

## **STATEMENTS OF FISCAL EFFECT AND SMALL BUSINESS IMPACT**

Pursuant to the City of Boston Ordinances, section 2-12.5, all City of Boston departments, in promulgating rules and regulations, shall adhere to the requirements of the Massachusetts Administrative Procedure Act, Mass. Gen. Laws ch. 30A, provided, however, that the City Clerk shall perform those duties designated in chapter 30A to be performed by the Secretary of the Commonwealth. Mass. Gen. Laws ch. 30A, § 5, requires that an estimate of a rule or regulation's fiscal effect on both the public and private sector be filed with the City Clerk prior to the rule or regulation taking effect. Furthermore, an amended small business impact statement must be filed with the City Clerk prior to the adoption of the proposed rule or regulation. The amended small business impact statement shall consider whether the following methods of reducing the impact of the proposed regulation would hinder achievement of the purpose of the proposed regulation: (1) establishing less stringent compliance or reporting requirements; (2) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses; (3) consolidating or simplifying compliance or reporting requirements for small businesses; (4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth; and (6) minimizing adverse impact on small businesses by using alternative regulatory methods.

### **A. Statement of Fiscal Effect**

#### **Fiscal Effect on the Public Sector**

The Commission anticipates that the fiscal effect on the City of Boston will be minimal and will be mostly comprised of reallocating existing annual appropriations to the Office of the City Clerk and the Department of Information Technology for staff time and benefits. The Commission estimates that compensation paid to staff to implement and administer the Proposed Regulations will equal approximately \$125,684.00 annually. While the Commission does not anticipate that the Office of the City Clerk will have to hire additional staff to implement and administer the Proposed Regulations, the Commission has been informed that the Office of the City Clerk will increase the salary of one employee by \$6,155.76 in order to compensate the position for the added job responsibilities associated with implementing and administering the Ordinance.

Finally, it is the Commission's understanding that the Office of the City Clerk has relied upon technology currently available to the City of Boston to implement and administer the registration and reporting requirements of the Ordinance and Proposed Regulations. While there is no current plan to procure new technology or external services, the Commission understands that within two to five years, the Office of the City Clerk may procure different technology or services to carry out the electronic registration and reporting required under the Ordinance and the Proposed Regulations. At this time, it is too difficult to estimate the possible cost to the City of Boston to procure new technology or services to implement and administer all or part of the electronic registration and reporting requirements.

## Fiscal Effect on the Private Sector

The Commission does not anticipate that the Proposed Regulations will have a measurable fiscal effect on the private sector. Instead, the Proposed Regulations implement, clarify, and define various provisions of the Ordinance.

Lobbyists, lobbying entities, and clients must register annually with the Office of the City Clerk under the Ordinance. The fee associated with the annual registration is also provided for by the Ordinance. Certain qualified not-for-profit entities, clients that employ fewer than ten employees and have been in business for fewer than five years, or lobbyists that exclusively represent such clients may apply for waivers from the annual registration fee. The Commission expects that there may be minimal administrative costs associated with preparing documentation to request and support a fee waiver.

The Ordinance requires that lobbyists, lobbying entities, and clients file quarterly reports online with the Office of the City Clerk concerning their lobbying activity. The Proposed Regulations, however, do not impose any additional registration or reporting costs associated with the annual registration and quarterly reporting requirements because said mandates come from the Ordinance itself.

### **B. Amended Small Business Impact Statement**

#### Establishing Less Stringent Compliance or Reporting Requirements

The Commission cannot establish less stringent compliance or reporting requirements than those currently provided for in the Proposed Regulations because the Proposed Regulations implement, define, and clarify the existing compliance and reporting requirements provided for in the Ordinance. The Ordinance, which was enacted by the City Council, cannot be amended by the Commission. The Commission may only interpret and operationalize the provisions of the Ordinance.

#### Establishing Less Stringent Schedules or Deadlines for Compliance or Reporting

The Commission cannot establish less stringent schedules or deadlines for compliance or reporting than those currently provided for in the Proposed Regulations because the Proposed Regulations implement, define, and clarify the existing compliance and reporting requirements provided for in the Ordinance. The Ordinance, which was enacted by the City Council, established the registration and reporting schedules and deadlines, and any amendment to the schedules or deadlines contained in the Ordinance must be enacted by the City Council.

#### Consolidating or Simplifying Compliance or Reporting Requirements for Small Businesses

The Commission cannot establish consolidated or simplified compliance or reporting requirements for small businesses because the Proposed Regulations implement, define, and clarify the existing compliance and reporting requirements provided for in the Ordinance. The

Ordinance, which was enacted by the City Council, established the registration and reporting requirements, and the Ordinance does not create a simplified or consolidated registration or reporting requirement for small businesses. In fact, the Ordinance makes clear that the reporting and registration requirements apply to any client, lobbyist, or lobbying entity even if such individual or entity participating in lobbying activity is not being compensated.

#### Appropriateness of Performance Standards Versus Design Standards

Performance standards are not appropriate for these regulations. The regulations are being proposed in order to provide further clarification, definition, and standards to assist lobbying entities, lobbyists, and clients understand their obligations under the Ordinance and to allow the Commission to identify when violations of the Ordinance have occurred, how investigations of possible violations will be conducted, and what due process should be afforded to lobbying entities, lobbyists, or clients during enforcement proceedings. Design standards are necessary so that lobbying entities, lobbyists, and clients can understand to whom the Ordinance applies and provide for predictability and uniformity in reporting obligations and enforcement proceedings.

