



**City of San Marcos**  
**Special Meeting Agenda**  
**Ethics Review Commission**

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Thursday, January 20, 2022

5:30 PM

City Hall Conference Room

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**630 E. Hopkins**

**This will be a hybrid (in-person/virtual) meeting.**

To view the meeting, please go to <https://us02web.zoom.us/j/82952919121> or

Dial in at: 888 788 0099 (toll free) or 877 853 5247 (toll free) or

One tap mobile: US: +13462487799,,82952919121#,,,,\*720393# US

Meeting ID: 829 5291 9121 Passcode: 720393

I. Call To Order

II. Roll Call

III. 30 Minute Citizen Comment Period

*Persons wishing to participate (speak) during the Citizen Comment portion of the meeting must submit their comments or request to speak to [tmoreno@sanmarcostx.gov](mailto:tmoreno@sanmarcostx.gov) no later than 12:00 p.m. the day of the meeting. Please indicate if you would like to speak in person or virtually. Written or oral comments shall have a time limit of three (3) minutes each.*

1. Consider approval, by motion, of the November 9, 2021 regular meeting minutes.
2. Review, discuss, and take action, on the proposed lobbying ordinance, including, but not limited to, amendments proposed by Mayor Jane Hughson for consideration by the City Council on second reading.

IV. Discussion and Recommendations for Future Agenda Items

*Board Members may provide requests for discussion items for future agenda in accordance with the board's approved by-laws. No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.*

V. Question and Answer Session with Press and Public

*This is an opportunity for the Press and Public to ask questions related to items on this agenda. Persons wishing to participate in the Q&A session remotely must email [tmoreno@sanmarcostx.gov](mailto:tmoreno@sanmarcostx.gov) no later than 12:00 p.m. the day of the meeting. Comments shall have a time limit of three (3) minutes each.*

VI. Adjournment

**Notice of Assistance at the Public Meetings**

The City of San Marcos is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855.461.6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov).

For more information on the Ethics Review Commission, please contact Tina Moreno at 512.393.8151 or [tmoreno@sanmarcostx.gov](mailto:tmoreno@sanmarcostx.gov).



# City of San Marcos

## Meeting Minutes Ethics Review Commission

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Tuesday, November 9, 2021

5:30 PM

City Hall Conference Room

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### I. Call To Order

**With a quorum present, the regular meeting of the Ethics Review Commission was called to order by Chair Lollar at 5:32 p.m. on Tuesday, November 9, 2021.**

### II. Roll Call

**Present:** 6 - Chair Lollar, Commissioner Chandler, Commissioner Garcia, Commissioner Rhodes (virtual), Commissioner Rowe, and Commissioner Teehan

**Absent:** 1 - Commissioner Walden (arrived at 5:34 p.m.)

### III. 30 Minute Citizen Comment Period

There were no speakers.

1. Consider approval, by motion, of the October 12, 2021 regular meeting minutes.

**A motion was made by Commissioner Teehan, seconded by Commissioner Rowe, to approve the minutes. The motion carried by the following vote:**

**For:** 6 - Chair Lollar, Commissioner Chandler, Commissioner Garcia, Commissioner Rhodes, Commissioner Rowe, and Commissioner Teehan

**Against:** 0

**Absent:** 1 - Commissioner Walden

2. Discuss and take action, as appropriate, on possible Resolution to send to City Council recommending an amendment to *Sec. 2.461 – Definitions* in Division 3. Financial Disclosure, under Code of Ethics.

**A motion was made by Commissioner Chandler, seconded by Commissioner Rowe, to accept Resolution 2021-3 (see attachment) and send it to City Council for consideration. The motion carried by the following vote:**

**For:** 7 - Chair Lollar, Commissioner Chandler, Commissioner Garcia, Commissioner Rhodes, Commissioner Rowe, Commissioner Teehan, and Commissioner Walden

**Against:** 0

### 3. Discuss and take action, as appropriate, on the status of draft Resolutions sent to Council.

The item was discussed and no action taken.

