

1 [Regulation of Permit Consultants, Commonly Known as Permit Expeditors]

2
3 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code by**
4 **adding Article V, sections 5.100 to 5.150 to impose registration and disclosure**
5 **requirements on permit consultants.**

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

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

10 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
11 amended by adding Article V, sections 5.100 through 5.150 to read as follows:

12 **Article V**

13 **Regulation of Permit Consultants, Commonly Known as Permit Expeditors**

14 **Sec. 5.100. FINDINGS.**

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

18 *(b) The people of the City and County of San Francisco have a right to expect that City and*
19 *County departments will provide the same high level of service to all customers with properly filled-out*
20 *and filed permit applications regardless of whether they hire permit consultants ~~expeditors~~ to*
21 *facilitate approval of their permit applications.*

22 *(c) The Board of Supervisors finds that public disclosure of the identity and extent of efforts of*
23 *permit consultants ~~expeditors~~ to obtain permits issued by City departments on behalf of clients is*
24 *essential to protect public confidence in the responsiveness and integrity of government and will limit*
25 *the ability of permit consultants ~~expeditors~~ to obtain or create the appearance of obtaining*

1 preferential treatment from City and County officers and employees during permit review and approval
2 processes.

3 (d) It is the purpose and intent of the Board of Supervisors to impose reasonable registration
4 and disclosure requirements on permit ~~consultants~~ ~~expeditors~~ that will protect the public's
5 confidence in the integrity of the permitting processes of City and County departments.

6 **Sec. 5.105. DEFINITIONS.**

7 Whenever used in this ~~Article~~Chapter, the following definitions shall apply:

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

9 (b) "Client" means ~~the~~ any person or entity who provides or promises economic

10 consideration to a permit consultant that equals or exceeds \$1,000 in exchange for whose

11 benefit ~~permit consulting expediting services~~ are performed by a permit consultant expeditor.

12 (c) "Department" means any department of the City and County of San Francisco.

13 "Department" does not include any other local agency or any federal or state agency, including but not

14 limited to the San Francisco School District, the San Francisco Community College District, the San

15 Francisco Redevelopment Agency, the San Francisco Parking Authority, the San Francisco Health

16 Authority, and the San Francisco Housing Authority.

17 (d) "Domestic partners" means persons who register their partnerships pursuant to the voter-

18 approved Domestic Partnership Ordinance, San Francisco Administrative Code Chapter 62 or

19 pursuant to California Family Code Sections 297 to 298.5.

20 (e) "Economic consideration" means any payments, fees, commissions, reimbursements for

21 expenses, gifts, or anything else of value.

22 (f) "Licensed" means licensed by the State of California.

23 (g) "Permit" means any permit issued by a City and County of San Francisco department.

24 (h) "Permit ~~consultant expeditor~~" means any person or entity that receives or is promised

25 economic consideration ~~from a client~~ equaling \$1,000 or more in a calendar year for permit

1 consulting expediting services. The term "permit consultant expediter" does not include the permit
2 applicant or the permit applicant's spouse or domestic partner, the permit applicant's a licensed
3 contractor engaged in activities that only a licensed contractor may perform, for the project, the
4 permit applicant's a licensed architect engaged in activities that only a licensed architect may
5 perform; the licensed architect(s) for the project who prepared or signed any drawings or plans
6 submitted to the City with the permit application and any subsequent architect(s) of record, a
7 registered engineer engaged in activities that only a registered engineer may perform, the
8 permit applicant's registered engineer(s) for the project who prepared or signed any drawings or
9 plans submitted to the City with the permit application and any subsequent engineer(s) of
10 record, an attorney engaged in activities that only a licensed attorney may perform, the permit
11 applicant's lawyer if the lawyer provides only legal services, the permit applicant's employees if
12 the employee(s) provide services in addition to permit consulting expediting services, or or
13 employees of a permit consultant expediter, or any person or entity required under the San
14 Francisco Lobbyist Ordinance, Article II of the Campaign and Governmental Conduct Code, to
15 register and file disclosure forms with the Ethics Commission and who has in fact registered
16 and filed disclosure forms under that Ordinance, which disclose any information required to be
17 disclosed by this Article.

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

3 (j) "Registered" means registered by the State of California.

4 **Sec. 5.110. PROHIBITIONS.**

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

8 (b) EVASION OF OBLIGATIONS. No permit consultant expediter shall attempt to evade the
9 obligations imposed by this ArticleChapter through indirect efforts or through the use of agents,
10 associates or employees.

