

1 Proposed Amendments - Supervisor Peskin

2
3 **AMENDMENT #1 - CONTRIBUTION PROHIBITION FOR PERSONS WITH**
4 **FINANCIAL INTEREST IN LAND USE MATTERS**

5
6 **SEC. 1.104. DEFINITIONS.** [File No. 180280 - page 2, line 5]

7 Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

8 * * * *

9 "Financial interest" shall mean an ownership interest of at least 10% or \$1,000,000 in
10 the project or property that is the subject of the land use matter. "Financial interest" shall also
11 mean holding the position of President, Vice-President, Chief Executive Officer, Chief
12 Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or member of
13 Board of Directors.

14 * * * *

15 "Land use matter" shall mean any application for an entitlement, regarding a project
16 with a value or construction cost of \$5,000,000 or more, that requires a discretionary
17 determination at a public hearing before a board or commission under the San Francisco
18 Building Code, the Planning Code, or the California Environmental Quality Act (California
19 Public Resources Code Section 21000 et seq.).

20 * * * *

21
22 **SEC. 1.127. CONTRIBUTION LIMITS – PERSONS WITH LAND USE MATTERS**
23 **BEFORE A DECISION-MAKING BODY.** [File No. 180001 - page 15, lines 4-5]

24 (a) Definitions. For purposes of this Section 1.127, the following phrases shall mean:
25

1 "Affiliated entities" means business entities directed and controlled by a majority of the
2 same persons, or majority-owned by the same person.

3 "Prohibited contribution" is a contribution to (1) a member of the Board of Supervisors,
4 (2) a candidate for member of the Board of Supervisors, (3) the Mayor, (4) a candidate for
5 Mayor, (5) the City Attorney, (6) a candidate for City Attorney, or (7) a controlled committee of
6 a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of
7 these offices.

8 (b) **Prohibition on Contributions.** No person, or the person's affiliated entities, with a
9 financial interest in a land use matter before the Board of Appeals, Board of Supervisors,
10 Building Inspection Commission, Commission on Community Investment and Infrastructure,
11 Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure
12 Island Development Authority Board of Directors shall make any prohibited contribution at any
13 time from a request or application regarding a land use matter until 12 months have elapsed
14 from the date that the board or commission renders a final decision or ruling or any appeals
15 from that decision or ruling have been finally resolved.

16 (c) **Prohibition on Soliciting or Accepting Contributions.** No member of the Board
17 of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for
18 Mayor, the City Attorney, candidate for City Attorney, or controlled committees of such officers
19 and candidates shall:

20 (1) accept any contribution prohibited by subsection (b); or

21 (2) solicit any contribution prohibited by subsection (b) from a person who the
22 individual knows or has reason to know has a financial interest in land use matter.

23 (d) **Exceptions.** The prohibitions set forth in subsections (b) and (c) shall not apply if:

24 (1) the land use matter concerns only the person's primary residence; or
25

1 (2) the person with a financial interest in the land use matter is a nonprofit
2 organization with tax exempt status under 26 United States Code Section 501(c)(3), and the
3 land use matter solely concerns the provision of health care services, social welfare services,
4 permanently affordable housing, or other community services funded, in whole or in
5 substantial part, by the City to serve low-income San Francisco residents.

6 (e) **Forfeiture of Prohibited Contributions.** In addition to any other penalty, each
7 member of the Board of Supervisors, candidate for member of the Board of Supervisors, the
8 Mayor, candidate for Mayor, City Attorney, candidate for City Attorney, or controlled
9 committees of such officers and candidates, who solicits or accepts any contribution
10 prohibited by subsection (b) shall pay promptly the amount received or deposited to the City
11 and County of San Francisco by delivering the payment to the Ethics Commission for deposit
12 in the General Fund of the City and County; provided, that the Commission may provide for
13 the waiver or reduction of the forfeiture.

14 (f) **Notification.**

15 (1) **Prospective Parties to Land Use Matters.** The agency responsible for the
16 initial review of any land use matter shall inform any person with a financial interest in a land
17 use matter before the Board of Appeals, Board of Supervisors, Building Inspection
18 Commission, Commission on Community Investment and Infrastructure, Historic Preservation
19 Commission, Planning Commission, Port Commission, or the Treasure Island Development
20 Authority Board of Directors, of the prohibition in subsection (b) and of the duty to notify the
21 Ethics Commission, described in subsection (f)(2), upon the submission of a request or
22 application regarding a land use matter.