## IV. Discussion and Recommendations for Future Agenda Items.

ERC regular meeting on March 8, 2022:

- review, discuss and take action, as appropriate, on Ethics Review Commission recommendations to Council
- welcome new ERC member(s)
- election of new Chair and Vice-Chair

## V. Question and Answer Session with Press and Public.

None were present for questions and answers from press and public.

## VI. Adjournment

**The Regular Meeting of the Ethics Review Commission meeting was unanimously adjourned at 5:51 p.m.**

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Michael Cosentino, Staff Liaison

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Jonathan Lollar, Chair

ERC RESOLUTION NO. 2021-3

A RESOLUTION OF THE ETHICS REVIEW COMMISSION OF THE CITY OF SAN MARCOS, TEXAS RECOMMENDING AN AMENDMENT TO SECTION 2.461 OF THE SAN MARCOS CITY CODE TO PROVIDE A DEFINITION OF THE TERM "FAIR MARKET VALUE" FOR THE PURPOSE OF REPORTING THE VALUE OF REAL PROPERTY ON FINANCIAL DISCLOSURE STATEMENTS FILED BY CITY OFFICIALS AND COUNCIL APPOINTEES

BE IT RESOLVED BY THE ETHICS REVIEW COMMISSION OF THE CITY OF SAN MARCOS, TEXAS:

**PART 1.** The Commission hereby recommends that the City Council discuss and consider amending the San Marcos City Code, Section 2.461, to read as follows:

**Sec. 2.461. Definitions.**

In this division:

*Board member* means a member of a board or commission whose membership is wholly appointed by the city council, including any temporary board or commission.

*Business entity* means a corporation, partnership, sole proprietorship, firm, holding company, joint stock company, receivership, trust or any other entity organized for profit.

*Candidate* means every person who declares for or files for any city office to be filled by election.

*Compensation* means any benefit received in return for labor, services, property or investment.

*Fair market value* means the appraised value reflected on the most recent certified appraisal roll by the appraisal district in the county where the property is located.

*Family member* means the spouse and any dependent children of any official or candidate.

*Gift* means a benefit received other than as compensation, but not including campaign contributions reported as required by state law.

*Identification* means, for an individual, the person's name, street address, city and state. For any entity other than an individual, the term "identification" means the name, address, city and state of the entity's principal location or place of business; the type or nature of the entity's principal location or place of business; the type or nature of the entity; the date on which it came into existence; the state of incorporation, if any; and the names of the partners or officers of the entity.

*Income* means a benefit received.

*Source of income* means any business entity, employment, investment or activity which earned or produced income, including interest, dividends, royalties or rents.

**PART 2.** This resolution shall be in full force and effect from and after its

passage.

**ADOPTED** on November 9, 2021.

A handwritten signature in black ink, appearing to read 'Jonathan Lollar', written in a cursive style.

Jonathan Lollar  
Chair

Attest:

A handwritten signature in blue ink, appearing to read 'Tina Moreno', written in a cursive style.

Tina Moreno  
Recording Secretary

**ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE 5, CODE OF ETHICS, BY ADDING A NEW DIVISION 5 REQUIRING REGISTRATION OF LOBBYISTS AND PERIODIC REPORTING OF CONTACTS MADE BY LOBBYISTS WITH ~~CITY COUNCIL MEMBERS ELECTED CITY OFFICIALS, CITY BOARD AND COMMISSION MEMBERS, AND CITY EMPLOYEES~~; ESTABLISHING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING CERTAIN EXEMPTIONS FROM LOBBYING REGISTRATION AND REPORTING REQUIREMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** Chapter 2, Administration, Article 5, Code of Ethics, of the San Marcos City Code is hereby amended to add a new Division 5, Lobbying, to read in its entirety as follows:

**DIVISION 5. LOBBYING**

**Sec. 2.469. Purpose.**

The lobbying provisions of this ordinance are designed to improve transparency regarding city business and services to the public; maintain public confidence and public trust in our city ~~council members officials and employees~~ when public resources are used and municipal decisions are made; and require certain individuals to register as lobbyists and report exchanges with city ~~council members officials and city employees~~.

