

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1993**

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**No. 67**

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Introduced by Council Members Pinkett and the Speaker (Council Member Vallone) (Jointly with the Mayor and the Comptroller) and Council Member Fisher; also Council Members Clarke, DiBrienza, Eldridge, Harrison, Leffler, Michels, Robinson, Ruiz and Eristoff.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the regulation of lobbying activities.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision c of section 3-211 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(c)(1) The term "lobbying" or "lobbying activities" shall mean any attempt to influence:

(i) the passage or defeat of any [legislation] *local law or resolution* by the city council,

(ii) the approval or disapproval of any [legislation] *local law or resolution* by the mayor,

(iii) [the approval or disapproval if any resolution by the board of estimate] *any determination made by an elected city official or any officer or employee of the city with respect to the procurement of goods, services or construction, including the preparation of contract specifications, or the solicitation, award or administration of a contract, or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies.,*

(iv) *any determination made by the mayor, the city council, the city planning commission, a borough president, a borough board or a community board with respect to zoning or the use, development or improvement of real property subject to city regulation,*

(v) *any determination made by an elected city official or an officer or employee of the city with respect to the terms if the acquisition or disposition by the city of any interest in real property, with respect to a license or permit for the use of real property of or by the city, or with respect to a franchise, concession or revocable consent.*

[(iv)] (vi) the adoption, *amendment* or rejection by an agency of any rule [or regulation] having the force and effect of law,

[(v)] (vii) the outcome of any rate making proceeding before an agency,  
 [(vi) any determination by an agency in connection with a proposed concession agreement,] or

[(vii)] (viii) any determination of a board or commission[, other than a determination in an adjudicatory proceeding].

(2) *The determination of the term "lobbying" or "lobbying activities" shall not apply to any determination in an adjudicatory proceeding.*

(3) The following persons and organizations shall be deemed not to be engaged in "lobbying activities":

(i) persons engaged in [drafting legislation, rules, regulations or rates,] advising clients [and], rendering opinions [on] *and drafting, in relation to proposed legislation, resolutions, rules, [regulations or] rates, or other proposed legislative, executive or administrative action,* where such [professional services are not otherwise connected with legislative or executive action on such legislation, board of estimate action on such resolutions, administrative action on such rules, regulations or rates or determinations of a board or commission] *persons do not themselves engage in an attempt to influence such action:*

(ii) newspapers and other periodical and radio and television stations[;], and owners and employees thereof, provided that their activities [in connection with proposed legislation, resolutions, rules, regulations or rates] are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

(iii) persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

(iv) persons who appear before an agency in an adjudicatory proceeding; [and]

(v) persons who prepare or submit a response to a request for information or comments by the city council or one of its committees, the mayor, [board of estimate,] *or other elected city official or an agency;*

(vi) *(a) contractors or prospective contractors who communicate with or appear before city contracting officers or employees in the regular course of procurement planning, contract development, the contractor selection process, the administration of a contract, or the audit of a contract, when such communications or appearances are made by such contractors or prospective contractors personally, or through:*

1. *such officers and employees of the contractors or prospective contractor who are charged with the performance of functions relating to contracts:*

2. *subcontractors or prospective subcontractors who are or will be engaged in the delivery of goods, services or construction pursuant to the contract of such officers and employees of the subcontractor or prospective subcontractor who are charged with the performance of functions relating to contracts; or*

3. *persons who provide technical or professional services, as defined in clause (B) of this subparagraph, on behalf of such contractor, prospective contractor, subcontractor or prospective subcontractor.*

(B) *For the purposes of clause (A) of this subparagraph:*

1. *"technical services" shall be limited to advice and analysis directly applying any engineering, scientific, or other similar technical discipline;*

2. "professional services" shall be limited to advice and analysis directly applying any legal, accounting or other similar professional discipline in connection with the following elements of the procurement process only: dispute resolution, vendor protests, responsiveness and responsibility determinations, determinations of prequalification, suspensions debarments, objections to registration pursuant to section 328 of the charter, contract interpretation, negotiation of contract terms after the award of a contract, defaults, the termination of contracts and audit of contracts. Any person who provides professional services pursuant to this subparagraph in connection with elements of the procurement process not specified above in this item, whether prior to, in connection with or after the award of a contract, shall be deemed to be engaged in lobbying activities, unless such person is deemed not to be engaged in lobbying activities under another provision of this paragraph; and

3. "city contracting officers or employees" shall not include elected officials or deputies of elected officials or any person not duly authorized to enter into and administer contracts and make determinations with respect thereto; and

(vii) persons or organizations who advertise the availability of goods or services with fliers, leaflets or other advertising circulars.

