ORDINANCE 122645

AN ORDINANCE concerning the regulation of lobbying; establishing certain duties, registration and reporting requirements, restrictions and penalties; setting forth powers and duties of the Ethics and Elections Commission and the Executive Director thereof; setting forth procedures relating to complaints and investigations concerning alleged violations; adding a new Chapter 2.06; amending certain sections of Chapter 2.04; and amending Section 3.70.100 of the Seattle Municipal Code.

WHEREAS, the Seattle City Council encourages and supports the constitutional right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues, and hereby reaffirms its willingness and obligation to hear the requests and opinions of all people, and to preserve and maintain the integrity and accessibility of the legislative processes; and

WHEREAS, the intent of the Seattle City Council in enacting this legislation is to encourage an open government process and citizen participation in that process; and

WHEREAS, it is not the intent of the Seattle City Council in enacting this legislation to subject the collective bargaining process to lobbyist registration and reporting requirements; and

WHEREAS, the Seattle City Council believes that the integrity of the legislative process is strengthened when the public has broad access to information concerning lobbyists, and concerning money that is expended to affect the course of legislation; and

WHEREAS, it is the intent of the Seattle City Council to provide the Ethics and Elections Commission with 120 to 180 days in order to adopt rules that address lobbyist registration and reporting requirements before the effective date of this legislation.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 2.06 is added to Title 2 of the Seattle Municipal Code as follows, to be entitled "Lobbying Regulations."

2.06.005 Statement of Policy.

It is the policy of the City of Seattle to encourage the full participation and expression of interest of all of the people of the City of Seattle in the legislative process. The provisions of this

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chapter shall be construed to promote full disclosure of lobbying in order to protect the openness and integrity of the legislative process while preserving an individual's right to organize and petition the government.

2.06.010 Definitions.

For the purposes of this Chapter, the following terms apply:

A. "City" means the City of Seattle.

B. "City officer or employee or agent" means every person elected or appointed to any City office or position of employment, including volunteers performing work for the City, when acting within the scope of their City duties, and contract workers and consultants when acting within the scope of their contract with the City. The term also includes persons appointed to City boards, commissions and committees when acting within the scope of their City duties, regardless of whether those persons are paid by the City.

C. "Commission" means the Seattle Ethics and Elections Commission.

D. "Compensation" includes anything of economic value that is provided or promised to a lobbyist or lobbying entity in return for lobbying. The term includes compensation for preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in connection with lobbying.

E. "Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission or his or her designee.

F. "Expenditure" means anything of economic value that is provided, given, loaned or promised in furtherance of lobbying. The term includes expenditures for preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in connection with lobbying. The term also includes agreements to provide things of economic value even when those agreements are unenforceable. Expenditures other than money or its equivalent shall be valued according to their fair market value.

G. "Gift" means anything of value transferred or promised by one person to another without consideration.

H. "Legislation" means any council bill, ordinance, resolution, ballot measure or charter amendment. The term also includes making, confirming, or rejecting appointments to City

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positions. The term does not include quasi-judicial matters subject to the appearance of fairness doctrine.

I. "Legislative Department Staff" means any City officer or employee or agent of the Legislative Department.

J. "Lobby" and "lobbying" each mean communications with city council members, legislative department staff, the mayor or the mayor's staff in an attempt to influence any of those individuals to develop, propose, draft, consider or reconsider, promote, adopt, enact, reject, take favorable action upon, approve, disapprove, veto, or fail to take action upon legislation.

"Lobby" and "lobbying" do not include the following:

1. Communications or other actions by any City officer or employee or agent acting within the scope of his or her employment authority or contract with the City;

2. Communications or other actions related to existing or proposed collective bargaining agreement(s) with the City or other legislation which could affect specific existing or proposed collective bargaining agreements with the City;

3. Communications or other actions by members of the news media related to news and feature reporting, commentary, and editorial opinion in a regularly-published periodical, on television or radio, or on a regularly-maintained Internet website or other means of electronic communication devoted to the dissemination of news or opinion and not created solely to influence a specific piece of legislation.

K. "Lobbying entity" means a law firm, consulting firm, public relations firm, or other similar organization that engages in lobbying through its employees or agents.

L. "Lobbyist" means any individual who lobbies for compensation, except persons who are reimbursed for minor incidental personal expenses.

M. "Lobbyist's employer" means any person who employs or compensates a lobbyist or lobbying entity for lobbying to promote that person's interests.

N. "Mayor's Staff" means any City officer or employee or agent working in the Mayor's office.

O. "Minor incidental personal expenses" means expenses actually incurred for lodging, mileage, parking, meals, copying, telephone, and facsimiles, which expenses are directly related to lobbying.

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P. "Month" is a calendar month.

Q. "Organizational member" includes a person as defined in this chapter, but excludes individuals.

R. "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

S. "Quarter" is a calendar quarter, i.e., January through March, April through June, July through September, and October through December.

T. "Year" means calendar year.

2.06.020 Registration of Lobbyists.

A. Before lobbying, or within 30 days after being employed as a lobbyist, whichever comes first, a lobbyist shall register by filing with the Executive Director a lobbyist registration statement, in such detail as the Commission shall by rule prescribe, showing:

1. His or her name, permanent business address, business telephone number and business e-mail address, and, if the permanent business address is not in the City of Seattle, any temporary address in the City of Seattle;

2. The following information for each of the lobbyist's employers:

(a) the name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

(b) the duration of the lobbyist's employment;

(c) the lobbyist's compensation for lobbying, and any compensation for lobbying provided to a lobbying entity for the lobbyist's services, how much he or she is to be paid for expenses and what expenses are to be reimbursed;

(d) whether the person from whom the lobbyist receives that compensation employs him or her solely as a lobbyist or whether he or she is a regular employee performing services for his or her employer that include, but are not limited to, lobbying;

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(e) the general subject or subjects of his or her lobbying and if known the legislation on which he or she is lobbying, including council bill, ordinance, resolution or initiative number, if established;

(f) if the lobbyist receives compensation from a lobbying entity, then the name of such entity; and

(g) if the lobbyist's employer is an entity (including, but not limited to, a business or trade association) not exempted under Section 2.06.070, whose members include businesses, groups, associations, or organizations or which as a representative entity undertakes lobbying activities for businesses, groups, associations, or organizations:

(i) the name and business address of each business or trade association, or other organizational member of such entity; and

(ii) the name of each person represented by such entity, whose payments or other consideration paid to such entity for lobbying during either of the prior two years have exceeded five hundred dollars or who has paid or is obligated to or has agreed to make payments or other consideration exceeding five hundred dollars to such entity for lobbying during the current year. Provided, that membership fees, dues or other consideration paid to such an entity, but not provided for the specific purpose of lobbying, shall not be regarded as consideration for lobbying under this subsection.

3. A written authorization from each of the lobbyist's employers confirming such employment;

4. The name, business address, business telephone number and business e-mail address of the person who will have custody of the accounts, bills, receipts, books, papers and documents required to be kept by Section 2.06.090; and

B. Whenever a change, termination or modification of the lobbyist's employment with a lobbyist's employer occurs, or whenever there is a change in any of the information required to be supplied by Subsection A of this section, the lobbyist shall furnish full information regarding the same within thirty calendar days of such termination or modification by filing with the Executive Director an amended registration statement.

C. Persons employed as lobbyists on the effective date of this chapter shall register within 30 days of that effective date.

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2.06.030 Reporting by Lobbyists.

A. Each lobbyist not exempted under SMC 2.06.060 shall file periodic reports of his or her lobbying activities. Such reports must be signed or certified by the lobbyist. The reports shall be made in the form and manner as prescribed by rule adopted by the Commission. The reports shall be filed within fifteen calendar days after the last day of the calendar quarter. The January report shall cover the preceding year; the April, July and October reports shall each cover the preceding calendar quarter.

B. The report shall contain the following information for each of the lobbyist's employers:

1. The name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

2. The totals of all expenditures for lobbying activities made or incurred by such lobbyist and the totals of all expenditures for lobbying activities made or incurred on behalf of such lobbyist by such lobbyist's employer, lobbying entity, or any other person with the lobbyist's knowledge. Such total expenditures for lobbying activities shall be segregated by category, and include the following: food and refreshments, living accommodations, travel, entertainment and other expenses or services, including but not limited to minor incidental expenses. Notwithstanding the foregoing, lobbyists are not required to report any unreimbursed expenses incurred for telephone and any office expenses including rent and salaries and wages paid for staff and secretarial assistance.

3. The total compensation paid to the lobbyist for lobbying purposes and any compensation for lobbying purposes provided to a lobbying entity for the lobbyist's services during the reporting period by each of the lobbyist's employer(s);

4. The legislation that the lobbyist has been supporting or opposing during the reporting period, including council bill, ordinance, resolution or initiative number, if established;

5. Other information relevant to lobbying activities as shall be prescribed by rule consistent with this Section;

6. Information regarding any termination, change or modification of the lobbyist's employment; and

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2.06.040 Reports by Employers of Registered Lobbyists.