**Sec. 2.470. Definitions.**

In addition to the terms defined in Section 2.422, the following definitions shall apply to this division:

*City Official Officer or official means the mayor or any member of the city council and any appointive member of a city board, commission or committee established by ordinance, charter or state law on a permanent basis, and members of temporary boards and commissions.*

*Client* means any person on whose behalf lobbying is conducted. If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

*Employee* means any person employed by the city, whether under civil service regulations or not, including those individuals on a part-time basis, and employees of an independent contractor that serve as a staff liaison to a city board or commission.

*Lobby or lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City ~~Council Member official or city employee~~, made directly or indirectly by any person for compensation or economic benefit in an effort to influence or persuade ~~a council member 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 or municipal question:

- (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 ~~Council Member official~~.
- (2) Made by a ~~Council Member public official or employee (including, but not limited to, an official or employee of the City)~~ acting in his or her official capacity.
- (3) Made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public.
- (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 at a meeting open to the public under the Texas Open Meetings Act.
- (6) Made in the form of a written comment filed during a public proceeding or any other communication that is made on the record in a public proceeding.
- (7) Made in writing as a petition for official action and required to be a public record pursuant to established City procedures.
- (8) Made in writing to provide information in response to an oral or written request by a City ~~Council Member official~~ for specific information.
- (9) The content of which is compelled by law.
- (10) Made in response to a public notice soliciting communications from the public and directed to the ~~Council Member official~~ specifically designated in the notice to receive such communications.
- (11) Made on behalf of an individual regarding that individual's employment or benefits.
- (12) Made by a fact witness or expert witness at an official proceeding; or
- (13) Made by a person solely on behalf of that individual, his or her spouse, or his or her minor children.

*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, or
- (3) ~~The San Marcos Police Officers Association and the San Marcos Professional Firefighter's Local No. 3963.~~

*Lobbyist* means a person who engages in lobbying for compensation or economic benefit, whether directly or through the acts of another. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists. A lobbyist may also include any individual that knows their actions would potentially contribute to a city ~~council member official or city employee~~ violating Section 2.423. ~~The term lobbyist includes representatives of the San Marcos Police Officers Association and the San Marcos Professional Firefighter's Local No. 3963.~~

*Municipal question* means a public policy issue of a discretionary nature pending or impending before City Council or any board or commission, 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.

*Person* means an individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

**Sec. 2.471. Qualifying contracts, applications, and activities that can trigger lobbying registration.**

Matters that may require registration of lobbyists and reporting of lobbying activities under this division include but are not limited to:

- (1) Contracts with the city or subcontracts under a city contract,
- ~~(2) Tax Increment Financing,~~
- ~~(3) Economic Development Incentive Agreements.~~
- ~~(24)~~ Procurements with the city,
- ~~(35)~~ Requests for Proposal (RFP),
- ~~(46)~~ Requests for Information (RFI),
- ~~(57)~~ Applications for zoning changes or preferred scenario amendment requests,
- ~~(68)~~ Requests for special considerations for city services or a change in a Master Plan, Strategic Plan, or Comprehensive Plan,
- ~~(79)~~ Planned Development Districts applications (PDD),
- ~~(810)~~ Public Improvement Districts (PID),
- ~~(911)~~ Municipal Utility Districts (MUD),
- ~~(1012)~~ Conditional Use Permits (CUP),
- ~~(11) Tax Increment Financing,~~
- ~~(12) Economic Development Incentive Agreements,~~
- (13) Variances considered by the Planning and Zoning Commission (P&Z) or Zoning Board of Adjustments (ZBOA),
- (14) Warrants,
- (15) Waivers,
- (16) Development Agreements,
- (17) Platting or re-platting of land for a development,

(18) or any special requests that are a deviation from the comprehensive plan or Land Development Code (LDC) **including a request for alternative compliance.**

[\(19\) Alcohol Conditional Use Permits](#)

[\(20\) Meet and Confer agreements between the City and the San Marcos Police Officers Association and the San Marcos Professional Firefighter's Local No. 3963. This means that if representatives of the San Marcos Police Officers Association or the San Marcos Professional Firefighter's Local No. 3963 wish to contact City Council members, they must register under this ordinance.](#)

Instances in which the above contracts, applications, and activities are part of a quid pro quo agreement or for benefit (as defined in Section 2.422) will qualify as action triggers. It may not be necessary to prove the intention to benefit in order to be a qualifying contract, application, or activity for lobbying registration. Not all variances, waivers, or the platting or re-platting of land automatically trigger lobbying registration (see Exceptions to Registration).

