

ORDINANCE NO. 18-O- 2749

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING LEGISLATIVE ADVOCATES**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN
AS FOLLOWS:

Section 1. The City Council hereby amends Section 1-9-102, “DEFINITIONS”, of Article 1, “COMPENSATED LEGISLATIVE ADVOCATES”, of Chapter 9, “LEGISLATIVE ADVOCATES”, of Title 1, “GENERAL PROVISIONS” of the Beverly Hills Municipal Code by revising or adding seven (7) definitions, with all other definitions in the section remaining unchanged. The revised definition terms shall be inserted in alphabetical order, to read as follows:

“CITY OFFICIAL: The mayor, any member of the city council, any member of a city of Beverly Hills commission, and any city employee who participates in the consideration of any Municipal Legislation other than in a purely clerical or secretarial capacity.

CONTRACTOR: A person that agrees to construct, or constructs, a building or other structure, or who provides or installs specialized portions of the construction. A Contractor shall not include any person who prepares the plans or designs of a building or other structure.

ENGAGEMENT LETTER: An Engagement Letter is the written agreement between the Client and legislative advocate that includes one or more of the following: (1) scope of work, (2) the responsibilities and obligations of each of the respective parties, or (3) fee estimates or quotes.

EXPENDITURE LOBBYIST: Any person, other than any government entity, or officer or employee of a government entity acting in an official capacity, who advises regarding, or makes, payments or incurs expenditures of \$5,000 or more during any calendar year for directing or guiding public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, or studies with the intent of soliciting, requesting or urging, directly or indirectly, other persons to communicate directly with a City Official in order to influence Municipal Legislation. Expenditure Lobbyist shall not include (1) a person who pays Compensation to a Legislative Advocate or who pays Compensation to another representative who appears at a

hearing on Municipal Legislation, (2) a person who pays dues to a membership organization that is ongoing in nature and whose membership services do not consist exclusively of Legislative Advocacy, (3) a organization who makes payments to distribute communications to its members, and (4) a person engaged in publication or broadcasting of news items, editorials, or commentary, provided that the person is not Compensated to take a specific position.

INDIRECT COMMUNICATION: Directing, advising or counseling another regarding Direct Communication. Indirect Communication includes, without limitation, communication through an agent who acts under one's supervision or control or communication through a Client.

LEGISLATIVE ADVOCATE: Any individual who is compensated or who is hired, directed, retained or otherwise becomes entitled to be compensated for engaging in Legislative Advocacy and makes a Direct or Indirect Communication with a City Official or who is an Expenditure Lobbyist. For example, a Legislative Advocate may include attorneys, permit expeditors, and architects or designers. However, notwithstanding the definition, a Legislative Advocate shall not include Contractors.

MUNICIPAL LEGISLATION: Any legislative, quasi-judicial, or administrative matter proposed by or pending before the city council or any city commission, or any discretionary matter proposed or pending before the city manager or any department head, or any action that involves a development project. "Municipal legislation" includes, without limitation, those matters involving the granting, denial, amendment, revocation, or restriction of any license, permit or entitlement for use (including all land use permits); the consideration, adoption, amendment or repeal of all municipal ordinances; and the consideration and award of bids and proposals for city contracts. "Municipal Legislation" does not include purely ministerial actions. A development application shall be considered to be pending before the city council or city commission or city staff once any preliminary material, including an application for concept review, has been filed with the city."

Section 2. The City Council hereby adds Subsections D and E to Section 1-9-103, "EXEMPTIONS", of Article 1, "COMPENSATED LEGISLATIVE ADVOCATES", of Chapter 9, "LEGISLATIVE ADVOCATES", of Title 1, "GENERAL PROVISIONS", to read as follows, with all other subsections of "Exemptions" remaining in effect without amendment:

"D. Any person making a request of the city staff for advice or for an interpretation of laws, regulations, or city approvals or policies; or who responds to a request from a

City Official. However, this exemption shall not include any substantive discussion of that advice or interpretation.

E. Persons seeking any ministerial action that does not involve a development project: An action is ministerial if it does not require the City Official involved to exercise discretion concerning any outcome or course of action”

Section 3. The City Council hereby amends Section 1-9-105, “REGISTRATION”, of Article 1, “COMPENSATED LEGISLATIVE ADVOCATES”, of Chapter 9, “LEGISLATIVE ADVOCATES”, of Title 1, “GENERAL PROVISIONS”, to read as follows:

“1-9-105: REGISTRATION:

A. Within ten (10) days after a Legislative Advocate begins to engage in Legislative Advocacy or receives an executed Engagement Letter, whichever is sooner, the Legislative Advocate shall register as a Legislative Advocate with the city clerk on a form provided by the city for that purpose. The Legislative Advocate shall specify:

(1) the name, telephone number, business address, e-mail address and fax number of the Legislative Advocate and the Legislative Advocate's employer,

(2) the identity of the Client and the contact information for the Client,

(3) a description of the specific business in which the Client is involved as it relates to the Legislative Advocacy,

(4) a description with specificity of the matter of Municipal Legislation the Legislative Advocate is Attempting to Influence, and the outcome desired by the Client,

(5) an estimate of fees to be generated. The estimate of fees shall be a check-box on the form that will provide a range of fees as follows: up to \$25,000, \$25,001 to \$50,000, \$50,001 to \$75,000, and \$75,001 and above.

(6) whether the Legislative Advocate has ever been sanctioned for a violation of this Article or a violation of any law, regulation or ordinance of another jurisdiction governing Legislative Advocacy or lobbying. The Legislative Advocate shall include a description of any such violation.

