

1 [Regulation of Electioneering Communications.]

2
3 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code by**
4 **adding section 1.161.5 to create disclosure and filing requirements for the sponsors of**
5 **electioneering communications and by amending section 1.134 to include**
6 **electioneering communications within the type of communications that could cause**
7 **the Ethics Commission to lift the City's expenditure ceilings.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
13 amended by adding Section 1.161.5, to read as follows:

14 **SEC. 1.161.5. DISCLOSURE AND FILING REQUIREMENTS FOR ELECTIONEERING**
15 **COMMUNICATIONS.**

16 **(a) DISCLOSURE STATEMENTS.**

17 **(1) Every electioneering communication shall include a disclosure statement identifying the**
18 **person who paid for the communication. Such disclosure statement shall, at a minimum, contain the**
19 **following words, "paid for by _____ (insert the name of the person who paid for the**
20 **communication)."**

21 **(2) Any disclosure statement required by this section to be in printed form shall be printed in a**
22 **type and color so as to be easily legible to the intended public. In no situation shall such disclosure**
23 **statement be printed in less than 14 point type or in a color or print that does not contrast with the**
24 **background so as to be easily legible to the intended public.**

1 (3) Any disclosure statement required by this section to be in spoken form shall be spoken at
2 the same volume and speed as the rest of the communication so as to be clearly audible and understood
3 by the intended public and otherwise appropriately conveyed for the hearing impaired.

4 (b) REPORTING OBLIGATIONS.

5 (1) Every person who makes payments for electioneering communications in an aggregate
6 amount of \$1,000 during any calendar year shall, within 48 hours of each disclosure date, file an
7 itemized statement with the San Francisco Ethics Commission.

8 (2) Each itemized statement required to be filed under this section shall be filed on a form
9 promulgated by the San Francisco Ethics Commission and shall contain the following information:

10 (A) the full name, street address, city, state and zip code of the person making payments for
11 electioneering communications;

12 (B) the name of any individual sharing or exercising direction and control over the person
13 making payments for electioneering communications;

14 (C) the total amount of payments made by the person for electioneering communications during
15 the calendar year;

16 (D) a detailed description of each payment made by the person for electioneering
17 communications during the calendar year, provided that the person has not already reported such
18 payments on an itemized statement filed under this section; such detailed description shall include the
19 date the payment was made, the full name and address of the person to whom the payment was made;
20 the amount of the payment, and a brief description of the consideration for which each payment was
21 made;

22 (E) a detailed accounting of any payments of \$100 or more that the person has received from
23 another person, which were used for making electioneering communications, provided that the person
24 has not already reported such payments received on an itemized statement filed under this section; such
25 detailed accounting shall include the dollar amount or value of each payment, the date of the payment's

1 receipt, the name, street address, city, state, and zip code of the person who made such payment, the
2 occupation and employer of the person who made such payment, if any, or, if the person is self-
3 employed, the name of the person's business, and the cumulative amount of payments received for the
4 purpose of making electioneering communications from that person during the calendar year;

5 (F) the total amount of all payments reported under subsection (E) during the calendar year;

6 (G) a legible copy of the electioneering communication if in printed form, or a transcript of the
7 electioneering communication if in spoken form; and

8 (H) any other information required by the Ethics Commission consistent with the purposes of
9 this section.

10 (3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
11 information provided in the itemized statement, and shall retain for a period of five years all books,
12 papers and documents necessary to substantiate the itemized statements required by this section.

13 (4) The Ethics Commission may require any itemized statement to be filed electronically and
14 may permit any required statement to be filed by facsimile. The Ethics Commission shall promulgate
15 regulations to implement this subsection before any person shall be required to file an itemized
16 statement electronically or permitted to file a statement by facsimile.

17 (5) If any person files an itemized statement after any deadline imposed by this section, the
18 Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,
19 fine the person \$10 per day after the deadline until the statement is received by the Ethics Commission.
20 The Ethics Commission may reduce or waive a fine if the Commission determines that the late filing
21 was not willful and that enforcement will not further the purposes of this Chapter. The Ethics
22 Commission shall deposit funds collected under this section in the General Fund of the City and County
23 of San Francisco.

24 (c) DEFINITIONS.

25 Whenever in this section the following words or phrases are used, they shall mean:

1 (1) "Disclosure Date" shall mean: (A) the first date during any calendar year when an
2 electioneering communication is distributed after a person has made payments aggregating \$1,000 for
3 electioneering communications; and (B) after a person has met the threshold under subsection (A), any
4 date during that same calendar year when an electioneering communication is distributed, if that same
5 person made any payments for such electioneering communication.

6 (2) "Distributed" shall mean any act that permits an electioneering communication to be
7 viewed, read or heard.

8 (3) "Electioneering Communication" shall mean any communication, including but not limited
9 to any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing, flyer,
10 doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

11 (A) refers to a clearly identified candidate for City elective office or a City elective officer who
12 is the subject of a recall election; and

13 (B) is distributed within 90 days prior to an election for the City elective office sought by the
14 candidate or a recall election regarding the City elective officer to 500 or more individuals who are
15 registered to vote or eligible to register to vote in the election or recall election. There shall be a
16 rebuttable presumption that any broadcast, cable, satellite, or radio communication and any sign,
17 billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote in
18 or eligible to register to vote in an election for the City elective office sought by the candidate or a
19 recall election regarding the City elective officer.

