

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING CHAPTER 1.11 TO TITLE 1 OF THE ANAHEIM MUNICIPAL CODE TO INCLUDE A "SUNSHINE" PROVISION TO INCREASE TRANSPARENCY IN GOVERNMENT OPERATIONS AND ESTABLISH LOBBYIST REGISTRATION, REPORTING AND DISCLOSURE REQUIREMENTS AND PROHIBITIONS ON THE EMPLOYMENT OF LOBBYISTS

WHEREAS, all actions and deliberations by public agencies should, to the greatest extent possible, be conducted openly; and

WHEREAS, an informed public and transparency in decision making are essential to democracy. It is the goal and intent of this ordinance, known as the "City of Anaheim Sunshine Ordinance," to ensure that citizens of Anaheim have timely access to information and an opportunity to address the various legislative bodies of the City prior to governmental decisions being made; and

WHEREAS, this ordinance is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to ensure that the people of the City of Anaheim are fully informed so that they retain control over the instruments of local government in their City; and

WHEREAS, this ordinance will codify certain existing practices, as well as implement new practices, to ensure that members of the public have sufficient opportunities to keep abreast of the City's activities and to communicate their concerns to their elected and appointed officials; and

WHEREAS, the proper operation of democratic government requires that public officials and public employees be independent, impartial, ethical, responsible, and accountable to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office and public employment not be used for personal gain; and that the citizens and businesses of the City have confidence in the integrity of their government; and

WHEREAS, the citizens of Anaheim have the right to know the identity of interests which attempt to influence decisions by City government, as well as the means employed by those interests; and

WHEREAS, 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; and

WHEREAS, 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Chapter 1.11 be added to Title 1 of the Anaheim Municipal Code to read in full as follows:

1.11.010 DEFINITIONS.

“Agenda” means a document that informs the public about a Meeting, published in advance of the Meeting, which at a minimum: (i) identifies the Legislative Body conducting the Meeting, (ii) specifies the time and location of the Meeting and (iii) lists each item of business to be discussed or transacted and describes the proposed action for such item.

“Agenda Packet” means a complete set of materials that includes the Agenda and its relevant Supporting Documents.

“Brown Act” means California Government Code sections 54950 *et. seq.*, as those sections may be amended from time to time.

"Executive team" means the City Manager, Assistant City Manager, Deputy City Manager, City Attorney, City Clerk, City Treasurer, Police Chief, Fire Chief, Public Utilities General Manager, and the Directors of Community and Economic Development, Community Services, Convention, Sports and Entertainment, Finance, Human Resources, Planning and Building and Public Works.

“Legislative Body” shall have the meaning set forth in California Government Code section 54952, as it may be amended from time to time.

"Lobby" or "Lobbying" mean performing services, for compensation, for the purpose of influencing legislative or administrative action.

"Lobbying Firm" means any business entity, including an individual who engages in Lobbying activities, which meets either of the following criteria: (1) the business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a Lobbyist; or

(2) the business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

“Lobbyist” means any individual or entity who receives or becomes entitled to receive five hundred dollars (\$500) or more in consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate, directly or through his or her agents, with any elective or appointed official of the City, member of the City Executive Team, or Legislative Body, board or commission of the City, for the purpose of influencing legislative or administrative action of the City of Anaheim or any regional agency in which Anaheim has a voting role.

“Meeting” shall have the meaning set forth in California Government Code section 54952.2, as it may be amended from time to time.

“Public Record(s)” shall have the meaning set forth in California Government Code sections 6250 *et. seq.*, as those sections may be amended from time to time.

“Supporting Documents” means all documents, regardless of form, medium or author, that are provided to members of a Legislative Body for their use in considering Agenda items for a Meeting.

1.11.020 PUBLIC MEETING NOTICE AND AGENDA REQUIREMENTS.

.010 Open Meetings. Meetings of City Legislative Bodies shall be open and public and governed by the provisions of this Chapter and the Brown Act. In cases of inconsistent requirements under the Brown Act and this Chapter, the requirement which would result in greater or more expedited public access shall apply.

