



CITY OF

## PORTLAND, OREGON

OFFICE OF PUBLIC UTILITIES

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### REPORT TO COUNCIL

Accept report and recommendations for the Portland Regulation of Lobbying Entities Code.

The Regulation of Lobbying Entities Ordinance was passed by Council on December 21, 2005 and was effective April 1, 2006. The Ordinance directed the Commissioner of Public Utilities, with input from stakeholders and City Auditor, to review the implementation and effectiveness of the established lobbyist registration system and submit a report with proposed changes to council by October 31, 2006.

The Ordinance asked the Commissioner of Public Utilities to review the following components:

- The enforcement mechanism of the registration system;
- The classification of a lobbyist as designated by the enacted system;
- The reporting requirements
- The exemptions specified in the system;
- The hourly threshold per quarter; and
- Any other issues that impact the effectiveness of the system.

### OVERVIEW:

The purpose of this report is to answer the questions posed by Ordinance No.179843 and to provide analysis supporting amendments proposed by a separate ordinance.

When compiling this report, the Commissioner of Public Utilities and office staff met with interested parties, reviewed the enforcement and implementation procedures with the auditors office, reviewed the on-line reports, met with the Office of Neighborhood Involvement (ONI) and solicited input from a number of participants and interested parties. Additionally, a public town hall was held to offer the public an opportunity to offer feedback and suggestions.

The goal of the Lobbying Registration Code is to provide more public transparency to the efforts of lobbying entities to persuade the decision-making of City of Portland and Portland Development Commission public officials. The Portland Lobbying Registration Code is the only one of its kind that focuses on the reporting of actual lobbying versus requiring only the disclosure of meals, purchases or gifts. This ordinance is unique in that it provides comprehensive information about lobbying entities and officials, without being overly burdensome or intrusive.

In its first six months of operation, approximately 50 entities registered, disclosing who sought to persuade City and/or PDC Public Officials on approximately ten general topics.

The Portland Lobbyist Registration Code helped create a clearer separation between an individual advocating their own opinion versus a lobbyist, working on behalf of a client, organization or business. The City public officials' schedules, available on the City's website, provide the opportunity to a cross-check both for the lobbying entity and public official reports.

#### COMPONENTS:

### **I. The enforcement mechanisms of the registration system.**

#### ***A. Enforcement Untested***

The last six months has been considered a transition period when lobbying entities and lobbyists have been learning about the registration system and the requirements. As a result, there has been no enforcement of the ordinance and no penalties have been imposed. The penalties are considered a tool of compliance. The maximum penalty is \$500.00 per occurrence.

CHANGE RECOMMENDED: No changes recommended regarding enforcement.

### **II. The classification of a lobbyist as designated by the enacted system.**

A lobbyist is any individual who is authorized to lobby on behalf of a lobbying entity. Lobbying is defined as attempting to influence the official action of City officials, and the terms defined to capture all the time attributed to the goal of influencing City officials, including preparation time. The classification is sufficient to gather information on the types of lobbying occurring at the City. However, the name of the lobbyist is not required on the reporting form. The public has asked that this information be included in the registration to provide transparency in official decision making.

CHANGE RECOMMENDED: Require inclusion of name of the lobbyist as part of Lobby Entities report starting with the reports for the October 2006 – December 2006 quarter.

### **III. The reporting requirements for the system.**

#### ***A. Requirements***

The code requires that Lobbying Entities that exceed a cumulative total of 16 hours of lobbying during a calendar quarter must register with the Auditor. Registration requirements includes filing a statement containing the following information: name, address, email, website and telephone number of the lobbying entity, a general

description of the subject area about which the entity is lobbying, the name and contact information of the lobbyist employed or authorized to lobby on behalf of the entity, and the subjects of interest to the lobbying entity. We recommend reducing the hourly threshold to eight hours. This change will provide the public even greater transparency around decision making at the City. However, the sentiment of a majority of the Portland City Council is to wait until the end of the first year of the Portland Lobbying Registration Code to consider lowering the threshold.

CHANGE RECOMMENDED: No change to report reporting threshold limit at this time.

### ***B. Meeting Participants***

There is some concern that the requirements do not capture all lobbying entities working with the City because the parties many not attribute all qualified time to the 16 hour threshold triggering registration. Lobbying is defined as “attempting to influence the official action of City Officials. Lobbying includes time spent preparing email and letters and preparing for oral communication with a City Official.” Until recently, the Auditor’s registration program only allowed the number of participants in the meeting to be set at one.

CHANGES COMPLETED: The on-line registration system has been modified to recognize more than one lobbyist may be present at a meeting, capturing a more accurate calculation of hours. And, the Auditor’s website has an example of who is required to register in order to more clearly illustrate the requirement to report preparation time and other communications in addition to face-to-face lobbying.

### ***C. Definition of Gift***

The original ordinance did not include a definition of “gift.”

CHANGE RECOMMENDED: Use Oregon Revised Statute definition of gift.

### ***D. Dollar Threshold***

Expenditures in excess of \$25.00 made to benefit a City Official need to be reported by the Lobbying Entity only after a Lobbying Entity exceeds the 16 hour threshold. Thus lobbying expenditures could be made without the need for the Lobbying Entity to report because the lobbying entity did not exceed the hour threshold. While City Officials are required to disclose gifts received over \$25.00, it is believed that a simple cross check can be instituted by lowering the threshold.

CHANGE RECOMMENDED: This issue should be addressed when the hour threshold is addressed, since that is the trigger for reporting.

### ***E. Amending the Report***

The Portland Lobbying Registration Code seeks accurate reporting. Accurate reporting is a challenge in the complex political and administrative structure of City government and the Portland Development Commission. Currently, there is no process to amend either the city official or lobbying entity reports.

