

WHAT DOES THE LOBBYING ORDINANCE REQUIRE?

The Santa Clara County Ordinance Code Chapter VII of Division A3 (“Lobbying Ordinance”) governs those who lobby County Officials. Lobbyists must register, provide quarterly disclosures, and pay an initial and annual registration fee.

Lobbyists must comply with all state and local laws and policies that govern ethical business practices, regulate the public’s interaction with County officials, and govern campaign finance.

WHO MUST REGISTER AS A LOBBYIST?

A person (including any individual or entity) qualifying as a lobbyist under one or more of three categories below, must register as a lobbyist with the County of Santa Clara.

(a) A “Contract Lobbyist” is a person (either an entity or an individual) who has a client that compensates or will compensate the person in the amount of \$1,000 or more in any consecutive three (3) months to engage in lobbying activity on the client’s behalf.

(b) An “In-House Lobbyist” is an entity, including a sole proprietorship, whose owners, officers, or employees have engaged in lobbying activity on the entity’s behalf and whose total time spent engaging in lobbying activity equals ten (10) hours or more in any consecutive twelve (12) month period.

An employee of an in-house lobbyist is also an in-house lobbyist if he or she engages in lobbying activity on behalf of the business or organization in the scope of his or her employment for ten (10) hours or more in any consecutive twelve (12) month period.

The time an officer or employee spends on *uncompensated* lobbying activity will not be attributed to the ten (10) hour threshold. For example, an employee who receives a salary and whose job duties include lobbying must register. An employee whose lobbying activity is outside the scope of his or her employment need not register.

An owner’s lobbying activity on behalf of his or her business is exempt where the owner (or business) has neither retained a contract lobbyist to lobby on behalf of the business nor has he or she compensated officers or employees of the business (other than the owner) to engage in lobbying activity on behalf of the business. An “owner” is an individual with a greater than fifty (50) percent interest in the business.

(c) An “Expenditure Lobbyist” is any person who pays or incurs a cost in the amount of \$5,000 or more in a calendar year for a public relations campaign, advertising, or similar activity to solicit and urge others to lobby. All payments or expenditures in the calendar year from the person should be aggregated to determine whether the collective amount is \$5,000 or more.

Two categories of expenditures are not counted toward the \$5,000 threshold amount in the definition of “Expenditure Lobbyist:” (1) compensation paid to Contract Lobbyists or In-House Lobbyists for lobbying activity and (2) dues and donations paid to organizations.

WHAT IS LOBBYING ACTIVITY?

Santa Clara County Ordinance Code section A3-62(f) defines “Lobbying Activity” as influencing or attempting to influence a County Official with regard to a legislative or administrative action of the County.

- (a) In order to “influence,” the individual must “contact” a County Official.
- (b) A “contact” is meeting with a County Official (either in-person or by phone) or sending a communication (either personally or through an agent). A communication may be an email, letter, tape, or video.
- (c) The purpose of the contact must be to promote, support, modify, oppose, cause the delay or abandonment of conduct, or otherwise affect an official action.
- (d) The method of influencing may be any means including, but not limited to providing, preparing, processing, or submitting information, incentives, statistics, studies, or analyses.

The time spent on researching or preparing a report to use at the meeting with the County Official is not “lobbying activity.” But the time spent preparing an email or letter (including drafts) used to urge an official action is “lobbying activity.”

Preparing an application is not generally considered “lobbying activity.” For example, submitting plans or reports for a permit as part of the application, meeting with County staff who are not County Officials, or submitting information in response to a request by County staff is not “lobbying activity.” Similarly, interacting with a County Official by testifying or making a statement at a public hearing would not be considered “lobbying activity.” On the other hand, if the individual initiates contact with a County Official outside this context, for the purpose of influencing his or her decision, that contact time, unless otherwise exempt, is “lobbying activity.”

WHO ARE COUNTY OFFICIALS?

For the purpose of the lobbying ordinance, “County Officials” are:

- (a) Members of the Board of Supervisors and their staff (excluding administrative staff);
- (b) Appointees of the Board of Supervisors;

- (C) The District Attorney;
- (d) The Assessor;
- (e) The Sheriff;
- (f) The County Executive, and Assistant and Deputy County Executives;
- (g) County department and agency heads;
- (h) Members of County boards and commissions; and
- (i) Persons who have been elected to a County office but have not yet been sworn in to office.

WHAT IS NOT LOBBYING ACTIVITY?

Under Santa Clara County Ordinance Code section A3-64, the following persons are exempt from the lobbying ordinance when they engage in lobbying activity:

- (a) Members of non-profit organizations or the uncompensated members of the board of directors of a non-profit organization who attempt to influence governmental action on behalf of the organization;
- (b) Compensated officers or employees of Section 501(c)(3) tax-exempt nonprofit organizations who attempt to influence governmental action on behalf of the organization;
- (c) Members of neighborhood associations, Neighborhood Advisory Committees, or Project Area Committees who attempt to influence governmental action on behalf of the organization; and
- (d) Business owners who meet the criteria under Section A3-64(d).