§2. Section 3-212 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-212[.] Powers and [the Duties] duties of the [City Clerk]city clerk. In addition to any other powers and duties specified by law, the city clerk shall have the power and duty to administer and enforce all the provisions of this subchapter, subpoena witnesses and records, issue advisory opinions to those under its jurisdiction, conduct any investigation necessary to carry out the provisions of this subchapter, prepare uniform forms for the statements and reports required by this subchapter and promulgate such rules [and regulations] as he or she deems necessary for the proper administration of this subchapter.

§3. Subparagraph (ii) of paragraph (5) of subdivision (b) of section 3-216 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate of [fifty]seventy-five dollars or less and if more than [fifty]seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than [fifty] seventy-five dollars on behalf of any one person, the name of such person shall be listed.

§4. Subdivision (d) of section 3-216 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(d)(1) All such periodic reports shall be subject to review by the [City Clerk]city clerk.

(2) Such periodic reports shall be kept on file in the office of the [City Clerk]city clerk for five years and shall be open to public inspection during such time.

§5. Subdivisions (b), (c) and (d) of section 3-217 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, are amended to read as follows:

(b) Such report pursuant to paragraph one of the subdivision (a) of this section shall be filed with the [City Clerk]city clerk, on forms supplied by the [City Clerk] city clerk, by the fifteenth day of January next following the year for which such report is made and

shall contain on an annual cumulative basis all the information required in periodic reports by section 3-216 of this subchapter.

(c) Such report pursuant to paragraph two of subdivision (a) of this section shall be filed with the [City Clerk] *city clerk* on forms supplied by the [City Clerk] *city clerk* by the fifteenth day of January next following the year for which such report is made and shall contain:

- (1) the name, address and telephone number of the client;
- (2) the name, address and telephone number of each lobbyist retained, employed or designated by such client;
- (3) a description of the general subject or subjects on which each lobbyist retained, employed or designated by such client has lobbied;
- (4) the person or agency before which such client has lobbied;
- (5) (i) the compensation paid is owed to each such lobbyist, and any other expenses paid of incurred by such client for the purpose of lobbying.
- (ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate of [fifty] *seventy-five* dollars or less and if more than [fifty] *seventy-five* dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than [fifty] *seventy-five* dollars on behalf of any one person, the name of such person shall be listed.
- (iii) for the purposes of this paragraph, expenses shall not include:
  - (A) personal sustenance, lodging and travel disbursements of such lobbyist and client;
  - (B) expenses, not in excess of five hundred dollars, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.
- (iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.
- (v) expenses of more than fifty dollars must be paid by check or substantiated by receipts.

(d)(1) All such annual reports shall be subject to review by the [City Clerk] *city clerk*.

(2) Such annual reports shall be kept on file in the office of the [City Clerk] *city clerk* for a period of five years and shall be open to public inspection during such period.

§6. Section 3-218 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-218 Contingent retainer. No client shall retain or employ any lobbyist for compensation, the rate or amount of which compensation in whole or part is contingent or dependent upon [the passage or defeat of any legislative bill or the approval or veto of any legislation by the mayor, or the approval or disapproval of any resolution by the board of estimate, or the adoption or rejection of any rule or regulation having the force and effect of law, or the outcome of any rate making proceeding by an agency, any other determination of an agency] *legislative, executive or administrative action* where efforts by a lobbyist to influence such [determination] *action* are subject to the jurisdiction of the [City Clerk] *city clerk*, and no person shall accept such a retainer or employment.

§7. Subdivisions a, b, c, d, and e of section 3-219 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, are amended to read as follows:

- a. To abstain from doing any act, with the express purpose and intent of placing a member of the city council [or board of estimate], the mayor or any officer or employee

charged by law with [conducting a hearing and] making a decision on a matter pending or proposed, under personal obligation to him or her or to his or her employer.

b. Never to knowingly deceive or attempt to deceive a member of the city council [or board of estimate], the mayor or any officer or [employer] *employee* charged by law with [conducting a hearing and] making a decision on a *local law, resolution* or matter pending or proposed, as to any material fact pertinent to any pending or proposed [legislation]*local law, resolution* or matter.

c. Never to cause of influence the introduction of any [legislation]*local law or resolution* at the [City Council] *city council* for the purpose thereafter being employed to secure its granting, denial, confirmation, rejection, passage or defeat.

d. To abstain from any attempt to create a fictitious appearance of public favor or disfavor of and [legislative proposal] *proposed local law or resolution* before the [City Council]*city council* or to cause any communication to be sent to a member of the [City Council or board of estimate]*city council*, or the mayor, or any officer or employee charged by law with [the duty of conducting a hearing and ] making a decision on a matter pending or proposed, in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

e. Not to represent, either directly or indirectly through word of mouth or otherwise, that he or she control or obtain the vote or action of *the mayor*, any member of the [City Council or board of estimate] *city council*, or any employee or officer of the city charged by law with [the duty of conducting a hearing and] making a decision on a matter pending or proposed, or the approval or [veto]*disapproval* of an [legislation]*local law or resolution* by the mayor of the city of New York.

