

Your Committee, to which this proposal was referred, has amended the proposal by substituting an amended version to read as follows and recommends its adoption as amended:

CITY COUNTY COUNCIL PROPOSAL NO. 142, 2008
CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

INTRODUCED: 03/24/2008

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors Vaughn, Hunter, Plowman, Cardwell, McQuillen, Cain and Coleman

DIGEST: provides for the registration with the city controller of lobbyists and lobbying activity with respect to the City and County

SOURCE:

Initiated by: Office of the Mayor

Drafted by: Chris W. Cotterill, Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____ Date: March 19, 2008

CITY-COUNTY GENERAL ORDINANCE NO. _____, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to provide for the registration of lobbyists and the reporting of lobbying activity with respect to the city and county.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title IV of the "Revised Code of the Consolidated City and County," regarding business and commercial regulations and licenses, hereby is amended by the addition of a NEW Chapter 909 to read as follows:

Chapter 909

LOBBYISTS

Sec. 909-101. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory body means an authority, board, commission, committee, task force, or other body designated by any name of the city or county government that is authorized to make only nonbinding recommendations.

Agency means an authority, board, branch, bureau, commission, committee council, department, division, office, service, or other instrumentality of city or county government that is established by statute, ordinance, executive order, or other law. The term *agency* includes the city-county council, office of the mayor, and the county offices of assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, and treasurer. The term does not include state offices with county jurisdiction, which are the office of county prosecutor and the judges of the circuit court or superior courts.

Agency action means a decision of an agency regarding any of the following:

- (1) The drafting, filing, introduction, consideration, modification, enactment, or defeat of any proposal or other matter by the city-county council or by any committee thereof, or by a member or employee of the council acting in his or her official capacity;
- (2) The expenditure of city or county funds with respect to the award of a contract or lease, or any other financial arrangement under which such funds are distributed or allocated; or
- (3) The proposal, drafting, development, consideration, promulgation, amendment, rejection, or repeal of a rule, regulation, or policy by any agency.

Appointee means a person, other than an official or employee, who is elected or appointed to an agency or advisory body.

Communication means the exchange of any thoughts, messages, or information by contact in person, telephone, letter, telegraph, facsimile, electronic mail, text messaging, or any other form of transmission of information.

Employer means a person that principally employs a lobbyist. The term does not include a person that only retains or contracts with a lobbyist as an independent contractor and does not directly employ that lobbyist.

Employee means an individual, other than an official or appointee, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.

Engage or engagement means any arrangement whereby a person receives financial consideration, in the form of salary, retainer, compensation, or other fee, for or on behalf of any employer or real party in interest to influence an agency action or conduct any lobbying activity.

Financial arrangement means the purchase or acquisition of any property, interest in property, service, or other asset of an agency valued in excess of ten thousand dollars (\$10,000).

Lobbying activity means action or communication made to promote, delay, oppose, or otherwise influence an agency action. The term does not include any of the following:

- (1) The application or negotiation of an award for any state or federal grant;
- (2) The resolution of any outstanding tax matter, including audits, assessments, administrative appeals, claims for refund, or collection activity;
- (3) Communication regarding the award of incentives related to an economic development project;
- (4) Paid advertising communications that are disseminated to the public by radio, television, or a newspaper or periodical of general circulation;
- (5) Any communications, including testimony submitted during public hearing or submitted in writing, at a meeting conducted pursuant to IC 5-14-1.5;
- (6) A response to a request for proposal, a bid, a request for quote, or other solicitation made by an agency in conformance with applicable public works or procurement statutes or rules promulgated thereunder;
- (7) Other public or private testimony or communications solicited by an agency; or
- (8) Action or communication made as a member of an advisory body.