The following activities are exempt from the lobbying ordinance:

- (a) Actions by public officials in their official capacity;
- (b) Publishing or broadcasting of news items, editorials, or commentary that directly or indirectly urges governmental action;
- (c) Performing work on behalf of the County by a person hired by the County;

- (d) Preparing environmental review documents for approval by the County;
- (e) Giving testimony or attending a meeting such as a committee meeting to provide information or assistance pursuant to an invitation from the County;
- (f) Appearing at a public meeting or preparing documents for use at a public meeting or other official proceeding open to the public;
- (g) Participating in a competitive bid process;
- (h) Lodging a whistleblower complaint relating to improper governmental activity;
- (i) Meeting with the Clerk of the Board or County Counsel regarding a claim or litigation matter, negotiation of any agreements where the County is a party, or the requirements of the lobbyist ordinance;
- (j) Communicating solely in regards to collective bargaining agreement or memorandum of agreement between the County and a recognized employee organization;
- (k) Participating in a proceeding before the Personnel Board;
- (l) Communicating solely in relation to the administration of an existing agreement between the person and the County; and
- (m) Performing a duty that can only be performed by an attorney, architect, or engineer licensed in the State of California.

To the extent that time is spent on any of the above activity, that time should not be counted as “lobbying activity.”

HOW DO I REGISTER?

No later than ten (10) days after qualifying as a lobbyist, a person must register with the Clerk of the Board by filing a [Lobbyist Disclosure Report](#) and paying an initial registration fee.

A person that meets the threshold requirements of one or more categories (i.e. Contract Lobbyist, In-House Lobbyist, or Expenditure Lobbyist) is only required to register once.

A Contract Lobbyist has a choice of registering as an entity or individual. For example, Mr. Smith and Ms. Jones are employed by a firm, ACME Inc., to engage in lobbying activity on behalf of various clients. They may register separately as individuals or register as ACME Inc., the entity, and list themselves as persons that engage in lobbying activity on the clients’ behalf. In this case, only one registration fee must be paid. Each individual Contract Lobbyist has a

legal obligation to ensure that his or her registration is accurate and complete, and that all fees are paid.

The in-house lobbyist entity and its employees may submit one registration form and pay one fee. Each individual In-House Lobbyist has a legal obligation to ensure that his or her registration is accurate and complete, and that all fees are paid.

Once registered, lobbyists must file a Lobbyist Disclosure Report each calendar quarter. The reports are due no later than April 15, July 15, October 15, and January 15 for the prior calendar quarter. An annual registration fee must be paid by January 15 of each year.

If a lobbyist no longer intends to engage in lobbying activity, then he or she must file a [Declaration](#) terminating his or her lobbying activity. This declaration must be accompanied by a Lobbyist Disclosure Report per the requirements of the ordinance. After filing such a declaration, the former lobbyist need not file any subsequent reports unless he or she qualifies as a lobbyist in the future.

Lobbyist Disclosure Reports, Termination of Lobbying Activities, and all fees can either be mailed or hand-delivered to the Office of the Clerk of the Board. All fees must be paid in the form of a check or money order. All checks should be made out to the County of Santa Clara. Please mail forms and payments to the following address:

County of Santa Clara
Office of the Clerk of the Board
70 W. Hedding Street, East Wing, 10th Floor
San Jose, CA 95110
Attn: Records Unit

Lobbyists must make a good faith effort to file complete and accurate reports.

Lobbyists must maintain records supporting their Lobbyist Disclosure Reports for 5 years. These records are subject to review as part of random audits, investigation, and/or enforcement action.

ARE THERE ANY FEES AND PENALTIES?

The following fees are set forth by resolution:

Initial and Annual Fee \$180

Lobbyists who register for the first time after June 30 of the year, may pay a fee of \$90.

There is no Client Fee (i.e. a fee paid by the Contract Lobbyist for each Client)

Penalty for Delinquent Annual Fee \$60/day

If the fee is not paid at the time of registration or registration renewal, a late registration fee will be assessed each day until the registration fee is paid in full.

Penalty for Delinquent Quarterly Reports \$10

Penalties for violating the Ordinance may assessed up to \$5,000.

HOW IS THE LOBBYING ORDINANCE ENFORCED?

Enforcement of the lobbying ordinance may be initiated in the following ways:

(a) Any person may file a complaint with the Clerk of the Board alleging a violation of the Lobbying Ordinance; or

(b) The Clerk of the Board may put lobbyists on notice of a potential violation.

Clerk of the Board may investigate potential violations of the lobbying ordinance and assess penalties. The Clerk's decision may be appealed to a County Hearing officer appointed to hear appeals of Lobbying Ordinance violations.

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Questions and requests for information regarding the Lobbyist registration process should be directed to the Office of the Clerk of the Board. You can email your inquiry to recordsunit@cob.sccgov.org or call us at 408-299-5001.