

[Amending the Charter's ethics provisions to move various provisions into ordinances, to enact new provisions, to make technical changes, and to clarify ambiguities in existing provisions.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Sections 4.108, 4.109, 10.101, 15.100, 15.103, 15.105, 16.118 and Article XVII, deleting Sections 15.104, 15.106, 15.108, C8.105 and adding Sections 18.115, C9.101, C9.102, C9.103, C9.104, C9.105, C9.106, C9.107, C9.108, C9.109, C9.110, C9.111, C9.112, C9.113, C9.114, C9.115, C9.116, C9.117, C9.118, C9.119, C9.120, C9.121, C9.122, C9.123, C9.124, C9.125 and C9.126 to enact new conflict of interest provisions, to make technical changes, to move various provisions into ordinances, and to clarify existing provisions.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2003, a proposal to amend the Charter of the City and County by amending Sections 4.108, 4.109, 10.101, 15.100, 15.103, 15.105, 16.118 and Article XVII, deleting Sections 15.104, 15.106, 15.108 and C8.105 and adding Sections 18.115, C9.101, C9.102, C9.103, C9.104, C9.105, C9.106, C9.107, C9.108, C9.109, C9.110, C9.111, C9.112, C9.113, C9.114, C9.115, C9.116, C9.117, C9.118, C9.119, C9.120, C9.121, C9.122, C9.123, C9.124, C9.125 and C9.126 to read as follows:

Note: Additions are *single-underline italics Times New Roman.*

Deletions are *~~strikethrough italics Times New Roman.~~*

SEC. 4.108. FIRE COMMISSION.

The Fire Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. *In addition to any other powers set forth in this Charter, the Fire Commission is empowered to prescribe and enforce such reasonable rules and regulations for members of the Fire Department that it deems necessary to provide for the efficiency of the City and County civil service.*

SEC. 4.109. POLICE COMMISSION.

The Police Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Commission or the Mayor, acting jointly or separately of each other. *In addition to any other powers set forth in this Charter, the Police Commission is empowered to prescribe and enforce such reasonable rules and regulations for members of the Police Department that it deems necessary to provide for the efficiency of the City and County civil service.*

SEC. 10.101. GENERAL POWERS AND DUTIES.

The Civil Service Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; leaves of absence for employees and officers; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment or completion of work; the designation and filling of positions, as exempt, temporary, provisional, part-time, seasonal or permanent; status and status rights; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations, except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; classification; conflict of interest; and such other matters as are not in conflict with this Charter;

provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores, and provided further that rules for leave due to illness or disability shall be approved by the Board of Supervisors. Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission.

The Commission shall have power to institute and prosecute legal proceedings for violations of any civil service merit system or Department of Human Resources provisions of this Charter.

The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.

The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter. In any hearing conducted by the Commission or by any hearing officer it appoints pursuant to this section, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production of records.

The Commission may require periodic reports from the Human Resources Director in a manner and form which it shall prescribe.

The Commission may hear appeals from an action of the Human Resources Director in accordance with its rules, including but not limited to:

1. Allegations of discrimination as defined in Article XVII of this Charter.

Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Commission regarding allegations of discrimination shall forthwith be enforced by every officer and employee;

2. Allegations of fraud; and
3. Allegations of conflict of interest.

No action by the Human Resources Director which is the subject of any appeal shall be stayed during the appeal process except by a majority vote of the Civil Service Commission.

The Commission shall have the power and it shall be its duty to appoint an executive assistant to be the administrative head of the affairs under its control who shall serve at its pleasure; provided, however, that any person who has Civil Service status in the position of executive assistant to the Commission on the effective date of this section as amended shall continue to have Civil Service status in the position of executive assistant under the Civil Service provisions of this Charter. The executive assistant shall periodically report to the Commission on operation of the civil service merit system and may make recommendations to the Civil Service Commission regarding its rules, policies and procedures.

In addition to any other powers set forth in this Charter, the Civil Service Commission is empowered to prescribe and enforce such reasonable rules and regulations for officers and employees of the City and County other than officers and members of the fire and police departments who are subject to the civil service provisions of the Charter that it deems necessary to provide for the efficiency of the City and County civil service.

SEC. 15.100. ETHICS COMMISSION.

The Ethics Commission shall consist of five members who shall serve six-year terms; provided that the first five commissioners to be appointed to take office on the first day of February, 2002 shall by lot classify their terms so that the term of one commissioner shall expire at 12:00 o'clock noon on each of the second, third, fourth, fifth and sixth anniversaries of such date, respectively; and, on the expiration of these and successive terms of office, the appointments shall be made for six-year terms.

The Mayor, the Board of Supervisors, the City Attorney, the District Attorney and the Assessor each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in public information and public meetings. The member appointed by the City Attorney shall have a background in law as it relates to government ethics. The member appointed by the Assessor shall have a background in campaign finance. The members appointed by the District Attorney and Board of Supervisors shall be broadly representative of the general public.

In the event a vacancy occurs, the officer who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105.

No person may serve more than one six-year term as a member of the Commission, provided that persons appointed to fill a vacancy for an unexpired term with less than three years remaining or appointed to an initial term of three or fewer years shall be eligible to be appointed to one additional six-year term. Any term served before the effective date of this Section shall not count toward a member's term limit. Any person who completes a term as a Commissioner shall be eligible for reappointment six years after the expiration of his or her term. Notwithstanding any provisions of this Section or any other section of the Charter to the

contrary, the respective terms of office of the members of the Commission who shall hold office on the first day of February, 2002, shall expire at 12 o'clock noon on said date, and the five persons appointed as members of the Commission as provided in this Section shall succeed to said offices on said first day of February, 2002, at 12 o'clock noon; provided that if any appointing authority has not made a new appointment by such date, the sitting member shall continue to serve until replaced the new appointee.