[\[swap 2.472 and 2.473 since 2.472 instructs lobbyists what to do and 2.473 is registration.\]](#)

**Sec. 2.4723. Disclosure Requirements.**

*(a) For Lobbyists*

- (1) Lobbyists are required to identify themselves as lobbyists and disclose their principals, or employers and the project, interest, or business they are representing when speaking before the city council or any board or commission.
- (2) If a lobbyist fails to comply with any provision of this ordinance, his or her principal shall not be awarded a contract with the city or obtain any land development permit or legislative approval or other similar services from the city until registration as a lobbyist has occurred or other compliance is made. Any failure to comply with registration or ongoing lobbying activity requirements will result in postponement of land development or other services.

*(b) For City [Council Members](#) ~~Officials and City Employees~~*

- (1) If a city ~~council member official or city employee~~ meets, **or communicates in any manner,** with an individual that identifies himself/herself as a registered lobbyist, then the city ~~council member official or employee~~ is required to document the conversation per the requirements in Section 2.473 of this ordinance.
- (2) If a city ~~council member official or employee~~ meets, **or communicates in any manner,** with an individual that is a registered lobbyist but does not identify himself/herself as a registered lobbyist, then the city ~~council member official or employee~~ may choose to act in accordance with Section 2.473 if they believe that the individual is discussing items that may fall within Section 2.471. However if a city [council member official or employee](#) speaks with a registered lobbyist that fails to disclose himself/herself as a registered lobbyist, the city ~~council member official or employee~~ shall not be deemed to have violated Section 2.473 for failing to report that meeting, conversation, or communication.

**Sec. 2.47~~3~~2. Lobbyist Registration and Activity Reporting Requirements**

(a) *Registration required.* All lobbyists are required to register with the city clerk's office **prior** or online at the city's website **prior to engaging in lobbying**, unless exempted, under Section 2.474, on a form prescribed by the Ethics Review Commission and available from the City Clerk. [This form shall be used for the initial registration, changes to names and/or address, phone numbers, etc., and to request removal.](#) The prescribed form shall include the following information:

(1) Full name, telephone number, permanent address, and nature of the business for:

- a. The lobbyist.
- b. The client (or principal).
- c. Any person, other than the client, on whose behalf the lobbyist has been engaged by the client to lobby.
- d. Any person, other than the client, who is known by the lobbyist to contribute financially to the compensation of the lobbyist, or which, in whole or in major part, plans, supervises, or controls the lobbyist's lobbying activities on behalf of the client.
- e. Any lobbying firm for which the lobbyist is an agent or employee with respect to the client; and
- f. Each employee or agent of the lobbyist who has acted or whom the lobbyist expects to act as a lobbyist on behalf of the client.
- [g. Identification Number - Each registration will receive an identification number which is to be used on all reports and for contacting the city council.](#)
- [h. Any campaign contributions given to any current council member during their most recent election or since that election.](#)

~~(2) A statement of all municipal questions on which the lobbyist or its agents or employees have lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby.~~

~~(3)~~ A list of any positions held by the lobbyist or its agents or employees as an official or employee of the City, as those terms are defined by the San Marcos Code of Ethics, during the past two (2) years.

~~(4)~~ If the lobbyist or an agent or employee is a former City official or employee, a statement that the lobbyist's lobbying activities have not violated and will not foreseeably violate former City officials and employees of the Ethics Code.

**(b) Updates to registration information**

[Any changes to any items on the registration form must be reported within thirty \(30\) days of the change on the same registration form and check the CHANGE box.](#)

(c) Removal from registration

Anyone who no longer intends to lobby for any reason, must complete the name section of the registration form, provide the identification number, and check the REMOVE box. A final report is required per (d) Activity Reports below.