A. Every employer of a lobbyist not exempted under Section 2.06.070 shall report on such employment either by:

1. Verifying, by signing or certifying along with the lobbyist, the January report required to be filed by Section 2.06.030; or

2. Filing with the Commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

a. the total expenditures made by the employer for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise;

b. the legislation the employer has been employing a lobbyist or lobbying entity, or compensating a lobbyist or lobbying entity to support or oppose, including council bill, ordinance, resolution or initiative number, if established;

c. the name, business address, business telephone number and business e-mail address of each lobbyist or lobbying entity employed by the reporting person and the total expenditures made by the employer for each such lobbyist or lobbying entity for lobbying purposes; and

d. such other information as may be prescribed by rule consistent with this Section.

2.06.060 Registration and Reporting – Exemptions

A. The following persons are exempt from registration and reporting under this Chapter:

1. Lobbyists who limit their lobbying to appearing before public sessions of the city council or its committees.

2. Lobbyists who restrict their lobbying activities to no more than four days or parts thereof during any calendar quarter. Appearances before public sessions of the city council and its committees are not counted as lobbying activities.

3. Lobbyists' employers, to the extent that the activities of the lobbyists they employ are exempt from registration and reporting under this section.

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4. Elected officials, officers and employees of any local, state or federal government agency acting within the scope of their representation of or employment with such agency; provided, however, that this subsection A(4) shall not apply to persons specifically employed or retained by a government agency to lobby.

2.06.070 Registration and Reporting – Request for Exemption

A. An exemption from the registration requirement of Section 2.06.020A(2)(g) shall be granted by the Commission to a lobbyist's employer if such lobbyist's employer has applied in writing to the Commission for such exemption and has demonstrated by a reasonable probability that the compelled disclosure of identifying information under Section 2.06.020A(2)(g) will subject those persons to threats, harassment, or reprisals from either government officials or private parties.

B. The decision to grant or deny an exemption from disclosure, with the reason or reasons therefore, shall be set out in writing with a copy kept on file with the Executive Director.

2.06.080 Voluntary Registration and Reporting

Any person exempted under this chapter from registering and reporting may at his or her option voluntarily register and report under this Chapter.

2.06.090 Duty to Obtain and Preserve Records; Inspection and Audit of Records

A. Persons required to register or report under this Chapter shall obtain and preserve all records necessary to substantiate all registration statements and reports that this Chapter requires. Records required to be preserved under this Chapter include but are not limited to receipts, bills, invoices, checks and records of electronic financial transactions. All such records shall be preserved for at least five years after the registration statement or report to which they pertain has been filed.

B. All records required to be maintained under this section are subject to inspection, copying and audit by the Executive Director, with reasonable prior notice, during regular City business hours.

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2.06.100 Employment of Unregistered Persons.

It is a violation of this chapter for any person to employ a lobbyist who is required to register, but is not registered under this chapter.

2.06.110 Other Restrictions.

In addition to other requirements imposed by this Chapter, a person required to register under this chapter shall not:

A. Engage in any lobbying before registering as a lobbyist under this chapter;

B. File any statement or report with the Commission that is incomplete in any material respect or contains a statement that is false or misleading with respect to any material fact;

C. Fail to comply with any of the reporting requirements of this chapter.

2.06.120 Complaints and Investigations

Enforcement under this Chapter, including complaints, hearings and investigations, shall be governed by the provisions of SMC 2.04.060 through SMC 2.04.090. The prohibitions and penalties set forth in this Chapter are not exclusive, and are not intended to limit or preclude other prohibitions that may be applicable or remedies that may be available under the law.

2.06.130 Civil Remedies and Sanctions

Upon determining pursuant to SMC 2.04.060 through SMC 2.04.090 that a violation of this chapter has occurred, the Commission may issue an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, may impose sanctions up to Five Thousand Dollars ($5,000) per violation. Any person who fails to file a properly completed registration or report within the time required by this chapter may also be subject to a civil penalty of Ten Dollars ($10) per day for each day each such delinquency continues.

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2.06.140 Enforcement

The Executive Director shall have the authority to enforce this chapter as provided in SMC Section 2.04.510.

2.06.150 Limitation on Actions

Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred, or the date when the violation reasonably should have been discovered.

Section 2. Section 2.04.060 of the Seattle Municipal code is amended as follows:

SMC 2.04.060 Executive Director -- Duties.

The Executive Director of the Seattle Ethics and Elections Commission shall be responsible for the management of said office, may in the exercise of such duties consult with the Seattle Ethics and Elections Commission and in that connection is authorized to:

* * *

B. Require that forms developed and prepared by the PDC be utilized for the reports and statements required to be made under ((~~this c~~))Chapter 2.04 and Chapter 2.06; provided, that whenever the Executive Director determines that any such form is not reasonably appropriate for the purposes of ((~~this c~~))Chapter 2.04 or Chapter 2.06, he or she may develop and provide suitable forms as are reasonably necessary, and require such forms to be utilized for such purposes;

C. Encourage persons required to make reports under ((~~this c~~))Chapter 2.04 and Chapter 2.06 to use the PDC-published manuals that set((~~s~~)) forth recommended uniform methods of bookkeeping and reporting;

* * *

E. Investigate whether properly completed statements and reports have been filed within the times required by ((~~this c~~))Chapter 2.04 and Chapter 2.06;

F. Review all ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 for completeness and internal consistency;

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G. Independently verify entries on ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 and other forms selected on an arithmetically random basis;

* * *

I. Determine upon written complaint or upon his or her own initiative, in accordance with Section 2.04.070, that a violation of ((~~this~~))Chapter 2.04 or Chapter 2.06 has occurred, and report such apparent violation to ((~~either~~))the Seattle Ethics and Elections Commission or report such apparent violation of Chapter 2.04 to the PDC; provided that the Executive Director shall have the authority to resolve with the person who has apparently violated ((~~this~~))Chapter 2.04 or Chapter 2.06, what the Executive Director determines to be inadvertent, de minimus violations without referring the matter to the Seattle Ethics and Elections Commission for a hearing, or referring an apparent violation of Chapter 2.04 to the PDC for a hearing; provided further that the Executive Director shall report violations of Chapter 2.04 to the PDC only in the event the Seattle Ethics and Elections Commission is unable to hear the matter;

* * *

P. Prepare, publish and update, as appropriate, documents written in plain language explaining the provisions of Chapter 2.06 and, further, develop and implement other methods to educate the public, including, but not limited to, employers and lobbyists concerning the requirements of Chapter 2.06;

Q. Annually publish and disseminate a directory of registered lobbyists that sets forth the name, employer(s), if applicable, and telephone number of each registered lobbyist;

R. Prepare and publish an annual report to the Seattle City Council as to the effectiveness of Chapter 2.06 and its enforcement;

S. Review at least every five years the reporting thresholds and penalties of Chapter 2.06. Promptly upon completion of each review, the Executive Director shall recommend to the Seattle City Council necessary changes, if any, to the reporting thresholds and penalties of Chapter 2.06;

T. Prepare and publish such reports as in the Executive Director's judgment will address the purposes of Chapter 2.06 including reports and statistics concerning lobbying and enforcement of Chapter 2.06.

Section 3. Section 2.04.070 of the Seattle Municipal code is amended as follows:

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SMC 2.04.070 Complaint procedure.

A. Any registered voter of the City may file with the Executive Director a complaint, in writing, under oath alleging a violation of ((~~this c~~))Chapter 2.04. Under oath means that the complaint includes a statement substantially as follows: "I declare under penalty of perjury of the laws of the State of Washington that the information in this complaint is true and correct," or that the complaint is subscribed and sworn to before a notary public or other official authorized to administer oaths.

B. Any person may file with the Executive Director a complaint, in writing, under oath alleging a violation of Chapter 2.06.

((~~B~~))C. Upon receipt of ((~~such~~))a complaint alleging a violation of Chapter 2.04 or Chapter 2.06, the Executive Director shall conduct an investigation. The Executive Director shall commence an investigation:

1. Within ten (10) days after receipt of the complaint if the complaint relates to ((~~conduct~~))an alleged violation of Chapter 2.04 during the pending election and is received before the date of the final election for the office or the proposition; and

2. Within thirty (30) days in other instances.

((~~C~~))D. The Executive Director shall dismiss the complaint alleging a violation of Chapter 2.04 or Chapter 2.06 (1) if he or she determines that all of the alleged facts, if true, do not constitute a violation; or (2) if he or she determines after an investigation that (a) there is no reasonable ground to believe that a violation has occurred; or (b) the violation was inadvertent and minor.

Such a dismissal shall be in writing, setting forth the facts found, and the provisions of law upon which the dismissal is based, and the Director's reasoning. The Executive Director shall provide a copy of the dismissal to the complainant, to the person named in the complaint as the alleged violator, and to the Commission.

Section 4. Section 2.04.075 of the Seattle Municipal code is amended as follows:

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SMC 2.04.075 Procedure -- Charges and hearing.

A. The Executive Director shall initiate an enforcement proceeding if, after investigation, he or she has reason to believe that a material violation of Chapter 2.04 or Chapter 2.06 has occurred. An enforcement action is initiated by delivering a charging document to the person charged and the Seattle Ethics and Elections Commission ("Commission") and scheduling a hearing on the charges. The document shall describe the alleged conduct that is the basis of the charge and set out the provisions of Chapter 2.04 or Chapter 2.06 alleged to have been violated. No hearing shall be scheduled while a recommendation of the Executive Director for a settlement is awaiting action by the Commission.