During his or her tenure, members and employees of the Ethics Commission are subject to the following restrictions:

(a) Restrictions on Holding Office. No member or employee of the Ethics Commission may hold any other City or County office or be an officer of a political party.

(b) Restrictions on Employment. No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City and County and no employee of the Commission may hold any other employment with the City and County.

(c) Restrictions on Political Activities. No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure, or participating in decisions by organizations to participate in a campaign.

~~*For a period of one year upon completing his or her service with the Commission, no member of the Commission may: be a lobbyist or campaign consultant, be employed by, or receive any gifts or other compensation from a lobbyist or campaign consultant, or a person who employs someone required to register as a lobbyist or campaign consultant. For purposes of this*~~

~~section, the terms lobbyist and campaign consultant mean persons required to register under the City's lobbyist or campaign consultant ordinances.~~

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

SEC. 15.103. CONFLICT OF INTEREST.

~~All officers and employees of the City and County shall be subject to all state laws and City ordinances proscribing conflicts of interest and incompatible activities, as well as the provisions of Section C8.105. Any violation of such laws shall be official misconduct and shall be a basis for discipline and/or removal, in addition to any other penalties prescribed by law.~~

Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. The City may adopt conflict of interest and governmental ethics laws to implement this provision and to prescribe penalties in addition to discipline and removal authorized in this Charter. All officers and employees of the City and County shall be subject to such conflict of interest and governmental ethics laws and the penalties prescribed by such laws.

~~SEC. 15.104. PENALTY FOR OFFICIAL MISCONDUCT.~~

~~Any person found guilty of official misconduct shall forfeit his or her office, and shall be forever after barred and disqualified from being elected, appointed or employed in the service of the City and County.'~~

SEC. 15.105. SUSPENSION AND REMOVAL.

(a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Health Commission, Human Services Commission, Juvenile Probation Commission, Public Utilities Commission, Recreation and Park Commission,

Retirement Board, Fine Arts Museums Board of Trustees, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board *is subject to suspension and removal for official misconduct as provided in this section. Such officer* may be suspended by the Mayor ~~and removed by the Board of Supervisors for official misconduct,~~ and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. ~~Upon~~ such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. ~~Hearing by~~ The Ethics Commission shall hold a hearing ~~be held~~ not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD OF APPEALS, ELECTIONS COMMISSION AND ETHICS COMMISSION. Members of the Building Inspection Commission, the Planning Commission, ~~and~~ the Board of Appeals, the Elections Commission, and the Ethics Commission ~~who were appointed by the Mayor~~ may be suspended and removed pursuant to the provisions of subsection (a) of this section set forth above ~~except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.~~ Members of the

~~Commission appointed by the President of the Board of Supervisors may be suspended and removed pursuant to the same procedures, except that the President of the Board shall act in place of the Mayor. Members of the Elections Commission and Ethics Commission may be suspended and removed pursuant to the provisions set forth above, except that the appointing authority shall act in place of the Mayor.~~

(c) REMOVAL FOR CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE.

(1) Removal. The Mayor must immediately remove from office any elective official convicted by a court of a crime involving moral turpitude, ~~and failure of the Mayor so to act shall constitute official misconduct on his or her part.~~ Any appointee of the Mayor or the Board of Supervisors ~~guilty of official misconduct or~~ convicted by a court of a crime involving moral turpitude must be removed by the Mayor or the Board of Supervisors, as the case may be, ~~and failure of the Mayor or any Supervisor to take such action shall constitute official misconduct on their part.~~ Any member of the Elections Commission or Ethics Commission ~~guilty of official misconduct or~~ convicted by a court of a crime involving moral turpitude must be removed by their appointing authority, ~~and failure of the appointing authority to act shall constitute official misconduct on his or her part.~~ Removal under this subsection is not subject to the procedures in subsection (a) and (b) of this section.

(2) Penalty for Failure to Remove. Failure to remove an appointee as required under this section shall be official misconduct.

(d) OTHER OFFICERS. Officers and employees not identified in subsections (a) and (b) may be removed for official misconduct as follows:

(1) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority may be removed for official misconduct by the appointing authority and must be removed upon conviction of a crime involving moral turpitude.

(2) For cause appointees. Officers and employees who by law may be removed only for cause, or who hold office for a specific term of years and therefore may be removed only for

cause, may be removed by their appointing authorities for cause based on official misconduct and must be removed upon conviction of a crime involving moral turpitude.

(e) DISQUALIFICATION.

(1)(A) Any person who has been removed from any federal, state, county or city office or employment upon conviction of a crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, county or city office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2)(A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official misconduct must invoke the disqualification provision in subsection (e)(1)(B) and provide notice of such disqualification in writing to the City officer or employee. Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn a decision to apply the disqualification provisions of subsection (e)(1)(B).

(B) The provisions of subsection (e)(2)(A) shall not apply to: (i) a determination made by a court, an administrative body or an administrative hearing officer that a City officer or employee has engaged in official misconduct or a crime of moral turpitude; (ii) any City employee who is eligible to appeal his or her removal to the San Francisco Civil Service Commission; (iii) any City officer removed pursuant to subsection (a) or (b) of this section; or (iv) any person removed from office or employment with any federal, state, county or city government for having engaged in official misconduct or a crime of moral turpitude

(f) OFFICIAL MISCONDUCT. Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required

of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office.

