

City of Cincinnati

MSS/B

EESW

An Ordinance No. 299

- 2024

MODIFYING Chapter 112, "Council Lobbying," of the Cincinnati Municipal Code, by **ORDAINING** Sections 112-1-C, "Clerk," 112-1-C2, "Client," and 112-1-R, "Regulated Official"; **AMENDING** Sections 112-1-A, "Actively Advocate," 112-1-C, "Compensation," 112-1-E1, "Engage," 112-1-F, "Financial Transaction," 112-1-L, "Legislation," 112-1-L1, "Legislative Agent," 112-1-P, "Person," 112-1-S, "Staff," 112-3, "Prohibitions," 112-5, "Registration of Legislative Agent and Employer," 112-7, "Statements of Financial Transactions," 112-11, "Exceptions," 112-15, "Lobbying Duties of the Clerk of Council," 112-17, "Powers of Office of Contract Compliance and Investigations," and 112-99, "Penalty"; and **REPEALING** Sections 112-1-E, "Employer," and 112-9, "Complaints; Liability for False Statement," all to streamline, update, and modernize the City's process for registering lobbyists.

WHEREAS, Chapter 112 of the Cincinnati Municipal Code requires that lobbyists who are compensated to lobby elected officials, members of their staffs, or certain City officials register with the Clerk of Council; and

WHEREAS, there is a need to streamline and update the lobbyist registration process, which has not been changed since 1997, to integrate intervening changes in the organization of the City administration, including the dissolution of the Office of Contract Compliance and Investigations and the creation of an Ethics and Good Government Counselor in the Law Department; and

WHEREAS, recent transparency initiatives require expansion of the registration and reporting requirements for lobbyists, requiring registration of those who lobby the City's independent boards, commissions, and advisory bodies; and

WHEREAS, there is also a need to revise the fee charged for lobbyist registration, which has not been updated since 1997, to take into account the increased costs associated with administering the registration process; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Sections 112-1-C, "Clerk," 112-1-C2, "Client," and 112-1-R, "Regulated Official," of Chapter 112, "Council Lobbying," of the Cincinnati Municipal Code are ordained as follows:

Sec. 112-1-C. - Clerk.

"Clerk" means the clerk of council.

Sec. 112-1-C2. - Client.

“Client” means any person who, directly or indirectly, engages a lobbyist to actively advocate.

Sec. 112-1-R - Regulated Official.

“Regulated official” means the mayor, members of council, the city manager, assistant city managers, the director of any department created under the charter or administrative code of the city, and any person appointed by the mayor and council to any of the city’s independent boards, commissions, or advisory bodies.

Section 2. That Sections 112-1-A, “Actively Advocate,” 112-1-C, “Compensation,” 112-1-E1, “Engage,” 112-1-F, “Financial Transaction,” 112-1-L, “Legislation,” 112-1-L1, “Legislative Agent,” 112-1-P, “Person,” 112-1-S, “Staff,” 112-3, “Prohibitions,” 112-5, “Registration of Legislative Agent and Employer,” 112-7, “Statements of Financial Transactions,” 112-11, “Exceptions,” 112-15, “Lobbying Duties of the Clerk of Council,” 112-17, “Powers of Office of Contract Compliance and Investigations,” and 112-99, “Penalty,” of Chapter 112, “Council Lobbying,” of the Cincinnati Municipal Code are amended as follows:

Chapter 112 - Council Lobbying-Lobbyist Registration

Sec. 112-1-A. - Actively Advocate.

“Actively advocate” means to promote, advocate, or oppose the passage, modification, or defeat of any legislation by direct communication with any regulated official or staff member of the council or appointee of the council, the city manager, the director of any department listed in the Charter or Administrative Code of the City, or any member of the staff of any public officer or employee listed in this chapter. “Actively advocate” does not include the action of any person ~~not engaged by an employer~~ who has a direct interest in legislation ~~if the person and who~~, acting under ~~Section section~~ 3 of Article ~~article~~ I, of the ~~Ohio Constitution constitution~~, assembles together with ~~other persons others~~ to consult for their common good, ~~instructs a public officer or employee who is listed in this chapter, or petitions that public officer or employee~~ instruct a regulated official or staff member, or petition a regulated official or staff member for the redress of grievances, unless that person is engaged by a client for that purpose.

Sec. 112-1-C3. - Compensation.