*(bd) Activity reports.* Each registered lobbyist shall file with the City Clerk a separate report signed under oath concerning the registered lobbyist's registered lobbying activities. A firm, entity, or individual that employs agents or employees who lobby on behalf of that organization's or employer's clients may file activity reports regarding registered lobbying activities on behalf of all the organization's or employer's clients, so long as all activities by agents and employees that must be disclosed are reported on consolidated reports to be filed on or before the 15th day of every other month beginning in **December** of each year. Each report shall list registered lobbying activities for the preceding two (2) calendar months. These activity reports shall then be made available to the public by the City Clerk's office. Activity reports shall be filed for every reporting period whether or not registered lobbying activities occurred. When a registered lobbyist files an activity report disclosing the registered lobbying activities of its agents or employees, the registered lobbyist's agents and employees are not required to file separate activity reports. If the registered lobbyist is not an individual, an authorized officer or agent of the registered lobbyist shall sign the form. The report shall be on the form prescribed by the Ethics Review Commission and available from City Clerk and shall include, with respect to the previous reporting period, the following information:

- (1) The identification number assigned by the City, name of the registered lobbyist, and the name of the client, ~~and any changes or updates in the information provided in the most recent registration statement filed.~~
- (2) A list of the specific issues upon which the registered lobbyist or its agents or employees engaged in registered lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions. If there is an identifying number or code assigned by the city, such as a zoning change (ZC-year-xxx), it should be included.
- (3) A list of the City Council Members officials contacted by the registered lobbyist or its agents or employees on behalf of the client with regard to a municipal question.
- (4) A list of the employees or agents of the registered lobbyist who acted as registered lobbyists on behalf of the client.
- (5) The dollar amount of each gift, benefit, or expenditure greater than fifty dollars (\$50) or in a cumulative amount greater than two hundred dollars (\$200) per reporting period made to, conferred upon, or incurred on behalf of a City Council Member official or his or her immediate family by the registered lobbyist, or by anyone acting on behalf of the registered lobbyist, shall be itemized by date, City Council Member official, actual cost, entity and address, and circumstances of the transaction. **For purposes of this Section 2.473, a political contribution to an elected city council member official is considered a gift and must be reported as a lobbying activity.**

(6) The name and position of each City ~~council member official~~ or member of a City ~~council member's official's~~ immediate family who is employed by the registered lobbyist.

(~~ee~~) *Preservation Production of records.* It may be required for a registered lobbyist or representative of a registered lobbyist to produce certain documentation in the event of an ethics hearing. These records must be provided upon request by the Ethics Review Commission. [Only records directly related to lobbying activities provided in a report apply.](#) Examples of items that may be requested by the Ethics Review Commission include but are not limited to:

(1) Accounts.

(2) Bills.

(3) Receipts.

~~(4) Books.~~

~~(5)~~(4) Emails or electronic communications with City ~~Council Members Officials or City Employees.~~

~~(6)~~(5) And any related documents.

(~~df~~) *City Council Members Official and Employee Disclosure.* City ~~Council Members Officials and City Employees~~ who have had reportable conversations with a registered lobbyist are required to ~~file have~~ reports ~~filed~~ with the City Clerk's Office on or before the 15th day of every other month beginning in **December** of each year. Each report shall list registered lobbying activities for the preceding two (2) calendar months. These activity reports shall then be made available to the public [by the first of the following month on the City website](#) by the City Clerk's office. Activity reports made by a City ~~Council Member Official or City Employee~~ shall include:

(1) Date

(2) Name of City ~~Council Member Official or Employee~~

(3) Name of registered lobbyist or an individual the City ~~Council Member Official or City Employee~~ reasonably believes to be a potential registered lobbyist

(4) Topic of discussion relevant to potential registered lobbying

~~(5)~~ [Lobbying identification number](#)

~~(5)~~(6) Optional other notes

In the event a lobbyist meets with multiple City ~~Council Members officials or employees~~ in a single meeting, it shall be the responsibility of the City staff liaison present at the meeting to report the reportable conversation or action trigger.