~~SEC. 15.106.—DUAL OFFICE HOLDING.~~

~~Any person holding an office under the City and County with an annual salary in excess of \$2,500 whether by election or by appointment, who shall, during his or her term of office, hold or retain any other office with such a salary under the government of the United States, the State of California, or the City and County shall be deemed to have thereby vacated the office held by him or her under the City and County.~~

~~SEC. 15.108.—EMPLOYMENT OF FORMER MAYOR OR SUPERVISOR.~~

~~No person shall be eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors for appointment to any full-time, compensated employment with the City and County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.~~

SEC. 16.118.APPENDIX C—ETHICS PROVISIONS.

The following sections of the Charter of 1932, as amended, shall be included in Appendix C with full force and effect, and each shall be designated with a prefix “C”:

3.699-10—3.699-16 Ethics Commission Procedures

~~8.105—Conflict of Interest and Other Prohibited Practices~~

The provisions of Appendix C may be amended only pursuant to the provisions of state law governing charter amendments.

ARTICLE XVII: DEFINITIONS

For all purposes of this Charter, the following terms shall have the meanings specified below:

“Business day” shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

“Confirm” or “confirmation” shall mean the approval by a majority of the members of the Board of Supervisors.

“Discrimination” shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

“Domestic partners” shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

“Elector” shall mean a person registered to vote in the City and County.

“For cause” shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

“General municipal election” shall mean the election to be held in the City and County on the Tuesday immediately following the first Monday in November in odd-numbered years.

“Initiative” shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

“Notice” shall mean publication in an official newspaper (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

~~“Official misconduct” shall mean any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any willful or corrupt failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers.~~

“One-third,” “a majority” or “two-thirds” of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

“Published” shall mean published in an official newspaper of the City and County.

“Referendum” shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

“Special municipal election” shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, election of an official not required to be elected at the general municipal election, or an initiative or referendum.

“Statewide election” shall mean an election held throughout the state.

“Voter” shall mean an elector who is registered in accordance with the provisions of state law.

SEC. 18.115. DELETION OF ORDINANCES REGULATING CONFLICTS OF INTEREST AND TRANSFER OF CHARTER SECTIONS REGULATING CONFLICTS OF INTEREST INTO THE CAMPAIGN AND GOVERNMENTAL CONDUCT CODE.

(a) On the effective date of this Charter Amendment, Section 1.50 of the Administrative Code and Section 1.200; Article III, Chapter 2 and Section 3.200; Article III, Chapter 3 and Section 3.300; Article III, Chapter 4 and Sections 3.400 and 3.405; Article III, Chapter 5 and Sections 3.500, 3.505, 3.510, 3.515, 3.520, 3.525, 3.530, 3.535, 3.540, 3.545; and Article III, Chapter 7 and Sections 3.700, 3.705, 3.710, 3.715, 3.720, 3.725, 3.730, 3.735, and 3.740 of the Campaign and Governmental Conduct Code shall be deemed repealed, and the City Attorney is authorized and directed to take appropriate steps to remove them from future editions of published codes.

(b) On the effective date of this Charter Amendment, Charter Sections C9.101 – C9.126 shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify Section C9.101 as Administrative Code Section 1.50; Section C9.102 as Campaign and Governmental Conduct Code Section 1.200; Section C9.103 as Campaign and Governmental Conduct Code Section 3.1-102.5; Section C9.127 in a new Chapter 3 of the Campaign and Governmental Conduct Code titled "Ethics Commission" as Section 3.300; and the remaining sections in a new Chapter 2 of the Campaign and Governmental Conduct Code titled "Conflict of Interest and Other Prohibited Activities" as follows: Section C9.104 as Section 3.200; Section C9.105 as Section 3.202; Section C9.106 as Section 3.204; Section C9.107 as Section 3.206; Section C9.108 as Section 3.208; Section C9.109 as Section 3.210; Section C9.110 as Section 3.212; Section C9.111 as Section 3.214; Section C9.112 as Section 3.216; Section C9.113 as Section 3.218; Section C9.114 as Section 3.220; Section C9.115 as Section 3.222; Section C9.116 as Section 3.224; Section C9.117 as Section 3.226; Section C9.118 as Section 3.228; Section C9.119 as Section 3.230; Section C9.120 as Section 3.232; Section C9.121 as Section

3.234; Section C9.122 as Section 3.236; Section C9.123 as Section 3.238; Section C9.124 as Section 3.240; Section C9.125 as Section 3.242; and Section C9.126 as Section 3.244.