“Compensation” means a salary, gift, payment, benefit, subscription, loan, advance, reimbursement, or deposit of money or anything of value; or a contract, promise, or agreement, whether or not legally enforceable, to ~~make compensation provide a salary, gift,~~

payment, benefit, subscription, loan, advance, reimbursement, or deposit of money or anything of value.

Sec. 112-1-E1. Engage; Engagement.

“Engage” means to make any arrangement, and “engagement” means any such arrangement, whereby an individual is employed or retained where a client employs or retains a lobbyist for compensation to act for or on behalf of an employer to actively advocate.

Sec. 112-1-F. - Financial Transaction.

(a) “Financial transaction” means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership or part ownership in common, of any real or personal property or any commercial or business enterprise, of whatever form or nature, between the following:

(1) A legislative agent, his or her employer, or a member of the immediate family of the legislative agent or his or her employer. A lobbyist or client; and

(2) Any member of the council, appointee of the council, the city manager, the director of a department created under the Charter or Administrative Code of the City, or any member of the staff of a public officer or employee listed in this chapter. Any regulated official or staff member.

(b) For purposes of this section, if the lobbyist or client is an individual, “lobbyist” and “client” mean the individual, the individual’s spouse, and the individual’s dependent children. If the lobbyist or client is an entity, such as a limited liability company, corporation, partnership, trust, or unincorporated association, “lobbyist” and “client” mean the following:

(1) the entity itself;

(2) the owners, members, or partners of such entity and their spouses and dependent children, provided that such owner, member, or partner owns or controls twenty percent or more of the entity; and

(3) the directors and principal officers of such entity and their spouses.

(c) “Financial transaction” does not include any transaction or activity described in this section if it is available to the general public on the same terms, or if it is an offer or sale of securities to any person listed in this chapter that is governed by regulation D, 17 C.F.R. 2301.501 to 2301.508, adopted under the authority of the “Securities Act of 1933,” 48 Stat. 74, 15 U.S.C.A. and following, or that is governed by a comparable provision under state law.

Sec. 112-1-L. - Legislation.

“Legislation” means ordinances, resolutions, amendments, nominations, and any other matter pending before the council.

Sec. 112-1-L1. - Legislative Agent Lobbyist.

~~“Legislative agent Lobbyist” means any individual person, except a member of the council, a member of the staff of the council, or the city manager, who is engaged during at least a portion of his time by a client to actively advocate as one of his or her main purposes.~~

Sec. 112-1-P. - Person.

“Person” means any individual, business, company, partnership, trust, estate, business trust, association, or corporation, or other legally recognized entity; any labor organization or manufacturer association; any department, commission, board, ~~publicly supported college or~~ university, chapter, institution, bureau, or other instrumentality of the state; or any county, township, municipal corporation, school district, or other political ~~subchapter~~ subdivision of the state.

Sec. 112-1-S. - Staff.

~~“Staff” means council assistants those hired by the mayor and members of council to work in their offices and any city employee whose official duties are to formulate policy and who exercises administrative or supervisory authority or who authorizes the expenditure of city funds. “Staff” is limited to employees who are required to file a financial disclosure statement under Article article XXVI of the Administrative Code administrative code.~~

Sec. 112-3. - Prohibitions.

(Aa) ~~No legislative agent or employer lobbyist shall knowingly fail to register an engagement as required under § by section 112-5.~~

(Bb) ~~No person lobbyist shall knowingly file a false statement that fail to provide information as required by § sections 112-5 or 112-7 requires the person to file.~~

(Cc) ~~No person lobbyist shall knowingly file a false statement that provide false information in response to the requirements of § sections 112-5 or 112-7 requires the person to file.~~

(d) ~~No person shall knowingly cause a lobbyist to violate subsections (a), (b), or (c) of this section.~~

Sec. 112-5. - Registration of Legislative Agent and Employer Engagement and Updates.

(Aa) ~~Each legislative agent and employer lobbyist, within ten business days following an a client’s engagement of a legislative agent the lobbyist, shall file register the engagement with the clerk of council an initial registration statement showing all of using the process and forms provided by the clerk and shall provide the following information:~~

(1) The name, business address, phone number, email address, and occupation of the legislative agent-lobbyist;

(2) The name ~~and~~ business address, phone number, email address, and principal business of the ~~employer-client~~ on whose behalf the legislative agent lobbyist is actively advocating. ~~For, except that, for the purposes of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer-client, the statement need not list the names and addresses of each member of the association or organization, so long as the association or organization itself is listed;~~

(3) A ~~brief~~ description of the type of legislation to which the engagement relates; and

(4) Other information as determined by the clerk.