B. The hearing before the Commission shall commence as promptly as practical and no later than the following:

1. If the Executive Director issues the charging document alleging a violation of Chapter 2.04, between sixty (60) days immediately preceding and forty-eight (48) hours immediately preceding seven (7:00) a.m. on the date of the election to which the alleged conduct at issue is related, the hearing shall commence within ten (10) days of issue or half the time before the election, whichever is less, but in no event upon less than twenty-four (24) hours' notice, given pursuant to subsection C of this section, to the person charged and the public;

2. In all other cases, including cases alleging a violation of Chapter 2.06, and in those cases in which the requirement in subsection B1 for twenty-four (24) hours' notice makes it impossible to commence the hearing within half the time before the election, the hearing shall commence within thirty (30) days from the date that the Executive Director issues the charging document;

3. The person charged and the Executive Director may, by mutual agreement, stipulate to a later date for the hearing. The Commission may delay or continue a hearing in order to accommodate an attempt to make a settlement or for other good cause.

C. The Executive Director shall cause notice of a hearing to be served on the person charged and on the public as follows:

1. The notice of hearing shall include:

a. A statement of the time, place, and matter(s) to be considered;

b. A statement of the legal authority under which the hearing is to be held;

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c. Reference to the particular sections of the Seattle Municipal Code alleged to have been violated.

2. Notice may be served on the person charged by sending it through the U.S. mail, first class postage pre-paid, or by personal service, or through regular internal City mail service.

3. Notice may be served on the public by sending it to each daily local newspaper of general circulation through the U.S. mail, first class postage pre-paid, or by personal delivery, or by facsimile, and by posting it on the bulletin board in the main lobby of the building in which the City Council chambers are located and on the bulletin board in the Commission office.

D. Upon completion of the hearing, the Commission shall issue a written determination stating whether Chapter 2.04 or Chapter 2.06 was violated, the facts found, and the applicable sections of the Code.

If the charging document concerns ((~~conduct~~))an alleged violation of Chapter 2.04 related to an election to be held within seven (7) days of issuing the charging document, the written determination shall be made within forty-eight (48) hours of the completion of the hearing; in other instances, the determination shall be made within seventy-two (72) hours. A copy of the determination shall be delivered to the complainant, and to the person charged with the violation. The Commission may forward its determination to the City Attorney or to the King County Prosecuting Attorney.

E. A violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06 may be proven by a preponderance of the evidence and need not be proven beyond a reasonable doubt. If the Commission determines that a violation has occurred, the Commission may issue an order pursuant to SMC((~~ection~~)) 2.04.500((~~,~~)) or SMC 2.06.130.

F. In any case the Commission may refer the matter to the City Attorney or to the King County Prosecuting Attorney.

Section 5. Section 2.04.090 of the Seattle Municipal code is amended as follows:

SMC 2.04.090 Ethics and Elections Commission -- Powers and duties.

The Seattle Ethics and Elections Commission shall have the following duties and powers:

CITY CLERK

A. The Commission shall hear and make written determination of complaints alleging violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06. All hearings shall be conducted as hearings of a "contested case" under the Administrative Code, Seattle Municipal Code Chapter 3.02 insofar as the times and procedures of Chapter 3.02 are practical within the constraints of Section 2.04.075, and in accordance with the Commission's rules and regulations.

B. The Commission may require any person against whom a complaint has been filed, or any person who is reasonably believed to have information material to the determination of the charges before the Commission, to appear at a designated time and place in the City, to give such information under oath, and to produce all accounts, bills, receipts, books, papers, and documents which may be relevant or material to an investigation authorized by ((~~this c~~))Chapter 2.04 or Chapter 2.06.

C. The Commission shall adopt, promulgate, amend and rescind suitable administrative rules and regulations for the conduct of hearings, which rules and regulations shall be promulgated pursuant to the provisions of the Administrative Code.

D. The Commission shall, upon proper application made to it, conduct hearings and, when appropriate, grant exemptions from the disclosure requirements of ((~~this c~~))Chapter 2.04 as provided in Section 2.04.320 and from the registration and reporting requirements of Chapter 2.06 as provided in Section 2.06.070.

E. The Commission shall make public, pursuant to Section 2.04.075C, not less than twenty-four (24) hours in advance, the time and date of any hearing set to determine whether a violation has occurred and the question or issues to be considered.

Section 6. Section 2.04.510 of the Seattle Municipal code is amended as follows:

SMC 2.04.510 Enforcement.

The Executive Director may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the City, to give such information under oath and to produce all accounts, bills,

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receipts, books, papers, and documents which may be relevant or material to any investigation authorized under ((~~this e~~))Chapter 2.04 or Chapter 2.06.

Section 7. Subsection 3.70.100 A of the Seattle Municipal Code is amended as follows:

SMC 3.70.100 Powers and Duties.

The Commission shall have the following powers:

A. To administer the City's Code of Ethics (Code Chapter 4.16); the Election Campaign Code and its campaign matching fund program (Code Chapter 2.04); the City's election pamphlet ordinance (Code Chapter 2.14); the lobbying disclosure ordinance (Code Chapter 2.06); and the whistleblower protection ordinance (SMC Sections 4.20.800 through 42.20.850 inclusive) insofar as violations of the Code of Ethics or elections ordinance may be involved (called collectively "Commission-administered ordinances");

* * *

Section 8. The Seattle Ethics and Elections Commission's Executive Director shall provide a report with recommendations to the City Council on compliance with this ordinance, the City's enforcement of this ordinance, and the need for any amendments to the code sections enacted or amended by this ordinance. The report shall be presented to the Council no later than 12 months after the effective date of this ordinance.

Section 9. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 10. This ordinance shall take effect and be in force whichever is the earlier of (a) thirty (30) days after (i) the Seattle Ethics and Elections Commission adopts rules that address the registration and reporting requirements of this ordinance and (ii) favorable action by the Mayor or certification pursuant to Section 12 of Article IV of the Seattle City Charter; or (b) one hundred eighty (180) days from and after favorable action by the Mayor; or (c) if not approved

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by the Mayor, one hundred eighty (180) days from and after certification pursuant to Section 12 of Article IV of the Seattle City Charter.

Passed by the City Council the 17th day of March, 2008, and signed by me in open session in authentication of its passage this 17th day of March, 2008.

President of the City Council

Approved by me this 21st day of March, 2008.

Mayor

Filed by me this 24th day of March, 2008.

City Clerk

(SEAL)

EDS CITY CLERK

Christa Valles
LobbyLegislation
February 12, 2007
Version #1

Form revised February 6, 2008

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Christa Valles (684-5336)	

Legislation Title:
AN ORDINANCE concerning the regulation of lobbying; establishing certain duties, registration and reporting requirements, restrictions and penalties; setting forth powers and duties of the Ethics and Elections Commission and the Executive Director thereof; setting forth procedures relating to complaints and investigations concerning alleged violations; adding a new Chapter 2.06; and amending certain sections of Chapter 2.04 of the Seattle Municipal Code.

- **Summary of the Legislation:**

This legislation requires lobbyists who are compensated for lobbying to register with the City's Ethics and Elections Commission. It also requires employer's of lobbyist to also register and report. This legislation will be enforced by the Ethics and Election's Commission. The Director of Ethics and Elections does not anticipate that additional budgetary resources will be needed to implement this legislation.

- **Background:**

The purpose of the legislation is to:
- Increase transparency and open government.
- Enable the public to know who is being paid to lobby elected officials.
- Many other cities require lobbyists to register, including Portland, Los Angeles, San Diego, San Francisco, Sacramento, Austin, Madison, New York, Columbus, and Denver.

__X__ **This legislation does not have any financial implications.** (*Stop here and delete the remainder of this document prior to saving and printing.)*

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ORDINANCE _____

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CITY CLERK

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For the purposes of this Chapter, the following terms apply:

A. "City" means the City of Seattle.

B. "City officer or employee or agent" means every person elected or appointed to any City office or position of employment, including volunteers performing work for the City, when acting within the scope of their City duties, and contract workers and consultants when acting within the scope of their contract with the City. The term also includes persons appointed to City boards, commissions and committees when acting within the scope of their City duties, regardless of whether those persons are paid by the City.

C. "Commission" means the Seattle Ethics and Elections Commission.

D. "Compensation" includes anything of economic value that is provided or promised to a lobbyist in return for lobbying. The term includes compensation that is provided or promised to an entity, including but not limited to a law firm, consulting firm, public relations firm, or other similar organization, that engages in lobbying through its employees.

E. "Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission or his or her designee.

F. "Expenditure" means anything of economic value that is provided, given, loaned or promised in furtherance of lobbying. This term includes agreements to provide things of economic value even when those agreements are unenforceable. Expenditures other than money or its equivalent shall be valued according to their fair market value.

G. "Gift" means anything of value transferred or promised by one person to another without consideration.

H. "Legislation" means any council bill, ordinance, resolution, ballot measure or charter amendment. The term also includes making, confirming, or rejecting appointments to City positions. The term does not include quasi-judicial matters subject to the appearance of fairness doctrine.

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I. "Legislative Department Staff" means any City officer or employee or agent of the Legislative Department.

J. "Lobby" and "lobbying" each mean communications with city council members, legislative department staff, the mayor or the mayor's staff in an attempt to influence any of those individuals to develop, propose, draft, consider or reconsider, promote, adopt, enact, reject, take favorable action upon, approve, disapprove, veto, or fail to take action upon legislation.