These sections may be amended by the Board of Supervisors if (a) the amendment serves the purposes of the Ordinance; (b) the Ethics Commission approves the proposed amendment by at least four-fifths vote of all of its members; (c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors; and (d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

~~C8.105—CONFLICT OF INTEREST AND OTHER PROHIBITED PRACTICES~~

~~(a)—No officer or employee of the city and county shall become directly or indirectly interested in any contract, franchise, right privilege or sale or lease of property awarded, entered into or authorized by him or her in his or her capacity as an officer or employee, or by an officer or employee under his or her supervision and control, or by a board or commission of which he or she is a member, unless same is devolved upon him or her by law. An officer or employee with such an interest, however acquired, shall become divested of said interest within 60 days or shall resign said office or employment.~~

~~(b)—No officer or employee shall give or promise any money or other valuable thing in consideration of his or her nomination, appointment, or election to any city and county office or employment or accept, other than lawful political campaign contributions, any gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him or her.~~

~~(c)—No officer or employee shall make, participate in making or in any way attempt to use his or her office or employment to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest, as defined by California Government Code Section 87103.~~

~~(d) — No officer or employee of the city and county shall willfully or knowingly disclose any privileged information concerning property, government, or affairs of the city and county, unless a duty to do so is imposed upon said person by law, nor shall that person use any privileged information obtained by him or her by virtue of his or her office or employment to advance the financial or other private interest of himself or herself or others.~~

~~(e) — No person who has served as an officer or employee of the city and county shall within a period of two years after termination of such service or employment appear before the board or agency of the city and county of which he or she was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board for the purpose of representing himself or herself.~~

~~(f) — No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he or she has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.~~

~~(g) — The ethics commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or integrity of the city and county. Rules and regulations previously adopted or approved by the civil service pursuant to this section shall remain in effect until amended by the ethics commission.~~

The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to provide for the efficiency of the city and county civil service.

(h) — An officer or employee shall not be deemed to be interested in any transaction described in Subsections (a) or (c) above if he or she has only a remote interest in the transaction and if the fact of such interest is disclosed and noted in the official records of the board, commission or department and thereafter the board, commission or department authorizes, approves, or ratifies the transaction in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest or by his or her immediate superior unless the transaction must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

(1) — As used in this article “remote interest” means:

(A) — That of a nonsalaried officer of a nonprofit corporation;

(B) — That of an employee or agent of the party involved in the transaction, if such party has 10 or more other employees and if the officer or employee was an employee or agent of said party for at least three years prior to his or her initially accepting his or her office or employment.

For the purposes of this subsection, time of employment with the party by the officer or employee shall be counted in computing the three year period specified in this subsection even though such party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by such officer. Time of

~~employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the “real or ultimate ownership” of such party.~~

~~(C) — That of a parent in the earnings of his or her minor child for personal services;~~

~~(D) — That of a landlord or tenant of the transacting party;~~

~~(E) — That of an attorney of the transacting party;~~

~~(F) — That of a supplier of goods or services when such goods or services had been supplied to the transacting party by the officer or employee for at least five years prior to his or her election or appointment to office or employment;~~

~~(G) — That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the transaction has the relationship of borrower or depositor, debtor or creditor.~~

~~(2) — The provisions of this subsection shall not be applicable to any officer or employee interested in a transaction who influences or attempts to influence another officer or employee to enter into the transaction.~~

~~(i) — An officer or employee shall not be deemed to be interested in a transaction pursuant to Subsections (a) and (c) above if his or her interest is:~~

~~(1) — The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed five percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed five percent of his or her total annual income;~~

~~(2) — That of an officer or employee in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty;~~

~~(3) That of a recipient of public services generally provided by the board, commission or department of which he or she is a member or employee, on the same terms and conditions as if he or she were not a member or employee of the board, commission or department.~~

~~(4) That of a landlord or tenant of the transacting party if such party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such transaction is the property in which such officer or employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning and subject to the provisions of Subsection (g).~~

~~(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.~~

~~(6) That of a spouse of an officer or employee in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.~~

~~(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed at the time of the first consideration of the transaction and provided further that such interest is noted in its official records.~~

~~(8) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of a borrower or depositor, debtor or creditor.~~

~~(j) — No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his or her own character or conduct, his or her right as a member, or his or her appointment to any office, position, or employment, wherein the said member's financial interest is immediate, particular, and distinct from the public interest. The word “knowingly” as used in this paragraph shall mean actual or constructive knowledge of the existence of the interest which would disqualify the vote under the provisions of this section.~~

~~If under any provision of this charter or of any ordinance, resolution, rule or regulation, action on any measure or question must be taken on a particular day and such action cannot be taken by a qualified voting quorum of the board or commission on that day by reason for the disqualification from voting under the provisions of this section, said action may be postponed until, but not later than, there are sufficient qualified members present to vote and take action on said measure or question. The term “a qualified voting quorum” as used in this paragraph shall mean the presence of a sufficient number of qualified voting members of the board or commission to take either affirmative or negative action on the measure or question before the board or commission.~~

~~(k) — The city attorney, the district attorney of the City and County of San Francisco or any resident or group of residents of the City and County of San Francisco may bring a suit in the superior court to compel compliance with the provisions of this section.~~

~~(l) — The provisions of Section 8.105 shall not apply to any member serving as a representative of any profession, trade, business, union or association on any board, commission or other body heretofore or hereafter created by an ordinance of the City and County of San Francisco which requires that the membership consists in whole or in part of representatives of specific professions, trades, businesses, unions or associations. Conflicts of interest and prohibited practices of such members and the penalties therefor shall be as prescribed by the ordinance creating such board, commission or other body or by an amendment thereto.~~

~~(m) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than one year in jail and/or fine of not more than \$10,000, as well as removal.~~

~~(n) Every contract made in violation of any of the provisions of Section 8.105 may be avoided at the insistence of any party except the officer or employee interested therein. No such contract may be avoided because of the interest of an officer or employee therein unless such contract is made in the official capacity of such officer or employee, or by a board or body of which he or she is a member.~~

SEC. C9.101. OFFICERS OF THE CITY AND COUNTY.