(~~eg~~) *Guidance provided to potential lobbyists.* [The City Attorney's Office will be responsible for assistance with inquiries regarding who must register and who does not need to register.](#)

(~~h~~) *Administration.* The City Clerk shall:

(1) Provide ~~guidance and~~ assistance on the registration and reporting requirements for lobbyists, city ~~council members officials~~ and city employees, to develop common standards, rules, and procedures for compliance with this section.

(2) Review the completeness and timeliness of registrations and reports.

- (3) Maintain filing, coding, and cross-indexing systems to carry out the purposes of this section, including:
  - a. A publicly available list of all registered lobbyists, registered lobbying firms, and their clients; and
  - b. Computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this section;
- (4) Make available for public inspection and copying at reasonable times the registrations and reports filed under this section; and
- (5) Retain registrations and reports in accordance with the Local Government Records Act.

**Sec. 2.474. Exceptions to Registration.**

The following persons and entities are not required to disclose their status as lobbyists under Section 2.472, or to register as lobbyists and file activity reports or under Section 2.473. Any individual, **regardless of registration status even if exempt under this Section 2.474, who engages in sanctionable action(s) a prohibited act** referenced in Section 2.475 will be subject to the penalties provided in that section.

- (1) Agent or employee. An agent or employee of a registered lobbying firm or other registrant that has a registration statement on file does not have to register as a lobbyist again after subsequent registered lobbying interactions with City [Council Members Officials](#) or [City Employees](#), unless the agent or employee of a registered lobbying firm or other registrant at some point begins to represent a new client or registered lobbying firm. Activity reports for the period in question fully disclosing all relevant information known to the agent or employee must still be filed, as necessary.
- (2) Attorneys. A licensed attorney who is performing an act that may be performed only by a licensed attorney.
- (3) Dispute resolution. An attorney or other person whose contact with a City [Council Member official](#) is made solely as part of resolving a dispute with the City, provided that the contact is solely with City [Council Members officials](#) who do not vote on or have final authority over any municipal question involved and so long as such an attorney complies with Rule 4.02 of the Texas Disciplinary Rules of Professional Conduct, as amended.
- (4) Governmental entities. Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the City.
- (5) Individual. An individual(s) or group(s) of individuals who communicate with public officials to express personal opinions on behalf of themselves or any other individual(s) or group(s) of individuals, if neither the individual(s) nor group(s) of individuals receive an economic benefit or compensation.
- (6) Media outlets. A person who owns, publishes, or is employed by:
  - a. A newspaper.
  - b. Any other regularly published periodical.
  - c. A radio station.

- d. A television station.
- e. A wire service; or
- f. Any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto if the person does not engage in other activities that require registration under Division 5 (Lobbyists). This subsection does not exempt the news media or a person whose relation to the news media is only incidental to a registered lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

- (7) Mobilizing entity constituents and not-for-profit organizations. A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more City ~~Council Members officials~~ to influence municipal questions. This exception is intended to apply to neighborhood associations and not-for-profit organizations.
- (8) Unknown municipal questions. Any person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a City ~~Council Member official~~. This subsection does not apply if the existence of a municipal question is discovered during on-going contacts with a City ~~Council Member official~~ and the person then engages in additional lobbying of the same ~~council member or other council members official or other City officials~~ with respect to that municipal question.
- (9) Individual(s), group(s), or entities contracted by the City of San Marcos to conduct research or gather information ~~for~~ on behalf of the City.
- (10) Citizens opposed to ~~an alcohol conditional use permit~~, a zoning, or other land use decision in order to avoid a detriment to themselves, their property, or their neighborhood.
- (11) ~~Social Service Non-profit~~ corporations and their representatives while generally exempt, shall nonetheless be subject to all disclosure, registration, and lobbying activity reporting requirements of this division if they contact city ~~council members officials~~ or employees to solicit public funding from the city.
- (12) The Greater San Marcos Partnership (GSMP) and entities that lobby the GSMP are exempt from the disclosure, registration, and lobbying activity reporting requirements of this division.

