

1 [Regulation of Permit Expeditors]

2 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code by**
3 **adding Article V, sections 5.100 to 5.135 to impose registration and disclosure**
4 **requirements on permit expeditors, prohibit making gifts to City officers and**
5 **employees aggregating more than \$50 within one year of communicating with the**
6 **officer or employee regarding a permit application, prohibit former City and County**
7 **officers and employees from working as permit expeditors for certain periods of time**
8 **after termination of service or employment with the City and County, prohibit permit**
9 **expeditors from entering employee-only areas of City and County departments, and**
10 **prohibit City officers and employees from granting preferential treatment to any permit**
11 **expediter during permitting processes.**

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

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

16 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
17 amended by adding Article V, sections 5.100 through 5.135 to read as follows:

18 Sec. 5.100. FINDINGS.

19 (a) The Board of Supervisors finds that the people of the City and County of San
20 Francisco are entitled to fair and equitable processes for the review and approval of permit
21 applications by City and County departments.

22 (b) The people of the City and County of San Francisco reasonably expect that City
23 and County departments will provide the same high level of service to all customers with
24 permit applications regardless of whether they hire permit expeditors to facilitate approval of
25 their permit applications.

1 (c) The Board of Supervisors finds that there is a compelling interest in reducing the
2 ability of permit expeditors to obtain preferential treatment from City and County officers and
3 employees during permit review and approval processes.

4 (d) It is the purpose and intent of the Board of Supervisors to impose reasonable
5 registration and disclosure requirements on permit expeditors which will protect the public's
6 confidence in the integrity of the permitting processes of City and County departments. It is
7 also the purpose of the Board of Supervisors to limit the ability of permit expeditors to give
8 gifts to City and County officers and employees within one year of communicating with the
9 officer or employee concerning a permit application, to limit the ability of permit expeditors to
10 access employee-only areas of City and County departments, and to bar former City and
11 County officers and employees from performing permit expediting services for reasonable
12 periods of time after terminating their service or employment with the City and County.

13 Sec. 5.105. DEFINITIONS.

14 Whenever used in this Chapter, the following definitions shall apply:

15 (a) "City and County" means the City and County of San Francisco.

16 (b) "Client" means the person for whose benefit permit expediting services are
17 performed by a permit expeditor.

18 (c) "Department" means any department of the City and County of San Francisco.
19 "Department" does not include any other local agency or any federal or state agency,
20 including but not limited to the San Francisco School District, the San Francisco Community
21 College District, the San Francisco Redevelopment Agency, the San Francisco Parking
22 Authority, the San Francisco Health Authority, and the San Francisco Housing Authority.

23 (d) "Domestic partners" means persons who register their partnerships pursuant to the
24 voter-approved Domestic Partnership Ordinance, San Francisco Administrative Code chapter
25 62.

1 (e) "Economic consideration" means any payments, fees, commissions,
2 reimbursements for expenses, gifts, or anything else of value.

3 (f) "Gift" shall be defined as set forth in California Government Code § 82000 *et seq.*,
4 and the regulations adopted thereunder.

5 (g) "Licensed" means licensed by the State of California.

6 (h) "Permit" means any permit issued by a City and County of San Francisco
7 department.

8 (i) "Permit expediter" means any person or entity that receives or is promised economic
9 consideration equaling \$500 or more in a calendar year for permit expediting services. The
10 term "permit expediter" does not include the permit applicant or the permit applicant's spouse
11 or domestic partner, the permit applicant's licensed contractor for the project, the permit
12 applicant's licensed architect for the project, the permit applicant's registered engineer for the
13 project, or employees of a permit expediter.

14 (j) "Permit expediting services" means assisting a client obtain approval of a permit
15 through any of the following means: providing information and advice to a client regarding the
16 permit application process and procedure; preparing, completing, submitting or making
17 changes to a permit application; paying permit application fees on behalf of a client;
18 communicating with department officers or employees regarding the contents, procedure or
19 status of a permit application; conveying the permit application through the requisite steps or
20 stages of the permit process; picking up a permit from a department or requesting that a
21 permit be denied for purposes of filing an appeal with the Appeals Board; and representing or
22 assisting a client in an appeal to the Appeals Board of a denial of a permit application.

23 (k) "Preferential treatment" means treating a permit expediter with special favor or
24 partiality.

25 (l) "Registered" means registered by the State of California.