The officers of the City and County shall be the officers elected by vote of the people, members of the Board of Education, members of boards and commissions appointed by the Mayor and the Board of Supervisors, members of the Building Inspection Commission, members of the Ethics Commission, members of the Elections Commission, members of the Retirement Board, members of the Sunshine Ordinance Task Force members of the Youth Commission, members of the Small Business Commission, members of the Board of Law Library Trustees, the Superintendent of Schools, the executive appointed as the chief executive officer under each board or commission, the Controller, the City Administrator, the head of each department under the Mayor, and such other officers as may hereafter be provided by law or so designated by ordinance.

SEC. C9.102. PROHIBITION ON MULTIPLE CAMPAIGN ACCOUNTS.

An officer of the City and County of San Francisco, or any person or committee on behalf of an officer of the City and County of San Francisco, is hereby prohibited from establishing any account, other than a campaign fund, for the solicitation and expenditure of funds. Nothing in this section shall prohibit an officer from spending personal funds on official or related business activities.

(a) An account established by an officer or on behalf of an officer of the City and County of San Francisco is defined as any account used to pay expenses incurred directly in connection with carrying out the usual and necessary duties of holding office, including but not limited to, travel between an officer's residence and public office, meetings with constituents which are not campaign related meetings, salary payments to staff for other than campaign activities, office promotional materials, advertising, mailings, postage, and paid radio or television airtime.

(b) Any and all monies or services accepted or received by an officer or on behalf of an officer, except monies or services accepted or received from or as a result of the officer's personal or business activities, unrelated to his or her office, shall be deposited, credited or otherwise reported to a campaign fund established by the officer and shall be subject to the provisions contained in Section 1.114 of this Code.

(c) This Section shall not be applied retroactively. Funds held in officeholder accounts, or accounts on behalf of any officer, existing on November 2, 1993, may be expended on official or business related activities notwithstanding this Section. No further deposits, transfer, credits or other additions to the balance of the account shall be made. Upon depletion of all available funds in the officer's account, the account shall be closed.

SEC. C9.103. FAILURE TO FILE

(a) Subject to the removal and Civil Service provisions of the Charter as well as any applicable Civil Service Rules, any officer or employee of the City and County of San Francisco who fails to file any statement required by sections 3.1-101 and 3.1-102 within 30 days after receiving notice from the Ethics Commission of a failure to file may be subject to disciplinary action by his or her appointing authority, including removal from office or termination of employment.

(b) The Ethics Commission may issue a letter to an appointing authority recommending removal of any City officer or termination of any City employee who has failed to file a statement

required by sections 3.1-101 and 3.1-102 if the City officer or employee has not filed the required statement within 30 days of receiving notice from the Ethics Commission of his or her failure to file.

(c) Every appointing authority whose appointees file statements required by sections 3.1-101 and 3.1-102 with the Ethics Commission shall provide written notice to the Ethics Commission of the name of any appointee who has assumed or left office or employment. Such notice shall be provided within 15 days of the City officer or employee assuming or leaving office or employment. Failure to provide such notice may constitute official misconduct.

SEC. C9.104. FINDINGS AND PURPOSE

(a) The people of the City and County of San Francisco declare that public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. To assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions, the people of the City and County declare that they have a compelling interest in creating laws regulating conflicts of interest and outside activities of City officers and employees.

(b) The proper operation of the government of the City and County of San Francisco requires that public officers and employees be independent, impartial, and responsible to the people and that public office and employment not be used for personal gain. The public interest, therefore, requires that officers and employees of the City and County be prohibited from making, participating in making or otherwise seeking to influence governmental decisions in which they have a financial interest or accepting gifts and other things of value from regulated sources.

(c) In order to maintain the public's confidence in the integrity of governmental decisions related to the appointment and discipline of public officers and employees, public officers and employees must not give or receive anything of value in consideration of their

appointment or accept anything of value from their subordinates, and must not participate in decisions related to their own character or conduct or that of their family members.

(d) City and County contracts should be, and should appear to be, awarded on a fair and impartial basis. The practice of members of Boards and Commissions of the City and County contracting with the City and County creates the potential for, and the appearance of, favoritism or preferential treatment by the City and County. Prohibiting members of Boards and Commissions of the City and County from contracting with the City and County will eliminate both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.

(e) Government decisions of officers and employees of the City and County should be, and should appear to be, made on a fair and impartial basis. The practice of former officers and employees communicating with their former colleagues on behalf of private interests and the practice of current officers of the City and County communicating with other officers and employees on behalf of any other person for compensation creates the potential for, and the appearance of, undue influence, favoritism or preferential treatment. Prohibiting former officers and employees from communicating orally, in writing, or in any other manner with their former colleagues for specified periods of time and prohibiting current officers from communicating orally, in writing, or in any other manner with other officers and employees of the City and County on behalf of any other person for compensation will eliminate both actual and perceived undue influence, favoritism or preferential treatment without creating unnecessary barriers to public service.

SEC. C9.105. CONSTRUCTION

This Chapter shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the Board of Supervisors or the City

and County to control the ethical conduct of its officers and employees shall avoid the effect of this Chapter.

SEC. C9.106. AMENDMENT OR REPEAL OF THIS CHAPTER

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

(a) The amendment furthers the purposes of this Chapter;

(b) The Ethics Commission approves the proposed amendment by at least a four-fifths vote of all its members;

(c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

SEC. C9.107. FINANCIAL CONFLICTS OF INTEREST

(a) **Incorporation of the California Political Reform Act.** No officer or employee of the City and County shall make, participate in making, or seek to influence a decision of the City and County in which the officer or employee has a financial interest within the meaning of California Government Code section 87100 et seq. and any subsequent amendments to these sections.