"Lobby" and "lobbying" do not include the following:

1. Communications or other actions by any City officer or employee or agent acting within the scope of his or her employment authority or contract with the City;

2. Communications or other actions related to existing or proposed collective bargaining agreement(s) with the City or other legislation which could affect specific existing or proposed collective bargaining agreements with the City;

3. Communications or other actions by members of the news media related to news and feature reporting, commentary, and editorial opinion in a regularly-published periodical, on television or radio, or on a regularly-maintained Internet website or other means of electronic communication devoted to the dissemination of news or opinion and not created solely to influence a specific piece of legislation.

K. "Lobbyist" means any individual who lobbies for compensation, except persons who are reimbursed for minor incidental personal expenses.

L. "Lobbyist's employer" means any person who employs or compensates a lobbyist for lobbying to promote that person's interests.

M. "Mayor's Staff" means any City officer or employee or agent working in the Mayor's office.

N. "Minor incidental personal expenses" means expenses actually incurred for lodging, mileage, parking, meals, copying, telephone, and facsimiles, which expenses are directly related to lobbying.

O. "Month" is a calendar month.

P. "Organizational member" includes a person defined in this chapter, but excludes individuals.

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Q. "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

R. "Quarter" is a calendar quarter, i.e., January through March, April through June, July through September, and October through December.

S. "Year" means calendar year.

2.06.020 Registration of Lobbyists.

A. Before lobbying, or within 30 days after being employed as a lobbyist, whichever comes first, a lobbyist shall register by filing with the Executive Director a lobbyist registration statement, in such detail as the Commission shall by rule prescribe, showing:

1. His or her name, permanent business address, business telephone number and business e-mail address, and, if the permanent business address is not in the City of Seattle, any temporary address in the City of Seattle;

2. The following information for each of the lobbyist's employers:

(a) the name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

(b) the duration of the lobbyist's employment;

(c) the lobbyist's compensation for lobbying, how much he or she is to be paid for expenses and what expenses are to be reimbursed;

(d) whether the person from whom the lobbyist receives that compensation employs him or her solely as a lobbyist or whether he or she is a regular employee performing services for his or her employer that include, but are not limited to, lobbying;

(e) the general subject or subjects of his or her lobbying and if known the legislation on which he or she is lobbying, including council bill, ordinance, resolution or initiative number, if established;

(f) if the lobbyist receives compensation from an entity, including but not limited to a law firm, consulting firm, public relations firm, or other similar organization, that engages in lobbying through its employees, then the name of such entity; and

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(g) if the lobbyist's employer is an entity (including, but not limited to, a business or trade association) not exempted under Section 2.06.070, whose members include businesses, groups, associations, or organizations or which as a representative entity undertakes lobbying activities for businesses, groups, associations, or organizations:

(i) the name, business address, business e-mail address and business telephone number of each business or trade association, or other organizational member of such entity; and

(ii) the name of each person represented by such entity, whose fees, dues, payments or other consideration paid to such entity for lobbying activities during either of the prior two years have exceeded five hundred dollars or who has paid or is obligated to or has agreed to pay fees, dues, payments or other consideration exceeding five hundred dollars to such entity for lobbying activities during the current year.

3. A written authorization from each of the lobbyist's employers confirming such employment;

4. The name, business address, business telephone number and business e-mail address of the person who will have custody of the accounts, bills, receipts, books, papers and documents required to be kept by Section 2.06.090; and

B. Whenever a change, termination or modification of the lobbyist's employment with a lobbyist's employer occurs, or whenever there is a change in any of the information required to be supplied by Subsection A of this section, the lobbyist shall furnish full information regarding the same within thirty calendar days of such termination or modification by filing with the Executive Director an amended registration statement.

C. Persons employed as lobbyists on the effective date of this chapter shall register within 30 days of that effective date.

2.06.030 Reporting by Lobbyists.

A. Each lobbyist not exempted under SMC 2.06.060 shall file periodic reports of his or her lobbying activities. Such reports must be signed or certified by the lobbyist. The reports shall be made in the form and manner as prescribed by rule adopted by the Commission. The reports shall be filed within fifteen calendar days after the last day of the calendar quarter. The

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January report shall cover the preceding year; the April, July and October reports shall each cover the preceding calendar quarter.

B. The report shall contain the following information for each of the lobbyist's employers:

1. The name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

2. The totals of all expenditures for lobbying activities made or incurred by such lobbyist and the totals of all expenditures for lobbying activities made or incurred on behalf of such lobbyist by such lobbyist's employer or any other person with the lobbyist's knowledge. Such total expenditures for lobbying activities shall be segregated by category, and include the following: food and refreshments, living accommodations, travel, entertainment and other expenses or services, including but not limited to minor incidental expenses. Notwithstanding the foregoing, lobbyists are not required to report any unreimbursed expenses incurred for telephone and any office expenses including rent and salaries and wages paid for staff and secretarial assistance.

3. The total compensation paid to the lobbyist for lobbying purposes during the reporting period by each of the lobbyist's employer(s);

4. The legislation that the lobbyist has been supporting or opposing during the reporting period, including council bill, ordinance, resolution or initiative number, if established;

5. Other information relevant to lobbying activities as shall be prescribed by rule;

6. Information regarding any termination, change or modification of the lobbyist's employment; and

2.06.040 Reports by Employers of Registered Lobbyists.

A. Every employer of a lobbyist not exempted under Section 2.06.070 shall report on such employment either by:

1. Verifying, by signing or certifying along with the lobbyist, the January report required to be filed by Section 2.06.030; or

2. Filing with the Commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

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a. the total expenditures made by the employer for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise;

b. the legislation the employer has been employing a lobbyist or compensating a lobbyist to support or oppose, including council bill, ordinance, resolution or initiative number, if established;

c. the name, business address, business telephone number and business e-mail address of each lobbyist employed by the reporting person and the total expenditures made by the employer for each such lobbyist for lobbying purposes; and

d. such other information as may be prescribed by rule consistent with this Section.

2.06.060 Registration and Reporting – Exemptions

A. The following persons are exempt from registration and reporting under this Chapter:

1. Lobbyists who limit their lobbying to appearing before public sessions of the city council or its committees.

2. Lobbyists who restrict their lobbying activities to no more than four days or parts thereof during any calendar quarter. Appearances before public sessions of the city council and its committees are not counted as lobbying activities.

3. Lobbyists' employers, to the extent that the activities of the lobbyists they employ are exempt from registration and reporting under this section.

4. Elected officials, officers and employees of any local, state or federal government agency acting within the scope of their representation of or employment with such agency; provided, however, that this subsection A(4) shall not apply to persons specifically employed or retained by a government agency to lobby.

2.06.070 Registration and Reporting – Request for Exemption

A. An exemption from the registration requirement of Section 2.06.020A(2)(g) shall be granted by the Commission to a lobbyist's employer if such lobbyist's employer has applied in writing to the Commission for such exemption and has demonstrated by a reasonable probability that the compelled disclosure of identifying information under Section 2.06.020A(2)(g) will

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subject those persons to threats, harassment, or reprisals from either government officials or private parties.

B. The decision to grant or deny an exemption from disclosure, with the reason or reasons therefore, shall be set out in writing with a copy kept on file with the Executive Director.

2.06.080 Voluntary Registration and Reporting

Any person exempted under this chapter from registering and reporting may at his or her option voluntarily register and report under this Chapter.

2.06.090 Duty to Obtain and Preserve Records; Inspection and Audit of Records

A. Persons required to register or report under this Chapter shall obtain and preserve all records necessary to substantiate all registration statements and reports that this Chapter requires. Records required to be preserved under this Chapter include but are not limited to receipts, bills, invoices, checks and records of electronic financial transactions. All such records shall be preserved for at least five years after the registration statement or report to which they pertain has been filed.

B. All records required to be maintained under this section are subject to inspection, copying and audit by the Executive Director, with reasonable prior notice, during regular City business hours.

2.06.100 Employment of Unregistered Persons.

It is a violation of this chapter for any person to employ a lobbyist who is required to register, but is not registered under this chapter.

2.06.110 Other Restrictions.

In addition to other requirements imposed by this Chapter, a person required to register under this chapter shall not:

A. Engage in any lobbying before registering as a lobbyist under this chapter;

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B. File any statement or report with the Commission that is incomplete in any material respect or contains a statement that is false or misleading with respect to any material fact;

C. Fail to comply with any of the reporting requirements of this chapter.

2.06.120 Complaints and Investigations

Enforcement under this Chapter, including complaints, hearings and investigations, shall be governed by the provisions of SMC 2.04.060 through SMC 2.04.090. The prohibitions and penalties set forth in this Chapter are not exclusive, and are not intended to limit or preclude other prohibitions that may be applicable or remedies that may be available under the law.

2.06.130 Civil Remedies and Sanctions

Upon determining pursuant to SMC 2.04.060 through SMC 2.04.090 that a violation of this chapter has occurred, the Commission may issue an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, may impose sanctions up to Five Thousand Dollars ($5,000) per violation. Any person who fails to file a properly completed registration or report within the time required by this chapter may also be subject to a civil penalty of Ten Dollars ($10) per day for each day each such delinquency continues.

2.06.140 Enforcement

The Executive Director shall have the authority to enforce this chapter as provided in SMC Section 2.04.510.