#### Identification of Duplicate or Conflicting Regulations and Consideration of Alternative Regulatory Methods

The Commission has not identified any conflicting or duplicate regulations of any other City of Boston department, agency, board, or commission, and, in view of the Ordinance, the Commission has not identified an alternative regulatory method in lieu of the Proposed Regulations to implement and administer the Ordinance.

#### Analysis of Whether the Proposed Regulations are Likely to Deter or Encourage the Formation of New Businesses Within the City of Boston

The Commission does not expect that the proposed regulations will have any significant impact on whether lobbying entities, lobbyists, or clients decide to establish a physical presence in Boston. The proposed regulations only affect lobbying entities, lobbyists, or clients that influence or attempt to influence certain legislative, administrative, or policy actions or determinations of City of Boston elected officials and employees irrespective of whether the lobbying entity, lobbyist, or client has a physical presence in the City of Boston. Furthermore, the Commission expects that a majority of Boston-registered lobbying entities, lobbyists, and clients also currently submit biannual reports to the Secretary of the Commonwealth under the Massachusetts Lobbying Law. The requirements of the reports that are to be submitted to the Office of the City Clerk under the Ordinance are not materially different from the reports currently required under state law except that the Ordinance requires reporting four times a year.

The Commission believes that the Ordinance may encourage the formation of new businesses, albeit very few. Certain law firms and attorneys have suggested the possibility of spinning off lobbying practices from their legal practices because in some instances attorneys interacting with City employees on behalf of clients may trigger the registration and reporting

requirements of the Ordinance. Such formation would not be a direct result of the proposed regulations, but as a result of the Ordinance.



CITY OF BOSTON  
**Municipal Lobbying Compliance Commission**

**Minutes**  
**Wednesday, February 19, 2020, 10:00 A.M.**  
**Boston City Hall – Piemonte Room – 5<sup>th</sup> Floor**  
**One City Hall Square, Boston, MA 02201**

**Commission Members Present:** Sammy Nabulsi, Chair; Vivien Li; Stephanie Everett; City Clerk Maureen Feeney and Christine O'Donnell, City Council Central Staff, designee of City Council President Kim Janey

**Others Present:** Assistant City Clerk Alex Geourntas, Clerk to the Commission

**Call to order at 10:06 A.M.**

Sammy Nabulsi, Chair of the Commission, opened the meeting and welcomed everyone in attendance and first order of business was to review and approve the minutes of the November 20, 2019 Commission Meeting.

Motion to approve the November 20, 2019 Meeting Minutes was offered by Vivien Li and seconded by Maureen Feeney. All in favor.

City Clerk Maureen Feeney indicated to the Commission that City Council President Kim Janey was not in attendance due to the passing of her father and the Commission offered its condolences to Council President Janey and her family.

The Commission received additional feedback relative to the proposed draft regulations following its public hearing on February 10, 2020 from the Charles River Watershed Association and the Conference of Boston Teaching Hospitals.

The proposed regulations would likely include some of the suggestions that were offered at the public hearing and from the written statement from various organizations. The City's Law Department would review these proposed regulations prior to finalizing.

### **“De Minimis Exception”**

Sammy Nabulsi, Commission Chair, spoke about this aspect of the regulations where thresholds are incorporated relative lobbying activities. This type of language was in the original Lobbying Document filed by the Mayor as a Home Rule Petition; however, this language was removed after several iterations of the city ordinance and home rule petition. The current city ordinance was approved by the City Council and signed by the Mayor without this language.

Christine O’Donnell will provide to the Commission the minutes of City Council Lobbying Hearings and Working Sessions to determine as to why and how this language was removed from the legislation.

Vivien Le stated that the Commission can only enforce the city ordinance as it exists and any changes to the ordinance would require amendments to the legislation.

### **“Technical Services Expert”**

The language currently in the proposed regulations may be edited to include other disciplines such as education and health. This is an area of concern as it relates to the proposed regulations where presenting technical analysis and data would not be considered lobbying. While experts would inform, lobbying would be influencing.

Stephanie Everett has concerns about technical service experts and the fine line of actual lobbying where analysis can be skewed in support or in opposition of an issue. Exceptions should be narrow and include guidelines if other disciplines are added.

Jim Klocke from Mass Nonprofit Network provided feedback on technical experts stating the “licensed professions” may be an option to include in regulations.

Anastasia Nicolaou from NAIOP MA added that technical experts could request a postponement during presentations, but Commission members felt that such a request would be initiated by the Commission or Board where data is being presented if additional information is required.

The filing of an application is not an act of lobbying and this includes supplements, amendments, and communications would be related to the original application.

Adjudicatory or evidentiary procedures would be addressed by Commission via Advisories or Bulletins issued by the Commission

### **“Non Profit Waivers”**

Language has been included within the regulations on fee waivers; however, Vivien Li expressed concerns about non-profits in Boston and what impact/percentage the fees would be on an organization, more clarity needed on this issue.

City Clerk Maureen Feeney expressed concerns on the fee waivers and suggested also that there be more specific language addressing fee waivers.

Sammy Nabulsi suggested that the Commission review the regulations including the suggestions from the public hearing, emails and testimony offered today to begin the process of finalizing regulations. The City's Law Department will also review the revised regulations prior to a vote by the Commission to finalize and approve regulations.

Next Commission Meeting has been tentatively scheduled for **Thursday, April 2, 2020 at 10:00 AM** to be held in the Piemonte Room at Boston City Hall on the 5<sup>th</sup> Floor.

Motion to adjourn offered by Vivien Li and seconded by Stephanie Everett. All in favor.

Meeting was adjourned at 11:55 AM.