(b) **Incorporation of California Government Code 1090, et seq.** No officer or employee of the City and County shall make a contract in which he or she has a financial interest within the meaning of California Government Code section 1090 et seq. and any subsequent amendments to these sections.

(c) **Future Employment.** No officer or employee of the City shall make, participate in making, or otherwise seek to influence a governmental decision, affecting a person or entity with

whom the officer or employee is discussing or negotiating an agreement concerning future employment.

SEC. C9.108. APPOINTMENTS AND NOMINATIONS

(a) No person shall give or promise, and no officer or employee of the City and County may solicit or accept, any money or other valuable thing in consideration for (i) the person's nomination or appointment to any City and County office or employment, or promotion or other favorable City and County employment action, or (ii) any other person's nomination or appointment to any City and County office or employment or promotion or other favorable City and County employment action.

(b) No employee of the City and County is eligible to be appointed or elected to serve on a board or commission that supervises or oversees the employee's department. A member of a board or commission must resign his or her position before applying for a position of employment with a department of the City and County that his or her board or commission supervises or oversees.

SEC. C9.109. VOTING ON OWN CHARACTER OR CONDUCT

(a) **Prohibition.** No officer or employee of the City and County shall knowingly vote on or attempt to influence a governmental decision involving his or her own character or conduct, or his or her appointment to any office, position, or employment.

(b) **Exceptions.** Nothing in this section shall prohibit an officer or employee from (i) responding to allegations, applying for an office, position, or employment, or responding to inquiries; or (ii) participating in the decision of his or her board, commission, or committee to choose him or her as chair, vice chair, or other officer of the board, commission, or committee.

SEC. C9.110. DECISIONS INVOLVING FAMILY MEMBERS

No officer or employee of the City and County may make, participate in making, or seek to influence a decision of the City and County regarding an employment action concerning a relative. For purposes of this section, the term "employment action" shall include but not be

limited to hiring, promotion, or discipline, and the term "relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship created by adoption.

SEC. C9.111. DISCLOSURE OF PERSONAL, PROFESSIONAL AND BUSINESS RELATIONSHIPS

(a) **Disclosure.** A City officer or employee shall disclose on the public record any personal, professional or business relationship with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the officer or employee where as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the City officer or employee's department, board, commission or agency shall constitute the public record.

(b) **Penalties.** A court may void any governmental decision made by a City officer or employee who fails to disclose a relationship as required by subsection (a) if the court determines that: (1) the failure to disclose was willful; and (2) the City officer or employee failed to render his or her decision with disinterested skill, zeal, and diligence and primarily for the benefit of the City. No other penalties shall apply to a violation of this section, provided that nothing in this section shall prohibit an appointing authority from imposing discipline for a violation of this section.

(c) **Regulations.** The Ethics Commission may adopt regulations setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this section.

SEC. C9.112. GIFTS

(a) **Prohibition on bribery.** No person shall offer or make, and no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act.

(b) **General gift restrictions.** In addition to the gift limits imposed by California Government Code section 89503 and section 3.1-101 of this code and any subsequent amendments to those sections, no officer or employee of the City and County shall solicit or accept any gift in excess of \$100 from a restricted source in a calendar year. For purposes of this subsection, the term gift has the same meaning as under California Government Code section 89503 and any subsequent amendments to that section.

(i) **Restricted Source.** For purposes of this section, a restricted source means: (A) a person doing business with or seeking to do business with the department of the officer or employee; (B) any person who during the prior 12 months knowingly attempted to influence the officer or employee in any legislative or administrative action.

(ii) **Adjustment of gift limits.** The Ethics Commission is authorized to adjust annually the gift limits imposed by this section to reflect changes in the California Consumer Price Index.

(c) **Gifts from subordinates.** No officer or employee shall solicit or accept any gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him or her. The Ethics Commission shall issue regulations implementing this section, including regulations exempting voluntary gifts that are given or received for special occasions or under other circumstances in which gifts are traditionally given or exchanged.

(d) **Additional Restrictions.** Nothing in this section shall prohibit a City department, agency, board or commission from imposing additional gift restrictions on its officers or employees.

SEC C9.113. INCOMPATIBLE ACTIVITIES

*(a) **Prohibition.** No officer or employee of the City and County may engage in any employment, activity, or enterprise that the department, board, commission, or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under this section. No officer or employee may be subject to discipline or penalties under this section unless he or she has been provided an opportunity to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the officer or employee.*

*(b) **Statement Of Incompatible Activities.** Every department, board, commission, and agency of the City and County shall, by August 1 of the year after which this section becomes effective, submit to the Ethics Commission a statement of incompatible activities. No statement of incompatible activities shall become effective until approved by the Ethics Commission. After initial approval by the Ethics Commission, a department, board, commission or agency of the City and County may, subject to the approval of the Ethics Commission, amend its statement of incompatible activities. The Ethics Commission may, at any time, amend the statement of incompatible activities of any department, board, commission or agency of the City and County.*

*(c) **Required Language.** Each statement of incompatible activities shall list those outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers and employees of the department, board, commission, or agency of the City and County. This list shall include, but need not be limited to, activities that involve: (1) the use of the time, facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or influence of the City and County officer or employee's position for private gain or advantage; (2) the receipt or acceptance by an officer or employee of the City and County of any money or other thing of value from anyone other than the City and County for the performance of an act that the officer or employee would be required or expected to render in the regular course of his or her service or employment with the City and County; (3) the performance of an act in a capacity*

other than as an officer or employee of the City and County that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of the City and County officer or employee's department, board, commission or agency; and (4) time demands that would render performance of the City and County officer or employee's duties less efficient. The Ethics Commission may permit City boards and commissions to exclude any required language from their statement of incompatible activities if their members, by law, must be appointed in whole or in part to represent any profession, trade, business, union or association.

