

LOBBYIST ORDINANCE

FREQUENTLY ASKED QUESTIONS

1. [When is a person engaging in lobbying activity?](#_WHEN_IS_A)
2. [When is a person not engaged in lobbying activity?](#_WHEN_IS_A_1)
3. [Who qualifies as a lobbyist?](#_WHO_QUALIFIES_AS)
4. [Who are Public Officials?](#_WHO_ARE_PUBLIC)
5. [How do I register?](#_HOW_DO_I)
6. [How often do I have to file reports?](#_HOW_OFTEN_DO_2)
7. [How often do I renew my registration?](#_HOW_OFTEN_DO_1)
8. [How do I terminate my registration?](#_HOW_DO_I_1)
9. [Are there any fees and penalties?](#_ARE_THERE_ANY)
10. [How long registration records must be retained?](#_HOW_LONG_DO)
11. [When do I identify myself as a Lobbyist?](#_WHEN_DO_I)
12. [Where can I obtain the necessary forms?](#_WHERE_CAN_I)

# WHEN IS A PERSON ENGAGING IN LOBBYING ACTIVITIES?

Santa Clara Valley Water District Ordinance 10-01 defines *lobbying* as influencing or attempting to influence any District decision.

“*Influence*” or “*influencing*” means any direct or indirect communication made by any means for the purpose of promoting, supporting, modifying, opposing, or otherwise affecting the decision making of a public official or public official-elect with respect to a *District decision*, other than a public communication made during or as a formal part of a noticed governmental public meeting.

“*District decision*” means any decision, or any recommendation as to a decision concerning any matter, whether legislative, administrative, or quasi-judicial, which is pending before, or may be submitted to, the Board of Directors or any District commission, committee, or officer.

# WHEN IS A PERSON NOT ENGAGED IN LOBBYING ACTIVITES?

*The following persons are exempt from the lobbying ordinance:*

1. Members of neighborhood associations which are not incorporated pursuant to the Corporation Code, citizens’ groups and local Chambers of Commerce.
2. Officers, directors, employees or agents of any tax exempt organization with gross revenue less than $2 million in any fiscal year, exclusive of grants from and/or contracts for services with governmental entities.
3. A person whose communications relate to the negotiation, amendment, administration, implementation or interpretation of a collective bargaining agreement or a memorandum of understanding between the District and a recognized employee association.
4. Any individual who communicates with a public official on his/her own behalf with respect to a District decision.
5. Any person who is a member of the State Bar of California and whose communications regarding any District decision are made in the performance of a service which lawfully can be performed only by an attorney licensed to practice law in the State of California.
6. Any person, licensed as an architect by the State of California, and whose communications regarding any District decision is made in the performance of a service which lawfully can be performed only by a licensed architect.

*The following activities are exempt from the lobbying ordinance:*

1. Public officials acting in their official capacity or acting within the scope of their employment or appointment.
2. The media, acting in the ordinary course of news gathering or editorial activity.
3. Appearing or submitting testimony or documents at any public meeting or hearing of the Board of Directors or any of its committees.
4. Participating in a competitive bid or request for proposal process, but only to the extent permitted by Section 4 (iv) of the Lobbying Ordinance.
5. Providing oral or written information pursuant to a subpoena or otherwise compelled by law or regulation, or in response to an official request provided that the request and response are public records available for public review.
6. Meeting with a public official solely to lodge “whistleblower” complaints relating to improper governmental activities.
7. Meeting with the District Counsel or Clerk with respect to the initiation, prosecution, negotiation and/or resolution of any claim or litigation matter.

# WHO QUALIFIES AS A LOBBYIST?

1. A “*Contract* *Lobbyist*” is a person who engages in lobbying on behalf of one or more clients (acting individually or through agents, associates, employees or contractors) and who has received or will become entitled to receive compensation from such client(s) aggregating at least $1,000 during any consecutive three month period.
2. A “*Business* *or* *Organization* *Lobbyist*” is any business or organization whose officers, employees or agents has engaged in or will engage in lobbying on its behalf in an aggregate amount of at least ten (10) hours within any consecutive three month period, whether or not such officers, employees or agents are specifically compensated to engage in lobbying.
3. An “*Expenditure* *Lobbyist*” is a person who makes payments or incurs expenditures of $5,000 or more during any consecutive 12 month period to carry out public relations, advertising or similar activities with the intent of soliciting or urging others to communicate with any public official to influence a District decision. The $5,000 threshold shall not include:
4. Compensation paid to contract lobbyists or employees of a business or organization lobbyist; or
5. Dues payments, donations, or other economic consideration paid to an organization, regardless of whether the dues payments, donations or other economic consideration are used in whole or in part for lobbying purpose.

