

LOBBYING

§ 21.40 DEFINITIONS.

For the purposes of §§21.40 to 21.45, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMPLOYER. Any person who, directly or indirectly, engages a lobbyist. This shall include associations, coalitions, or public interest entities. In the case of a business other than a sole proprietorship or self-employed individual, it means the business entity, and not an individual officer, director, or employee thereof.

ENGAGE or ENGAGEMENT. The making of any arrangement by which an individual is employed or retained for compensation to act for or on behalf of an employer.

EXPENDITURE. Any of the following that is made to, at the request of, for the benefit of, or on behalf of any Metro Officer, any candidate for an elected Metro office, or any member of the immediate family or staff of any of those officials:

- (1) A payment, distribution, loan, advance, deposit, transfer, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
- (2) A contract, promise, agreement, or other obligation, whether or not legally enforceable, to make an expenditure; or
- (3) The purchase, sale, or gift of services or any other thing of value.

EXPENDITURE does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

EXPENDITURE does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection.

EXPENDITURE does not include contributions to the campaign of an announced candidate for elective public office as governed by applicable provisions of the Kentucky Revised Statutes.

FINANCIAL TRANSACTION. A transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, 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 lobbyist, his or her employer, or a member of the immediate family of the lobbyist or his or her employer; and
- (2) Any Metro Officer, candidate for elected Metro office, or any member of the staff of any Metro Officer or candidate.

FINANCIAL TRANSACTION does not include any transaction or activity described in this definition if it is available to the general public on the same or similar terms and conditions, or is the result of a competitive bidding process.

IMMEDIATE FAMILY MEMBER. An individual with any of the following relationships to the Metro Officer: spouse, domestic partner, a child who is not emancipated and who resides in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse or domestic partner, as a dependent for tax purposes.

LOBBYING.

(1) Direct communication with any Metro Officer or the staff of a Metro Officer for the purpose of influencing official decisions or official actions regarding:

- (a) The proposal, drafting, development, consideration, promulgation, amendment, rejection, or repeal of a rule, regulation, or policy;
 - (b) The passage, modification, defeat, or executive approval or veto of any legislation; or
 - (c) Financial arrangements under which public funds are distributed or allocated by a Metro Officer or any member of the staff of a Metro Officer; or
 - (d) The spending of public funds with respect to the award of a contract or lease.
- (2) For the purposes of this chapter, **LOBBYING** does not include:

- (a) Initial communication by an individual with a Metro Officer or the staff of that Officer, so long as the individual making contact has not previously been registered under this subchapter as a lobbyist and is not employed by an employer that is required to register under this subchapter. However, any further direct communication between that individual and a Metro Officer or the staff of that Officer which meets subsections (1)(a - d) of this definition and is not excluded under subsections (2)(b - i) of this definition shall constitute lobbying under this subchapter;
- (b) Communications about ordinary and routine operational issues or ordinary and routine permitting, licensing, or compliance decisions with Metro Officers or the staff of those Metro Officers;
- (c) The application or negotiation of an award for any state or federal grant;
- (d) The resolution of any outstanding tax matter, including audits, assessments, administrative appeals, claims for

refund, or collection activity;

(e) Communication regarding the award of incentives related to an economic development project, where no previous public disclosure has been made of the business' interest in locating in, relocating within, or expanding within Metro Louisville;

(f) Paid advertising communications that are disseminated to the general public;

(g) Any communications or testimony, oral or written, submitted during a public hearing or meeting;

(h) A response to a request for proposal, a bid, a request for quote, or other solicitation issued by an agency in conformance with applicable procurement codes or rules promulgated thereunder;

(i) Other public or private testimony or communications solicited by a Metro officer or member of that officer's staff;

(j) Action or communication made as a member of an advisory body of Metro Government authorized to make only nonbinding recommendations;

(k) Communications from a person appearing publicly before a Metro officer for the purpose of determining that person's legal rights or obligations in a contested case action or administrative proceeding; communications from a licensed attorney directly representing that person in that contested case or administrative proceeding; or communications from a consultant providing expertise on technical matters underlying that case or proceeding; or

(l) Communications about community issues which might require appropriations of \$25,000 or less if the potential appropriation benefits two or more persons or entities. Examples of such appropriations include, without limitation, speed humps and streetlights.