23 (2) **Persons with a Financial Interest in a Land Use Matter.** Any person with
24 a financial interest in a land use matter before the Board of Appeals, Board of Supervisors,
25 Building Inspection Commission, Commission on Community Investment and Infrastructure,

1 Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure
2 Island Development Authority Board of Directors, within 30 days of submitting an application,
3 shall file with the Ethics Commission a report including the following information:
4 (A) the board or commission considering the land use matter;
5 (B) the location of the property that is the subject of the land use matter;
6 (C) if applicable, the file number for the land use matter; and
7 (D) if applicable, the names of the individuals who serve as the person's
8 chairperson, chief executive officer, chief financial officer, and chief operating officer, or as a
9 member of the person's board of directors.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **AMENDMENT #2 - CONTRIBUTION DISCLOSURE REQUIREMENTS**

2
3 **SEC. 1.104. DEFINITIONS.** [File No. 180280 - page 2, line 5]

4 Whenever in this Chapter I the following words or phrases are used, they shall mean:

5 * * * *

6 "Public appeal" shall mean a request for a payment when such request is made by
7 means of television, radio, billboard, a public message on an online platform, the distribution
8 of 200 or more identical pieces of printed material, the distribution of a single email to 200 or
9 more recipients, or a speech to a group of 20 or more individuals.

10 * * * *

11
12 **SEC. 1.114.5. CONTRIBUTIONS - DISCLOSURES.** [File No. 180280 - page 5, line 16]

13 (a) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of contributions
14 received from a contributor is \$100 or more, the committee shall not deposit any contribution that
15 causes the total amount contributed by a person to equal or exceed \$100 unless the committee has the
16 following information: the contributor's full name; the contributor's street address; the contributor's
17 occupation; and the name of the contributor's employer or, if the contributor is self-employed, the name
18 of the contributor's business.

19 (1) A committee will be deemed not to have had the required contributor information at
20 the time the contribution was deposited if the required contributor information is not reported on the
21 first campaign statement on which the contribution is required to be reported.

22 (2) If a committee collects the information required under this subsection (a) on a form
23 signed by the contributor stating that the contributor has not made a prohibited source contribution,
24 there shall be a rebuttable presumption that the committee has not accepted a prohibited source
25 contribution.

1 (b) DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS TO BALLOT MEASURE
2 COMMITTEES AND COMMITTEES MAKING INDEPENDENT EXPENDITURES.

3 (1) In addition to the requirements in subsection (a), any person making contributions
4 that total \$5,000 or more in a single calendar year at the behest of a City elective officer, to a ballot
5 measure committee or committee making independent expenditures at the behest of a City elective
6 officer must disclose to the committee receiving the contribution the name of the City elective officer
7 who requested the contribution.

8 (2) Committees receiving contributions subject to subsection (b)(1) must report the
9 names of the City elective officers who requested those contributions at the same time that the
10 committees are required to file campaign statements with the Ethics Commission disclosing the
11 contributions.

12 (3) Notwithstanding the provisions of this subsection (b), no committee shall be
13 required to make the disclosure required in subsection (b)(2) for any contribution that constitutes a
14 contribution to the City elective officer at whose behest the contribution was made.

15 (4) Exception for public appeals. No person or committee shall be required
16 to make any disclosures required under this subsection (b) for any contribution, if the
17 contribution was made solely in response to a public appeal.