11 **Sec. 5.115. REGISTRATION, REREGISTRATION, AND FEES.**

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

14 (1) The name, business address, business phone number and email address of the permit
15 consultant expediter;

16 (2) Former service or employment, if any, with the City and County, the department for which
17 he or she served or was employed, and the period of service or employment;

18 (3) The names of any individuals employed by the permit consultant expediter to assist in
19 providing permit consulting expediting services;

20 (4) The names of any former officers or employees of the City and County who are employed by
21 the permit consultant expediter, the departments for which they served or were employed, and the
22 period of service or employment;

23 (5) The name, and address and telephone number of each client for whom the permit
24 consultant expediter provided permit consulting expediting services, during the preceding calendar
25 year, provided that a permit consultant shall not be required to report any information about a

1 client for whom the permit consultant provided permit consulting services prior to the effective
2 date of this Article:

3 (6) A description of the type of permit(s) sought by each client; the department responsible for
4 its issuance; the date the permit application(s) was filed and the date the permit(s) was issued;

5 (7) For each client, the total economic consideration promised by or received from the client in
6 exchange for the provision of permit ~~consulting~~ ~~expediting~~ services, during the preceding calendar
7 year, provided that a permit consultant shall not be required to report any economic
8 consideration promised by or received from a client prior to the effective date of this Article;

9 (8) Any other information required by the Ethics Commission consistent with the purposes and
10 provisions of this Article~~Chapter.~~

11 (b) REREGISTRATION REPORTS. Each permit ~~consultant~~ ~~expediter~~ shall reregister
12 annually no later than January 1st. Each reregistration report shall include all information required
13 by Subsection (a), provided that for the first reregistration report filed by the permit consultant,
14 the time period for which the information required to be reported by this subsection shall be
15 the period between the initial registration report and the first reregistration report.

16 (c) PERMIT CONSULTANT TERMINATION STATEMENTS. A permit consultant shall
17 comply with all the requirements of this Article~~Chapter~~ until the permit consultant ceases all
18 activity as a permit consultant and files a statement of termination with the Ethics
19 Commission. The statement of termination must include any information that would be
20 required to be reported on a reregistration report, which the permit consultant has not already
21 disclosed on an initial registration or reregistration report.

22 (d) FEES.

23 (1) At the time of the initial registration and reregistration, each permit consultant ~~expediter~~
24 shall pay to the Ethics Commission a fee of \$100 established by the Ethics Commission, which
25 shall not exceed \$300.

1 ~~(2) In addition, at~~ At the time of registration and reregistration, each permit consultant
2 ~~expediter shall pay a fee of \$50~~ \$100 for each client.

3 ~~(3) At the time of filing a statement of termination, each permit consultant shall pay a~~
4 ~~fee of \$50~~ \$100 for each client for whom the permit consultant has not already paid a fee
5 pursuant to Subsection (d)(2). ~~When a client is acquired subsequent to initial registration or~~
6 ~~reregistration, the per client fee shall be paid at the time of filing the information required by~~
7 ~~Subsection (d).~~

8 ~~(4) The Ethics Commission shall deposit fees collected pursuant to this Section in the General~~
9 ~~Fund of the City and County of San Francisco.~~

10 ~~(5) The Rules Committee of the Board of Supervisors shall review the amount of the~~
11 ~~fees imposed by this Section as part of the review process required by Section 5.145.~~

12 ~~(d) PERMIT CONSULTANT EXPEDITER TERMINATION STATEMENTS. A permit~~
13 ~~consultant expediter shall comply with all the requirements of this Chapter until the permit~~
14 ~~consultant expediter ceases all activity as a permit consultant expediter and files a statement~~
15 ~~of termination with the Ethics Commission.~~

16 ~~(e) ACCURACY AND COMPLETENESS. Each permit consultant expediter shall verify,~~
17 ~~under penalty of perjury, the accuracy and completeness of the information provided pursuant to this~~
18 ~~Section.~~

19 ~~(f) RETENTION OF BOOKS, PAPERS AND DOCUMENTS. Each permit consultant~~
20 ~~expediter shall retain for a period of five years all books, papers and documents necessary to~~
21 ~~substantiate the reports and statements required under this Article Chapter.~~

22 **Sec. 5.120. SINGLE REPORTING REQUIREMENT FOR REGISTERED**
23 **LOBBYISTS.**

24 The provisions of this Article, including the prohibition in Section 5.110 and the
25 reporting requirements in Section 5.115, shall not apply to any permit consultant who is

1 required by Article II of the Campaign and Governmental Conduct Code, the San Francisco
2 Lobbyist Ordinance, to register and file disclosure forms with the Ethics Commission, and who
3 does in fact register and file disclosure forms under that ordinance, and discloses on those
4 forms any information required to be disclosed by Section 5.115 of this Article. The Ethics
5 Commission shall make any necessary changes to the forms required to be filed pursuant to
6 the Lobbyist Ordinance to permit disclosure on those forms of any information required to be
7 disclosed by Section 5.115 of this Article.