LOBBYIST. Any person engaged to conduct lobbying for an employer. This includes individuals employed or engaged by associations, coalitions, or public interest entities to spend a portion of that individual's time influencing the decisions of Metro Officers.

LOBBYIST does not include:

(1) Any person who limits his or her lobbying activities to appearing before public meetings or submitting public comments to an agency;

(2) A private citizen who expresses a personal opinion, petitions an agency for the redress of grievances, or who assembles together with other private individuals, and who receives no compensation for lobbying other than "lost time" from work payments and reimbursement or payment of reasonable travel expenses; or

(3) An elected or appointed officer or employee of a federal, state, or local governmental agency, or of a political subdivision, who attempts to influence a Metro Officer in his or her fiduciary capacity as a representative of his or her agency, public college or university, or political subdivision.

(Lou. Metro Ord. No. 168, approved 11-16-2022)

§ 21.41 REGISTRATION OF LOBBYISTS AND EMPLOYERS.

(A) Beginning 180 days after the effective date of this section, each lobbyist and each employer of a lobbyist shall, within 7 days following engagement of the lobbyist, file with the Louisville/Jefferson County Metro Ethics Commission ("Ethics Commission"), without fee, an initial registration statement listing the information set forth in paragraphs (1) to (4) of this subsection.

(1) (a) Lobbyists shall provide the name, business address and telephone number, and occupation of the lobbyist; and

(b) Employers of lobbyists shall provide:

1. The name, brief description of the purpose of the organization employing the lobbyist, the address and telephone number of the employer, and the real party in interest on whose behalf the lobbyist is lobbying, if it is different from the employer.

2. For the purposes of this section, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement shall not list the names and addresses of each member of the association or organization, if the association or organization itself is listed;

(2) A brief description of the ordinances, resolutions, or executive or legislative actions for which the lobbyist is or will be engaged in lobbying;

(3) The date on which the lobbyist was engaged; and

(4) Certification by the employer or lobbyist that the information contained in the registration statement is complete and accurate.

(B) (1) The initial registration shall be valid through the next thirty-first day of December of an even-numbered year, unless the registration has been terminated before that date.

(2) Before the expiration of an initial registration on the thirty-first day of December in an even-numbered year, each

lobbyist who will continue to lobby beyond that date and each employer continuing to engage a lobbyist beyond that date shall file with the Ethics Commission, without fee, a biennial registration statement containing the information specified in subsection (A) of this section. The biennial registration shall be valid until the thirty-first day of December in the next even-numbered year, unless the registration has been terminated before that date.

(C) (1) In addition to the initial and biennial registration statements required by subsection (A) and (B) of this section, each lobbyist and employer shall also file semi-annual updated lobbying statements with the Ethics Commission, without fee and pursuant to this subsection.

(2) (a) The updated lobbying statement shall confirm the existence of each engagement described in an initial or biennial registration statement and list the specific action, ordinances or resolutions on which the lobbyist lobbied under that engagement during the period covered by the updated statement.

(b) A change in any information required by subsection (A) of this section shall be reflected in the next updated lobbying statement filed.

(c) Any statement of spending required to be filed under §21.42 and any statement of financial transactions required to be filed under § 21.43 shall be filed with the updated lobbying statement.

(3) (a) Updated lobbying statements shall be filed before the first day of July and before the first day of January. A statement due in July shall cover December 16 through June 15. A statement due in January shall cover June 16 through December 15.

(b) The Ethics Commission may grant a reasonable extension of time for filing any updated lobbying statement for good cause shown.

(4) (a) If a lobbyist is engaged by more than one employer, the lobbyist shall file separate initial and biennial registration statements for each engagement, and shall file updated lobbying statements for each engagement.

(b) If an employer engages more than one lobbyist, the employer shall file a single updated lobbying statement regarding all lobbyists engaged by the employer.

(D) (1) Within 30 days after the termination of an engagement, the lobbyist who was employed under the engagement shall file written notice of the termination with the Ethics Commission.