**Sec. 2.475. Sanctionable Actions Prohibited Acts**

- (1) False statements. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false, misleading, or incomplete statement of fact to any City official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a City official without notifying such official in writing of the truth.

- (2) Failure to correct erroneous statement. A registered lobbyist who learns that a statement contained in a registration form or activity report he or she filed during the past three (3) years is false shall correct that statement by written notification to the City Clerk within thirty (30) days of learning of the falsehood.
- (3) Personal obligation of City ~~Council Members officials~~. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City ~~Council Member official~~ under a personal obligation to such registered lobbyist, lobbyist, or person.
- (4) Improper influence. A city ~~council member official or city employee~~ shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a registered lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.
- (5) Use of false identification. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City ~~Council Member official~~ in the name of any fictitious person or in the name of any real person, except with the consent of such real person.
- (6) Prohibited representations. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that he or she can control or obtain the vote or action of any City ~~Council Member official~~.
- (7) Limitations on gifts. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a City ~~Council Member official or a City employee~~ or his or her immediate family, with the exception of an individual meal or gift with a cost or value of fifty dollars (\$50) or less, and not more than a cumulative value of five hundred dollars (\$500) in a single calendar year, on behalf of a single principal.
- (8) Prohibited lobbying or anti-lobbying clause. A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with City ~~Council Members officials and employees~~ regarding a contract after an **Invitation For Bids (IFB)**, Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been issued. If contact is required with City ~~Council Members officials and employees~~, such contact will be made in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agent(s) shall lead to disqualification of their offer from consideration at the time of the award. Violations of this clause shall be enforced by the Purchasing Department head or city manager.

**Sec. 2.476. Complaints, review and hearings; sanctions for violations.**

(a) During the first six-months following the effective date of the ordinance adopting this division, no sanctions will be administered for violations. A remediation letter will be sent delineating the violation that occurred and instructions will be given on how to remedy or prevent future violations. Once this six-month grace period has ended, complaints alleging a violation of this division may be filed and considered by the Ethics Review Commission in accordance with the procedures set forth in Section 2.444 of this Article.

**(b) Complaints must be filed within 90 days of the alleged failure of registration or reporting.**

(bc) Requests for determinations regarding requirements to register as a lobbyist or complaints regarding an individual's failure to register a lobbyist shall be referred to the Ethics Review Commission for a final decision to be made within thirty (30) days. During the review process, any contract awards, activities, and applications that require a determination regarding the lobbyist registration requirement shall not be considered or approved.

(ed) In addition to the sanctions listed in Section 2.444, subsection (e), if the **[ADDING Ethics Review]** eCommission determines at the conclusion of a hearing that a violation of Section 2.475 has occurred, it may also impose or recommend:

1. Suspension of lobbying privileges for a determined period of time.
2. Indefinite revocation of registered lobbying privileges.
3. Suspension of any **[ADDING "city"]** business brought before the city or currently being processed by the registered lobbyists or the people or entities they represent.

### **Sec. 2.477. Criminal Penalties.**

A person who violates any provision of this division shall be punished, upon conviction thereof, by a fine not to exceed \$500.00. Each day in which a violation occurs is punishable as a separate offense. During the first six months following the effective date of the ordinance adopting this division, no criminal penalties will be administered for violations.

**SECTION 2.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

**SECTION 3.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 4.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 5.** This ordinance will take effect on August 3, 2021.

