ORDINANCE NO. 3954

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA, CALIFORNIA, AMENDING THE SANTA ROSA CITY CODE BY ADDING A NEW CHAPTER 10.35 OF TITLE 10 RELATING TO THE REGULATION OF LOBBYING ACTIVITIES

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. A new Chapter 10-35 entitled “Regulation of Lobbying Activities” is hereby added to Title 10 of the Santa Rosa City Code.

Title 10 of the Santa Rosa City Code is hereby amended by adding Chapter 10-35 – Regulation of Lobbying Activities -- to read as follows:

“Chapter 10.35  REGULATION OF LOBBYING ACTIVITIES

10-35.010 Declaration of policy.
10-35.020 Definitions.
10-35.030 Registration as Lobbyist.
10-35.040 Applicability.
10-35.050 Notice of Registration Required.
10-35.060 Prohibited Acts.
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10-35.080 Filing and Preservation of Reports.
10-35.090 Revolving Door Prohibition.
10-35.100 Enforcement.

10-35.010. Declaration of policy.

The Council of the City of Santa Rosa declares and finds as follows:

(A) City government functions to serve the needs of all citizens.

(B) The citizens of the City have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests.

(C) All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations,
restrictions and requirements, regardless of their background, training or other professional qualifications or license.

(D) Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of City government.

(E) It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions or attempt to deceive a City official through false communications; do not place a City official under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City official.

(F) It is in the public interest to adopt this Chapter to ensure adequate and effective disclosure of information about efforts to lobby City government.

10-35.020 Definitions.

Whenever used in this chapter, the following words and phrases shall be construed as defined in this section:

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise. Other terms used in this division shall have the meanings set forth in the California Political Reform Act of 1974, as amended, and in the regulations of the California Fair Political Practices Commission, as amended, if defined therein.

A. City official means the Mayor, Vice Mayor, members of the City Council, the City Manager, the Deputy City Manager, Assistant City Managers, Department Directors, Deputy Department Directors, the Police Chief, Police Captains, the Fire Chief, Fire Captains, the City Attorney, the City Clerk, the Zoning Administrator and members of the Planning Commission, the Board of Public Utilities, the Redevelopment Agency Board, the Housing Authority Board, and any other commission or board that is advisory in nature.

B. Client means any person on whose behalf lobbying is conducted. In the case of a coalition or association that employs or retains persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

C. Compensation means money or any other thing of value that is received, or is to be received, in return for, or in connection with, lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation includes the financial gain that a person may realize as a result of the determination of a municipal question, including gains in the form of a contingent fee. If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if for the purpose of evading the obligations imposed by this division, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on
which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported.

D. **Contact** means all oral and written (including electronic) communications directed to a City official, including but not limited to telephone calls and messages, voicemail and answer machine messages, e-mail messages, mail, personally delivered material, meetings, and conversations.

E. **Lobbyist** means a person who engages in lobbying, whether directly or through the acts of another for compensation. If an agent engages in lobbying for a principal, both the agent and the principal are lobbyists.

F. **Lobby or lobbying**, except as provided below, means any oral or written communication (including an electronic communication) to a City official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term "lobby or lobbying" does not include a communication:

1. Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;

2. Made by a public official or employee (including, but not limited to, an official or employee of the City of Santa Rosa) acting in his or her official capacity;

3. Made in the course of, or in connection with the gathering, preparation or dissemination of news, information or commentary to the public, or in connection with a municipal question's possible effect upon or relevance to the media's right or ability to engage in such conduct.

4. Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;

5. Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;

6. Made in writing to provide information in response to an oral or written request by a City official for specific information, the content of which is compelled by law;

7. Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

8. Made on behalf of an individual with regard to that individual's employment or benefits;

9. Made by a fact witness or expert witness at an official proceeding; or

10. Made by a person solely on behalf of that individual or his or her relative.
G. Lobbying firm means:

1. A self-employed lobbyist, or

2. A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

H. Municipal question means a public policy issue of a discretionary nature pending before the City Council or another City body identified in the definition of City official, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term "municipal question" does not include the day-to-day application, administration, or execution of City programs and policies such as permitting, zoning and planning matters, but does include the amendment, modification or revision to the City's General Plan or Zoning Ordinance.

I. Person means an individual, business entity, trust, corporation, association, firm, partnership, committee, club, or any other organization or group of persons acting in concert.

J. Registrant means a person required to register under Section 10-35.030.


L. Changed Information means any changes, additions or deletions to information required under Section 10-35.030.

10-35.030 Registration as Lobbyist

A. Except as provided in Section 10.35.040, any lobbyist shall register with the City Clerk by filing a written statement containing the following information:

1. The lobbyist’s full name, business address and telephone number;

2. The name, business address and telephone number of any individual or entity by whom the lobbyist is employed, retained or engaged for compensation to perform lobbying services in the city;

3. The legislative or administrative action for the city as to which the lobbyist has been engaged.

B. Such registration shall be filed on an annual basis between January 1 and January 31, each year or upon initial employment if that occurs after the annual filing period. Should the registration be filed upon initial employment after the annual filing period, such registration shall be filed within fifteen (15) days of such initial employment.
C. Should a lobbyist have a change to its registration information, including but not limited to the legislative or administrative action for the city as to which the lobbyist has been engaged, or the addition or loss of a client, after the annual registration period, such lobbyist shall file an amended registration with the City Clerk within fifteen (15) days of such change with the changed information.