(2) If the termination of a lobbyist leaves an employer without the engagement of any lobbyists, within 30 days after the termination, the employer shall file written notice with the commission of its intent to terminate its current registration.

(E) Upon initial and biennial registrations pursuant to this section, the lobbyist shall be issued a card by the Ethics Commission, showing that the lobbyist is registered. The registration card shall be valid from the date of its issuance through the next thirty-first day of December of an even-numbered year.

(Lou. Metro Ord. No. 168, approved 11-16-2022)

§ 21.42 STATEMENTS OF SPENDING ON LOBBYING.

(A) Beginning 180 days after the effective date of this section, each lobbyist and each employer shall file with the Ethics Commission a statement of spending as provided in subsections (B), (C), and (D) of this section when filing an updated lobbying statement as required by § 21.41(C). A lobbyist shall file a separate statement of spending for each employer engaging him or her.

(B) If an employer or any lobbyist whom the employer engaged made expenditures, either separately or in combination with each other, either directly or indirectly, on behalf of any particular Metro Officer or candidate seeking to become an elected Metro Officer or his or her immediate family or members of his or her staff, for food, beverages, or the costs of admittance or attendance, lodging, or other expenses related to any events, the employer or lobbyist shall state the following:

(1) The name of the Metro Officer, candidate, or member of his or her immediate family or his or her staff on whose behalf the expenditures were made;

(2) The total amount of the expenditures made;

(3) A description of the expenditures made;

(4) The date and specific location of the event for which the expenditures were made; and

(5) For a representative of an organized association, coalition, or public interest entity, the source of the entity or association's funds spent on the expenditures.

(C) In addition to the information required by subsection (B) of this section, a statement filed by a lobbyist shall show:

(1) The total amount of expenditures made by the lobbyist during the reporting period covered by the statement, if the expenditures are not reimbursed by the employer; and

(2) Spending by the lobbyist for informational, educational, or promotional items or activities, and other expenses directly associated with the lobbyist's lobbying activities during the reporting period, if the expenditures were not reimbursed by the employer.

(D) (1) In addition to the information required by subsection (B) of this section, a statement of spending filed by an employer shall list:

(a) The total amount of expenditures made by the employer filing the statement during the period covered by the statement;

(b) A complete and itemized account of all amounts expended for receptions or other events, including the date and specific location of the event and the name of the Metro Officer, candidate, immediate family, or staff invited to the event, when such amounts were not reported under subsection (B);

(c) A complete and itemized account of all other amounts expended for lobbying, including reimbursements paid to any lobbyist;

(d) 1. For those lobbyists who are not employees of the reporting employer, the compensation earned by each lobbyist, prorated to reflect the time the lobbyist was engaged in lobbying during the period covered by the statement; and

(e) The cost of advertising which supports or opposes executive or legislative action, if the cost is paid by an employer or a person or organization affiliated with an employer. As used in this subparagraph, "advertising" means statements disseminated to the public either in print, by radio or television broadcast, or by any other electronic means, including Internet or telephonic communications, and may include direct or bulk mailings of printed materials.

(2) No employer is required to show any spending on a statement filed under this subsection if the spending is reported by a lobbyist engaged by the employer.

(E) (1) Any statement required to be filed under this section shall be filed at the times specified in §1.41(C). Each statement shall cover spending during the period that ended on the fifteenth day of the month immediately preceding the month in which the statement is required to be filed.

(2) If it is impractical or impossible for a lobbyist or employer to determine exact dollar amounts or values reported under this section, reporting of good faith estimates, based upon reasonable accounting procedures, constitutes compliance with this subsection.

(F) All lobbyists and employers shall retain receipts or maintain records for all spending that is required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the thirty-first day of December of the second calendar year after the year in which the spending occurred.

(Lou. Metro Ord. No. 168, approved 11-16-2022)

§ 21.43 STATEMENTS OF FINANCIAL TRANSACTIONS.