8 **Sec. 5.125. PERMIT APPLICATION PROCESSING.**

9 (a) EQUAL TREATMENT OF PERMIT APPLICANTS. It shall be the policy of all
10 departments, officers and employees of the City and County to treat all permit applicants the
11 same regardless of the relationship of the applicant and/or the applicant's representatives to
12 any officer or employee of the City and County and regardless of whether the applicant hires a
13 permit consultant to provide permit consulting services. Intentional preferential treatment of
14 any permit applicant and/or the applicant's representatives by any officer or employee of the
15 City and County shall subject the officer or employee to disciplinary action for official
16 misconduct.

17 (b) APPLICATION PRIORITY. It shall be the policy of all departments, officers and
18 employees of the City and County to review, consider, and process all applications, revisions,
19 corrections and other permit-related material in the order in which that type of material is
20 received unless there is a written finding of a public policy basis for not doing so, such as the
21 involvement of public funds in the project for which the permit is sought, or the response to a
22 delay caused by an earlier procedural error in processing the permit or another permit for the
23 same project. Absent such a finding, any officer or employee of the City and County who
24 intentionally fails to review, consider and process all applications, revisions, corrections and
25 other permit-related material in the order in which that type of material is received shall be

1 subject to disciplinary action for official misconduct. Each department of the City and County
2 that is responsible for issuing permits shall adopt written guidelines for determining when
3 there is a public policy basis for processing permit material out of order.

4 (c) PERMIT PROCESSING CODE OF CONDUCT. No later than 60 days after the
5 effective date of this Article, the Ethics Commission shall adopt a code of conduct for permit
6 processing (the "Permit Processing Code of Conduct") containing ethical guidelines for permit
7 applicants, permit consultants, and officers and employees of the City and County. The
8 Permit Processing Code of Conduct shall be posted in a conspicuous place in each
9 department, and a copy shall be distributed to each officer of the City and County who makes
10 or participates in making decisions related to permit applications.

11 **Sec 5.13020. POWERS AND DUTIES OF THE ETHICS COMMISSION.**

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

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

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

21 (d) The Ethics Commission shall compile the information provided in registration and
22 reregistration reports filed pursuant to this ArticleChapter as soon as practicable and shall forward a
23 report of the compiled information to the Board of Supervisors and the Mayor.

24 (e) The Ethics Commission shall preserve all original reports, statements, and other records
25 required to be kept or filed under this ArticleChapter for a period of five years. Such reports,

1 statements, and reports shall constitute a part of the public records of the Ethics Commission and shall
2 be open to public inspection.

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

6 (g) The Ethics Commission shall have the power to adopt all reasonable and necessary rules
7 and regulations not inconsistent with the provisions of this ~~Article~~Chapter for the implementation of
8 this ~~Article~~Chapter pursuant to the procedures specified in ~~Chapter~~ pursuant to the procedure
9 specified in ~~San Francisco Charter Section 15.102.~~

10 **Sec. 5.1325. ADMINISTRATIVE AND CIVIL ENFORCEMENT, AND PENALTIES.**

11 (a) If any permit ~~consultant~~ ~~expediter~~ files an original statement or report after any deadline
12 imposed by this ~~Article~~Chapter, the Ethics Commission shall, in addition to any other penalties or
13 remedies established in this ~~Article~~Chapter, fine the permit ~~consultant~~ ~~expediter~~ \$50 per day after
14 the deadline until the statement or report is received by the Ethics Commission. The Ethics
15 Commission may reduce or waive a fine if the Commission determines that the late filing was not
16 willful and that enforcement will not further the purposes of this ~~Article~~Chapter. The Ethics
17 Commission shall deposit funds collected under this Section in the General Fund of the City and
18 County of San Francisco.