1 Sec. 5.110. PROHIBITIONS.

2 (a) REGISTRATION AND REPORTING. It shall be unlawful for any permit expediter
3 to provide permit expediting services without first registering with the Ethics Commission and
4 complying with the reporting requirements specified in Section 5.115.

5 (b) GIFTS. No permit expediter shall make gifts to an officer or employee of a City and
6 County department aggregating more than \$50 within one year of communicating with the
7 officer or employee regarding a permit application. No permit expediter shall act as an agent
8 or intermediary in the making of a gift to an officer or employee of a City and County
9 department, or arrange for the making of any gift to an officer or employee of a City and
10 County department by a third party, within one year of communicating with the officer or
11 employee regarding a permit application.

12 (c) FUTURE EMPLOYMENT. No person who has served as an officer or employee of
13 a City and County department may, within a period of five years after termination of his or her
14 service or employment, perform permit expediting services concerning permits issued by the
15 department of which he or she was an officer or employee. No person who has served as an
16 officer or employee of a City and County department may, within a period of two years after
17 termination of his or her service or employment, perform permit expediting services
18 concerning permits issued by any other department of the City and County.

19 (d) RESTRICTION TO PUBLIC AREAS. At no time shall a permit expediter enter
20 employee-only areas of City and County departments or access files, records or computers
21 not available for public use, for the purpose of expediting a permit. It shall be unlawful for any
22 officer or employee of the City and County to knowingly grant a permit expediter access to
23 employee-only areas of City and County departments, or to files, records or computers not
24 available for public use, for the purpose of expediting a permit.

1 (e) PREFERENTIAL TREATMENT. It shall be unlawful for any officer or employee of
2 a City and County department to provide preferential treatment to a permit expediter at any
3 stage of the permitting process.

4 (f) EVASION OF OBLIGATIONS. No permit expediter shall attempt to evade the
5 obligations imposed by this Chapter through indirect efforts or through the use of agents,
6 associates or employees.

7 (g) EMPLOYMENT OF UNREGISTERED PERMIT EXPEDITERS. It shall be unlawful
8 to knowingly pay a permit expediter to provide permit expediting services if the permit
9 expediter is required to register under this Chapter and has not done so.

10 Sec. 5.115. REGISTRATION, REREGISTRATION, and FEES.

11 (a) REGISTRATION REPORTS. At the time of initial registration, each permit
12 expediter shall report to the Ethics Commission the following information:

13 (1) The name, business address and business phone number of the permit expediter;

14 (2) The names of any individuals employed by the permit expediter to assist in
15 providing permit expediting services;

16 (3) The names of any former officers or employees of the City and County who are
17 employed by the permit expediter and the departments for which they served or were
18 employed.

19 (4) A statement whether the permit expediter is required to register with the Ethics
20 Commission pursuant to the Regulation of Lobbyists Ordinance, San Francisco Campaign
21 and Governmental Conduct Code, Article II, Chapter 1;

22 (5) The name, address and telephone number of each client for whom the permit
23 expediter provided permit expediting services during the preceding calendar year;

24 (6) A description of the type of permit sought by each client and the department
25 responsible for its issuance;

1 (7) For each client, the total economic consideration promised by or received from the
2 client in exchange for the provision of permit expediting services during the preceding
3 calendar year, provided that the total is \$500 or more;

4 (8) Any other information required by the Ethics Commission consistent with the
5 purposes and provisions of this Chapter.

6 (b) REREGISTRATION REPORTS. Each permit expeditor shall reregister annually no
7 later than January 1st.

8 (c) FEES.

9 (1) At the time of the initial registration and reregistration, each permit expeditor shall
10 pay to the Ethics Commission a fee of \$100.

11 (2) In addition, at the time of registration and reregistration, each permit expeditor shall
12 pay a fee of \$50 for each client. When a client is acquired subsequent to initial registration or
13 reregistration, the per client fee shall be paid at the time of filing the information required by
14 Subsection (d). The Ethics Commission shall deposit fees collected pursuant to this Section
15 in the General Fund of the City and County of San Francisco.

16 (d) CLIENT AUTHORIZATION STATEMENTS. At the time of initial registration, the
17 permit expeditor shall submit to the Ethics Commission a written authorization from each
18 client who contracts with the permit expeditor for permit expediting services.