(d) Notice. Every department, board, commission and agency of the City and County shall annually provide to its officers and employees a copy of its statement of incompatible activities.

SEC. C9.114. PROHIBITION ON DUAL OFFICE HOLDING

Any person holding an office under the City and County with an annual salary in excess of \$2,500, whether by election or by appointment, who shall, during his or her term of office, hold or retain any other office with such a salary under the government of the United States, the State of California, or the City and County shall be deemed to have thereby vacated the office held by him or her under the City and County. For the purposes of this section, the term salary does not include: (1) a stipend, per diem, or other payment provided for attendance at meetings; or (2) health, dental or vision insurance, or other non-cash benefits.

SEC. C9.115. PROHIBITING MEMBERS OF BOARDS AND COMMISSIONS FROM CONTRACTING WITH THE CITY AND COUNTY

(a) Definitions. For purposes of this section, the following definitions shall apply:

(i) Board or Commission. The term "board or commission" means an appointed board or commission created by Charter or ordinance of the City and County, but does not include advisory boards or commissions.

(ii) Business. The term “business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.

(iii) City and County. The term “City and County” includes any commission, board, department, agency, committee, or other organizational unit of the City and County of San Francisco.

(iv) Contract. The term “contract” means any agreement to which the City and County is a party, other than a grant funded in whole or in part by the City and County or an agreement for employment with the City and County in exchange for salary and benefits.

(v) Subcontract. The term “subcontract” means a contract to perform any work that a primary contractor has an agreement with the City and County to perform.

(b) **Prohibition.** No member of a board or commission of the City and County shall, during his or her term of office, contract or subcontract with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District, where the amount of the contract or the subcontract exceeds \$10,000.

(c) **Exceptions.** This section shall not apply to the following contracts or subcontracts:

(i) A contract or subcontract with a nonprofit organization;

(ii) A contract or subcontract with a business with which a member of a board or commission is affiliated unless the member exercises management and control over the business.

A member exercises management and control if he or she is:

(A) An officer or director of a corporation;

(B) A majority shareholder of a closely held corporation;

(C) A shareholder with more than five percent beneficial interest in a publicly traded corporation;

(D) A general partner or limited partner with more than 20 percent beneficial interest in the partnership; or

(E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;

(iii) A contract or subcontract with the City and County entered into before a member of a board or commission commenced his or her service; or

(iv) An agreement to provide property, goods or services to the City and County at substantially below fair market value.

(d) **Limitation.** Failure of a member of a board or commission to comply with this section shall not be grounds for invalidating any contract with the City and County.

SEC. C9.116. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES – COMPENSATED ADVOCACY.

(a) **Prohibition.** No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) **Exceptions.** This section shall not apply to any communication by: (i) an officer of the City and County on behalf of the City and County; (ii) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (iii) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (iv) a City officer acting in his or her capacity as a licensed attorney representing clients in communications with the City Attorney's Office, outside legal counsel hired by the City, or representatives of the City who are named in a pending litigation matter.

(c) **Waiver.** The Ethics Commission may waive the prohibitions in this section for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association.

SEC. C9.117. REFERRALS

No officer or employee of the City and County shall: (a) receive any money, gift or other thing of economic value from a person or entity other than the City and County for referring a member of the public to a person or entity for any advice, service or product related to the processes of the City and County; or (b) condition any governmental action on a member of the public hiring, employing, or contracting with any specific person or entity. The Ethics Commission may waive the restriction in subsection (b) if the Commission determines that granting a waiver is necessary for the proper administration of a governmental program or action.

SEC. C9.118. DISCLOSURE OR USE OF CONFIDENTIAL CITY INFORMATION

No current or former officer or employee of the City and County shall: (a) willfully or knowingly disclose any confidential or privileged information, unless authorized or required by law to do so; or (b) use any confidential or privileged information to advance the financial or other private interest of himself or herself or others. Confidential or privileged information is information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.

SEC. C9.119. PROHIBITION ON POLITICAL ACTIVITY

(a) No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City. Nothing in this section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees.

(b) No City officer or employee shall participate in political activities of any kind while in uniform.

(c) No City officer or employee may engage in political activity during working hours or on City premises. For the purposes of this subsection, the term "City premises" shall not include City owned property that is generally open to the public and used for political purposes, such as City owned parks and sidewalks.

SEC. C9.120. PROHIBITION ON USE OF PUBLIC FUNDS FOR PRINTED GREETING CARDS.

(a) Definitions. The term "greeting card" means any printed card that celebrates or recognizes a holiday.

(b) Prohibition. No public funds may be used to design, produce, create, mail, send, or deliver any printed greeting card. The Controller of the City and County of San Francisco shall, in the Controller's sole discretion, determine whether a payment is prohibited under this section.

The Controller's decision regarding whether a payment is prohibited under this section is final.

SEC. C9.121. POST-EMPLOYMENT RESTRICTIONS

(a) All Officers and Employees.