18 * * * *

1 **AMENDMENT #3 - MAJOR DONOR DISCLOSURES**

2
3 **SEC. 1.158. MAJOR DONORS - FINANCIAL DISCLOSURES.** [File No. 180280 – page
4 16, line 11]

5 *(a) Definitions. Whenever in this Section 1.158 the following words or phrases are used, they*
6 *shall mean:*

7 *“Business entity” shall mean any corporation, partnership, or other legal entity that is not a*
8 *natural person, but shall not include any nonprofit organization that is exempt from taxation under*
9 *Section 501(c) of the United States Internal Revenue Code.*

10 *“Committee” shall mean any committee that: (1) qualifies as committee pursuant to Section*
11 *82013 of the California Government Code, including as that Section may be amended in the future; and*
12 *(2) is required to file campaign statements with the Ethics Commission.*

13 *“Doing business” shall be defined as set forth in Title 2, Section 18230 of the California Code*
14 *of Regulations.*

15 *“Immediate family” shall be defined as spouse, registered domestic partner, and any dependent*
16 *children; “dependent child” shall be defined as set forth in Title 2, Section 18229.1 of the California*
17 *Code of Regulations.*

18 *“Investment” shall be defined as set forth in Section 82034 of the California Government Code*
19 *and Title 2, Section 18237 of the California Code of Regulations.*

20 **(b) Financial disclosures.**

21 *(1) Required disclosures. Any entity or person who during a calendar year contributes*
22 *\$10,000 or more to a single committee, must disclose the following financial interests, within 24 hours*
23 *seven days of meeting the \$10,000 threshold; provided that, in the last 10 days before an*
24 *election, the disclosure shall be made within 24 hours of meeting this threshold:*

1 **AMENDMENT #4 - DISCLAIMERS**

2 **SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

3 (a) DISCLAIMERS. In addition to complying with the disclaimer requirements set forth
4 in Chapter 4 of the California Political Reform Act, California Government section 84100 et
5 seq., and its enabling regulations, all committees making expenditures which support or
6 oppose any candidate for City elective office or any City measure shall also comply with the
7 following additional requirements:

8 (1) TOP ~~TWO~~ THREE CONTRIBUTORS. The disclaimer requirements for
9 primarily formed independent expenditure committees and primarily formed ballot measure
10 committees set forth in the Political Reform Act with respect to a committee's top ~~two~~ three
11 major contributors shall apply to contributors of ~~\$20,000~~ \$10,000 or more. The Ethics
12 Commission may adjust this monetary threshold to reflect any increases or decreases in the
13 Consumer Price Index. Such adjustments shall be rounded off to the nearest five thousand
14 dollars.

15 (2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform
16 Act or its enabling regulations and by this section shall be followed in the same required
17 format, size and speed by the following phrase: "Financial disclosures are available at
18 sfethics.org." A substantially similar statement that specifies the web site may be used as an
19 alternative in audio communications.

20 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any
21 disclaimer required by the Political Reform Act and by this section on a mass mailing, door
22 hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement
23 shall be printed in at least 12-point font.

24 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate
25 committees shall include the following disclaimer statements: "Paid for by _____ (insert

1 the name of the candidate committee)." and "Financial disclosures are available at
2 sfethics.org." Except as provided in subsection (a)(3), the statements' format, size and speed
3 shall comply with the disclaimer requirements for independent expenditures for or against a
4 candidate set forth in the Political Reform Act and its enabling regulations.

5 (5) AUDIO AND VIDEO ADVERTISEMENTS. For audio advertisements, the
6 disclaimers required by this Section 1.161 shall be spoken at the beginning end of such
7 advertisements. For video advertisements, the disclaimers required by this Section 1.161 shall be
8 spoken at the beginning end of such advertisements and appear in writing during the entirety for at
9 least ten seconds or the entirety, whichever is longer, of the advertisements.

10 * * * *

11 12 **SEC. 1.162. ELECTIONEERING COMMUNICATIONS.**

13 (a) DISCLAIMERS.

14 (1) Every electioneering communication for which a statement is filed pursuant
15 to subsection (b) shall include the following disclaimer: "Paid for by _____ (insert the
16 name of the person who paid for the communication)." and "Financial disclosures are
17 available at sfethics.org."

18 (2) Any disclaimer required by this Section shall be included in or on an
19 electioneering communication in a size, speed or format that complies with the disclaimer
20 requirements for independent expenditures supporting or opposing candidates set forth in the
21 Political Reform Act and its enabling regulations.

