

FILE NO. 081285

ORDINANCE NO.

1 [Lobbyist Ordinance amendments to regulate permit lobbying.]

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3 **Ordinance amending Chapter 1 of Article II of the Campaign and Governmental**
4 **Conduct Code by amending section 2.105 to require registration and disclosure under**
5 **the Lobbyist Ordinance by persons who lobby the Zoning Administrator, the City**
6 **Engineer, the County Surveyor, the Bureau Chief of the Department of Public Works'**
7 **Bureau of Street Use and Mapping, elected officials, or the Director of the Planning**
8 **Department, Department of Building Inspection or Department of Public Works**
9 **regarding permits, parcel maps or subdivision tract maps.**

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

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

14 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
15 amended by amending Section 2.105, to read as follows:

16 SEC. 2.105. DEFINITIONS.

17 Whenever used in this Chapter, the following words and phrases shall have the
18 definitions provided in this Section:

19 (a) "Activity expenses" means any expense incurred or payment made by a lobbyist
20 or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's
21 client at the behest of the lobbyist, which benefits in whole or in part any: officer of the City
22 and County; candidate for City and County office; aide to a member of the Board of
23 Supervisors; or member of the immediate family or the registered domestic partner of an
24 officer, candidate, or aide to a member of the Board of Supervisors. An expense or payment is
25 not an "activity expense" unless it is incurred or made within three months of a contact with

1 the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or
2 whose immediate family member or registered domestic partner benefits from the expense or
3 payment. "Activity expenses" include gifts, honoraria, consulting fees, salaries, and any other
4 form of economic consideration totaling more than \$30 in value in a consecutive three-month
5 period, but do not include political contributions.

6 (b) "Candidate" means a person who has taken affirmative action to seek nomination
7 or election to local office, a local officeholder who has taken affirmative action to seek
8 nomination or election to any elective office, or a local officeholder who is the subject of a
9 recall election.

10 (c) "Client" means the person for whose benefit lobbyist services are performed by a
11 contract lobbyist.

12 (d) "Contact" means communicate, orally or in writing, including communication
13 through an agent, associate or employee, for the purpose of influencing or attempting to
14 influence local legislative or administrative action.

15 (1) The following activities are not "contacts" within the meaning of this Chapter.

16 (A) A public official acting in the public official's official capacity. For purposes of this
17 Subsection, "public official" includes an elected or appointed official or employee, or officially
18 designated representative of the United States, the State of California, or any political
19 subdivision thereof. For purposes of this Subsection, "public official" also includes persons
20 appointed to serve on City and County advisory committees and City and County task forces;

21 (B) A representative of a news media organization gathering news and information or
22 disseminating the same to the public, even if the organization, in the ordinary course of
23 business, publishes news items, editorials or other commentary, or paid advertisements, that
24 urge action upon local legislative or administrative matters;

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1 (C) A person providing oral or written testimony that becomes part of the record of a
2 public hearing; provided, however, that if the person making the appearance or providing
3 testimony has already qualified as a lobbyist under this Chapter and is appearing or testifying
4 on behalf of a client, the lobbyist's testimony shall identify the client on whose behalf the
5 lobbyist is appearing or testifying;

6 (D) A person acting on behalf of others in the performance of a duty or service, which
7 duty or service lawfully can be performed for such other only by an attorney or an architect
8 licensed to practice in the State of California, and including any communication by an attorney
9 in connection with litigation involving the City and County or a claim filed pursuant to
10 Administrative Code Section 10.20-1 et seq.;

11 (E) A person making a speech or producing any Chapter, publication or other material
12 that is distributed and made available to the public, through radio, television, cable television,
13 or other medium of mass communication;

14 (F) A person providing written information in response to an oral or written request
15 made by an officer of the City and County, provided that the written information is a public
16 record available for public review;

17 (G) A person providing oral or written information pursuant to a subpoena, or
18 otherwise compelled by law or regulation;

19 (H) A person providing oral or written information in response to a request for
20 proposals, request for qualifications, or other similar request, provided that the information is
21 directed to the department or official specifically designated in the request to receive such
22 information;

23 (I) A person submitting a written petition for local legislative or administrative action,
24 provided that the petition is a public record available for public review;