.020 Draft Agenda. At least five (5) calendar days before a regular City Council Meeting, a preliminary (draft) Agenda shall be provided to all members of the City Council, which shall contain a general description of each item of business to be transacted or discussed at the Meeting that is anticipated at the time of the preliminary Agenda.

.030 Agenda and Agenda Packet. At least seventy two (72) hours before a regular City Council Meeting, the City Clerk shall post an Agenda containing a meaningful description of each item of business to be transacted or discussed at the Meeting, in accordance with the Brown Act. The City Clerk shall further post on the City’s home webpage, in a manner that is easily accessible and visible, an Agenda and Agenda Packet for the Meeting. The Agenda and Agenda Packet shall also be freely accessible to members of the public through other means.

.040 Description of Agenda Items. In addition to requirements imposed by the Brown Act, the description of each item of business to be transacted or discussed at a City Council Meeting shall include, at a minimum, the following information:

1. A clear description of the subject matter;
2. The parties involved in any recommended transaction, if applicable;
3. The total cost of the transaction, including the initial cost and the total cumulative cost, if applicable;
4. The purpose and term of the recommended action, if applicable; and
5. The location of the recommended action, if applicable.

.050 Items not on the Agenda. No action or discussion shall be undertaken on any item not appearing on the posted Agenda, except that members of a Legislative Body may respond to statements made or questions posed by persons exercising their public testimony rights, ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to the Body at a subsequent Meeting concerning the matter raised by such testimony.

.060 Exception. Notwithstanding subdivision .050, the Legislative Body may take action on items of business not appearing on the posted Agenda as allowed under the Brown Act.

1.11.030 BROADCAST OF MEETINGS.

.010 City Council Meetings. All regular and special Meetings of the City Council, when held in the venue regularly used for such Meetings, shall be audio and video recorded, televised, video streamed live, aired on the City's local channel, as well as archived for replay for the period set forth in the City's record retention schedule. These requirements shall not apply if necessary equipment malfunctions or if a public Meeting is changed to a location that does not have the technological capacity to accommodate the broadcasting needs.

.020 Brown Act Boards, Commissions, Committees and Task Forces. All regular Meetings of any City board, commission, task force or committee subject to the provisions of the Brown Act shall be audio recorded, and shall have a dedicated website where audio recordings, agendas, and minutes are posted for the period set by the City's record retention schedule.

1.11.040 PUBLIC RECORDS.

.010 Transparency in City Government. The City Clerk shall post and maintain an official centralized website to allow online access to Public Records consistent with City Resolution No. 2010-171 ("Transparency in City Government") or any resolution that may supersede it.

.020 Requests for Records. While the Office of the City Clerk provides a form to request Public Records, no specific form or language must be used to request City records. Requests may be made verbally or in writing, and either in person or by mail, email or telephonically.

.030 City response. Notwithstanding the ten day period for response to a Public Records request permitted by Government Code section 6253(c), within one (1) business day of receipt of a request, acknowledgment of such receipt shall be made to the requestor.

1.11.050 EMAIL RETENTION.

Emails sent and received by any member of the City Council, staff of the Mayor or City Council, or the Executive Team of the City shall be retained on the City's servers for ninety (90) days. All other provisions of Section 1.10.070 of the Anaheim Municipal Code and Administrative Regulation 155 shall remain in effect.

1.11.060 PUBLIC OUTREACH ON DEVELOPMENT PROJECTS.

.010 Proposed Projects. To ensure that residents, businesses and interested persons are aware of proposed development projects for which the City has received an application, the City shall maintain a list of projects on the City's website on a page that shall be accessible from the City's home page. This link shall include the name of and contact information for the City's project planner, a brief description of the project, the project's current status, an anticipated timeline for bringing it to a public hearing if applicable (including all anticipated and scheduled public hearings before the Planning Commission and City Council should such hearing(s) be required), and any planned community engagement meetings.

.020 Community Engagement Process. When any City department is initiating a park redevelopment project or other project that requires the acquisition of property and the demolition of a habitable structure a Community Engagement Process shall be initiated, to include, at a minimum:

1. Early Notification Process. During the early notification process, information shall be posted on the City's website, emails shall be sent to those who subscribe to receive alerts, mailers shall be sent out in accordance with the City's standard noticing policy, and notices shall be provided to the Mayor and City Council.