22 (3) Notwithstanding subsection (a)(2), any disclaimer required by this Section:

23 (A) to appear on a mass mailing, door hanger, flyer, poster, oversized
24 campaign button or bumper sticker, or print advertisement shall be printed in at least 12-point
25 14-point font.:-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(B) to be included in an audio advertisement, shall be spoken at the beginning
end of such advertisements; or

(C) to be included in a video advertisement, shall be spoken at the beginning
end of such advertisements and appear in writing during the entirety for at least ten seconds or the
entirety, whichever is longer, of the advertisements.

* * * *

1 **AMENDMENT #5 - REPEATED RECUSALS (FIRST ALTERNATIVE)**

2
3 SEC. 3.209. RECUSALS. [File No. 180280 - page 27, line 15]

4 * * * *

5 ~~(c) Repeated Recusals.~~ In the event a member of a City board or commission
6 recuses himself or herself, as required by subsection (a) during any 365 day period from
7 acting on:

8 ~~(1) three or more agenda items by reason of the same investment in a business~~
9 ~~entity, the same interest in real property or the same source of income; or~~

10 ~~(2) 1% or more of the matters pending before the board or commission by~~
11 ~~reason of any investments in business entities, any interests in real property or any sources of~~
12 ~~income, the Ethics Commission shall examine the nature and extent of the conflict(s) of~~
13 ~~interest and shall determine whether the member has a significant and continuing conflict of~~
14 ~~interest. If the Ethics Commission so determines, the Ethics Commission may recommend to~~
15 ~~the official's appointing authority that the official divest or otherwise remove the conflicting~~
16 ~~interest, and, if the official fails to divest or otherwise remove the conflicting interest within 90~~
17 ~~days or as the Ethics Commission determines as reasonably practicable, the Ethics~~
18 ~~Commission may recommend to the official's appointing authority that the official should be~~
19 ~~removed from office under Charter Section 15.105 or by other means.~~

20 * * * *

1 **AMENDMENT #6 - REPEATED RECUSALS (SECOND ALTERNATIVE)**

2
3 SEC. 3.209. RECUSALS. [File No. 180280 - page 27, line 15]

4 * * * *

5 (c) Repeated Recusals. In the event a member of a City board or commission recuses himself
6 or herself, as required by subsection (a) during any 365 day period from acting on:

7 (1) three or more agenda items by reason of the same investment in a business entity,
8 the same interest in real property or the same source of income; or

9 (2) 1% or more of the matters pending before the board or commission by
10 reason of any investments in business entities, any interests in real property or any sources of
11 income, the Ethics Commission shall examine the nature and extent of the conflict(s) of interest and
12 shall determine whether the member has a significant and continuing conflict of interest. If the Ethics
13 Commission so determines, the Ethics Commission shall advise the official's appointing authority
14 of its conclusion that the member has a significant and continuing conflict of interest. the
15 Ethics Commission may recommend to the official's appointing authority that the official divest
16 or otherwise remove the conflicting interest, and, if the official fails to divest or otherwise
17 remove the conflicting interest within 90 days or as the Ethics Commission determines as
18 reasonably practicable, the Ethics Commission may recommend to the official's appointing
19 authority that the official should be removed from office under Charter Section 15.105 or by
20 other means.

21 (d) Exception. The requirements of this Section 3.209 shall not apply to the members of the
22 Board of Supervisors.

23 * * * *

1 **AMENDMENT #7 – BEHESTED PAYMENTS**

2
3 **CHAPTER 6: BEHESTED PAYMENT REPORTING ~~FOR COMMISSIONERS~~**

4 **SEC. 3.600. DEFINITIONS.** [File No. 180280 - page 30, line 5]

5 Whenever in this Chapter 6 the following words or phrases are used, they shall have
6 the following meanings:

7 “Actively support or oppose” shall mean contact, testify in person before, or otherwise
8 communicate in an attempt to influence an official or employees of a board or commission (including
9 the Board of Supervisors), including use of an agent to do any such act.

10 “Agent” shall be defined as set forth in Title 2, Section 18438.3 of California Code of
11 Regulations, as amended from time to time.

12 “At the behest of” shall mean under the control or at the direction of, in cooperation,
13 consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior
14 consent of.

15 “Auctioneer” shall mean any person who is engaged in the calling for, the recognition of, and
16 the acceptance of, offers for the purchase of goods at an auction.