Lobbyist means any individual who is primarily employed and receives payment, or who contracts for financial consideration, exceeding one thousand dollars (\$1,000) in any calendar year, for the purpose of engaging in lobbying activity. The term does not include any of the following:

- (1) An official, appointee, or employee who attempts to influence an agency action that is within the scope of the individual's official duties or employment;
- (2) An attorney or any other individual who represents a client in:
 - a. A public hearing; or
 - b. The investigation of a criminal or civil matter or ordinance violation;
- (3) A person who represents a religious organization for the purpose of protecting the organization's constitutional rights;
- (4) Any newspaper or other periodical of general circulation, book publisher, news wire service, or radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical or radio or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisement that directly or indirectly urge agency action if such newspaper, periodical, book publisher, radio or television station, or individual engages in no additional activities in connection with agency action;
- (5) A person whose communication with an agency is for the sole purpose of gathering information relating to a bid, procurement, permit, or public work that is produced in a public record;
- (6) An individual acting on his or her own behalf; or under Article 1, Section 31 of the Constitution of the State of Indiana who assembles together with other individuals for the common good or petitions an agency for redress of grievances;
- (7) An individual employed as a salesperson to sell goods and services; or
- (8) An individual who is invited by an agency or an official for the purpose of giving advice.

Official means the mayor or an individual who hold the county offices of the assessor, auditor, clerk, coroner, sheriff, surveyor, and treasurer.

Person means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company; or corporation whether or not operated for profit.

Real party in interest means the person on whose behalf the lobbyist is acting, if that person is not the employer.

Sec. 909-102. Registration statement required.

Within fifteen (15) working days after making any contact with an agency regarding an agency action, a lobbyist shall file with the office of finance and management a registration statement that contains the following information on a form provided by that office:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist;
- (2) The name, business address, telephone number, and electronic mail address of the:
 - a. Lobbyist's employer; and
 - b. Any real party in interest on whose behalf the lobbyist is acting, if it is different from the employer;
- (3) A brief description of the subject matter to which the engagement or engagements relate;
- (4) The identity of the agency or agencies to which the engagement or engagements relate; and

- (5) A verified statement that in the course of engaging in any lobbying activity, the lobbyist has read and will comply with Chapter 293 of this Code.

Sec. 909-103. Annual report required; fee.

(a) Not later than January Fifteenth of each year, a lobbyist shall file with the office of finance and management an annual report that contains the following information on a form provided by that office:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist;
- (2) The name, business address, telephone number, and electronic mail address of the lobbyist's principal employer;
- (3) The name, business address, and electronic mail address of each real party in interest represented by the lobbyist that has a continuing engagement described in the lobbyist's registration statement;
- (4) The total amount of payments received for each engagement during the previous calendar year;
- (5) A brief description of the subject matter for the lobbying activities in which the lobbyist was engaged during the previous calendar year;
- (6) The identity of the agency or agencies to which the lobbying activities during the previous calendar year were directed;
- (7) A description and the costs of any item of entertainment, food, drink, honoraria, travel expenses, and registration fees given or provided to an official, appointee, or employee; however, the following items need not be listed:
 - a. Items with a face value of less than twenty-five dollars (\$25); and
 - b. Items that are exempt under subdivisions (2) through (11) of Section 293-201(b);and
- (8) A verified statement certifying that in the course of engaging in any lobbying activity during the previous calendar year, the lobbyist has read and complied with Chapter 293 of the Code.

(b) The fee for filing a registration under this section shall be one hundred dollars (\$100), and shall be deposited in the consolidated county fund.

Sec. 909-104. Duty to report changed information and termination of engagement.

(a) If there is a material change to any information contained in a registration statement or annual report under this chapter, the lobbyist shall file an appropriate written amendment with the office of finance and management within fifteen (15) days after the change occurs.

(b) Each lobbyist shall file a written notice of termination with the office of finance and management within fifteen (15) days after the end of an engagement; however, this does not relieve the lobbyist of the duty to file an annual report.

Sec. 909-105. Review of statements and other documents.

The office of finance and management shall review the accuracy of registration statements and other documents filed under this chapter, and may require the lobbyist to submit verified statements and other supporting documentation. The office of finance and management shall notify a lobbyist of any materially incorrect information or other deficiencies in the registration statements or other documents, and within

thirty (30) days from receipt of such a notice, the lobbyist shall file an amended statement or other document that satisfies all requirements set forth in this chapter.