2. Community Meetings. At least two (2) community meetings shall be held during staff's development process for such projects. During the community meeting phase, information shall be posted on the city's website, emails shall be sent to those who subscribe to receive alerts, and mailers shall be sent out to the neighborhoods surrounding the project in accordance with the City's standard noticing policy.

.030 Signage at Project Site. Any large-scale development project in the City shall have a project information sign notifying the public of the proposed project that is placed in a location that, to the extent practical, maximizes its visibility to pedestrians and motorists passing by the proposed project site. The project information sign shall: (1) be installed by the project applicant

within sixty (60) days of filing of a development application, other than an application for conceptual development review, with the Planning and Building Department; and (2) comply with the criteria specified in the project information sign handout on file in the Planning and Building Department. The Planning and Building Director shall determine what constitutes a large-scale development project for purposes of this section; however, this term shall, at a minimum, include projects involving a General Plan Amendment, a zoning reclassification intended to facilitate a change in land use, a residential development containing more than ten (10) units, a hotel project containing more than fifty (50) new rooms, or a commercial or industrial development containing more than ten thousand (10,000) square feet of new building area located immediately adjacent to an existing residential use or other potentially sensitive land use, as determined by the Planning and Building Director.

1.11.070 LOBBYIST REGISTRATION.

.010 Initial Registration. Within fifteen (15) days of Lobbying the City of Anaheim or any regional agency in which Anaheim has a voting role, a Lobbyist shall register with the City Clerk, by filing a lobbying registration form, as provided by the City Clerk and made available on the City Clerk's webpage, which shall include, at a minimum, a written statement containing the following information, certified as true under penalty of perjury: 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 a Lobbyist is employed, retained or engaged for compensation to perform Lobbying services in the City; and 3) the legislative or administrative action of the City with respect to which the Lobbyist has been employed, retained or engaged. This registration shall be maintained by the City Clerk for the period of time set forth in the City's record retention schedule and shall not be exempt from disclosure under the California Public Records Act.

.020 Quarterly Report. Each Lobbyist shall file a report disclosing any Lobbying of the City of Anaheim or any regional agency in which Anaheim has a voting role with the City Clerk on a quarterly basis on a form provided by the City Clerk and made available on the City Clerk's webpage. The report shall be filed and received by the City Clerk on the last day of the Quarter and shall be posted on the City Clerk's webpage. The report shall specifically identify the local legislative or administrative action, if any, the Lobbyist supported or opposed during the reporting period. The failure to file a quarterly report with the required disclosures shall be a violation of this Chapter and a penalty fee may be assessed by the City Clerk, as set by resolution.

.030 Registration Fee. The City Council may by resolution establish a registration fee as set forth therein to defray the reasonable cost of regulating Lobbying activities in the City. Registration shall not be complete until the fee is paid.

.040 Appearance of Unregistered Lobbyist. If a Lobbyist who has not registered appears at a public Meeting of any City Legislative Body in order to make a presentation on behalf of a client, the Lobbyist will be permitted to make the presentation upon stating the information

required by section 1.11.070.010 on the record. The Lobbyist shall be required to file the required registration form, and pay the registration fee and any penalty fee as set by resolution, to the City Clerk within seven (7) calendar days of such presentation.

.050 Annual Report. Within thirty (30) days after the end of a calendar year, the City Clerk shall prepare and submit to the City Council a report outlining the activity of registered Lobbyists during the calendar year as reflected in the documents provided pursuant to subsections .010 and .020, as well as a list of any fines assessed or notices issued pursuant to subsections .060 and .070.

.060 Prohibited Acts. It shall be unlawful for any person or entity to act as a Lobbyist in the City without having registered in compliance with this section. Persons or entities that knowingly violate this section may be subject to fines of up to three (3) times the annual registration fee.