(A) Beginning 180 days after the effective date of this section and except as provided in subsection (B) of this section, any lobbyist and any employer who has had any financial transaction with or for the benefit of any Metro Officer, any member of the staff of any Metro Officer, or any candidate seeking to become an elected Metro Officer shall describe the details of the transaction in a statement filed with the Ethics Commission along with the updated lobbying statement required by § 21.41(C), including details regarding: the name of the Metro Officer, staff member, or candidate; the purpose and nature of the transaction; and the date it was made or entered into. The statement shall be filed on or before the first day of July and January of each year. Each statement shall describe each financial transaction that occurred during the filing period that ended on the fifteenth day of the month immediately preceding the month in which the statement is required to be filed. (i.e. the fifteenth of June or the fifteenth of December).

(B) No employer shall be required to file any statement under this section if the financial transaction to which the statement pertains is reported by a lobbyist engaged by the employer.

(Lou. Metro Ord. No. 168, approved 11-16-2022)

§ 21.44 PROHIBITIONS AND STANDARDS OF CONDUCT FOR LOBBYISTS AND EMPLOYERS.

(A) A lobbyist or employer shall register under §21.41.

(B) A lobbyist or employer shall keep all receipts and maintain all records which §21.42 requires the person to keep or maintain.

(C) A lobbyist or employer shall file a statement of spending on lobbying under §21.42.

(D) A lobbyist or employer shall file a statement of financial transactions under §21.43.

(E) (1) Except as provided in (E)(2) of this section, a lobbyist or employer shall not offer, give, or agree to give any thing or service valued at more than \$50 to a Metro Officer, a candidate, the immediate family member of a Metro Officer or candidate, or members of his or her staff, unless such thing or service is available to the general public on the same terms.

(2) For events to which all Metro Council members are invited along with any other Metro Officers, a lobbyist or employer may provide the officers with the cost of attendance or participation at the event, including food and beverage consumed, that is valued at more than \$50 so long as the value does not exceed \$300 per individual officer;

(3) Nothing herein shall be construed to apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office as governed by applicable provisions of the Kentucky Revised Statutes.

(F) For Metro Officers as that term is defined in LMCO §21.01(1) through (2)(j) and excluding Metro Officers as defined in LMCO § 21.01(2)(k) and (l): Those officers shall not accept any engagement, and no employer shall engage those officers, for the purposes of lobbying any Metro Officer or any member of the staff of any Metro Officer until at least one year has elapsed from the date when the lobbyist vacated his or her office.

(G) No employer shall engage any person to lobby in exchange for compensation that is contingent in any way upon any executive action or the passage, modification, or defeat of any legislation. No lobbyist shall accept any engagement to lobby in exchange for compensation that is contingent in any way upon any executive action or the passage, modification, or defeat of any legislation.

(Lou. Metro Ord. No. 168, approved 11-16-2022)

§ 21.45 ETHICS COMMISSION'S DUTIES WITH RESPECT TO LOBBYING.

(A) If a member of the Ethics Commission or any other person believes a required registration or statement under §§ 21.41, 21.42, or 21.43 was intentionally not filed by a lobbyist or employer, intentionally contains false information, or intentionally omits required information, any investigation by the Ethics Commission shall require a written complaint and follow the procedures of § 21.06.

(B) Beginning 150 days after the effective date of this section, the Ethics Commission shall draft and make public its rules and regulations for the administration of §§ 21.40 to 21.45. The Ethics Commission shall include changes to its rules, operations, or procedures regarding §§ 21.40 to 21.45 in the annual report submitted to the Louisville Metro Council as required by § 21.05(D).

(C) (1) The Ethics Commission shall be the official custodian of the registrations and statements required by §§21.41, 21.42, and 21.43. The registrations and statements shall be maintained by the Commission, or the administrative official designated by the Commission as the "custodian" of public documents, and shall be available for public inspection immediately upon filing via open records requests under KRS 61.870 et. seq.

(2) The Ethics Commission shall endeavor to make all registrations and statements available online in order to make those documents available to the public without an open records request, and shall report to Metro Council on progress toward that goal 150 days after the effective date of this section.

(D) The Ethics Commission shall publish a handbook that explains §§21.41 to 21.45 in clear and concise language, and make it available free of charge to Metro Officers, candidates for elected Metro Offices, lobbyists, employers, and any other interested persons.