~~(Bb) In addition to the initial registration statement required by division (A) of this section, each legislative agent and employer shall file with the clerk of council not later than the last day of January and July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific ordinances or resolutions on which the agent actively advocated under that engagement during the period covered by the updated statement, and with it any statement detailing the financial transactions required to be filed by § 112-7. Each lobbyist shall update all registered engagements that have not been terminated, including those that have expired, not later than the last business day of January and July of each year, each update covering the period ending the last day of the previous December and June, respectively. Lobbyists shall provide such updates using the process and forms provided by the clerk. Each such update shall do the following:~~

(1) Confirm the continuing existence of each the engagement described in the initial registration;

(2) Confirm the accuracy of the information provided in the initial registration;

(3) Identify the specific legislation regarding which the lobbyist actively advocated under the engagement during the previous six-month reporting period;

(4) Identify any additional types of legislation to which the engagement is anticipated to relate within the next six-month reporting period, if the engagement has not expired or been terminated;

(5) Provide the details of any financial transactions required to be reported by section 112-7; and

(6) Provide other information as determined by the clerk.

~~(Cc) If a legislative agent is engaged by more than one employer, the agent shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one legislative agent, the employer need file only one updated registration statement under division (B) of this section, which shall contain the information required by division (B) of this section regarding all of the legislative agents engaged by the employer.~~

~~(D)~~

~~(1) A change in any information required by division (A)(1), (2), or (B) of this section shall be reflected in the next updated registration statement filed under division (B) of this section.~~

~~(2) Within thirty 28 calendar days after the termination of an engagement, the legislative agent lobbyist who was employed under the engagement shall send written notification of the termination to the clerk of council update the registration to reflect such termination and shall include in such update any information required to be provided in an update under subsection (b) of this section, for the period up to and including the date on which the engagement was terminated.~~

~~(Ed) Except as otherwise provided in this chapter, the clerk shall charge a registration fee for a lobbyist's initial registration of \$25 an engagement. No fee shall be charged for filing an initial updating or terminating a registration. The clerk shall determine and adjust the amount of the fee annually based on the estimated operational cost of administering the lobbyist registration statement. All money collected from this registration fee shall be deposited to the credit of the council lobbying fund created under § 112-15 program, and the fee determined by the clerk shall be effective upon approval by the city manager. The clerk shall post the fee on the city's website. An The clerk shall not charge a fee to an officer or employee of a state agency or city department who actively advocates in his such person's fiduciary capacity as a representative of that state agency or city department need not pay the registration fee prescribed by this chapter. As used in this section, "state agency" does not include a state institution of higher education as defined in ORC § 3345.031 O.R.C. Section 3345.011.~~

~~(Fe) A lobbyist's engagement is registered as required by this chapter when the lobbyist receives notice from the clerk confirming the Upon registration pursuant to division (A) of this section, the legislative agent shall be issued a card by the clerk of council showing that the legislative agent is registered. The registration card and the legislative agent's registration shall be valid from the date of their issuance such registration confirmation is received until the next thirtieth last business day of November of an each odd-numbered year, at which time it shall expire unless earlier terminated pursuant to subsection (c) of this section.~~

~~(Gf) The clerk of council shall be responsible for reviewing review each registration statement filed under and update required by this section and for determining to determine whether the statement registration or update contains all of the information required by this section, except that the clerk shall not be required to review information~~

reported regarding financial transactions or contact or attempt to contact lobbyists regarding the reporting of financial transactions.

(1) If the clerk of council determines that the registration statement or update does not contain all of the required information or, the clerk shall make a reasonable attempt to contact the lobbyist using the contact information provided in the deficient registration or update, to notify the lobbyist of the deficiency.

(2) The clerk shall have no responsibility to inform lobbyists of their duties under this chapter, but if the clerk determines that a legislative agent or employer lobbyist has failed to file register or provide a registration statement an update as required by this chapter, the clerk of council shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure make a reasonable attempt to contact the lobbyist using whatever information is available to notify the lobbyist of the failure to register or update a registration.