20 (C) The term "Electioneering Communication" shall not include:

21 (i) communications that constitute expenditures or independent expenditures under this
22 Chapter;

23 (ii) communications made by a slate mailer organization if such communications are required
24 to be disclosed under California Government Code section 81000, et. seq.;

1 (iii) communications paid for by the City or any other local, state or federal government
2 agency;

3 (iv) spoken communications between two or more individuals in direct conversation unless
4 such communications are made by telephone and at least one of the individuals is compensated for the
5 purposes of making the telephone communication;

6 (v) communications that appear on bumper stickers, pins, stickers, hat bands, badges, ribbons
7 and other similar memorabilia;

8 (vi) news stories, commentaries or editorials distributed through any newspaper, radio station,
9 television station, or other recognized news medium unless such news medium is owned or controlled
10 by any political party, political committee or candidate;

11 (vii) communications to all members, employees and shareholders of an organization, other
12 than a political party, provided that such communications do not constitute general public advertising
13 such as, but not limited to, broadcasting, billboards, and newspaper advertisements;

14 (viii) communications that occur during a candidate debate or forum; and

15 (ix) communications made solely to promote a candidate debate or forum made by or on behalf
16 of the person sponsoring the debate or forum, provided that such communications do not otherwise
17 discuss the positions or experience of a candidate for City elective office or a City elective officer who
18 is the subject of a recall election.

19 (4) "Internet Communication" shall include paid internet advertisements such as
20 "banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased
21 from another person, and similar types of internet communications as defined by the Ethics
22 Commission by regulation, but shall not include web blogs, listserves sent to persons who
23 have contacted the sender, discussion forums, or general postings on web pages.

1 (45) "Payment" shall be defined as set forth in Government Code of the State of California
2 (commencing at Section 81000); provided, however, that "payment" shall also include any enforceable
3 promise to make a payment.

4 (56) "Refers to a clearly identified candidate for City elective office or a City elective officer
5 who is the subject of a recall election" shall mean any communication that contains the candidate's or
6 officer's name, nickname or image or makes any other unambiguous reference to the candidate or
7 officer such as "your Supervisor" or "the incumbent."

8 (D) Regulations.

9 The Ethics Commission shall issue regulations implementing this section, including regulations
10 defining all members, employees and shareholders of an organization.

11
12 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
13 amended by amending Section 1.134, to read as follows:

14 **SEC. 1.134. EXPENDITURE CEILINGS LIFTED.**

15 This Section shall apply only if at least one candidate for the City elective office has
16 filed a statement with the Department of Elections pursuant to Section 1.128 indicating
17 acceptance of the applicable expenditure limits, and the applicable expenditure limit has not
18 already been lifted.

19 (a) If a candidate who has filed a statement under section 1.128 declining to accept
20 expenditure ceilings receives contributions or makes qualified campaign expenditures in
21 excess of 100 percent of the applicable expenditure ceiling, or if a person or persons committee
22 or committees that make independent expenditures in the aggregate make expenditures or payments,
23 or incur expenses, including expenditures made or expenses incurred for the purpose of making
24 independent expenditures, electioneering communications or member communications; in support
25 of or in opposition to a candidate that total more than 100 percent of the applicable

1 expenditure ceiling, the applicable expenditure limit shall no longer be binding on any
2 candidate seeking election to the same City elective office.

3 (b) Any candidate who declines to adopt the voluntary expenditure ceiling and who
4 receives contributions, makes expenditures, incurs expenses or has funds in his campaign
5 trust account that exceed 100 percent of the applicable expenditure ceiling shall, within 24
6 hours of exceeding 100 percent of the applicable expenditure ceiling, file a statement with the
7 Ethics Commission, on forms to be provided by the Ethics Commission, stating that fact and
8 any additional information required by the Ethics Commission. Within 24 hours after receiving
9 such notice, the Ethics Commission shall inform every other candidate for that office that the
10 expenditure ceiling has been lifted.

11 (c) Any committee person that makes expenditures or payments, or incurs expenses for the
12 purpose of making independent expenditures, electioneering communications or member
13 communications ~~and that makes expenditures, or incurs expenses,~~ in support of or in opposition to
14 any candidate in an amount of \$5,000 or more, ~~including expenditures made or expenses incurred~~
15 ~~for the purpose of making member communications,~~ shall, within 24 hours of reaching this
16 threshold, file a statement with the Ethics Commission, on forms to be provided by the Ethics
17 Commission, stating that fact and any additional information required by the Ethics
18 Commission. Thereafter, until such time as the applicable expenditure ceiling is lifted, any
19 such committee shall file a supplemental statement with the Ethics Commission each time the
20 committee makes expenditures or payments or incurs expenses for the purpose of making
21 independent expenditures, electioneering communications or member communications in support of or
22 in opposition to any candidate of an additional \$5,000, ~~including expenditures made or expenses~~
23 ~~incurred for the purpose of making member communications.~~ The supplemental statements shall
24 be filed within 24 hours of reaching these spending thresholds.

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

3 By: _____
4 CHAD A. JACOBS
5 Deputy City Attorney
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