# WHO ARE PUBLIC OFFICIALS?

“*Public* *Officials*” includes, but is not limited to any member of the Board of Directors or any of its committees, any District official-elect, any member of a District commission or committee, any District employee who participates in the consideration of any legislative or administrative action other than in a purely clerical, secretarial or ministerial capacity, and any consultant to the District.

# HOW DO I REGISTER?

Prior to engaging in lobbying activities, lobbyists must first file with the Clerk of the Board a [*Santa Clara Valley Water District Lobbyist Report*](http://www.valleywater.org/uploadedFiles/About/BoardOfDirectors/SCVWD%20Lobbyist%20Report%20Form.pdf?n=1675). Once the lobbyist report is filed, the lobbyist will be deemed active from and after the date of registration until December 31 of the year of registration.

The initial report filed with the Clerk shall disclose under penalty of perjury the lobbyist’s name, business address and telephone and fax numbers, a brief description of the nature of the lobbyist’s business and the following additional information that applies:

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| **LOBBYIST CATEGORY** | **REQUIRED INFORMATION** |
| Sole proprietorships, partnerships or limited liability companies of fewer than ten (10) persons | Name and address of each person holding an ownership interest |
| Corporations | Name and business address of the:   * President * Secretary * Chief Financial Officer * Agent for service of process, if any   Corporations with 35 or fewer shareholders, the name and business address of each shareholder holding at least 5% of the then-outstanding shares. |
| Contract Lobbyist | * Name, business address and telephone number of each client which has a decision pending with the District * The nature of each client’s business * The District decision(s) the lobbyist seeks to influence on behalf of each client * The name of each person employed or retained by the lobbyist to lobby on behalf of each such client |
| Business or Organization Lobbyists | Name and business address of each person conducting lobbying activities on behalf of the business or organization lobbyist and the District decision(s) the lobbyist seeks to influence. |
| Expenditure Lobbyists | The District decision(s) the lobbyist seeks to influence. |

The *Lobbyist Report* should include the name, address, title, and telephone number of the person responsible for preparing the report, together with a representation that the signatory is authorized to make report.

# HOW OFTEN DO I HAVE TO FILE REPORTS?

Once you are registered, you are required to file semi-annual reports providing or updating the activities required to be disclosed in the report included with the initial registration. The reports are due July 15 and January 15 for the prior six month period.

***NOTE:*** Each semi-annual report for *Contract Lobbyist* must indicate the total compensation promised or received from each client during the reporting period for lobbying activity within in the following ranges: ($0-$500), ($501-$1,000), ($1,001 - $10,000), ($10,001 - $100,000), and

(Over $100,000)

# HOW OFTEN DO I RENEW MY REGISTRATION?

The registration must be renewed by January 15 of each succeeding year unless a declaration under penalty of perjury terminating your status as a lobbyist if filed with the Clerk.

# HOW DO I TERMINATE MY REGISTRATION?

If you have terminated all lobbying activities during such period, the lobbyist may file a declaration of termination with the semi-annual report. The final semi-annual report must include disclosure of any lobbying activities during the period of termination.

# ARE THERE ANY FEES AND PENALTIES?

Upon initial registration and yearly upon renewal of registration, lobbyists shall pay a fee in an amount to be recommended by the Clerk and approved by resolution of the Board, which fee shall not exceed the estimated reasonable cost of the services provided.

Once established, the Clerk may adjust the fee as necessary to reflect the estimated reasonable costs of the services provided, and shall report such adjustments to the Board.

Any lobbyist registering for the first time after June 30 of a given year shall pay a registration fee equal to 50% of the normal fee.

Anticipated Fee Categories:

Annual Registration and Renewal Fee – Fee amount to be determined

Penalty for Delinquent Registration or Renewal Fee – Fee amount to be determined

Penalty for Delinquent Quarterly Reports – Fee amount to be determined

***Note***: A Fee Schedule will be established once the lobbyist program has been administered and reasonable costs are determined.

Any lobbyist who violates any of the provisions of Ordinance 10-01, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed $500 per violation.

# HOW LONG REGISTRATION RECORDS MUST BE RETAINED

Records pertaining to the registration and semi-annual reports must be preserved by the lobbyist for inspection and audit by the District for a period of five (5) years from the date of production.

# WHEN DO I IDENTIFY MYSELF AS A LOBBYIST?

When appearing to speak in a lobbying capacity at a public meeting or hearing of the Board of Directors or any of its commissions or committees, a lobbyist shall identify himself/herself and the client(s) or business or organization on whose behalf he/she is appearing.

# WHERE CAN I OBTAIN THE NECESSARY FORMS?

Registration forms are available on the [Board of Directors’](http://www.valleywater.org/About/LobbyistOrdinance.aspx) webpage or can be obtained in person from the Office of the Clerk of the Board located at Santa Clara Valley Water District headquarters building, 5700 Almaden Expressway, San Jose, CA 95118.