Sec. 909-106. Availability of statements and other documents.

(a) To facilitate public access to records regarding lobbying activity, the office of finance and management shall compile and maintain an index of all registration statements and other documents filed under this chapter.

(b) The office of finance and management shall preserve registration statements and other documents filed under this chapter for a period of at least four (4) years from the date of receipt.

Sec. 909-107. Enforcement and penalties.

In addition to controller's hearings and any penalties the controller may impose, including but not limited to suspension and revocation of registrations, a lobbyist's first violation of:

- (1) Failure to file a registration statement as required by Section 909-103 of the Code;
- (2) Failure to file an annual report as required by Section 909-104 of the Code;
- (3) Failure to report changed information or termination of engagement as required by Section 909-105 of the Code; or
- (4) Failure to file an amended statement or other document as required by Section 909-106 of the Code;

shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the Code.

SECTION 2. Section 293-102 of the "Revised Code of the Consolidated City and County," regarding definitions of terms in Chapter 293, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 293-102. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory body means an authority, board, commission, committee, task force, or other body designated by any name of the city or county government that is authorized to make only nonbinding recommendations.

Agency means an authority, board, branch, bureau, commission, committee, council other than the city-county council, department, division, office, service, or other instrumentality of city or county government that is established by statute, ordinance, executive order, or other law. The term *agency* includes the office of mayor and the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, and treasurer. The term does not include any advisory body. The term does not include the city-county council or state offices with county jurisdiction, which are the office of county prosecutor and the judges of the circuit court or superior courts; however, all individuals excluded are invited to comply with this ethics code.

Appointee means a person, other than an official or employee, who is appointed to an agency, a municipal corporation, or a governmental entity in the county whose budget is subject to the review of the city-county council.

Assist or assistance means to help, aid, advise, or furnish information to a person, and includes an offer to assist.

Business relationship means:

(1) ~~d~~Dealings with an agency by a person who has:

~~(1)~~a. A financial interest in a contract with, or purchase by, an agency; or

~~(2)~~b. A license or permit requiring the exercise of judgment or discretion by the agency;

or

(2) Lobbying activity by a lobbyist, as those terms are defined in Section 909-101 of the code.

Candidate for elected office means a candidate for the office of mayor and the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, or treasurer.

Compensation means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

Councillor means a member of the city-county council.

Employee means an individual, other than an official or appointee, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis, or via an employment contract.

Entertainment means the free admission or token of admission to a sporting contest, concert, theatrical production, convocation, parade, convention, festival, or other similar show or presentation that is intended for the divertimento of members of the public upon paid admission.

Ethics commission refers to the city-county ethics commission created under Section 293-331.

Fair market value means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which objectively adequate consideration is provided.

Financial interest means an interest which will result in an ascertainable increase or decrease in the income or net worth of the councillor, official, appointee, or employee or a member of that individual's immediate family, but does not include an interest:

(1) Of a councillor, official, appointee, or employee in the common stock of a corporation unless the combined holdings in the corporation of the councillor, official, appointee, or employee, that individual's spouse, and that individual's dependent are more than one percent (1%) of the outstanding shares of the common stock of the corporation; or

(2) That is held as an asset in a blind trust.

Immediate family means an individual's spouse or dependent.

Information of a confidential nature means information obtained by reason of the position or office held, and which:

(1) A public agency is prohibited from disclosing under IC 5-14-3-4(a);

(2) A public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(3) Is not in a public record, but if it were, would be confidential.

Official means the mayor and the individuals who hold the county offices of the assessor, auditor, clerk, coroner, recorder, sheriff, surveyor, and treasurer.

Person means an individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental entity.

Political activity means taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

Property means money, real property, personal property, goods, supplies, services, deeds, trade secrets, contract rights, or other interests in or claims to wealth.

