
- (4) Knowingly provide false information to any covered official as to any material fact pertaining to any official action which is to be considered or performed by him or her or the agency or body of which he or she is a member;

- (5) Knowingly file any document provided for in this article which contains any materially false statement or material omission;
- (6) Conceal from a covered official the identity of the person or entity for whom the lobbyist is lobbying; or
- (7) Attempt to evade the obligations in this article through indirect efforts or through the use of agents, associates, or employees.

**Sec. 2-960. Lobbyist Violations, Hearings.**

- (1) On his or her own written motion or on the verified complaint of any person, the City Clerk shall investigate or cause the investigation of the activities of any person who is or who has allegedly engaged in lobbying and who may be in violation of any provision of this article.
- (2) The City Clerk shall determine if probable cause exists to take further action upon the complaint. If such a determination is made, the City Clerk shall send notice to the affected party ("respondent"), containing the allegations and grounds for a suspension, revocation, and/or fine, and the right to request a hearing. Such notice must be sent no later than one year from the date on which the violation is alleged to have occurred. The respondent may submit a written request to the Clerk for a hearing on the allegations no later than ten (10) business days from the date of the notice.
- (3) If the respondent does not request a hearing within the timeframe stated in (2) above, the Clerk may issue one or more sanctions stated in section 2-961 below as he or she deems appropriate. If the respondent requests a hearing within the timeframe, the Clerk shall appoint a hearing officer who shall not be an officer, employee, or agent of the City, and shall not have any relationship with the complainant or respondent. The City Clerk shall fix a date for the hearing, which shall be concluded no later than 60 days from the date the Clerk initiated his or her motion or the verified complaint was filed.
- (4) The respondent, Clerk and other interested parties may attend the hearing. Pursuant to the rules and regulations adopted pursuant to section 2-958, the respondent and the City Clerk may present evidence to the hearing officer in the form of testimony, documents, rebuttal testimony, and opening and closing statements. There shall be no cross-examination. The hearing officer shall be entitled to examine any witness and request the submission of additional evidence and arguments.
- (5) Upon completion of the hearing, the hearing officer shall take all evidence available as a result of the investigation, all evidence presented at the hearing, and shall give written notice of the findings and ruling to the respondent and City Clerk, dismissing some or all of the matter or issuing sanctions as stated in section 2-961 below as he or she deems appropriate.

**Sec. 2-961 – Sanctions**

- (1) Each violation of this article, with the exception of late filings addressed by penalties stated in Section 2-963, constitutes a separate and distinct civil offense

to which a separate penalty or fine may apply. The sanctions for a violation of this article can be one or more of the sanctions stated below:

- a. Written warning to the individual or organization committed the violation.
  - b. Revocation or suspension for a maximum period of 12 months, the certificate of registration issued pursuant to section 9-253(5).
  - c. A bar on the individual or organization from registration for a maximum period of 12 months.
  - d. A fine of \$125 per violation, not to exceed \$2,500 per total charge.
- (2) The City Clerk shall notify covered officials within ten (10) working days regarding any action taken pursuant to paragraphs (a) of this section.

**Sec. 2-962. Notice.**

If, in any quarterly financial report filed under section 2-954, it is reported that more than the amount set forth in section 2-954 was spent while lobbying a covered official or that a lobbyist donated to a covered official any meals, tickets to events for which admission is charged, or reduced-price admissions to events for which admission is charged, then the City Clerk shall notify the covered official in writing within 15 days. The City Clerk shall also notify any covered official if a lobbyist reports any business or employment relationship involving that official within 15 days. Following receipt of either notification, the covered official may, within 10 days, file a written statement containing the reasons why his or her name should not be included in the quarterly report. This statement shall be attached to and remain a part of the quarterly report.

**Sec. 2-963. Fees.**

- (1) The City Clerk is authorized to establish fees and late filing penalties in accordance with section 2-587 of this code for:
  - a. Filing of lobbyist registration statements as required by section 2-953(a);
  - b. Amending lobbyist registration statements as required by section 2-953(d); and
  - c. Filing quarterly financial reports as required by section 2-954(a).
- (2) The Clerk shall establish a fee schedule and make said schedule available to the public online.

**Section 2.** The effective date of this ordinance shall be August 1, 2021.

**Section 3.** Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

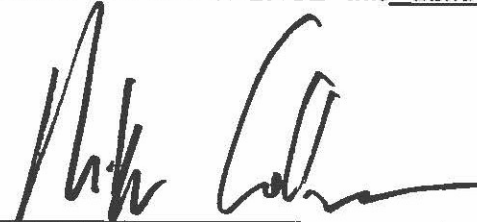
**Section 4.** All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent



of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED THIS 8th day of March, 2021.

PASSED AND ORDERED PUBLISHED BY REFERENCE this 22nd day of March, 2021.

  
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MIKE COFFMAN, Mayor

ATTEST:

  
  
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KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

  
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Rachel Allen, Client Group Manager