(g) Within 21 calendar days of the clerk's attempt to notify a lobbyist of a deficient registration or failure to register or update a registration, such lobbyist shall properly register or update the registration. Any person so notified by the clerk of council shall, not later than 15 days after receiving the notice, file a registration statement or an amended registration statement that does contain all of so that it contains the information required by this section. If any person who receives a notice lobbyist whom the clerk has made a reasonable attempt to contact under this chapter fails to file properly register or update a registration statement or such an amended registration statement within this 15-day period the required time, the clerk of council shall notify the Office of Contract Compliance and Investigations (OCCI) refer such person to the ethics and good government counselor in the department of law, who may shall take appropriate action as authorized or required under § by section 112-17. If the clerk of council notifies OCCI under this chapter refers a person to the ethics and good government counselor, the clerk of council shall also notify in writing the city manager and each member of the council in writing of the pending investigation referral.

(Hh) On or before the 15th day of March of each year, the clerk of council shall, in the manner and form that he or she determines, publish a report containing statistical information on the registration statements filed under this section during the preceding year. The clerk shall provide any information received regarding unreported or improperly reported financial transactions to the ethics and good government counselor, who shall take appropriate action pursuant to section 112-17.

Sec. 112-7. - Statements Reporting of Financial Transactions.

(A) Any legislative agent who has had any financial transaction with or for the benefit of any member of the council or appointee of the council, the city manager, or the director of a department created under the Charter or the Administrative Code of the City, or any member of the staff of any public officer or employee listed in this chapter, shall describe the details of the transaction, including the name of the public officer or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a

~~statement filed with the clerk of council with the updated registration statement required by division (B) of § 112-5. The statement shall be filed at the times specified in § 112-5. Each statement shall describe each financial transaction that occurred during the six-calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.~~

~~(B) Except as provided in division (D) of this section, any employer who has had any financial transaction with or for the benefit of any member of the council or appointee of the council, the city manager, or the director of a department created under the Charter or the Administrative Code of the City, or any member of the staff of any public officer or employee listed in this chapter, shall describe the details of the transaction, including the name of the public officer or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the clerk of council with the updated registration statement required by § 112-5(b). The statement shall be filed at the times specified in § 112-5. Each statement shall describe each financial transaction that occurred during the six-calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.~~

~~(C) An employer or legislative agent who is required to file a statement describing a financial transaction under this section shall deliver a copy of the statement to the public officer or employee with whom or for whose benefit the transaction was made at least ten days before the date on which the statement is filed.~~

~~(D) No employer shall be required to file any statement under this section or to deliver a copy of the statement to a public officer or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by a legislative agent engaged by the employer.~~

(a) Concurrent with each update to a registration required by section 112-5(b) and (c), lobbyists shall report all financial transactions occurring during the period the update covers using the process and forms provided by the clerk. Lobbyists shall provide the following information:

(1) The name of the lobbyist, client, or other person involved in the financial transaction;

(2) The name of the regulated official or staff member for whose benefit the transaction was entered into;

(3) The purpose and nature of the transaction;

(4) The actual or anticipated value of the transaction;

(5) The date the transaction was made or entered into; and

(6) Other information as determined by the clerk.

(b) The clerk shall require lobbyists to certify with each update that they have inquired of their clients and all relevant persons whose financial transactions are potentially reportable regarding an engagement whether any financial transactions have occurred during the reporting period and that the lobbyist has reported all such information, including information the lobbyist reports on the lobbyist's own behalf, truthfully and accurately.

Sec. 112-11. - Exceptions.

(Aa) Sections 112-5 and 112-7 do not apply to ~~efforts to persons who~~ actively advocate ~~by any of the following solely through any of the following:~~

(1) Appearances before meetings of the committees of the council or the full council, ~~and or~~ appearances before public hearings of the committees of the council; or

(2) ~~News, editorial, and advertising statements~~ Statements or articles published in bona fide newspapers, journals, or magazines, or through publicly accessible media, whether print, broadcast over radio or television, or online, and whether directly or through intermediaries;

(3) ~~The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in division (A)(2) of this section;~~

(4) ~~Publications primarily designed for and distributed to members of bona fide associations or charitable or fraternal nonprofit corporations.~~

(Bb) Sections 112-1 to 112-17 do not ~~affect~~ apply to professional services provided in drafting ordinances or resolutions, preparing arguments thereon, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, if the services are not otherwise connected with actions to actively advocate.