(i) General Post-Employment Restrictions.

(A) Permanent restriction on representation in particular matters. No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall, with the intent to influence, act as agent or attorney, or otherwise represent, any other person (except the City and County) before any court, or before any state, federal, or local agency, or any officer or employee thereof, by making any formal or informal appearance or by making any oral, written, or other communication in connection with a particular matter:

- (1) in which the City and County is a party or has a direct and substantial interest;
- (2) in which the former officer or employee participated personally and substantially as a City officer or employee; and
- (3) which involved a specific party or parties at the time of such participation.
- (B) Permanent restriction on assisting others in particular matters. No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall aid, advise, counsel, consult or assist another person (except the City and County) in any proceeding in which the officer or employee would be precluded under subsection (1) from personally appearing.
- (C) Exception for testimony. The prohibitions in subsections 1 and 2 do not prohibit a former officer or employee of the City and County from testifying as a witness, based on the former officer's or employee's personal knowledge, provided that no compensation is received other than the fees regularly provided for by law or regulation of witnesses.
- (D) One year restriction on communicating with former department. No former officer or employee of the City and County, for one year after termination of his or her service or employment with the City, shall, with the intent to influence a government decision, communicate orally, in writing, or in any other manner on behalf of any other person (except the City and County) with any officer or employee of the department, board, or commission for which the officer or employee served.
- (E) Waiver. (1) At the request of the department involved, the Ethics Commission may waive any of the restrictions in subsections (a)(i)(A), (a)(i)(B) and (a)(1)(D) if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.

(2) The Ethics Commission may waive any of the restrictions in subsections (a)(i)(A), (a)(i)(B) and (a)(i)(D) for members of City boards and commissions who, by law, must be appointed to represent any profession, trade, business, union or association.

(ii) Future Employment. No officer or employee of the City shall, for a period of one year after termination of City service or employment, be employed by or otherwise receive compensation from a person or entity that negotiated or entered in a contract with the City within the 12 months prior to the officer or employee leaving City service where the officer or employee personally and substantially participated in making decisions related to the negotiations or the award of the contract.

(b) Mayor and Members of the Board of Supervisors.

(i) One year restriction on communicating with City departments. For purposes of the one-year restriction under subsection (a)(i)(D), the “department” for which a former Mayor or member of the Board of Supervisors served shall be the City and County and the prohibition in subsection (a)(i)(D) shall extend to communications with:

(A) a board, department, commission or agency of the City and County;

(B) an officer or employee of the City and County;

(C) an appointee of a board, department, commission, agency, officer, or employee of the City and County; or

(D) a representative of the City and County.

(ii) City service. No former Mayor or member of the Board of Supervisors shall be eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors, for appointment to any full time, compensated employment with the City and County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.

SEC. C9.122. AIDING AND ABETTING

No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any of the provisions of this Chapter.

SEC. C9.123. FILING OF FALSE CHARGES

No person shall knowingly and intentionally file with the Ethics Commission, the District Attorney or the City Attorney any false charge alleging a violation of this Chapter.

SEC. C9.124. PROVISION OF FALSE OR MISLEADING INFORMATION; WITHHOLDING OF INFORMATION; AND DUTY TO COOPERATE AND ASSIST.

(a) No person shall knowingly and intentionally furnish false or fraudulent evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of an alleged violation of this Chapter.

(b) The Ethics Commission, District Attorney or City Attorney may request and shall receive from every City officer and employee cooperation and assistance with an investigation into an alleged violation of this Chapter.

SEC. C9.125. PENALTIES AND ENFORCEMENT

(a) **Criminal Penalties.** Any person who knowingly or willfully violates any of the City's conflict of interest and governmental ethics laws shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000 for each violation or by imprisonment in the County jail for a period of not more than one year in jail or by both such fine and imprisonment.

(b) **Civil Penalties.** Any person who intentionally or negligently violates any City conflict of interest or governmental ethics law shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation.

(c) **Injunctive Relief.** The City Attorney or any resident may bring a civil action on behalf of the people of San Francisco to enjoin violations of or compel compliance with a conflict of interest or governmental ethics law. No resident may commence a civil action under this section without first notifying the City Attorney in writing of the intent to file a civil action under this section. If the City Attorney fails to notify the resident within 120 days of receipt of the notice that the City Attorney has filed or will file a civil action, the complainant may file the action. No resident may file an action under this section if the City Attorney responds within 120 days that the City Attorney intends to file an action or has already filed a civil action. No resident may bring an action under this section if the Ethics Commission has issued a finding of probable cause arising out of the same facts, the District Attorney has commenced a criminal action arising out of the same facts, or another resident has filed a civil action under this section arising out of the same facts. A court may award reasonable attorney's fees and costs to any resident who obtains injunctive relief under this section.

(d) **Administrative Penalties.** Any person who violates any of the City's conflict of interest or governmental ethics laws shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter. In addition to the administrative penalties set forth in this Charter, the Ethics Commission may issue warning letters to City officers and employees.

(e) **Statute Of Limitations.** No person may bring a criminal, civil or administrative action under this section against any other person more than four years after the date of the alleged violation.

SEC. C9.126. SEVERABILITY

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

SEC. C9.127. ETHICS COMMISSION.

The powers and duties of the Ethics Commission are governed by Charter Sections 15.100, et seq., and Appendix C, Sections C3.699-10—C3.699-16.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
CHAD A. JACOBS
Deputy City Attorney