19 If the permit expeditor is retained by a client after the date of initial registration, the
20 permit expeditor must file a Client Authorization Statement before providing any permit
21 expediting services to the client and before receiving any economic consideration from the
22 client in exchange for permit expediting services, and in any event no later than 15 days after
23 being retained to provide permit expediting services to the client.

24 (e) QUARTERLY REPORTS. Each permit expeditor shall file with the Ethics
25 Commission quarterly reports containing the following information:

1 (1) For each client, the total economic consideration promised by or received from the
2 client during the reporting period for permit expediting services, provided that the total is \$250
3 or more;

4 (2) The total economic consideration promised by or received from all clients during
5 the reporting period for permit expediting services;

6 (3) The name of each former officer or employee of the City and County who is
7 employed by the permit expediter during the reporting period and by which department the
8 officer or employee served or was employed;

9 (4) A description of the type of permit sought by each client and the department
10 responsible for its issuance;

11 (5) Any other information required by the Ethics Commission consistent with the
12 purposes and provisions of this Chapter.

13 Quarterly reports are due as follows: The report for the period starting November 1st
14 and ending January 31st is due February 15th; the report for the period starting February 1st
15 and ending April 30th is due May 15th; the report for the period starting May 1st and ending July
16 31st is due August 15th; and the report for the period starting August 1st and ending October
17 31st is due November 15th.

18 (f) CLIENT TERMINATION STATEMENTS. Within 30 days after a client terminates
19 the services of a permit expediter, the permit expediter shall submit to the Ethics Commission
20 a statement that the client has terminated the services of the permit expediter. A permit
21 expediter may not provide permit expediting services to a client or accept economic
22 consideration for the provision of permit expediting services after a client termination
23 statement is filed, until a new client authorization statement has been filed pursuant to Section
24 5.115(d).

1 (g) PERMIT EXPEDITER TERMINATION STATEMENTS. A permit expediter shall
2 comply with all the requirements of this Chapter until the permit expediter ceases all activity
3 as a permit expediter and files a statement of termination with the Ethics Commission. A
4 statement of termination must include all information required by Subsection(e) for the period
5 since the permit expediter's last quarterly report.

6 (h) ACCURACY AND COMPLETENESS. Each permit expediter shall verify, under
7 penalty of perjury, the accuracy and completeness of the information provided pursuant to this
8 Section.

9 (i) RETENTION OF BOOKS, PAPERS AND DOCUMENTS. Each permit expediter
10 shall retain for a period of five years all books, papers and documents necessary to
11 substantiate the reports and statements required under this Chapter.

12 Sec 5.120. POWERS AND DUTIES OF THE ETHICS COMMISSION.

13 (a) The Ethics Commission shall provide forms for the reporting of all information
14 required by this Chapter.

15 (b) The Ethics Commission shall issue a registration number to each registered permit
16 expediter.

17 (c) At the time of initial registration and reregistration, the Ethics Commission shall
18 provide the permit expediter with a copy of the City's law regulating permit expediters and any
19 related material the Commission determines will serve the purposes of this Chapter. Each
20 permit expediter must sign a statement acknowledging receipt of these materials.

21 (d) The Ethics Commission shall compile the information provided in registration and
22 quarterly reports filed pursuant to this Chapter as soon as practicable after the close of each
23 quarter and shall forward a report of the compiled information to the Board of Supervisors and
24 the Mayor.

1 (e) The Ethics Commission shall preserve all original reports, statements, and other
2 records required to be kept or filed under this Chapter for a period of five years. Such reports,
3 statements, and reports shall constitute a part of the public records of the Ethics Commission
4 and shall be open to public inspection.

5 (f) The Ethics Commission shall provide formal and informal advice regarding the
6 duties under this Chapter of a person or entity pursuant to the procedures specified in San
7 Francisco Charter Section C3.699-12.

8 (g) The Ethics Commission shall have the power to adopt all reasonable and
9 necessary rules and regulations for the implementation of this Chapter pursuant to the
10 procedures specified in Chapter pursuant to the procedure specified in San Francisco Charter
11 Section 15.102.