2.06.150 Limitation on Actions

Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred.

Section 2. Section 2.04.060 of the Seattle Municipal code is amended as follows:

SMC 2.04.060 Executive Director -- Duties.

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The Executive Director of the Seattle Ethics and Elections Commission shall be responsible for the management of said office, may in the exercise of such duties consult with the Seattle Ethics and Elections Commission and in that connection is authorized to:

* * *

B. Require that forms developed and prepared by the PDC be utilized for the reports and statements required to be made under ((~~this e~~))Chapter 2.04 and Chapter 2.06; provided, that whenever the Executive Director determines that any such form is not reasonably appropriate for the purposes of ((~~this e~~))Chapter 2.04 or Chapter 2.06, he or she may develop and provide suitable forms as are reasonably necessary, and require such forms to be utilized for such purposes;

C. Encourage persons required to make reports under ((~~this e~~))Chapter 2.04 and Chapter 2.06 to use the PDC-published manuals that set((s)) forth recommended uniform methods of bookkeeping and reporting;

* * *

E. Investigate whether properly completed statements and reports have been filed within the times required by ((~~this e~~))Chapter 2.04 and Chapter 2.06;

F. Review all ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 for completeness and internal consistency;

G. Independently verify entries on ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 and other forms selected on an arithmetically random basis;

* * *

I. Determine upon written complaint or upon his or her own initiative, in accordance with Section 2.04.070, that a violation of ((~~this e~~))Chapter 2.04 or Chapter 2.06 has occurred, and report such apparent violation to ((~~either~~))the Seattle Ethics and Elections Commission or report such apparent violation of Chapter 2.04 to the PDC; provided that the Executive Director shall have the authority to resolve with the person who has apparently violated ((~~this e~~))Chapter 2.04 or Chapter 2.06, what the Executive Director determines to be inadvertent, de minimus violations without referring the matter to the Seattle Ethics and Elections Commission for a hearing, or referring an apparent violation of Chapter 2.04 to the PDC for a hearing; provided further that

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the Executive Director shall report violations of Chapter 2.04 to the PDC only in the event the Seattle Ethics and Elections Commission is unable to hear the matter;

* * *

P. Prepare, publish and update, as appropriate, documents written in plain language explaining the provisions of Chapter 2.06 and, further, develop and implement other methods to educate the public, including, but not limited to, employers and lobbyists concerning the requirements of Chapter 2.06;

Q. Annually publish and disseminate a directory of registered lobbyists that sets forth the name, employer(s), if applicable, and telephone number of each registered lobbyist;

R. Prepare and publish an annual report to the Seattle City Council as to the effectiveness of Chapter 2.06 and its enforcement;

S. Review at least every five years the reporting thresholds and penalties of Chapter 2.06. Promptly upon completion of each review, the Executive Director shall recommend to the Seattle City Council necessary changes, if any, to the reporting thresholds and penalties of Chapter 2.06;

T. Prepare and publish such reports as in the Executive Director's judgment will address the purposes of Chapter 2.06 including reports and statistics concerning lobbying and enforcement of Chapter 2.06.

Section 3. Section 2.04.070 of the Seattle Municipal code is amended as follows:

SMC 2.04.070 Complaint procedure.

A. Any registered voter of the City may file with the Executive Director a complaint, in writing, under oath alleging a violation of ((~~this c~~))Chapter 2.04. Under oath means that the complaint includes a statement substantially as follows: "I declare under penalty of perjury of the laws of the State of Washington that the information in this complaint is true and correct," or that the complaint is subscribed and sworn to before a notary public or other official authorized to administer oaths.

B. Any person may file with the Executive Director a complaint, in writing, under oath alleging a violation of Chapter 2.06.

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((~~B~~))C. Upon receipt of ((~~such~~))a complaint alleging a violation of Chapter 2.04 or Chapter 2.06, the Executive Director shall conduct an investigation. The Executive Director shall commence an investigation:

1. Within ten (10) days after receipt of the complaint if the complaint relates to ((~~conduct~~))an alleged violation of Chapter 2.04 during the pending election and is received before the date of the final election for the office or the proposition; and

2. Within thirty (30) days in other instances.

((~~C~~))D. The Executive Director shall dismiss the complaint alleging a violation of Chapter 2.04 or Chapter 2.06 (1) if he or she determines that all of the alleged facts, if true, do not constitute a violation; or (2) if he or she determines after an investigation that (a) there is no reasonable ground to believe that a violation has occurred; or (b) the violation was inadvertent and minor.

Such a dismissal shall be in writing, setting forth the facts found, and the provisions of law upon which the dismissal is based, and the Director's reasoning. The Executive Director shall provide a copy of the dismissal to the complainant, to the person named in the complaint as the alleged violator, and to the Commission.

Section 4. Section 2.04.075 of the Seattle Municipal code is amended as follows:

SMC 2.04.075 Procedure -- Charges and hearing.

A. The Executive Director shall initiate an enforcement proceeding if, after investigation, he or she has reason to believe that a material violation of Chapter 2.04 or Chapter 2.06 has occurred. An enforcement action is initiated by delivering a charging document to the person charged and the Seattle Ethics and Elections Commission ("Commission") and scheduling a hearing on the charges. The document shall describe the alleged conduct that is the basis of the charge and set out the provisions of Chapter 2.04 or Chapter 2.06 alleged to have been violated. No hearing shall be scheduled while a recommendation of the Executive Director for a settlement is awaiting action by the Commission.

B. The hearing before the Commission shall commence as promptly as practical and no later than the following:

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1. If the Executive Director issues the charging document alleging a violation of Chapter 2.04, between sixty (60) days immediately preceding and forty-eight (48) hours immediately preceding seven (7:00) a.m. on the date of the election to which the alleged conduct at issue is related, the hearing shall commence within ten (10) days of issue or half the time before the election, whichever is less, but in no event upon less than twenty-four (24) hours' notice, given pursuant to subsection C of this section, to the person charged and the public;

2. In all other cases, including cases alleging a violation of Chapter 2.06, and in those cases in which the requirement in subsection B1 for twenty-four (24) hours' notice makes it impossible to commence the hearing within half the time before the election, the hearing shall commence within thirty (30) days from the date that the Executive Director issues the charging document;

3. The person charged and the Executive Director may, by mutual agreement, stipulate to a later date for the hearing. The Commission may delay or continue a hearing in order to accommodate an attempt to make a settlement or for other good cause.

C. The Executive Director shall cause notice of a hearing to be served on the person charged and on the public as follows:

1. The notice of hearing shall include:

a. A statement of the time, place, and matter(s) to be considered;

b. A statement of the legal authority under which the hearing is to be held;

c. Reference to the particular sections of the Seattle Municipal Code alleged to have been violated.

2. Notice may be served on the person charged by sending it through the U.S. mail, first class postage pre-paid, or by personal service, or through regular internal City mail service.

3. Notice may be served on the public by sending it to each daily local newspaper of general circulation through the U.S. mail, first class postage pre-paid, or by personal delivery, or by facsimile, and by posting it on the bulletin board in the main lobby of the building in which the City Council chambers are located and on the bulletin board in the Commission office.

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D. Upon completion of the hearing, the Commission shall issue a written determination stating whether Chapter 2.04 or Chapter 2.06 was violated, the facts found, and the applicable sections of the Code.

If the charging document concerns ((~~conduct~~))an alleged violation of Chapter 2.04 related to an election to be held within seven (7) days of issuing the charging document, the written determination shall be made within forty-eight (48) hours of the completion of the hearing; in other instances, the determination shall be made within seventy-two (72) hours. A copy of the determination shall be delivered to the complainant, and to the person charged with the violation. The Commission may forward its determination to the City Attorney or to the King County Prosecuting Attorney.

E. A violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06 may be proven by a preponderance of the evidence and need not be proven beyond a reasonable doubt. If the Commission determines that a violation has occurred, the Commission may issue an order pursuant to SMC((~~ection~~)) 2.04.500((~~,~~)) or SMC 2.06.130.

F. In any case the Commission may refer the matter to the City Attorney or to the King County Prosecuting Attorney.

Section 5. Section 2.04.090 of the Seattle Municipal code is amended as follows:

SMC 2.04.090 Ethics and Elections Commission -- Powers and duties.

The Seattle Ethics and Elections Commission shall have the following duties and powers:

A. The Commission shall hear and make written determination of complaints alleging violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06. All hearings shall be conducted as hearings of a "contested case" under the Administrative Code, Seattle Municipal Code Chapter 3.02 insofar as the times and procedures of Chapter 3.02 are practical within the constraints of Section 2.04.075, and in accordance with the Commission's rules and regulations.

B. The Commission may require any person against whom a complaint has been filed, or any person who is reasonably believed to have information material to the determination of the charges before the Commission, to appear at a designated time and place in the City, to give such information under oath, and to produce all accounts, bills, receipts, books, papers, and

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documents which may be relevant or material to an investigation authorized by ((~~this c~~))Chapter 2.04 or Chapter 2.06.

C. The Commission shall adopt, promulgate, amend and rescind suitable administrative rules and regulations for the conduct of hearings, which rules and regulations shall be promulgated pursuant to the provisions of the Administrative Code.

D. The Commission shall, upon proper application made to it, conduct hearings and, when appropriate, grant exemptions from the disclosure requirements of ((~~this c~~))Chapter 2.04 as provided in Section 2.04.320 and from the registration and reporting requirements of Chapter 2.06 as provided in Section 2.06.070.