Relative means any person related as grandfather, grandmother, father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, uncle, aunt, husband, wife, son, daughter, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandchild, stepgrandchild, niece, or nephew.

Represent means to attend an agency proceeding, write a letter, or communicate with an official, appointee, or employee of an agency on behalf of a person.

Sanctions means any of the following actions:

- (1) Canceling a contract, or barring a person from entering into a contract with an agency for a certain period of time;
- (2) Making restitution or disgorgement;
- (3) Removal from office, appointment, or employment;
- (4) Barring an individual from future employment or appointment with the city or county for a certain period of time;
- (5) Revocation or suspension of a license, registration, or permit issued by an agency, including but not limited to a lobbyist registration under Chapter 909 of the code, or barring a person from obtaining such a license, registration, or permit for a certain period of time; or
- (6) Disciplinary action.

Travel expenses means the costs of transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be allowed by travel policies and procedures authorized by the city controller.

SECTION 3. Section 103-52 of the "Revised Code of the Consolidated City and County," regarding certain code provisions and civil penalties that may be paid through the ordinance violations bureau, hereby is amended by the addition of the language that is underscored, to read as follows:

Sec. 103-52. Schedule of Code provisions and penalties.

The following Code (or ordinance) provisions and their respective civil penalties are designated for enforcement through the ordinance violations bureau:

Code Section	Subject Matter	Civil Penalty
293-321	Failure to file economic statement of interest - first offense	50.00
321-1	Swimming in unguarded waters - first offense in calendar year	50.00
361-108	Littering on premises of another	45.00
361-201	Vehicle losing its load--First offense in calendar year	50.00
391-302	Unlawful noise--First offense in calendar year	50.00
391-303	Noisy house--First offense in calendar year	50.00

407-103	Loitering--First offense in calendar year	50.00
431-108	Parking prohibited for street repairs and cleaning	20.00
431-314	Premises address violation--Second offense in calendar year	25.00
431-602	Bicycles--Second and subsequent violations regarding children under twelve	50.00
431-603	Unlawful operation of bicycle--First violation	50.00
431-702	Prohibited activity in roadways--First violation in twelve-month period	25.00
431-703	Interference with vehicular traffic--First violation in twelve-month period	25.00
441-108	Pedestrian violations	12.50
441-214	Parking when temporarily prohibited	20.00
441-318	Unlawful use of horn or sounding device	15.00
441-363	Unlawfully parked trailer	20.00
441-407	Display of unauthorized traffic controls	15.00
441-408	Interference with traffic control devices	15.00
441-503	Consumption or possession by operator of motor vehicle--First offense in calendar year	50.00
441-504	Operating motor vehicle containing open alcoholic beverages--First offense in calendar year	50.00
511-702	Open burning	50.00
531-102	Animal at large--First offense in twelve-month period	50.00
611-403	Unlawful loading or unloading of private bus	15.00
611-501	Unlawful stopping of food vendor vehicle	15.00
611-502	Violation of noise restriction on food vendors	15.00
611-504	Failure of food vending vehicle to display required warnings	15.00
611-506	Unlawful vending from other than curbside of vending vehicle	15.00
621-106	Unlawful parking on sidewalk, in crosswalk, or adjacent yard	25.00
621-107	Unlawful parking in certain school areas	20.00
621-108	Unlawful manner of parking	20.00
621-109	No required lights on certain parked vehicles	20.00
621-110	Violation of handicapped parking restrictions	100.00
621-111	Unlawful parking in handicapped parking meter zone	100.00
621-112	Unloading perpendicular to curb without permit	20.00
621-113	Unlawful use of bus stops and taxicab stands	20.00
621-114	Unlawful use of passenger and loading zones	20.00
621-115	Unlawful parking adjacent to certain buildings	20.00
621-116	Unlawful parking for display for sale or advertising	20.00
621-117	Unlawful parking for more than six (6) hours	20.00
621-118	Unlawful parking of commercial vehicles at night	20.00
621-119	Unlawful parking in alleys or on certain narrow streets	20.00
621-120	Unlawful parking in designated special parking areas	20.00
621-121	Parking on certain streets where prohibited at all times	20.00
621-122	Stopping, standing or parking on streets where prohibited at all times	20.00
621-123	Parking on certain streets where prohibited at all times on certain days	20.00
621-124	Parking on certain streets when prohibited at certain times on certain days	20.00