§8. Section 3-221 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-221 Filing of statements and reports. Any statement or report required by this subchapter may be filed with the [City Clerk]*city clerk* either in person or by mail. It shall be deemed properly filed by mail when deposited in an official depository under the exclusive care and custody of the United States Postal Service, properly addressed in a post-paid wrapper. In the event it is not received, such statement shall be promptly filed upon notice from the city clerk of its non-receipt.

§9. Section 3-223 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-223 [.] Penalties. (a) Except as provided for in subdivision b of this section, any person or organization who knowingly and willfully violates any [provision]*provision* of this subchapter shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed fifteen thousand dollars, to be assessed by the [City Clerk]*city clerk*, or an order to cease all lobbying activities subject to the jurisdiction of the [City Clerk] *city clerk* for a period of time as determined by said [Clerk]*clerk* not to exceed sixty days, or both such civil penalty and order.

(b) Any person or organization who violates a cease and desist order of the [City Clerk]*city clerk* issued under subdivision a of this section or enters into a contingency agreement or accepts or pays any contingency fees as proscribed in *section 3-218 [hereof]of this subchapter*, shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an

amount not to exceed fifteen thousand dollars, to be assessed by the [City Clerk]city clerk.

(c) Following a failure to make and file any statement or report required by this subchapter, the [City Clerk]city clerk shall notify the person or organization of such fact by certified mail that such filing must be made within fourteen business days of the date of mailing of such notice. The failure to file any statement or report within such time shall constitute a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed ten thousand dollars, to be assessed by the [City Clerk]city clerk. For the purposes of this subdivision, the chief administrative officer of any organization required to file a statement or report unless some other person prior to the due date thereof has been duly designated to make and file such statement or report.

(d) Any person or organization who violates any provision of this subchapter not punishable under subdivisions a, b, or c of this section shall be subject to a civil penalty, in an amount not to exceed ten thousand dollars, to be assessed by the [City Clerk]city clerk.

(e) Any civil penalty to be assessed under subdivision d of this section [may only be imposed or ordered], or any order issued under subdivision a of this section [issued], may only be imposed or issued after written notice of violation and the expiration of fourteen business days [of]from the date of mailing of such notice [within which to cure said violation]. If such violation is cured within such fourteen-day period, then such civil penalty or order shall not be imposed or issued.

(f) The amount of any assessment made or duration of order issued pursuant to this section shall be determined only after a hearing at which the party shall be entitled to appear and be heard. Any assessment imposed under this section may be recovered in an action brought by the corporation counsel.

(g) The [City Clerk]city clerk shall be charged with the duty of reviewing all statements and reports required under this subchapter for violations, and it shall be his duty, if he deems such to be willful, to report such determination to the appropriate authority for criminal prosecution.

§10. If any part or provision of subchapter two of chapter two of title three of the administrative code of the city of New York, as amended by this local law, or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional, such judgment shall not affect or impair any other part or provision or the application thereof to any other person or organization, but shall be confined in its operation to the part, provision, person or organization directly involved in the controversy in which such judgment shall have been rendered.

§11. This local law shall take effect immediately provided, however, that: (1) any reporting required as a result of the enactment of this local law shall be made in the periodic and annual reports following its effective date; (ii) nothing contained in this local law shall be construed to waive the requirement for the reporting of any lobbying activities, as defined by local law number 14 for the year 1986, that occur prior to the effective date of this local law; and (iii) new or amended statements of registration required to be submitted as a result of the enactment of this local law shall be submitted by the thirtieth day after its effective date.

**THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:**

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on July 13, 1993, and approved by the Mayor on July 29, 1993.

**CARLOS CUEVAS, City Clerk, Clerk of the Council**

**CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27**

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 67 of 1993, Council Int. No. 1-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on July 13, 1993: 50 for, 0 against.

Was approved by the Mayor on July 29, 1993.

Was returned to the City Clerk on July 29, 1993.

**JEFFREY D. FRIEDLANDER, Acting Corporation Counsel**