

1 [Campaign and Governmental Conduct Code - Lobbying Regulations]

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3 **Ordinance amending the Campaign and Governmental Conduct Code to expand the**  
4 **definition of a lobbyist; expand the list of reportable lobbying contacts; enhance**  
5 **lobbyist training, auditing, and record-keeping requirements; require public reports**  
6 **about city officials who fail to file statements of economic interest; require a public**  
7 **guide to local campaign finance laws; require permit consultants to register with the**  
8 **Ethics Commission and file regular disclosure reports; and require major developers to**  
9 **disclose donations to nonprofits active in the City.**

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

14

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

16 Section 1. The Campaign and Governmental Conduct Code is hereby amended by  
17 amending Sections 2.105, 2.116, and 2.135, to read as follows:

18 **SEC. 2.105. DEFINITIONS.**

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

- 21 (a) "Activity expenses" means any expense incurred or payment made by a  
22 lobbyist or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a  
23 lobbyist's client at the behest of the lobbyist, which benefits in whole or in part any: officer of  
24 the City and County; candidate for City and County office; aide to a member of the Board of  
25 Supervisors; or member of the immediate family or the registered domestic partner of an

1 officer, candidate, or aide to a member of the Board of Supervisors. An expense or payment is  
2 not an "activity expense" unless it is incurred or made within three months of a contact with  
3 the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or  
4 whose immediate family member or registered domestic partner benefits from the expense or  
5 payment. "Activity expenses" include honoraria, consulting fees, salaries, and any other thing  
6 of value totaling more than \$25 in value in a consecutive three-month period, but do not  
7 include political contributions.

8 (b) "Candidate" shall have the same meaning as set forth in Section 1.104 of this  
9 Code.

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

12 (d) "Contact" means communication, oral or written, including communication  
13 made through an agent, associate or employee, for the purpose of influencing local legislative  
14 or administrative action.

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

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

21 (B) A person providing oral or written testimony that becomes part of the  
22 record of a public hearing; provided, however, that if the person making the appearance or  
23 providing testimony has already qualified as a lobbyist under this Chapter and is appearing or  
24 testifying on behalf of a client, the lobbyist's testimony shall identify the client on whose behalf  
25 the lobbyist is appearing or testifying;

1 (C) A person performing a duty or service that can be performed only by ~~an~~  
2 ~~attorney~~, an architect, or a professional engineer licensed to practice in the State of California;

3 ~~(D) including any communication by a~~ An attorney communicating on behalf of a  
4 party or potential party in connection with potential or actual litigation involving the City and  
5 County or a claim filed pursuant to Administrative Code Section 10.20-1 et seq.;

6 ~~(DE)~~ A person making a speech or producing any publication or other  
7 material that is distributed and made available to the public, through radio, television, cable  
8 television, or other medium of mass communication;

9 ~~(EF)~~ A person providing written information in response to an oral or written  
10 request made by an officer of the City and County, provided that the written information is a  
11 public record available for public review;

12 ~~(FG)~~ A person providing oral or written information pursuant to a subpoena,  
13 or otherwise compelled by law or regulation;

14 ~~(G) A person providing oral or written information in response to a request for~~  
15 ~~proposals, request for qualifications, or other similar request, provided that the information is directed~~  
16 ~~to the department or official specifically designated in the request to receive such information;~~

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

19 (I) A person making an oral or written request for a meeting, or any other  
20 similar administrative request, if the request does not include an attempt to influence local  
21 legislative or administrative action;

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

1 (K) A person providing purely technical data, analysis, or expertise in the  
2 presence of a registered lobbyist;

3 (L) A person distributing to any officer of the City and County any regularly  
4 published newsletter or other periodical which is not primarily directed at influencing local  
5 legislative or administrative action;

6 (M) A person disseminating information or material on behalf of an  
7 organization or entity to all or a significant segment of the organization's or entity's employees  
8 or members;

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

18 ~~————(O) A person negotiating the terms of a contract after being selected to enter into a~~  
19 ~~contract with the City and County through a competitive bidding process, or as otherwise permitted~~  
20 ~~under the Administrative Code;~~

21 (PN) A person appearing as a party or a representative of a party in an  
22 administrative adjudicatory proceeding before a City agency or department; and

23 (QO) A person communicating, on behalf of a labor union representing City  
24 employees, regarding the establishment, amendment, or interpretation of a collective  
25 bargaining agreement or memorandum of understanding with the City, or communicating

1 about a management decision regarding the working conditions of employees represented by  
2 a collective bargaining agreement or a memorandum of understanding with the City.