E. The Commission shall make public, pursuant to Section 2.04.075C, not less than twenty-four (24) hours in advance, the time and date of any hearing set to determine whether a violation has occurred and the question or issues to be considered.

Section 6. Section 2.04.510 of the Seattle Municipal code is amended as follows:

SMC 2.04.510 Enforcement.

The Executive Director may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the City, to give such information under oath and to produce all accounts, bills, receipts, books, papers, and documents which may be relevant or material to any investigation authorized under ((~~this c~~))Chapter 2.04 or Chapter 2.06.

Section 7. Subsection 3.70.100 A of the Seattle Municipal Code is amended as follows:

SMC 3.70.100 Powers and Duties.

The Commission shall have the following powers:

A. To administer the City's Code of Ethics (Code Chapter 4.16); the Election Campaign Code and its campaign matching fund program (Code Chapter 2.04); the City's

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election pamphlet ordinance (Code Chapter 2.14); the lobbying disclosure ordinance (Code Chapter 2.06); and the whistleblower protection ordinance (SMC Sections 4.20.800 through 42.20.850 inclusive) insofar as violations of the Code of Ethics or elections ordinance may be involved (called collectively "Commission-administered ordinances");

* * *

Section 8. The Seattle Ethics and Elections Commission's Executive Director shall provide a report with recommendations to the City Council on compliance with this ordinance, the City's enforcement of this ordinance, and the need for any amendments to the code sections enacted or amended by this ordinance. The report shall be presented to the Council no later than 12 months after the effective date of this ordinance.

Section 9. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

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Section 10. This ordinance shall take effect and be in force whichever is the earlier of (a) thirty (30) days after (i) the Seattle Ethics and Elections Commission adopts rules that address the registration and reporting requirements of this ordinance and (ii) favorable action by the Mayor or certification pursuant to Section 12 of Article IV of the Seattle City Charter; or (b) one hundred eighty (180) days from and after favorable action by the Mayor; or (c) if not approved by the Mayor, one hundred eighty (180) days from and after certification pursuant to Section 12 of Article IV of the Seattle City Charter.

Passed by the City Council the _____ day of _____, 2008, and signed by me in open session in authentication of its passage this _____ day of _____, 2008.

_____

President of the City Council

Approved by me this _____ day of _____, 2008.

_____

Mayor

Filed by me this _____ day of _____, 2008.

_____

City Clerk

(SEAL)

CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

222215 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122645 ORDINANCE

was published on

03/26/08

The amount of the fee charged for the foregoing publication is the sum of $1,166.15, which amount has been paid in full.

JENNIFER A. PATZER NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES OCT. 24, 2011

Subscribed and sworn to before me on

03/26/08

Notary public for the State of Washington, residing in Seattle

City of Seattle

ORDINANCE 122645

AN ORDINANCE concerning the regulation of lobbying; establishing certain duties, registration and reporting requirements, restrictions and penalties; setting forth powers and duties of the Ethics and Elections Commission and the Executive Director thereof; setting forth procedures relating to complaints and investigations concerning alleged violations; adding a new Chapter 2.06; amending certain sections of Chapter 2.04; and amending Section 3.70.100 of the Seattle Municipal Code.

WHEREAS, the Seattle City Council encourages and supports the constitutional right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues, and hereby reaffirms its willingness and obligation to hear the requests and opinions of all people, and to preserve and maintain the integrity and accessibility of the legislative processes; and

WHEREAS, the intent of the Seattle City Council in enacting this legislation is to encourage an open government process and citizen participation in that process; and

WHEREAS, it is not the intent of the Seattle City Council in enacting this legislation to subject the collective bargaining process to lobbyist registration and reporting requirements; and

WHEREAS, the Seattle City Council believes that the integrity of the legislative process is strengthened when the public has broad access to information concerning lobbyists, and concerning money that is expended to affect the course of legislation; and

WHEREAS, it is the intent of the Seattle City Council to provide the Ethics and Elections Commission with 120 to 180 days in order to adopt rules that address lobbyist registration and reporting requirements before the effective date of this legislation.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 2.06 is added to Title 2 of the Seattle Municipal Code as follows, to be entitled "Lobbying Regulations."

2.06.005 Statement of Policy.

It is the policy of the City of Seattle to encourage the full participation and expression of interest of all of the people of the City of Seattle in the legislative process. The provisions of this chapter shall be construed to promote full disclosure of lobbying in order to protect the openness and integrity of the legislative process while preserving an individual's right to organize and petition the government.

2.06.010 Definitions.

For the purposes of this Chapter, the following terms apply:

A. "City" means the City of Seattle.

B. "City officer or employee or agent" means every person elected or appointed to any City office or position of employment, including volunteers performing work for the City, when acting within the scope of their City duties, and contract workers and consultants when acting within the scope of their contract with the City. The term also includes persons appointed to City boards, commissions and committees when acting within the scope of their City duties, regardless of whether those persons are paid by the City.

C. "Commission" means the Seattle Ethics and Elections Commission.

D. "Compensation" includes anything of economic value that is provided or promised to a lobbyist or lobbying entity in return for lobbying. The term includes compensation for preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in connection with lobbying.

E. "Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission or his or her designee.

F. "Expenditure" means anything of economic value that is provided, given, loaned or promised in furtherance of lobbying. The term includes expenditures for preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in connection with lobbying. The term also includes agreements to provide things of economic value even when those agreements are unenforceable. Expenditures other than money or its equivalent shall be valued according to their fair market value.

State of Washington, King County

G. "Gift" means anything of value transferred or promised by one person to another without consideration.

H. "Legislation" means any council bill, ordinance, resolution, ballot measure or charter amendment. The term also includes making, confirming, or rejecting appointments to City positions. The term does not include quasi-judicial matters subject to the appearance of fairness doctrine.

I. "Legislative Department Staff" means any City officer or employee or agent of the Legislative Department.

J. "Lobby" and "lobbying" each mean communications with city council members, legislative department staff, the mayor or the mayor's staff in an attempt to influence any of those individuals to develop, propose, draft, consider or reconsider, promote, adopt, enact, reject, take favorable action upon, approve, disapprove, veto, or fail to take action upon legislation.

"Lobby" and "lobbying" do not include the following:

1. Communications or other actions by any City officer or employee or agent acting within the scope of his or her employment authority or contract with the City;

2. Communications or other actions related to existing or proposed collective bargaining agreement(s) with the City or other legislation which could affect specific existing or proposed collective bargaining agreements with the City;

3. Communications or other actions by members of the news media related to news and feature reporting, commentary, and editorial opinion in a regularly-published periodical, on television or radio, or on a regularly-maintained Internet website or other means of electronic communication devoted to the dissemination of news or opinion and not created solely to influence a specific piece of legislation.

K. "Lobbying entity" means a law firm, consulting firm, public relations firm, or other similar organization that engages in lobbying through its employees or agents.

L. "Lobbyist" means any individual who lobbies for compensation, except persons who are reimbursed for minor incidental personal expenses.

M. "Lobbyist's employer" means any person who employs or compensates a lobbyist or lobbying entity for lobbying to promote that person's interests.

N. "Mayor's Staff" means any City officer or employee or agent working in the Mayor's office.

O. "Minor incidental personal expenses" means expenses actually incurred for lodging, mileage, parking, meals, copying, telephone, and facsimiles, which expenses are directly related to lobbying.

P. "Month" is a calendar month.

Q. "Organizational member" includes a person as defined in this chapter, but excludes individuals.

R. "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

S. "Quarter" is a calendar quarter, i.e., January through March, April through June, July through September, and October through December.

T. "Year" means calendar year.

2.06.020 Registration of Lobbyists.

A. Before lobbying, or within 30 days after being employed as a lobbyist, whichever comes first, a lobbyist shall register by filing with the Executive Director a lobbyist registration statement, in such detail as the Commission shall by rule prescribe, showing:

1. His or her name, permanent business address, business telephone number and business e-mail address, and, if the permanent business address is not in the City of Seattle, any temporary address in the City of Seattle;

2. The following information for each of the lobbyist's employers:

(a) the name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

(b) the duration of the lobbyist's employment;

(c) the lobbyist's compensation for lobbying, and any compensation for lobbying provided to a lobbying entity for the lobbyist's services, how much he or she is to be paid for expenses and what expenses are to be reimbursed;

(d) whether the person from whom the lobbyist receives that compensation employs him or her solely as a lobbyist or whether he or she is a regular employee performing services for his or her employer that include, but are not limited to, lobbying;

(e) the general subject or subjects of his or her lobbying and if known the legislation on which he or she is lobbying, including council bill, ordinance, resolution or initiative number, if established;

(f) if the lobbyist receives compensation from a lobbying entity, then the name of such entity; and

(g) if the lobbyist's employer is an entity (including, but not limited to, a business or trade association) not exempted under Section 2.06.070, whose members include businesses, groups, associations, or organizations or which as a representative entity undertakes lobbying activities for businesses, groups, associations, or organizations:

(i) the name and business address of each business or trade association, or other organizational member of such entity; and

(ii) the name of each person represented by such entity, whose payments or other consideration paid to such entity for lobbying during either of the prior two years have exceeded five hundred dollars or who has paid or is obligated to or has agreed to make payments or other consideration exceeding five hundred dollars to such entity for lobbying during the current year. Provided, that membership fees, dues or other consideration paid to such an entity, but not provided for the specific purpose of lobbying, shall not be regarded as consideration for lobbying under this subsection.