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1 (J) A person making an oral or written request for a meeting, for the status of an
2 action, or any other similar administrative request, if the request does not include an attempt
3 to influence local legislative or administrative action;

4 (K) A person appearing before an officer of the City and County pursuant to any
5 procedure established by law or regulation for levying an assessment against real property for
6 the construction or maintenance of an improvement;

7 (L) An expert employed or retained by a lobbyist registered under this Chapter to
8 provide information to an officer of the City and County;

9 (M) A person distributing to any officer of the City and County any regularly published
10 newsletter or other periodical which is not primarily directed at influencing local legislative or
11 administrative action;

12 (N) A person disseminating information or material to all or a significant segment of
13 the person's employees or members;

14 (O) A person communicating in connection with the administration of an existing
15 contract between the person and the City and County of San Francisco. For purposes of this
16 Subsection, communication, "in connection with the administration of an existing contract"
17 includes, but is not limited to, communication regarding: insurance and bonding; contract
18 performance and/or default; requests for in-scope change orders; legislative mandates
19 imposed on contractors by the City and County; payments and invoicing; personnel changes;
20 prevailing wage verification; liquidated damages and other penalties for breach of contract;
21 audits; assignments; and subcontracting. Communication "in connection with the
22 administration of an existing contract" does not include communication regarding new
23 contracts, or out-of-scope change orders; and

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1 (P) A person applying for, opposing or otherwise taking any position on a grading
2 permit, parcel map, subdivision tract map or a permit relating to the construction, alteration,
3 demolition or moving of a building, other than

4 (i) communications with any elected official of the City and County, the Zoning Administrator,
5 the City Engineer, the County Surveyor, the Bureau Chief of the Department of Public Works' Bureau
6 of Street Use and Mapping, or the Director of the Planning Department, Department of Building
7 Inspection or Department of Public Works, except for communications by a professional engineer
8 licensed to practice in the State of California performing a duty or service that lawfully can be
9 performed only by a professional engineer; or or to a person filing, opposing or otherwise taking a
10 position on a parcel map or subdivision tract map; provided, however, that if a person qualifies as a
11 lobbyist and that person takes or opposes

12 (ii) communications regarding an appeal taken or opposed by the person or the person's client
13 or represents a person taking or opposing an appeal, pursuant to any procedure or authority
14 provided by law from an administrative determination made with respect to such an
15 application or map, that person shall be required to register as provided in Section 2.110 upon taking
16 the appeal or filing opposition to it.

17 (e) "Economic consideration" means any payments, fees, reimbursement for
18 expenses, gifts, or anything else of value.

19 (f) "Ethics Commission" means the San Francisco Ethics Commissioner or its
20 designee.

21 (g) "Filer" means a person who qualifies as a lobbyist under Subsection (i) of this
22 Section.

23 (h) "Gift" shall be defined as set forth in the Political Reform Act, Government Code
24 Section 81000 et seq., and the regulations adopted thereunder.

1 (i) "Lobbyist" means the following:

2 (1) Contract Lobbyist.

3 (A) "Contract lobbyist" means any person who contracts for economic consideration to
4 contact any officer of the City and County of San Francisco on behalf of any other person, and
5 who:

6 (i) Receives or becomes entitled to receive at least \$3,200 in economic consideration
7 within any three consecutive calendar months in exchange for lobbyist services; or

8 (ii) Has at least 25 separate contacts with officers of the City and County within any
9 two consecutive calendar months; *or*

10 (iii) Receives or becomes entitled to receive at least \$3,200 in economic consideration within
11 any three consecutive calendar months from any person in exchange for services, including but not
12 limited to lobbyist services, and makes one or more contacts on behalf of that person with any officer of
13 the City and County for the purpose of influencing local legislative or administrative action regarding
14 a grading permit, parcel map, subdivision tract map or a permit relating to the construction, alteration,
15 demolition or moving of a building.

16 (B) For purposes of calculating whether a person has reached the income threshold
17 set forth in (1)(A)(i) of this Subsection, all economic consideration the person has received or
18 become entitled to receive, during the three consecutive calendar months, from all clients in
19 exchange for lobbyist services shall be combined.

20 (C) For purposes of calculating whether a person has reached the contacts threshold
21 set forth in (1)(A)(ii) of this Subsection, all contacts with officers of the City and County that
22 were made by the person during the two preceding calendar months on behalf of all clients
23 shall be combined.