.070 Notice of Registration. The City Clerk shall issue a “notice of registration required” upon the written request of 1) the City Council or any of its members, 2) any board or commission pursuant to a majority vote of its total membership, or 3) 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 or she is not required to comply with the provisions of section 11.10.070 shall not be deemed to have violated this section if, within thirty (30) days after notice from the City Clerk, he or she either complies with this section or furnishes satisfactory evidence to the City Clerk that he or she is exempt from registration. A decision of the City Clerk requiring a person to register as a Lobbyist may be appealed to the City Hearing Officer, whose decision shall be final without any further action of the City being required.

.080 Applicability. The provisions of Section 1.11.070 shall not apply:

1. To a public official acting in his or her official capacity;
2. 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;
3. To a person invited by the City Council or any of its committees, or by any board or commission, or any committee of 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 to aid the body or person extending the invitation;

4. To a person applying for a grading permit or for a permit relating to the construction, alteration, demolition or moving of a building, or to a person filing a parcel map or subdivision tract map; provided, however, that if a person meets the definition of a Lobbyist and takes an appeal, or represents a person taking an appeal, pursuant to any procedure or authority provided by law from an administrative determination made with respect to such an application or map, they shall be required to register as provided in Section 1.11.070 upon taking the appeal or any action relating to the appeal;

5. To a person who is a professional licensed by a state licensing organization, including, but not limited to, attorneys, architects and engineers; provided however, that the exemption for attorneys shall only apply if the attorney is engaged in the practice of law with respect to the subject of the employment; or

6. To a regular employee of an organization communicating to the City during the course of his or her employment on behalf of his or her employer.

1.11.080 REVOLVING DOOR.

.010 Future employment. No City official or employee of Anaheim, for a period of two years following the termination of his or her office or employment, shall:

1. Advocate or Lobby before any City of Anaheim agency, official or employee for compensation on behalf of any person or any organization;

2. Accept employment or otherwise receive compensation from a person or organization that entered into a contract with the City of Anaheim within one year prior to the termination of his or her office or employment, where the former official or employee personally and substantially participated in the award of the contract for the City and will subsequently perform work related to that contract for the person or organization awarded the contract; or

3. Participate as a competitor in any competitive selection process for a City contract where the former official or employee recommended or approved the project or the work that is the subject of the contract, and any such City contract shall not be awarded to such former official or employee.

.020 Exceptions. Subsection .010 shall not preclude the hiring of a former City employee as a consultant to the City, provided that such hiring is approved in advance by the City Council. Nor shall this subsection apply to any City official or employee who left office or whose City employment or service terminated prior to the effective date of this ordinance; provided, however, that a person who returns to City office, employment or service on or after the effective date of this ordinance shall be subject to the requirements hereof.

.030 Restrictions on Employment of Lobbyists. The City shall not employ any person required to register as a Lobbyist under section 1.11.070 who engages in Lobbying the City of Anaheim for a period of two years following the person's Lobbying of Anaheim.

.040 Restrictions on Concurrent Employment of Employees of Lobbying Firms. The City shall not retain or employ any person who is also retained or employed to perform services for a Lobbying Firm that engages in Lobbying the City of Anaheim or any regional agency in which Anaheim has a voting role.

.050 Disclosure of Confidential Information. City officials and employees shall respect and maintain the confidentiality of information acquired in the course and scope of their employment concerning the property, personnel or affairs of the City. They shall not disclose confidential information or records without proper and legally required authorization, or use such confidential information or records to advance their personal, financial or other private interests, or the private gain or advantage of others.

1.11.090 RESPONSIBILITY FOR ADMINISTRATION.

The City Manager shall administer and coordinate the implementation and ongoing management of the provisions of this Chapter for all local bodies, agencies and departments.

SECTION 2.

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the Anaheim Bulletin, a newspaper of general circulation, published and circulated in the City of Anaheim, and thirty (30) days from and after its final passage, it shall take effect and be in full force.

SECTION 3.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence or word of this ordinance of the Code, hereby adopted, be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

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THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ___ day of _____, 2017, and thereafter passed and adopted at a regular meeting of said City Council held on the ___ day of _____, 2017, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

ACTING CITY CLERK OF THE CITY OF ANAHEIM

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