3. A written authorization from each of the lobbyist's employers confirming such employment;

4. The name, business address, business telephone number and business e-mail address of the person who will have custody of the accounts, bills, receipts, books, papers and documents required to be kept by Section 2.06.090; and

B. Whenever a change, termination or modification of the lobbyist's employment with a lobbyist's employer occurs, or whenever there is a change in any of the information required to be supplied by Subsection A of this section, the lobbyist shall furnish full information regarding the same within thirty calendar days of such termination or modification by filing with the Executive Director an amended registration statement.

C. Persons employed as lobbyists on the effective date of this chapter shall register within 30 days of that effective date.

2.06.030 Reporting by Lobbyists.

A. Each lobbyist not exempted under SMC 2.06.060 shall file periodic reports of his or her lobbying activities. Such reports must be signed or certified by the lobbyist. The reports shall be made in the form and manner as prescribed by rule adopted by the Commission. The reports shall be filed within fifteen calendar days after the last day of the calendar quarter. The January report shall cover the preceding year; the April, July and October reports shall each cover the preceding calendar quarter.

B. The report shall contain the following information for each of the lobbyist's employers:

1. The name, business address, business telephone number, business e-mail address and occupation or business of the lobbyist's employer;

2. The totals of all expenditures for lobbying activities made or incurred by such lobbyist and the totals of all expenditures for lobbying activities made or incurred on behalf of such lobbyist by such lobbyist's employer, lobbying entity, or any other person with the lobbyist's knowledge. Such total expenditures for lobbying activities shall be segregated by category, and include the following: food and refreshments, living accommodations, travel, entertainment and other expenses or services, including but not limited to minor incidental expenses. Notwithstanding the foregoing, lobbyists are not required to report any unreimbursed expenses incurred for telephone and any office expenses including rent and salaries and wages paid for staff and secretarial assistance.

3. The total compensation paid to the lobbyist for lobbying purposes and any compensation for lobbying purposes provided to a lobbying entity for the lobbyist's services during the reporting period by each of the lobbyist's employer(s);

4. The legislation that the lobbyist has been supporting or opposing during the reporting period, including council bill, ordinance, resolution or initiative number, if established;

5. Other information relevant to lobbying activities as shall be prescribed by rule consistent with this Section;

6. Information regarding any termination, change or modification of the lobbyist's employment; and

2.06.040 Reports by Employers of Registered Lobbyists.

A. Every employer of a lobbyist not exempted under Section 2.06.070 shall report on such employment either by:

1. Verifying, by signing or certifying along with the lobbyist, the January report required to be filed by Section 2.06.030; or

2. Filing with the Commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

a. the total expenditures made by the employer for lobbying purposes, whether through or on behalf of a registered lobby-

b. the legislation the employer has been employing a lobbyist or lobbying entity, or compensating a lobbyist or lobbying entity to support or oppose, including council bill, ordinance, resolution or initiative number, if established;

c. the name, business address, business telephone number and business e-mail address of each lobbyist or lobbying entity employed by the reporting person and the total expenditures made by the employer for each such lobbyist or lobbying entity for lobbying purposes; and

d. such other information as may be prescribed by rule consistent with this Section.

2.06.060 Registration and Reporting - Exemptions

A. The following persons are exempt from registration and reporting under this Chapter:

1. Lobbyists who limit their lobbying to appearing before public sessions of the city council or its committees.

2. Lobbyists who restrict their lobbying activities to no more than four days or parts thereof during any calendar quarter. Appearances before public sessions of the city council and its committees are not counted as lobbying activities.

3. Lobbyists' employers, to the extent that the activities of the lobbyists they employ are exempt from registration and reporting under this section.

4. Elected officials, officers and employees of any local, state or federal government agency acting within the scope of their representation of or employment with such agency; provided, however, that this subsection A(4) shall not apply to persons specifically employed or retained by a government agency to lobby.

2.06.070 Registration and Reporting - Request for Exemption

A. An exemption from the registration requirement of Section 2.06.020A(2)(g) shall be granted by the Commission to a lobbyist's employer if such lobbyist's employer has applied in writing to the Commission for such exemption and has demonstrated by a reasonable probability that the compelled disclosure of identifying information under Section 2.06.020A(2)(g) will subject those persons to threats, harassment, or reprisals from either government officials or private parties.

B. The decision to grant or deny an exemption from disclosure, with the reason or reasons therefore, shall be set out in writing with a copy kept on file with the Executive Director.

2.06.080 Voluntary Registration and Reporting

Any person exempted under this chapter from registering and reporting may at his or her option voluntarily register and report under this Chapter.

2.06.090 Duty to Obtain and Preserve Records; Inspection and Audit of Records

A. Persons required to register or report under this Chapter shall obtain and preserve all records necessary to substantiate all registration statements and reports that this Chapter requires. Records required to be preserved under this Chapter include but are not limited to receipts, bills, invoices, checks and records of electronic financial transactions. All such records shall be preserved for at least five years after the registration statement or report to which they pertain has been filed.

B. All records required to be maintained under this section are subject to inspection, copying and audit by the Executive Director, with reasonable prior notice, during regular City business hours.

2.06.100 Employment of Unregistered Persons.

It is a violation of this chapter for any person to employ a lobbyist who is required to register, but is not registered under this chapter.

2.06.110 Other Restrictions.

In addition to other requirements imposed by this Chapter, a person required to register under this chapter shall not:

A. Engage in any lobbying before registering as a lobbyist under this chapter;

B. File any statement or report with the Commission that is incomplete in any material respect or contains a statement that is false or misleading with respect to any material fact;

C. Fail to comply with any of the reporting requirements of this chapter.

2.06.120 Complaints and Investigations

Enforcement under this Chapter, including complaints, hearings and investigations, shall be governed by the provisions of SMC 2.04.060 through SMC 2.04.090. The prohibitions and penalties set forth in this Chapter are not exclusive, and are not intended to limit or preclude other prohibitions that may be applicable or remedies that may be available under the law.

2.06.130 Civil Remedies and Sanctions

Upon determining pursuant to SMC 2.04.060 through SMC 2.04.090 that a violation of this chapter has occurred, the Commission may issue an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, may impose sanctions up to Five Thousand Dollars ($5,000) per violation. Any person who fails to file a properly completed registration or report within the time required by this chapter may also be subject to a civil penalty of Ten Dollars ($10) per day for each day each such delinquency continues.

2.06.140 Enforcement

The Executive Director shall have the authority to enforce this chapter as provided in SMC Section 2.04.510.

2.06.150 Limitation on Actions

Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred, or the date when the violation reasonably should have been discovered.

Section 2. Section 2.04.060 of the Seattle Municipal code is amended as follows:

SMC 2.04.060 Executive Director - Duties.

The Executive Director of the Seattle Ethics and Elections Commission shall be responsible for the management of said office, may in the exercise of such duties consult with the Seattle Ethics and Elections Commission and in that connection is authorized to:

* * *

B. Require that forms developed and prepared by the PDC be utilized for the reports and statements required to be made under ((~~this c~~))Chapter 2.04 and Chapter 2.06; provided, that whenever the Executive Director determines that any such form is not reasonably appropriate for the purposes of ((~~this c~~))Chapter 2.04 or Chapter 2.06, he or she may develop and provide suitable forms as are reasonably necessary, and require such forms to be utilized for such purposes;

C. Encourage persons required to make reports under ((~~this c~~))Chapter 2.04 and Chapter 2.06 to use the PDC-published manuals that set((~~s~~)) forth recommended uniform methods of bookkeeping and reporting;

* * *

E. Investigate whether properly completed statements and reports have been filed within the times required by ((~~this c~~))Chapter 2.04 and Chapter 2.06;

F. Review all ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 for completeness and internal consistency;

G. Independently verify entries on ((~~disclosure~~))registrations and reports required under Chapter 2.04 and Chapter 2.06 and other forms selected on an arithmetically random basis;

* * *

I. Determine upon written complaint or upon his or her own initiative, in accordance with Section 2.04.070, that a violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06 has occurred, and report such apparent violation to ((~~either~~))the Seattle Ethics and Elections Commission or report such apparent violation of Chapter 2.04 to the PDC; provided that the Executive Director shall have the authority to resolve with the person who has apparently violated ((~~this c~~))Chapter 2.04 or Chapter 2.06, what the Executive Director determines to be inadvertent, de minimus violations without referring the matter to the Seattle Ethics and Elections Commission for a hearing, or referring an apparent violation of Chapter 2.04 to the PDC for a hearing; provided further that the Executive Director shall report violations of Chapter 2.04 to the PDC only in the event the Seattle Ethics and Elections Commission is unable to hear the matter;

* * *

P. Prepare, publish and update, as appropriate, documents written in plain language explaining the provisions of Chapter 2.06 and, further, develop and implement other methods to educate the public, including, but not limited to, employers and lobbyists concerning the requirements of Chapter 2.06;

Q. Annually publish and disseminate a directory of registered lobbyists that sets forth the name, employer(s), if applicable, and telephone number of each registered lobbyist;

R. Prepare and publish an annual report to the Seattle City Council as to the effectiveness of Chapter 2.06 and its enforcement;

S. Review at least every five years the reporting thresholds and penalties of Chapter 2.06. Promptly upon completion of each review, the Executive Director shall recommend to the Seattle City Council necessary changes, if any, to the reporting thresholds and penalties of Chapter 2.06;

T. Prepare and publish such reports as in the Executive Director's judgment will address the purposes of Chapter 2.06 including reports and statistics concerning lobbying and enforcement of Chapter 2.06.