10-35.040 Applicability.

The provisions of Section 10-35.030 shall not apply:

A. To a public official acting in his official capacity;

B. To any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge action upon municipal legislation, if such newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with action upon such municipal legislation;

C. To a person invited by the City Council or any of its committees, or by any board or commission, or any committee or a board or commission, or by any officer or employee of the city charged by law with the duty of conducting a hearing and making a decision as to a pending or proposed matter, for the purpose of giving testimony in aid of the body or person extending the invitation;

D. To a person who is a professional licensed by a state licensing organization, including, but not limited to, attorneys, architects and engineers retained by a client and whose attempts to influence governmental action are limited to (1) Publically appearing at a public meeting, public hearing, or other official proceeding open to the public; (2) Preparing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other public proceeding open to the public; and (3) contacting city or redevelopment agency employees or agents working under the direction of the City Manger, the City Attorney or Executive Director relating to (1) and (2) above.

E. A regular employee of an organization, communicating to the City during the course of their employment on behalf of their employer, would not be considered a lobbyist if the communication was on behalf of the employer’s own project.

F. To designated representatives of a recognized employee organization whose activities are limited to communicating with City Officials or their representatives regarding (1) wages, hours and other terms or conditions of employment, or (2) the administration, implementation or interpretation of an existing employment agreement

G. To a non-profit organization unless the non-profit organization is lobbying for a specific project, issue or person for which the organization has received compensation or a contribution to lobby for or against a specific project, issue or person.
Notice of Registration Required.

The City Clerk, if approved by the City Attorney, shall issue a “notice of registration required” upon the written request of the Council, the City Attorney, or any board or commission, or any officer or employee of the City charged by law with conducting a hearing and making a decision on a matter pending or proposed. Any person who in good faith and on reasonable grounds believes that he is not required to comply with the provisions of Section 10-35.030 by reason of his being exempt under Section 10-35.040 or Section 1-36.060 shall not be deemed to have violated the provisions of Section 10-35.030 if, within 15 days after notice from the City Clerk, the person either complies or furnishes satisfactory evidence to the City Clerk that the person is exempt from registration.

Prohibited Acts.

It is unlawful for any person or entity to act as a lobbyist in the City without having registered in compliance with this chapter, or knowingly to employ a person or entity to serve as a lobbyist when such person is not registered pursuant to this chapter.

Filing Under Penalty of Perjury.

Any person desiring to register as a lobbyist shall file under penalty of perjury on forms prescribed by the City Clerk, the information required by Section 10.35.030.

Filing and Preservation of Reports.

A. The filings required by this chapter shall be filed under oath with the City Clerk on forms prescribed by the City Clerk and may be filed:

1. In person; or

2. Be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, and directed to the City Clerk, at City Hall; but in the event it is not received, copies of such statement shall be promptly filed upon notice from the City Clerk of its nonreceipt; or

3. Electronically (on-line) by forwarding to the City Clerk a copy of the prescribed form via electronic mail together with a facsimile copy of the form showing execution by the lobbyist. Such electronic filing shall be effective upon receipt by the City of the filing fee. The original signed form must be provided within ten days of electronic transmission.

B. All reports and statements required under this chapter which are filed with the City Clerk shall be preserved pursuant to the city’s records retention schedule, shall constitute part of the public records of his or her office, and shall be open to public inspection.

C. The clerk may charge a fee to cover the actual costs of processing such reports or amendments in an amount established by resolution.
10-35.100 Revolving Door Prohibition.

No former member of the City Council, former member of the Planning Commission, Board of Public Utilities, Design Review Board, Cultural Heritage Board, Redevelopment Agency or Housing Authority, or former City employee may serve as a lobbyist with respect to matters before the City within one year of leaving office or employment with the City.

10-35.113 Enforcement.

Persons or entities who knowingly violate this chapter may be subject to penalties as set forth in Chapter 1-28.010.”

Section 2. Environmental Determination. The Council finds that the adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act in that the Council finds there is no possibility that the implementation of this ordinance may have a significant effect on the environment.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid, the validity of the remaining portions of this ordinance shall not be affected.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2011.

IN COUNCIL DULY PASSED AND ADOPTED this 12th day of October, 2010.

AYES: (6) Mayor Gorin, Vice Mayor Wysocky, Councilmembers Bender, Sawyer, Jacobi, and Olivares

NOES: (0)

ABSENT: (1) Councilmember Vas Dupre

ABSTAIN: (0)

ATTEST: Susan Stoneman, City Clerk APPROVED: Susan Gorin, Mayor

APPROVED AS TO FORM:

Caroline Fowler, City Attorney