621-125	Stopping, standing or parking during prohibited hours on certain days on certain streets	25.00
621-126	Parking longer than permitted on certain streets at certain times on certain days	20.00
621-203	Parking in excess of time permitted in parking meter zone	20.00
621-210	Parking in meter zone when temporarily prohibited	20.00
621-216	Overtime parking in metered parking space	20.00
621-306	Unlawful parking during snow emergency	25.00
621-404	Leaving taxicab unattended	20.00
621-405	Unlawful parking in certain mailbox zones	20.00
621-430(a)	Unlawful use of loading zone in Regional Center by non-eligible vehicle	25.00
621-430(b)	Unlawful use of loading zone in Regional Center--Non-permitted use	25.00
621-430(c)	Unlawful use of loading zone in Regional Center in excess of posted time limits	25.00
621-430(d)	Unlawful obstructing traffic in the Regional Center	25.00
621-430(e)	Unlawful parking in alleys or on certain narrow streets in the Regional Center	25.00
621-501	Unlawful stopping, standing or parking near fire hydrant	75.00
621-502	Unlawful obstruction of fire lane	75.00
631-102	In park after hours--First offense in calendar year	50.00
631-109	Alcohol in park--First offense in calendar year	50.00
645-528	Skateboard or similar play device--First offense in calendar year	50.00
<u>706-105</u>	<u>Water conservation violation--First offense in twelve-month period</u>	<u>100.00</u>
<u>706-105</u>	<u>Water conservation violation--Second offense in twelve-month period</u>	<u>250.00</u>
730-505	Civil zoning violations--First offense in calendar year	50.00
811-214	Alarm business failure to report monitoring information	100.00
811-311	First false alarm in calendar year after a year in which a warning was issued	25.00
811-311	Second false alarm in same calendar year as warning	25.00
811-311	Second false alarm in all other calendar years	50.00
811-311	Third false alarm in same calendar year as warning	50.00
811-311	Third false alarm in all other calendar years	75.00
811-311	Fourth false alarm in same calendar year as warning	75.00
811-311	Fourth false alarm in all other calendar years	100.00
811-704	Second faulty fire alarm in twelve-month period	25.00
811-704	Third faulty fire alarm in twelve-month period	50.00
811-704	Fourth faulty fire alarm in twelve-month period	75.00
Ch. 895	Horse-drawn carriage violation--First offense in twelve-month period	100.00
Ch. 903	Pedal cab violation--First offense in twelve-month period	100.00
931-305	Excessive parking charge at commercial parking facility--First offense in twelve-month period	100.00
996-77	No monthly taxicab certificate--First offense in twelve-month period	25.00
996-123	Failure to maintain public vehicle for hire--First offense in twelve-month period	25.00
996-124	Taxicab operator dress code violation--First offense in twelve-month period	25.00
996-126	Failure to display licenses or fare schedule--First offense in twelve-month period	25.00
996-138	Taxicab operator exceeding limitation on hours--First offense in twelve-month period	25.00

SECTION 4. The annual report filing requirement of Section 909-103 shall be effective on January 15, 2011.

SECTION 5. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 6. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 7. This ordinance shall be in effect on January 1, 2010, or upon its passage by the Council and compliance with Ind. Code § 36-3-4-14, whichever last occurs.

The foregoing was passed by the City-County Council this ____ day of _____, 2008, at ____ p.m.

ATTEST:

Bob Cockrum
President, City-County Council

Melissa Thompson
Clerk, City-County Council

Presented by me to the Mayor this ____ day of _____, 2008, at 10:00 a.m.

Melissa Thompson
Clerk, City-County Council

Approved and signed by me this ____ day of _____, 2008.

Gregory A. Ballard, Mayor