(E) On or before the fifteenth day of February of each year, the commission shall, in a manner and form it determines, publish a report containing statistical information on the registration statements filed with it under § 21.41 during the preceding year.

(Lou. Metro Ord. No. 168, approved 11-16-2022; Lou. Metro Am. Ord. No. 27-2023, approved 3-24-2023)

§ 21.99 ENFORCEMENT; PENALTY.

(A) (1) Upon a determination by the Ethics Commission of a violation of any of the provisions of §§21.02, 21.03, 21.04, 21.08, or 21.09 by a Metro Officer, or a violation of §21.03 by a candidate seeking to become an elected Metro Officer, or a violation of the provisions of §§ 21.41 to 21.44 by a lobbyist or employer, the Ethics Commission shall impose one or more of the following penalties:

(a) For any unintentional violation which has been voluntarily corrected by the officer prior to any action by the Ethics Commission, a notice of mootness shall be issued by the Ethics Commission;

(b) For any violation which is determined by the Ethics Commission to have been unintentional or the result of a good faith misinterpretation of the requirements of §§ 21.02, 21.03, 21.04, 21.08, 21.09 or §§ 21.41 to 21.44, a letter of technical violation or a letter of reprimand shall be issued by the Ethics Commission as the Ethics Commission deems appropriate;

(c) For any intentional violation which is acknowledged and rectified by the officer, candidate, employer, or lobbyist prior to any action by the Ethics Commission, a letter of public reprimand may be issued by the Ethics Commission;

(d) For any intentional violation, a letter of formal censure may be issued by the Ethics Commission;

(e) For any intentional violation by a Metro Officer, a written recommendation may be made by the Ethics Commission to the Metro Council, the Mayor, or other appointing authority of removal, training, or remediation.

(2) In addition to any of the penalties set forth under subsection (A)(1), an intentional violation of §§21.02, 21.03, 21.04, 21.08, 21.09 or §§ 21.41 to 21.44 shall be subject to a civil fine for which a Metro Officer, candidate, employer, or lobbyist may be fined by the Ethics Commission a sum not less than \$25 nor more than \$500.

(3) In addition to any of the penalties set forth under subsections (A)(1) and (A)(2), an intentional violation of §§21.02, 21.03, 21.04, 21.08, or 21.09 may:

(a) In the case of a non-elected Metro Officer, be grounds for other sanctions or actions by his or her appointing authority; or

(b) In the case of an elected Metro Officer, be grounds for removal under KRS 67C.143; or

(c) In the case of a Metro Council member, be grounds for other sanctions or actions by the Metro Council under its rules, or otherwise.

(B) Upon a determination by the Ethics Commission of a violation of any of the provision of §21.07 by a Metro Officer or a supervisor, the Ethics Commission shall do one of the following:

(1) If a violation has been voluntarily corrected by the Metro Officer or supervisor, a notice of mootness shall be issued by the Ethics Commission;

(2) If a violation has not been voluntarily corrected, the Ethics Commission shall issue a written recommendation to the Metro Council, the Mayor, or other appointing authority of removal, training, or other appropriate remediation with respect to the supervisor who is the subject of the complaint and/or hearing.

(C) (1) Any housing authority officer or employee who violates any provision of §§21.30 through 21.33 shall be subject to disciplinary action in accordance with procedures established by the Ethics Commission. Any such disciplinary action by the Ethics Commission shall not foreclose any action that the public housing authority may take with respect to the officer or employee's employment status.

(2) After written notice of a failure to timely file a statement of financial disclosure, any housing authority officer who fails to file within ten business days of such notice may be fined by the Ethics Commission a sum not less than \$25 nor more than \$500.

(Lou. Metro Ord. No. 71-2003, approved 4-16-2003; Lou. Metro Ord. No. 72-2003, approved 4-16-2003; Lou. Metro Am. Ord. No. 52-2010, approved 3-25-2010; Lou. Metro Am. Ord. No. 88-2012, approved 5-11-2012; Lou. Metro Am. Ord. No. 213-2014, approved 1-2-2015; Lou. Metro Am. Ord. No. 7-2020, approved 2-21-2020, eff. 5-21-2020; Am. Ord. No. 168-2022, approved 11-16-2022)