**PASSED AND APPROVED** on first reading on June 1, 2021.

**PASSED, APPROVED AND ADOPTED** on second reading on ~~July 6, 2021~~.

Attest:  
Tammy K. Cook  
Interim City Clerk

Jane Hughson  
Mayor  
Approved:  
Michael J. Cosentino  
City Attorney

Jane's amendments summary - Lobbying Ordinance for July 6/Nov 3/Feb 2022 meeting

	<b>Content</b>
Multiple	Delete "official or city employee" and change to "council member"
2.470 Def	Need definition of "City Official" in the definitions so all are clear as to the breadth of who must comply.
From Def to 2.471	SMPOA and SMPFFA are currently in the Definitions Lobbying firm and Lobbyist. Moved SMPOA and SMPFFA to Sec. 2.471. Qualifying contracts, applications, and activities that can trigger lobbying registration. (20) Meet and Confer.
2.471	2.471 –All the PADS related items should be placed together.
Swap 2.472 2.473	2.472 and 2.473 should be swapped. We are telling the Lobbyist what to do before we explain the required registration process.
2.473a	FORM – Have a box for NEW, UPDATE, and REMOVE
2.473 (a) (1) g	When they register, they should be given an ID number. And anytime they ID themselves, as in 2.472, they should provide ID number. There may be confusion about who is who with similar names etc. The ID number should eliminate that.
2.473 (a) (1) h	Add to the registration list of items "Any campaign contributions made for ANY council member for that council member's last election or since."
2.473 (a) (2)	Remove the item on registering lobbyist has to report things done in the last year when the lobbying ordinance was not in effect.
2.473 (b)	New item. Specify information updates go on the register/update/remove form
2.473 (c)	New item. How to Unregister, or more clearly, retire that ID. And to make it clear that we will need that last report. Same form as registration, just check the REMOVE (or other word) and not all information will be needed. Name, address, company name, and ID should be all that's needed for a REMOVE.
2.473 b/d	Activity reports. Give the City Clerk two weeks to process and post the reports.
2.473 b/d 1	In 2.473, b 1, ADD Lobby Registration ID as something to go on any and all reports.
2.473, b 2	In include any identifying information, <b>if known</b> at the time of the report, to further specify the reason for the discussion. Example ZC-yr-##. This can ensure that complaints are accurate.
2.473, c	In Production of Records, need to add that these are records solely related to lobbying.

Jane's amendments summary - Lobbying Ordinance for July 6/Nov 3/Feb 2022 meeting

	<b>Content</b>
2.473, d/f	Verb tense is incorrect, Council Members will be responsible for reports. Already included here is that for meetings with staff, that staff will report
2.473 d/f	These activity reports shall then be made available to the public by the City Clerk's office by the first of the following month on the City website. We have to give the Clerk a reasonable amount of time to post the information. That gives her two weeks to post it. And we want it on the web which we intend to do but this specifies to the public that it will be.
2.473, b/d 2	Include any identifying information, <b>if known</b> at the time of the report, to further specify the reason for the discussion. Example ZC-yr-##.
2.473, d/f 5	Add ID to the activity reports to ensure clarity as to which lobbyist is reporting.
2.473 e/g h	Responsibility of providing guidance goes to the City Attorney's office to provide guidance on who has to register and who does not. Administration be such that E (1) – (5) (now 2-5 renumbered) is only City Clerk shall "Provide <del>guidance</del> and assistance on the registration...
2.474 (10)	Exceptions - We should add alcohol CUP included to make this clear. This is one occasion when the Planning and Zoning Commission hears from a lot of people.
2.474 (11)	Insert "social service" in front of "non-profit" here! Need to change from "non-profit" to "social service non-profit "because there are non-profits whose sole reason for being is to lobby. No problem with that but our exemption discussions have been about <b>social service</b> non-profits.
2.475. (7)	Limitations on gifts. Is this any different from gifts elsewhere in our code? Can we just reference the current section?
2.475 (8)	RFPs, etc. is this any different from what we already have in our code? Can we just reference the current section?
2.476	<b>Complaints, review and hearings; sanctions for violations</b> What is the statute of limitations on filing a complaint? What would be the start date?
2.476 b/c	Complaints. We need a limit on the number of times a complaint can be filed, per person, that perhaps is just a delaying tactic for a project. We also need to limit the timeframe in which a complaint can be filed.
2.476 c/d 3	Add "Ethics Review" in front of "Commission" to remove any doubt about which commission has the power to do this. This is the only occurrence of just "commission" in the ordinance with Ethics Review in front of it.
2.476 c 3	"Suspension of any <b>business</b> brought before the city or currently being processed by the registered lobbyists or the people or entities they represent." I first read this as the BUSINESS (the company) would be suspended! Clearly that's not the case. To be clear by inserting "city" in front of business