



Open Government Commission

March 18, 2021

To: Open Government Commission
From: Sam Harvey, Commission Secretary
Subject: Lobbying Ordinance Late Filing Penalties

At its February 18, 2021 meeting, the Commission discussed the implementation of rules and procedures for the enforcement of the City's Lobbyist Registration Act ("Lobbying Ordinance"). Among the potential polices discussed were the adoption of procedures to guide the enforcement of Lobbying Ordinance complaints and the adoption of automatic late fees for late filed lobbyist registrations and disclosure reports.

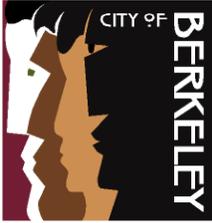
As the Commission has seen during the first year implementing the Lobbying Ordinance, a number of City lobbyists have failed to timely file lobbying disclosure reports. It is hoped that the imposition of modest but not insignificant late filing penalties will encourage timely filing by City lobbyists. The attached amendment to the Lobbyist Ordinance would create an automatic penalty of ten dollars (\$10) per day up to one-hundred dollars (\$100) total per late filed registration or disclosure report. This penalty would be collected by staff without action from the Commission.

These penalty amounts are the same as the penalties for late campaign filings and Statements of Economic Interest ("Form 700s"). (BMC § 2.12.485; Cal. Gov. Code § 91013.) Staff believes that a penalty structure which parallels the penalties for campaign filings and Form 700s provides clarity and simplicity for both the public and staff.

This recommended amendment requires a majority vote of the Commission to be presented to the City Council. The amendment is not subject to the "double greenlight process" for amendments to the Berkeley Election Reform Act ("BERA") presented by the Fair Campaign Practices Commission ("FCPC") and can be amended by Council prior to passage.

Attachment:

1. Proposed Ordinance



Open Government Commission

ACTION CALENDAR
XXXXXX XX, 2021

To: Honorable Mayor and Members of the City Council
From: Brad Smith, Chair, Open Government Commission
Submitted by: Samuel Harvey, Secretary, Open Government Commission
Subject: Amendment to the Berkeley Lobbyist Registration Act

RECOMMENDATION

Adopt an ordinance amending the Berkeley Lobbyist Registration Act (BMC Chapter 2.09) to impose late filing penalties of ten dollars (\$10) per day up to a total of one-hundred dollars (\$100) for late filed lobbyist registrations and disclosure reports.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This recommended amendment to the Berkeley Lobbyist Registration Act was approved by the Open Government Commission (“OGC”) at its regular meeting of March 18, 2020.

Action:

Vote:

This recommendation is provided by the OGC pursuant to its authority under BMC § 2.06.190.A.2 to “propose additional legislation or procedures that it deems advisable to ensure the City’s compliance with ... the Lobbyist Registration Act, and advise the City Council as to any other action or policy that it deems advisable to enhance open and effective government in Berkeley.” This ordinance may be adopted by majority vote of the Council. The Council may amend the proposed ordinance without resubmitting the ordinance to the OGC.

BACKGROUND

The Berkeley Lobbyist Registration Act (BMC Chapter 2.09) (the “Act”) was adopted by the City Council on October 16, 2018 and went into effect on January 1, 2020. The Act requires City lobbyists to register with the City and file quarterly or annual disclosure reports. As the OGC has seen over the first year implementing the Act, a number of City lobbyists have failed to timely file lobbying registrations or disclosure reports.

At its March 18, 2021 meeting, the OGC adopted this proposed amendment to create an automatic penalty of ten dollars (\$10) per day up to one-hundred dollars (\$100) total per late filed lobbyist registration or disclosure report. This penalty would be collected by staff without action from the Commission. It is hoped that the imposition of modest but not insignificant late filing penalties will encourage more timely filing by City lobbyists. These penalty amounts are the same as the penalties for late campaign filings and Statements of Economic Interest ("Form 700s"). (BMC § 2.12.485; Cal. Gov. Code § 91013.) .

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The proposed amendment to the Berkeley Lobbyist Registration Act will encourage timely filing of registrations and disclosure reports by City lobbyists.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998

Attachments:

1. Ordinance

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY LOBBYIST REGISTRATION ACT TO IMPOSE
PENALTIES ON LATE FILED REGISTRATIONS AND DISCLOSURES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Berkeley Municipal Code section 2.09.145 is added to read as follows:

2.09.145 Late Filing Penalties

If any person files a late registration as required by Section 2.09.060 or late disclosure as required by Section 2.09.140, that person shall, in addition to any other penalties or remedies established by this Chapter, be liable in the amount of ten dollars (\$10) per day after the deadline until the registration or disclosure is filed, up to a total penalty of not more than one-hundred dollars (\$100) per late filed registration or disclosure.