Section 3. Section 2.04.070 of the Seattle Municipal code is amended as follows:

SMC 2.04.070 Complaint procedure.

A. Any registered voter of the City may file with the Executive Director a complaint, in writing, under oath alleging a violation of ((~~this c~~))Chapter 2.04. Under oath means that the complaint includes a statement substantially as follows: "I declare under penalty of perjury of the laws of the State of Washington that the information in this complaint is true and correct," or that the complaint is subscribed and sworn to before a notary public or other official authorized to administer oaths.

B. Any person may file with the Executive Director a complaint, in writing, under oath alleging a violation of Chapter 2.06.

((B))C. Upon receipt of ((~~such~~))a complaint alleging a violation of Chapter 2.04 or Chapter 2.06, the Executive Director shall conduct an investigation. The Executive Director shall commence an investigation:

1. Within ten (10) days after receipt of the complaint if the complaint relates to ((~~conduct~~))an alleged violation of Chapter 2.04 during the pending election and is received before the date of the final election for the office or the proposition; and

2. Within thirty (30) days in other instances.

((C))D. The Executive Director shall dismiss the complaint alleging a violation of Chapter 2.04 or Chapter 2.06 (1) if he or she determines that all of the alleged facts, if true, do not constitute a violation; or (2) if he or she determines after an investigation that (a) there is no reasonable ground to believe that a violation has occurred; or (b) the violation was inadvertent and minor.

Such a dismissal shall be in writing, setting forth the facts found, and the provisions of law upon which the dismissal is based, and the Director's reasoning. The Executive Director shall provide a copy of the dismissal to the complainant, to the person named in the complaint as the alleged violator, and to the Commission.

Section 4. Section 2.04.075 of the Seattle Municipal code is amended as follows:

SMC 2.04.075 Procedure -- Charges and hearing.

A. The Executive Director shall initiate an enforcement proceeding if, after investigation, he or she has reason to believe that a material violation of Chapter 2.04 or Chapter 2.06 has occurred. An enforcement action is initiated by delivering a charging document to the person charged and the Seattle Ethics and Elections Commission ("Commission") and scheduling a hearing on the charges. The document shall describe the alleged conduct that is the basis of the charge and set out the provisions of Chapter 2.04 or Chapter 2.06 alleged to have been violated. No hearing shall be scheduled while a recommendation of the Executive Director for a settlement is awaiting action by the Commission.

B. The hearing before the Commission shall commence as promptly as practical and no later than the following:

1. If the Executive Director issues the charging document alleging a violation of Chapter 2.04, between sixty (60) days immediately preceding and forty-eight (48) hours' immediately preceding seven (7:00) a.m. on the date of the election to which the alleged conduct at issue is related, the hearing shall commence within ten (10) days of issue or half the time before the election, whichever is less, but in no event upon less than twenty-four (24) hours' notice, given pursuant to subsection C of this section, to the person charged and the public;

2. In all other cases, including cases alleging a violation of Chapter 2.06, and in those cases in which the requirement in subsection B1 for twenty-four (24) hours' notice makes it impossible to commence the hearing within half the time before the election, the hearing shall commence within thirty (30) days from the date that the Executive Director issues the charging document;

3. The person charged and the Executive Director may, by mutual agreement, stipulate to a later date for the hearing. The Commission may delay or continue a hearing in order to accommodate an attempt to make a settlement or for other good cause.

C. The Executive Director shall cause notice of a hearing to be served on the person charged and on the public as follows:

1. The notice of hearing shall include:

a. A statement of the time, place, and matter(s) to be considered;

b. A statement of the legal authority under which the hearing is to be held;

c. Reference to the particular sections of the Seattle Municipal Code alleged to have been violated.

2. Notice may be served on the person charged by sending it through the U.S. mail, first class postage pre-paid, or by personal service, or through regular internal City mail service.

3. Notice may be served on the public by sending it to each daily local newspaper of general circulation through the U.S. mail, first class postage pre-paid, or by personal delivery, or by facsimile, and by posting it on the bulletin board in the main lobby of the building in which the City Council chambers are located and on the bulletin board in the Commission office.

D. Upon completion of the hearing, the Commission shall issue a written determination stating whether Chapter 2.04 or Chapter 2.06 was violated, the facts found, and the applicable sections of the Code.

If the charging document concerns ((~~conduct~~))an alleged violation of Chapter 2.04 related to an election to be held within seven (7) days of issuing the charging document, the written determination shall be made within forty-eight (48) hours of the completion of the hearing; in other instances, the determination shall be made within seventy-two (72) hours. A copy of the determination shall be delivered to the complainant, and to the person charged with the violation. The Commission may forward its determination to the City Attorney or to the King County Prosecuting Attorney.

E. A violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06 may be proven by a preponderance of the evidence and need not be proven beyond a reasonable doubt. If the Commission determines that a violation has occurred, the Commission may issue an order pursuant to SMC((~~ection~~)) 2.04.500((;)) or SMC 2.06.130.

F. In any case the Commission may refer the matter to the City Attorney or to the King County Prosecuting Attorney.

Section 5. Section 2.04.090 of the Seattle Municipal code is amended as follows:

SMC 2.04.090 Ethics and Elections Commission -- Powers and duties.

The Seattle Ethics and Elections Commission shall have the following duties and powers:

A. The Commission shall hear and make written determination of complaints alleging violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06. All hearings shall be conducted as hearings of a "contested case" under the Administrative Code, Seattle Municipal Code Chapter 3.02 insofar as the times and procedures of Chapter 3.02 are practical within the constraints of Section 2.04.075, and in accordance with the Commission's rules and regulations.

B. The Commission may require any person against whom a complaint has been filed, or any person who is reasonably believed to have information material to the determination of the charges before the Commission, to appear at a designated time and place in the City, to give such information under oath, and to produce all accounts, bills, receipts, books, papers, and documents which may be relevant or material to an investigation authorized by ((~~this c~~))Chapter 2.04 or Chapter 2.06.

C. The Commission shall adopt, promulgate, amend and rescind suitable administrative rules and regulations for the conduct of hearings, which rules and regulations shall be promulgated pursuant to the provisions of the Administrative Code.

D. The Commission shall, upon proper application made to it, conduct hearings and, when appropriate, grant exemptions from the disclosure requirements of ((~~this c~~))Chapter 2.04 as provided in Section 2.04.320 and from the registration and reporting requirements of Chapter 2.06 as provided in Section 2.06.070.

E. The Commission shall make public, pursuant to Section 2.04.075C, not less than twenty-four (24) hours in advance, the time and date of any hearing set to determine whether a violation has occurred and the question or issues to be considered.

Section 6. Section 2.04.510 of the Seattle Municipal code is amended as follows:

SMC 2.04.510 Enforcement.

The Executive Director may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of ((~~this c~~))Chapter 2.04 or Chapter 2.06, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the City, to give such information under oath and to produce all accounts, bills, receipts, books, papers, and documents which may be relevant or material to any investigation authorized under ((~~this c~~))Chapter 2.04 or Chapter 2.06.

Section 7. Subsection 3.70.100 A of the Seattle Municipal Code is amended as follows:

SMC 3.70.100 Powers and Duties.

The Commission shall have the following powers:

A. To administer the City's Code of Ethics (Code Chapter 4.16); the Election Campaign Code and its campaign matching fund program (Code Chapter 2.04); the City's election pamphlet ordinance (Code Chapter 2.14); the lobbying disclosure ordinance (Code Chapter 2.06); and the whistleblower protection ordinance (SMC Sections 4.20.800 through 42.20.850 inclusive) insofar as violations of the Code of Ethics or elections ordinance may be involved (called collectively "Commission-administered ordinances");

* * *

Section 8. The Seattle Ethics and Elections Commission's Executive Director shall provide a report with recommendations to the City Council on compliance with this ordinance, the City's enforcement of this ordinance, and the need for any amendments to the code sections enacted or amended by this ordinance. The report shall be presented to the Council no later than 12 months after the effective date of this ordinance.

Section 9. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 10. This ordinance shall take effect and be in force whichever is the earlier of (a) thirty (30) days after (i) the Seattle Ethics and Elections Commission adopts rules that address the registration and reporting requirements of this ordinance and (ii) favorable action by the Mayor or certification pursuant to Section 12 of Article IV of the Seattle City Charter; or (b) one hundred eighty (180) days from and after favorable action by the Mayor; or (c) if not approved by the Mayor, one hundred eighty (180) days from and after certification pursuant to Section 12 of Article IV of the Seattle City Charter.

Passed by the City Council the 17th day of March, 2008, and signed by me in open session in authentication of its passage this 17th day of March, 2008.

Nick Licata

President of the City Council

Approved by me this 21st day of March, 2008.

Gregory J. Nickels

Mayor

Filed by me this 24th day of March, 2008.

(Seal) Judith Pippin

City Clerk

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