17 “Behested payment” shall mean a payment that is made at the behest of an officer, or an agent
18 thereof, and that is made principally for a legislative, governmental, or charitable purpose.

19 “Behested Payment Report” shall mean the Fair Political Practices Commission Form 803, or
20 any other successor form, required by the Fair Political Practices Commission to fulfill the disclosure
21 requirements imposed by California Government Code Section 82015(b)(2)(B)(iii), as amended from
22 time to time.

23 “Charitable Contribution” shall mean any monetary or non-monetary contribution to a
24 government agency, a bona fide public or private educational institution as defined in Section 203 of
25

1 *the California Revenue and Taxation Code, or an organization that is exempt from taxation under*
2 *either Section 501(c) or Section 527 of the United States Internal Revenue Code.*

3 *“Commissioner” shall mean any member of a board or commission listed in Campaign and*
4 *Governmental Conduct Code Section 3.1-103(a)(1); provided, however, that “Commissioner” shall not*
5 *include any member of the Board of Supervisors.*

6 *“Contact” shall be defined as set forth in Section 2.106 of this Code.*

7 *“Financial interest” shall be defined as set forth in the California Political Reform Act*
8 *(California Government Code Section 87100 et seq.), any subsequent amendments to these Sections,*
9 *and its implementing regulations.*

10 *“Interested party” shall mean (i) any party, participant or agent of a party or participant*
11 *involved in a proceeding regarding administrative enforcement, a license, a permit, or other*
12 *entitlement for use before an officer or any board or commission (including the Board of Supervisors)*
13 *on which the officer sits, or (ii) any person who actively supports or opposes a governmental*
14 *decision by an officer or any board or commission (including the Board of Supervisors) on*
15 *which the officer sits, if such person has a financial interest in the decision or receives*
16 *compensation or reimbursement for expenses to actively support or oppose the decision.*

17 *“License, permit, or other entitlement for use” shall be defined as set forth in California*
18 *Government Code Section 84308, as amended from time to time.*

19 *“Officer” shall mean the Mayor, City Attorney, District Attorney, Treasurer, Sheriff, Assessor-*
20 *Recorder, Public Defender, a Member of the Board of Supervisors, or any member of a board or*
21 *commission who is required to file a Statement of Economic Interests, including all persons holding*
22 *positions listed in Section 3.1-103(a)(1) of this Code.*

23 *“Payment” shall mean a monetary payment or the delivery of goods or services.*

24 *“Participant” shall be defined as set forth in California Government Code Section 84308*
25 *and Title 2, Section 18438.4 of California Code of Regulations, as amended from time to time.*

1 "Party" shall be defined as set forth in California Government Code Section 84308, as
2 amended from time to time.

3 "Public appeal" shall mean a request for a payment when such request is made by means of
4 television, radio, billboard, a public message on an online platform, the distribution of 500 200 or
5 more identical pieces of printed material, the distribution of a single email to 200 or more
6 recipients, or a speech to a group of 50 20 or more individuals.

7 "Relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-
8 law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step relationship or
9 relationship created by adoption.

1 **AMENDMENT #8 – OPERATIVE DATES**

2
3 Section 4. Effective Date and Operative Dates.

4 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
5 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
6 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
7 Supervisors overrides the Mayor's veto of the ordinance.

8 (b) Operative Dates.

9 (1) This ordinance's amendments to Sections 1.104, 1.163.5, 1.168, 1.170, and
10 3.203 of the Campaign and Governmental Conduct Code, and additions of Sections 3.207
11 and 3.231 of the Campaign and Governmental Conduct Code, shall become operative on the
12 effective date of this ordinance.

13 (2) This ordinance's amendments to Sections 1.114, 1.126, 1.135, 1.161, 1.162,
14 3.600, 3.610, 3.620 of the Campaign and Governmental Conduct Code, and additions of
15 Sections 1.114.5, 1.124, 1.125, 1.158, 3.209, 3.630, 3.640, and 3.650 of the Campaign and
16 Governmental Conduct Code, shall become operative on January 1, 2019.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 ATTORNEY'S NAME
22 Deputy City Attorney

23 n:\legana\as2018\1700562\01263844.docx