

1 [Campaign and Governmental Conduct Code - Campaign Advertisement Disclaimer
2 Requirements]

3 **Ordinance amending the Campaign and Governmental Conduct Code to modify**
4 **disclaimer requirements for campaign advertisements, to conform to a court order.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

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

13 Section 1. Findings.

14 (a) Proposition F, adopted by the voters at the November 5, 2019 election, included
15 several amendments to the Campaign and Governmental Conduct Code: prohibiting
16 campaign contributions from limited liability companies and limited liability partnerships;
17 prohibiting campaign contributions to certain City elected officials, candidates, and
18 committees from persons with pending or recent land use matters before the City; and
19 expanding disclaimer requirements for independent expenditure committee advertisements.
20 The legislative file for Proposition F is available in Board File No. 190723.

21 (b) Proposition F's new disclaimer requirements on campaign advertisements included
22 a requirement that a committee disclose "secondary contributors" – that is, for primarily
23 formed independent expenditure committees and ballot measures, if any of the top three
24 major contributors of \$5,000 or more is a committee, the disclaimer must also disclose the top
25 two major contributors to that committee as well.

1 (c) In January 2020, a group of plaintiffs challenged the constitutionality of these
2 disclaimer requirements, specifically with respect to the required disclosure of secondary
3 contributors. In February 2020, the Honorable Charles R. Breyer, District Court Judge for the
4 Northern District of California, granted in part and denied in part, the plaintiffs' request for a
5 preliminary injunction. The court granted the preliminary injunction with respect to disclaimers
6 of secondary contributors as applied to print advertisements that are 5 inches by 5 inches or
7 smaller, other smaller print advertisements sometimes referred to as "ear" advertisements,
8 and spoken disclaimers in audio or video advertisements that are 30 seconds or less. But
9 citing the vital governmental interest in providing the public with information about the funding
10 of campaign advertisements, the court otherwise upheld the Proposition F disclaimer
11 requirements. A copy of Judge Breyer's order on the motion for preliminary injunction is
12 available in Board File No. 221161.

13 (d) The sole purpose of this ordinance is to bring the Proposition F disclaimer
14 requirements, codified in Campaign and Governmental Conduct Code Section 1.161, in line
15 with Judge Breyer's order.

16
17 Section 2. Article I, Chapter 1 of the Campaign and Governmental Conduct Code is
18 hereby amended by revising Section 1.161, to read as follows:

19 **SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

20 (a) DISCLAIMERS. In addition to complying with the disclaimer requirements set forth
21 in Chapter 4 of the California Political Reform Act, California Government Code sections
22 84100 et seq., and its enabling regulations, all committees making expenditures which
23 support or oppose any candidate for City elective office or any City measure shall also comply
24 with the following additional requirements:
25

1 (1) TOP THREE CONTRIBUTORS. The disclaimer requirements for primarily
2 formed independent expenditure committees and primarily formed ballot measure committees
3 set forth in the Political Reform Act with respect to a committee's top three major contributors
4 shall apply to contributors of \$5,000 or more. Such disclaimers shall include both the name of
5 and the dollar amount contributed by each of the top three major contributors of \$5,000 or
6 more to such committees. If any of the top three major contributors is a committee, the
7 disclaimer must also disclose both the name of and the dollar amount contributed by each of
8 the top two major contributors of \$5,000 or more to that committee, except as set forth in
9 subsections (a)(1)(A)-(B) below. The Ethics Commission may adjust this monetary threshold to
10 reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be
11 rounded off to the nearest five thousand dollars.

12 (A) Exception – small print advertisements. The requirement in subsection
13 (a)(1) to disclose the top two major contributors of \$5,000 or more to committees that are major
14 contributors shall not apply to a print advertisement that is 25 square inches or smaller.

15 (B) Exception – short audio and video advertisements. The requirement in
16 subsection (a)(1) to disclose the top two major contributors of \$5,000 or more to committees that are
17 major contributors shall not apply to a spoken disclaimer in an audio or video advertisement that is 30
18 seconds or less.

19 (2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform
20 Act or its enabling regulations and by this Section 1.161 shall be followed in the same
21 required format, size, and speed by the following phrase: "Financial disclosures are available
22 at sfethics.org." A substantially similar statement that specifies the web site may be used as
23 an alternative in audio communications.