CHANGE RECOMMENDED: Allow amendments by both city officials and lobbying entities during a ten-day grace period in which their reports maybe amended without penalty. The code will require filing on the 15th day after the end of the quarter and then allow for an amended filing ten days after that deadline. This allows both lobbying entities and the city officials to reconcile their reports and submit the most accurate information to the public. The Auditor's office will create a procedure, via the administrative rules, to allow for amendments.

## **VI. The exemptions specified in the system.**

### ***A. Contractors Acting Within the Scope of Work***

The Portland Lobbying Registration Code needs greater clarity that work performed by contractors or grantees pursuant to a city contract or grant are excluded from lobbying registration or reporting requirements.

CHANGE RECOMMENDED: Add language that clarifies that contractors and grantees do not need to register and report as lobbyists in so far as their actions fulfill their City contracts.

### ***B. Neighborhood and Business District Associations***

Neighborhood and Business District Associations are in constant dialogue with the City, and their work is unique in how it is performed and the benefits they bring to the City. The exemption to the registration and reporting requirements only applies when the Neighborhood or Business District Association complies with public record or meeting law; and are a non profit registered as a qualified 501(c)(3); and are formally recognized by the City.

Many Neighborhood Associations follow the state non profit guidelines rather than the federal tax designations of 501(c)(3). This ordinance should be amended to address this fact by stating that the organization be classified as a non-profit organization, as defined by the Oregon Secretary of State Corporate Division.

CHANGE RECOMMENDED: The code should be amended to include non profits that are registered with the Secretary of State and meet the additional criteria laid out in Portland Lobbying Registration Code section 2.12.050. Additionally, to clearly recognize that Neighborhood and Business District Associations are excluded from the

lobbying requirements when they meet the exclusion criteria, the Portland Lobbying Registration Code section 2.12.050 (c)(3) will be amended to read as follows:

*Is formally recognized or ~~acknowledged~~ by the Office of Neighborhood Involvement or City of Portland through Council resolution or ordinance.*

Numerous individuals raised concern about the exemption neighborhood associations receive. Many people recognize the extensive work performed by the neighborhood associations when advocating for the issues that affect the neighborhoods. City government recognizes that the work of the volunteer neighborhood associations is vital for the Council to achieve fair representation and that the level of sophistication varies from association to association. Ordinance No. 179843 directed “The Office of Neighborhood Involvement, with the direction from Council will explore the means to consolidate the meeting minutes and official statement from city recognized neighborhood associations and business district associations in a website that can be accessible to the public.” Assisting the neighborhood associations to get their minutes and agendas on-line will insure the public more access to information regarding their community. The on-line information will also provide more information about the advocacy efforts of the neighborhood associations. This is a benefit for the entire community.

ONI believes that assisting neighborhoods to post their minutes and agendas is not possible without more assistance from Council. While ONI Staff have the desire to train the volunteer neighborhood boards to upload their minutes and agendas on-line, in order to achieve this directive, ONI requires up to .25 FTE. This translates into \$11,000 - \$23,000. These funds are expected only to be necessary for one to two years. ONI has a lot of potential e-government capabilities that could grow out of more on-line resources. Commissioner Sam Adams has advocated to BTS that resources be provided to assist ONI and the coalitions, so that all the neighborhood associations’ agendas are available on-line in 18 months.

CHANGE RECOMMENDED: Provide Neighborhood and Business District Associations the tools and assistance to post meeting notices and minutes on-line.

### ***C. Elected Officials***

Currently, there is no explicit exemption for elected officials.

CHANGE RECOMMENDED: Add an exemption for elected officials acting in their official capacity from Portland Lobbying Registration Code reporting requirements.

## **VIII. Any other issues that impact the effectiveness of the system.**

The intent of the registration code is to provide the public with accurate information about decision making at the City of Portland. Currently, the only requirements on City Officials are the obligation for City Officials post their calendar and report gifts in excess

of \$25.00. The benefit of this information to the public is transparency and openness. In light of the recent disclosures at the state level and in the spirit of obligations to the public, it is recommended that if a City Official has not received any reportable gifts, then they shall file a report with the auditors' office stating that no gifts were received.

**CHANGE RECOMMENDED:** Require all City officials to file a report stating that no gifts in excess of \$25.00 were received.

There was concern by some lobbyists they did not know if the specific committee meetings they attended were reportable lobbying actions. In a recent ordinance, the City Council officially recognized several committees as being creations of the Portland City Council. The Council can always recognize additional committees by ordinance or resolution as necessary.

**CHANGE RECOMMENDED:** Post Portland City Council created or recognized committees on Portland Lobbying website.

While concern was raised that individual salaries of lobbyists are reported as part of the lobbying entities report, the form of the report is a lump sum disclosure of all costs related to lobbying and does not disclose the amount paid specifically as salary.

**CHANGE RECOMMENDED:** None.

Some concerns were raised by participants about the on-line reporting system.

**CHANGES UNDERWAY:** The Auditor's office is working to continuously improve the on-line registration and reporting system.

## **XI. Conclusion**

Ordinance No.179843 calls for an additional review of the Portland Lobbying Registration Code by October 31, 2007. The Commissioner of Public Utilities will coordinate this review of the code.

The City of Portland has joined the states of Oregon, and Wisconsin, as well as King County Washington, and the cities of Chicago, Los Angeles, San Diego, New York and Metro in developing policies that ensure that officials serve the public and inform the public about decision making within the jurisdiction. With this goal in mind, the Commissioner of Public Utilities submits this report and asks the council to accept it.