19 (b) Any person who believes that Section 5.110 has been violated may file a complaint with the
20 Ethics Commission. Upon receipt of a complaint, or upon its own initiative, the Ethics Commission
21 may investigate allegations of a violation of Section 5.110 and enforce the provisions of Section 5.110
22 pursuant to the procedures established in San Francisco Charter Section C3.699-13, and the
23 Commission's rules and regulations adopted pursuant to San Francisco Charter Section 15.102.
24 The Commission may cancel for up to one year the registration of any permit ~~consultant~~ ~~expediter~~
25 who has violated Section 5.110. A permit ~~consultant~~ ~~expediter~~ whose registration has been canceled

1 pursuant to this Section may not provide permit ~~consulting~~ ~~expediting~~ services for the period that the
2 registration is canceled. When the period of cancellation ends, the permit ~~consultant~~ ~~expediter~~ may
3 reregister pursuant to Section 5.115(a) and (c).

4 (c) Any person or entity which violates Section 5.110 may be liable in a civil action brought by
5 the City Attorney for an amount up to \$1,000 per violation.

6 (d) No administrative or civil action shall be maintained to enforce Section 5.110 unless
7 brought within four years after the date the cause of action accrued or the date that the facts
8 constituting the cause of action were discovered by the Ethics Commission or City Attorney, whichever
9 is later.

10 (e) In investigating any alleged violation of Section 5.110, the Ethics Commission and City
11 Attorney shall have the power to inspect, upon reasonable notice, all documents required to be
12 maintained under Section 5.115. This power to inspect documents is in addition to other powers
13 conferred on the Ethics Commission and City Attorney by the Charter, or by ordinance, including the
14 power of subpoena.

15 **Sec. 5.1340. ELECTRONIC FILING OF STATEMENTS AND REPORTS.**

16 (a) ELECTRONIC FILING REQUIRED. Whenever ~~a permit consultant~~ ~~expeditors~~ ~~are~~ ~~is~~
17 required by this ~~Article~~ ~~Chapter~~ to file an original statement or report, the Ethics Commission may
18 require a permit ~~consultant~~ ~~expediter~~ to file an electronic copy of the statement or report. The
19 electronic copy shall be due no later than the deadline imposed by this ~~Article~~ ~~Chapter~~ for filing the
20 original statement or report.

21 **(b) POWERS AND DUTIES OF THE ETHICS COMMISSION**

22 (i) Pursuant to San Francisco Charter Section 15.102, the Ethics Commission shall adopt
23 regulations specifying the electronic filing requirements applicable to permit ~~consultants~~ ~~expeditors~~.
24 The Ethics Commission shall adopt these regulations no fewer than 120 days before the electronic
25 filing requirements are effective.

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

3 (c) PENALTIES. If any permit consultant expediter files an electronic copy of a statement or
4 report after the deadline imposed by this Section, the Ethics Commission shall, in addition to any other
5 penalties or remedies established in this ArticleChapter, fine the permit consultant expediter \$50 per
6 day after the deadline until the electronic copy is received by the Ethics Commission. The Ethics
7 Commission may reduce or waive a fine if the Commission determines that the late filing was not
8 willful and that enforcement will not further the purposes of this ArticleChapter. The Ethics
9 Commission shall deposit funds collected under this section in the General Fund of the City and County
10 of San Francisco.

11 **SEC. 5.145. EFFECT OF AMENDMENTS TO LOBBYIST ORDINANCE AND**
12 **MANDATORY REVIEW.**

13 (a) Effect of Amendments to Lobbyist Ordinance. If Article II of the Campaign and
14 Governmental Conduct Code, the San Francisco Lobbyist Ordinance, is amended to require
15 disclosure of the same information required by this Article, Sections 5.100(c)-(d), 5.105 (b),
16 (d), (e), (f), and (j); 5.110; 5.115; 5.120, 5.13025(a)-(e); 5.1350; and 5.14035 shall no longer
17 have any effect and shall be removed from this code if Article II of the Campaign and
18 Governmental Conduct Code, the San Francisco Lobbyist Ordinance, is amended to require
19 individuals and entities who would be required by this Article to file permit consultant reports
20 with the Ethics Commission, to file lobbyist reports with the Ethics Commission, which
21 disclose the same information required to be disclosed by this Article.

22 (b) Mandatory Review. The Rules Committee of the San Francisco Board of
23 Supervisors shall review the provisions of this Article in February of 2006 and report to the full
24 Board of Supervisors any amendments to this Article that its members deem necessary.

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SEC. 1.150. EFFECTIVE DATE

The provisions of this Article shall take effect August 1, 2004.

Sec. 5.1355. SEVERABILITY

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

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

By: _____
Chad A. Jacobs
Deputy City Attorney