24 (2) Business and Organization Lobbyist.

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1 (A) "Business and organization lobbyist" means any business or organization any of
2 whose employees or members, as a regular part of their employment or duties, contact
3 officers of the City and County of San Francisco on behalf of that business or organization,
4 provided:

5 (i) The business or organization compensates its employees or members, at any
6 amount, for their lobbyist services on its behalf; and

7 (ii) The compensated employees or members have a total of at least 25 separate
8 contacts with officers of the City and County within any two consecutive calendar months.
9 Contacts made by an employee or member who merely indicates his or her affiliation or
10 identification with the business or organization, but who does not represent the official position
11 of the business or organization shall not be included in this calculation.

12 (3) Expenditure Lobbyist.

13 (A) "Expenditure lobbyist" means any person who makes payments to influence local
14 legislative or administrative action totaling \$3,200 or more in value within any three
15 consecutive calendar months.

16 (B) The following shall not be included in calculating payments under (3)(A) of this
17 Subsection: economic consideration paid to any person in exchange for lobbyist services; and
18 dues payments, donations, and other economic consideration paid to any business and
19 organization lobbyist or expenditure lobbyist, regardless of whether the economic
20 consideration is used in whole or in part to influence local legislative or administrative action.

21 (4) Exemptions. No person shall qualify as a "lobbyist" within the meaning of this
22 Chapter by reason of activities described in Subsection (d)(1) of Section 2.105.

23 (j) "Lobbyist services" means services rendered for the purpose of influencing or
24 attempting to influence local legislative or administrative action, including but not limited to
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1 contacts with officers of the City and County of San Francisco. "Lobbyist services" shall not
2 include activities described in Subsection (d)(1) of Section 2.105, other than Subsection
3 (d)(1)(C) of Section 2.105.

4 (k) "Local legislative or administrative action" includes, but is not limited to, the
5 drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting
6 or denial by any officer of the City and County of any resolution, motion, appeal, application,
7 petition, nomination, ordinance, amendment, approval, referral, permit, license or entitlement
8 to use. "Local legislative or administrative action" does not include a decision by any officer of
9 the City and County which adjudicates the rights and/or duties of a single person or group of
10 persons, other than a proceeding described in Subsection (d)(1)(K) of Section 2.105.

11 (l) "Measure" means a local referendum or local ballot measure, whether or not it
12 qualifies for the ballot.

13 (m) "Officer of the City and County" means any officer identified in San Francisco
14 Administrative Code Section 1.50, as well as any official body composed of such officers. In
15 addition, for purposes of this Chapter, "officer of the City and County" includes (1) members of
16 the Board of Education, Community College Board, Housing Authority, Redevelopment
17 Agency, and Transportation Authority, as well as any official body composed of such officers,
18 (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau Chief
19 of the Department of Public Works' Bureau of Street Use and Mapping.

20 (n) "Payments to influence local legislative or administrative action" include actual or
21 promised payments of anything of value, whether or not legally enforceable, made in
22 consideration for influencing or attempting to influence local legislative or administrative
23 action. Such payments include payments for contacts with officers of the City and County as
24 well as other lobbyist services. Such payments shall not include the following:

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1 (1) Payments for services that are solely secretarial, clerical, or manual, or are limited
2 solely to the compilation of data and statistics;

3 (2) Payments for any regular, ongoing business overhead that would continue to be
4 incurred in substantially similar amounts regardless of the filer's activities to influence local
5 legislative or administrative action, other than payments to lobbyists, employees or members
6 for lobbyist services;

7 (3) Payments for soliciting or urging the filer or the filer's employees or members to
8 contact officers of the City and County;

9 (4) Payments for the settlement or resolution of litigation or claims filed pursuant to
10 Administrative Code Section 10.20-1 et seq.; or

11 (5) Payments for activities described in Subsection (d)(1) of Section 2.105, other than
12 Subsections (d)(1)(C), (L) and (P) of Section 2.105.

13 (o) "Person" means an individual, partnership, corporation, association, firm or other
14 organization or entity, however organized.

15 (p) "Public hearing" means any open, noticed proceeding.

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18 APPROVED AS TO FORM:
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20 By: _____
21 Jonathan Givner
22 Deputy City Attorney

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