12 Sec. 5.125. ADMINISTRATIVE AND CIVIL ENFORCEMENT, AND PENALTIES.

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

21 (b) Any person who believes that Section 5.110 has been violated may file a complaint
22 with the Ethics Commission. Upon receipt of a complaint, or upon its own initiative, the Ethics
23 Commission may investigate allegations of a violation of Section 5.110 and enforce the
24 provisions of Section 5.110 pursuant to the procedures established in San Francisco Charter
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1 Section C3.699-13, and the Commission's rules and regulations adopted pursuant to San
2 Francisco Charter Section 15.102.

3 (c) When the Commission, pursuant to the procedures specified in San Francisco
4 Charter Section C3.699-13, determines on the basis of substantial evidence that a person or
5 entity has violated Section 5.110, the Commission may require the person or entity to: (1)
6 cease and desist the violation; (2) file any reports or statements and pay any fees required by
7 this Chapter; and/or (3) pay a monetary penalty up to \$5,000 for each violation, or three times
8 the amount not properly reported, whichever is greater. The Commission may cancel for up
9 to one year the registration of any permit expediter who has violated Section 5.110. A permit
10 expediter whose registration has been canceled pursuant to this Section may not provide
11 permit expediting services for the period that the registration is canceled. When the period of
12 cancellation ends, the permit expediter may reregister pursuant to Section 5.115(a) and (c).

13 (d) Any person or entity which knowingly or negligently violates or who causes any
14 other person to violate Section 5.110 may be liable in a civil action brought by the City
15 Attorney for an amount up to \$5,000 per violation, or three times the amount not properly
16 reported, whichever is greater.

17 (e) Any person or entity which knowingly or negligently violates Section 5.110 is guilty
18 of a misdemeanor.

19 (f) An officer or employee of the City and County who knowingly grants a permit
20 expediter access to employee-only areas of City and County departments or to files, records
21 or computers not available for public use, for the purpose of expediting a permit, may be
22 terminated from employment or removed from office, and disqualified from future employment
23 or service with the City and County.

24 (g) No administrative, civil, or criminal action shall be maintained to enforce Section
25 5.110 unless brought within four years after the date the cause of action accrued or the date

1 that the facts constituting the cause of action were discovered by the Ethics Commission, City
2 Attorney, whichever is later.

3 (h) In investigating any alleged violation of Section 5.110, the Ethics Commission and
4 City Attorney shall have the power to inspect, upon reasonable notice, all documents required
5 to be maintained under Section 5.115. This power to inspect documents is in addition to other
6 powers conferred on the Ethics Commission and City Attorney by the Charter, or by
7 ordinance, including the power of subpoena.

8 Sec. 5.130. ELECTRONIC FILING OF STATEMENTS AND REPORTS.

9 (a) ELECTRONIC FILING REQUIRED. Whenever permit expeditors are required by
10 this Chapter to file an original statement or report, the Ethics Commission may require a
11 permit expeditor to file an electronic copy of the statement or report. The electronic copy shall
12 be due no later than the deadline imposed by this Chapter for filing the original statement or
13 report.

14 (b) POWERS AND DUTIES OF THE ETHICS COMMISSION

15 (i) Pursuant to San Francisco Charter Section 15.102, the Ethics Commission shall
16 adopt regulations specifying the electronic filing requirements applicable to permit expeditors.
17 The Ethics Commission shall adopt these regulations no fewer than 120 days before the
18 electronic filing requirements are effective.

19 (ii) The Ethics Commission shall prescribe the format for electronic copies of
20 statements and reports no fewer than 90 days before the statements and reports are due to
21 be filed.

22 (c) PENALTIES. If any permit expeditor files an electronic copy of a statement or
23 report after the deadline imposed by this Section, the Ethics Commission shall, in addition to
24 any other penalties or remedies established in this Chapter, fine the permit expeditor \$10 per
25 day after the deadline until the electronic copy is received by the Ethics Commission. The

1 Ethics Commission may reduce or waive a fine if the Commission determines that the late
2 filing was not willful and that enforcement will not further the purposes of this Chapter. The
3 Ethics Commission shall deposit funds collected under this section in the General Fund of the
4 City and County of San Francisco.

5 Sec. 5.135. SEVERABILITY

6 If any provision of this Article is held invalid or unconstitutional, such invalidity or
7 unconstitutionality shall not affect other provisions or applications which can be given effect
8 without the invalidated provision, and to this end the provisions of this Article are severable.

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10 APPROVED AS TO FORM:
11 LOUISE H. RENNE, City Attorney

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14 By: _____
15 Edward A. Olsen
16 Deputy City Attorney

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