24 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any
25 disclaimer required by the Political Reform Act and by this section on a mass mailing, door

1 hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement
2 shall be printed in at least 14-point, bold font.

3 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate
4 committees shall include the following disclaimer statements: "Paid for by _____ (insert
5 the name of the candidate committee)." and "Financial disclosures are available at
6 sfethics.org." Except as provided in subsections (a)(3) and (a)(5), the statements' format,
7 size, and speed shall comply with the disclaimer requirements for independent expenditures
8 for or against a candidate set forth in the Political Reform Act and its enabling regulations.

9 (5) AUDIO AND VIDEO ADVERTISEMENTS. For audio advertisements, the
10 disclaimers required by this Section 1.161 shall be spoken at the beginning of such
11 advertisements, except that such disclaimers do not need to disclose the dollar amounts of
12 contributions as required by subsection (a)(1). For video advertisements, the disclaimers
13 required by this Section 1.161 shall be spoken at the beginning of such advertisements,
14 except that such disclaimers do not need to disclose the dollar amounts of contributions as
15 required by subsection (a)(1).

16 (b) FILING REQUIREMENTS.

17 (1) INDEPENDENT EXPENDITURE ADVERTISEMENTS. Committees required
18 by state law to file late independent expenditure reports disclosing expenditures that support
19 or oppose a candidate for City elective office shall also file with the Ethics Commission on the
20 same date a copy of the associated advertisement(s), an itemized disclosure statement with
21 the Ethics Commission for that advertisement(s), and

22 (A) if the advertisement is a telephone call, a copy of the script and, if the
23 communication is recorded, the recording shall also be provided;

24 (B) if the advertisement is audio or video, a copy of the script and an
25 audio or video file shall be provided;

1 (C) if the advertisement is an electronic or digital advertisement, a copy
2 of the advertisement as distributed shall be provided; or

3 (D) if the advertisement is a door hanger, flyer, pamphlet, poster, or print
4 advertisement, a copy of the advertisement as distributed shall be provided.

5 (2) INDEPENDENT EXPENDITURE MASS MAILINGS.

6 (A) Each committee making independent expenditures that pays for a
7 mass mailing shall, within five working days after the date of the mailing, file a copy of the
8 mailing and an itemized disclosure statement with the Ethics Commission for that mailing.

9 (B) Each committee making independent expenditures that pays for a
10 mass mailing shall file a copy of the mailing and the itemized disclosure statement required by
11 subsection (b)(2) within 48 hours of the date of the mailing if the date of the mailing occurs
12 within the final 16 days before the election.

13 (C) Exception. Committees making independent expenditures to support
14 or oppose a candidate for City elective office are not subject to the filing requirements
15 imposed by this subsection (b)(2) during the time period that they are required by state law to
16 file late independent expenditure reports and if they also file the itemized disclosure statement
17 required by subsection (b)(1).

18 (3) CANDIDATE MASS MAILINGS.

19 (A) Each candidate committee that pays for a mass mailing shall, within
20 five working days after the date of the mailing, file a copy of the mailing and an itemized
21 disclosure statement with the Ethics Commission for that mailing.

22 (B) Each candidate committee that pays for a mass mailing shall file a
23 copy of the mailing and the itemized disclosure statement required by subsection (b)(3) within
24 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days
25 before the election.

1 ~~(3)~~ (4) The Ethics Commission shall specify the method for filing copies of
2 advertisements and mass mailings.

3 Section 3. Requirements for Amendment by the Board of Supervisors.

4 (a) As set forth in Proposition F, approved by the voters at the November 5, 2019
5 election, an amendment to Section 1.161 of the Campaign and Governmental Conduct Code
6 may be made if:

7 (1) the amendment furthers the purposes of Chapter 1, Article I of the
8 Campaign and Governmental Conduct Code;

9 (2) the Ethics Commission approves the amendment in advance of Board of
10 Supervisors approval by at least a four-fifths vote of all its members;

11 (3) the amendment is available for public review at least 30 days before the
12 amendment is considered by the Board of Supervisors or any committee of the Board of
13 Supervisors; and

14 (4) the Board of Supervisors approves the amendment by at least a two-thirds
15 vote of all its members.

16 (b) At its meeting of December 9, 2022, the Ethics Commission approved this
17 ordinance by a vote of 4-0.

18 (c) This ordinance has been available for public review for at least 30 days before
19 consideration by a committee of the Board of Supervisors.

20
21 Section 4. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