(Cc) Nothing in §§ ~~sections~~ 112-1 to 112-17 ~~shall require the reporting of, or prohibit a member of the council from, prohibits any elected official from soliciting or accepting, or requires reporting of,~~ a contribution from or expenditure by any person ~~if the, provided that such~~ contribution or expenditure is ~~reported in accordance with Chapters 115 and 117 of the Municipal Code otherwise subject to disclosure under applicable city law, including the charter.~~

Sec. 112-15. Lobbying Duties of the Clerk of Council Regarding Lobbyists.

(A) ~~The clerk of council shall keep on file the statements establish processes and forms for the collection and maintenance of the registrations and updates required by §§ 112-5 and 112-7 of the Municipal Code this chapter. The clerk may promulgate and revise rules and regulations to achieve the purposes of this chapter, which shall become effective when approved by the city manager and posted on the city's website. Those statements~~ The registrations and updates required by this chapter, including reporting of financial transactions, are public records and open to public inspection, and the clerk of

~~council shall computerize them so that the information contained in them digitize the information submitted so that it is readily accessible to the general public. The clerk shall provide copies of the statements to the general public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering each statement.~~

~~(B) The clerk of council shall prescribe and make available an appropriate form for filing the information required by §§ 112-5 and 112-7 of the Municipal Code. The form shall contain the following notice in boldface type The clerk shall notify every person submitting any information required by this chapter of the following: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE."~~

~~(C) The clerk of council shall publish a handbook that explains in clear and concise language §§ 112-1 to 112-17 and 112-99 of the Municipal Code and make it available free of charge to members of the council, legislative agents, employers, and any other interested persons.~~

~~(D) Not later than the last day of February and October of each year, the clerk of council shall compile from registration statements a complete and updated list of registered legislative agents and their employers and distribute the list to each member of the council and the city manager. The clerk shall provide copies of the list to the general public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering the list.~~

~~(E) The clerk of council may adopt rules as necessary to implement §§ 112-1 to 112-17, and any such rules adopted shall be adopted in accordance with ORC § 111.15.~~

~~(F) The clerk of council shall exercise the powers and duties prescribed under §§ 112-1 to 112-17.~~

~~(G) There is hereby created in the city treasury the Council Lobbying Fund No. 396. All money collected from registration fees prescribed under § 112-5 shall be deposited into the city treasury to the credit of the fund. Money credited to the fund and any interest and earnings from the fund shall be used solely for conducting the lobbying duties of the clerk of council and for the purchase of data storage and computerization facilities for the statements filed with the clerk under §§ 112-5 and 112-7.~~

~~(H) The clerk of council shall issue a written report, not later than the thirty first day of January of each year, to the mayor that lists the number of filings received during the immediately preceding calendar year.~~

Sec. 112-17. - Powers of Office of Contract Compliance and Investigations Action on Referrals for Investigation.

~~The Office of Contract Compliance and Investigations may ethics and good government counselor shall investigate compliance a referral received from the clerk regarding noncompliance with §§ 112-1 to 112-15 and this chapter or with ORC O.R.C. Section~~

~~2921.13 of the Revised Code in connection with statements required to be filed under these sections and, in the event of an apparent violation, The ethics and good government counselor shall report his or her the factual findings of any such investigation to the prosecuting attorney of involved parties, the city manager, and the City or of Hamilton County clerk, who shall institute such proceedings as are appropriate make such reports publicly available. The ethics and good government counselor shall report factual findings regarding criminal conduct to the appropriate authorities.~~

Sec. 112-99. - Penalty.

Whoever violates § section 112-5 (Aa), (Bb), (Cc), or (Dd) is guilty of a misdemeanor of the fourth degree.

Section 3. That existing Sections 112-1-E, "Employer," and 112-9, "Complaints; Liability for False Statement," of Chapter 112, "Council Lobbying," of the Cincinnati Municipal Code are hereby repealed in their entirety.

Section 4. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 3, including the promulgation and adoption of rules and regulations as provided therein.

Section 5. That Sections 1 through 3 shall become effective on January 1, 2025.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: September 14, 2024

Attest: [Signature]
Clerk

[Signature]

VCC Mayor

I HEREBY CERTIFY THAT ORDINANCE NO. 244-2024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 10/1/2024
[Signature]
CLERK OF COUNCIL

New language is underscored. Deleted language is struck through.