(7) whether a firm at which the Legislative Advocate works, has worked, or for which he owns or has owned an equity interest, has been sanctioned for a violation

of this Article or a violation of any law, regulation or ordinance of another jurisdiction governing Legislative Advocacy or lobbying. Provided however, the Legislative Advocate need only report those violations that occurred while he worked for or held in equity interest in the firm. The Legislative Advocate shall include a description of any such violation,

(8) a description of Legislative Advocacy conducted during the previous twelve (12) months that was not previously reported to the city by the Legislative Advocate.

B. In addition, Expenditure Lobbyists shall indicate they are filing as Expenditure Lobbyists. If the Expenditure Lobbyist is a corporation, the form shall include the names of the corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized payments to influence local legislative and administrative action, and any person who owns more than 20 percent of the corporation. If the Expenditure Lobbyist is a partnership, the form shall include the name of each partner if the entity has fewer than 5, or the name of the partner with the greatest ownership interest if the entity has 5 or more partners. If the Expenditure Lobbyist is any other type of business entity, the form shall include the name of each person with an ownership interest if the entity has fewer than 5 owners, or the name of the person with the greatest ownership interest in the entity, if the entity has 5 or more owners.

C. Any form submitted by a Legislative Advocate shall be signed under penalty of perjury, shall be available for public view in the city clerk's office as well as posted on the city's website in a searchable database and shall be forwarded by the city clerk to each City Official, the city manager and the city attorney.

D. Within ten (10) days after any information on the form becomes incorrect, the Legislative Advocate shall update the form with the corrected information.”

Section 4. The City Council hereby replaces Section 1-9-107, “REMEDIES FOR VIOLATIONS”, and replaces it with new Section 1-9-107, “NOTICE OF TERMINATION”, of Article 1, “COMPENSATED LEGISLATIVE ADVOCATES”, of Chapter 9, “LEGISLATIVE ADVOCATES”, of Title 1, “GENERAL PROVISIONS”, to read as follows:

“1-9-107: NOTICE OF TERMINATION:

Upon termination of a Legislative Advocate’s role concerning a project, the Legislative Advocate shall file a notice of termination with the city. The notice shall be filed on the form provided by the city.”

Section 5. The City Council hereby adds a new Section 1-9-108 “REMEDIES FOR VIOLATIONS” (formerly Section 1-9-107) of Article 1, “COMPENSATED LEGISLATIVE ADVOCATES”, of Chapter 9, “LEGISLATIVE ADVOCATES”, of Title 1, “GENERAL PROVISIONS”, to read as follows:

“1-9-108: REMEDIES FOR VIOLATIONS:

Pursuant to the administrative remedies and procedures set forth in chapter 3 of this title, any person who knowingly and willfully violates any provision of this article, may be assessed an administrative penalty not to exceed five hundred dollars (\$500.00) per violation.

Additionally, the city prosecutor is delegated the authority to investigate any charge that a person has knowingly and willfully violated this article. If the city prosecutor determines that there is probable cause to believe that a Legislative Advocate has knowingly, willfully and materially violated the provisions of this article, the city prosecutor may request that the city conduct an administrative hearing to determine whether such a violation has occurred and, if so, whether the Legislative Advocate should be prohibited from engaging in Legislative Advocacy for a period of time.

Upon the request of the city prosecutor, a hearing officer shall be retained and an administrative hearing shall be conducted substantially in accordance with the procedures set forth in chapter 3 of this title for conducting hearings on administrative citations.

If, after conducting a hearing pursuant to this section, a hearing officer determines that the Legislative Advocate has knowingly, willfully and materially violated the provisions of this article, then for the first violation of this article, the hearing officer shall prohibit the Legislative Advocate from engaging in Legislative Advocacy for a minimum period of six (6) months, for a second violation, the hearing officer shall prohibit the Legislative Advocate from engaging in Legislative Advocacy

for a minimum period of one year, and for a third or subsequent violation, the hearing officer shall prohibit the Legislative advocate from engaging in Legislative Advocacy for a minimum period of four (4) years. The hearing officer may issue an order prohibiting the Legislative Advocate from engaging in Legislative Advocacy for a period of less than the maximum period set forth in this paragraph if the hearing officer determines that mitigating circumstances justify a lesser period of prohibition.

If the hearing officer determines that the Legislative Advocate has knowingly, willfully and materially violated the provisions of this article, or if the Legislative Advocate accepts the allegation of knowing, willful and material violation and waives the opportunity for a hearing, then the city's website shall identify the Legislative Advocate and indicate that the Legislative Advocate has violated the city's regulations governing Legislative Advocacy. The website identification shall remain posted on the website for one year.

Notwithstanding the provisions of chapter 3 of this title, any decision by a hearing officer pursuant to this section shall be a final decision and not subject to appeal or review by the city council.”

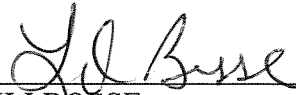
Section 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 7. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

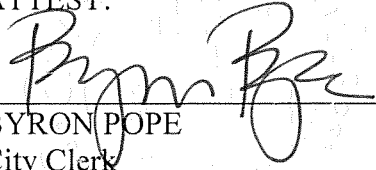
Adopted: January 9, 2018

Effective: February 9, 2018



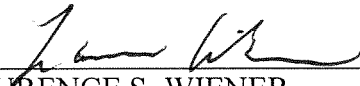
LILI BOSSE
Mayor of the City of Beverly Hills

ATTEST:



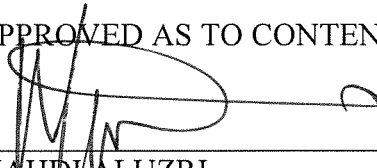
BYRON POPE (SEAL)
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



MAHDI ALUZRI
City Manager