

Metropolitan Board of Ethical Conduct

REQUEST FOR PUBLIC COMMENT

Metropolitan Nashville Lobbying Act (Council Ordinance BL2020-147)

[Metropolitan Council Ordinance No. BL2020-147](#), approved on August 5, 2020, with an effective date of January 1, 2021, amends the Metropolitan Code regarding Lobbying Registration and Disclosure. The new Ordinance defines the terms “influencing” and “lobbying” as set forth below.

The Board of Ethical Conduct plans to develop explanatory materials in order to clarify i) who is, and who is not, required to register as a lobbyist and ii) what type of conduct constitutes lobbying under the new ordinance. The Board may also develop written materials using specific examples, hypotheticals and fact patterns to illustrate the types of conduct that constitute lobbying in order to provide further guidance to stakeholders, including design professionals, and the public at large.

The Board of Ethical Conduct now invites input from members of the public on the following two (2) questions regarding implementation of Metropolitan Council Ordinance No. BL2020-147.

1. Please comment as to whether you have specific questions regarding the meaning of the terms “influencing” or “lobbying,” as they are defined in the ordinance (as set out below), and if so, please state your specific questions and explain which part of the definitions would benefit from further clarification.

2. Please comment by providing examples, hypotheticals, illustrations or visual tools that, in your view, would further the public’s understanding of the ordinance’s definition of lobbying.

Written comments must be submitted to the Metropolitan Clerk’s Office via email at metroclerk@nashville.gov no later than September 15, 2020 by 12:00 p.m. to be included in the packet for consideration by the Board at their next meeting, which is scheduled to take place on September 21, 2020 at 10:30 a.m. An agenda for that meeting will be posted promptly to the [Board’s webpage](#) on nashville.gov.

Thank you.

Select definitions from Council Ordinance 2020-147

"Administrative action" means the taking of any recommendation, report or nonministerial action, the making of any decision or taking any action to postpone any action or decision, action of the mayor in approving or vetoing any ordinance or resolution, the promulgation of a rule and regulation, or any action of a quasi-legislative nature, by an official in the executive branch; however, "administration action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch.

"Compensation" means any salary received or to be received by anyone acting as a lobbyist, whether in the form of a fee, salary, payment, reimbursement or other valuable consideration and any combination thereof. Compensation does not include the salary of an individual whose lobbying is incidental to regular employment.

"Influencing" means promoting, supporting, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses. "Influencing" does not include the furnishing of information, statistics, studies or analyses requested by an official of the legislative or executive branch to such official, or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch.

"Legislative action" means introduction, sponsorship, debate voting or any other nonministerial official action or inaction on any ordinance, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a council committee or in the council.

"Lobby" or **"Lobbying"** means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for pay or for any consideration, for the purpose of influencing any legislative action or administrative action. "Lobby" does not mean any of the following communications:

A. with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held;

B. from a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or rule making procedure;

C. from an editor or working member of the press, radio or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;

D. by an incumbent or prospective contractor or vendor, or an employee of the contractor or vendor, while engaged in selling or marketing to Metro, or any Metro department, board, or commission, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information. However, the contractor or vendor, or employee of the contractor or vendor, shall be deemed to be a lobbyist if actively engaged in selling or marketing to an official in the executive branch or an official in the legislative branch whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract so marketed or sold;

E. with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan, incentive or any component of an economic development incentive package; provided, that any person who is otherwise required to register as a lobbyist under the provisions of this chapter shall not be deemed to fall within this exception.

"Lobbyist" means any person who engages in lobbying for compensation.

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