3 (P) A party or prospective party to a contract negotiating the terms of the contract  
4 with the City after being selected to enter into the contract, or communicating in connection with the  
5 administration of an existing contract between the party and the City. For the purposes of this  
6 subsection:

7 (1) A "party or prospective party" includes that party's officers or employees; a  
8 subcontractor listed in the contract, bid, or proposal; or that subcontractor's officers or employees. A  
9 "party or prospective party" does not include any other agent or associate, including any outside  
10 consultant or independent contractor.

11 (2) Communication "in connection with the administration of an existing  
12 contract" includes, but is not limited to, communication regarding: insurance and bonding; contract  
13 performance and/or default; requests for in-scope change orders; legislative mandates imposed on  
14 contractors by the City and County; payments and invoicing; personnel changes; prevailing wage  
15 verification; liquidated damages and other penalties for breach of contract; audits; assignments; and  
16 subcontracting. Communication "in connection with the administration of an existing contract" does  
17 not include communication regarding new contracts, or out-of-scope change orders.

18 (2) The following activities are not "contacts" for the purpose of determining  
19 whether a person qualifies as a "lobbyist," but are "contacts" for purpose of disclosures  
20 required by this Chapter:

21 (A) A person providing oral information to an officer of the City and County  
22 in response to an oral or written request made by that officer;

23 (B) A person making an oral or written request for the status of an action;  
24 and

1 (C) A person participating in a public interested persons meeting,  
2 workshop, or other forum convened by a City agency or department for the purpose of  
3 soliciting public input.

4 (e) "Economic consideration" means any payments, fees, reimbursement for  
5 expenses, gifts, or anything else of value, provided that "economic consideration" does not  
6 include salary, wages or benefits furnished by a federal, state or local government agency.

7 (f) "Employee" means any person who receives an Internal Revenue Service Form W-2  
8 wage and tax statement.

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

11 (gh) "Lobbyist" means any individual who:

12 ~~— (1) — receives or is promised economic consideration of \$3,000 or more within three~~  
13 ~~consecutive calendar months for lobbyist services; and~~

14 ~~— (2) — on behalf of the persons providing the economic consideration, makes any contact~~  
15 ~~with an officer of the City and County. makes contact with an officer of the City and County on behalf~~  
16 ~~of any person who pays the individual or the individual's employer for lobbyist services. For contacts~~  
17 ~~made on behalf of an individual's employer, an individual is a "lobbyist" only if \$1000 or more of the~~  
18 ~~individual's monthly salary is attributable to time spent on lobbyist services.~~

19 (hi) "Lobbyist services" means services rendered for the purpose of influencing  
20 local legislative or administrative action, including but not limited to contacts with officers of  
21 the City and County of San Francisco.

22 (ij) "Local legislative or administrative action" includes, but is not limited to, the  
23 drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting  
24 or denial by any officer of the City and County of any resolution, motion, appeal, application,  
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1 petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to  
2 use or contract.

3 (j) "Measure" shall have the same meaning as set forth in Section 1.104 of this  
4 Code.

5 (k) "Officer of the City and County" means any officer identified in ~~San Francisco~~  
6 ~~Administrative Code Section 1.50~~ Section 3.203 of this Code, as well as any official body composed  
7 of such officers. In addition, for purposes of this Chapter, "officer of the City and County"  
8 includes (1) members of the Board of Education, Community College Board, Housing  
9 Authority, ~~Redevelopment Agency~~, and Transportation Authority, as well as any official body  
10 composed of such officers, (2) The Zoning Administrator, (3) the City Engineer, (4) the County  
11 Surveyor, and (5) the Bureau Chief of the Department of Public Works' Bureau of Street Use  
12 and Mapping.

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

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

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17 **SEC. 2.116. LOBBYIST TRAINING.**

18 (a) Each lobbyist must complete a lobbyist training session offered by the Ethics  
19 Commission within one year of the lobbyist's initial registration. Thereafter, lobbyists shall  
20 attend additional training sessions as required by the Executive Director, at his or her  
21 discretion.

22 (b) The Ethics Commission shall make lobbyist training sessions available on its website.

23 (c) On or before the deadline for completing any required lobbyist training session, each  
24 lobbyist must file a signed declaration with the Ethics Commission stating, under penalty of perjury,  
25 that the lobbyist has completed the required training session.

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2           **SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF**  
3 **DOCUMENTS, AUDITS.**

4           (a) All information required under this Chapter shall be submitted to the Ethics  
5 Commission, in the format designated by the Commission. The lobbyist shall verify, under  
6 penalty of perjury, the accuracy and completeness of the information provided under this  
7 Chapter.

8           (b) The lobbyist shall retain for a period of five years all books, papers and  
9 documents necessary to substantiate the registration and disclosure reports required by this  
10 Chapter. These records shall include, but not be limited to, copies of all invitations sent by the  
11 lobbyist for fundraising events for an officer of the City and County, a candidate for such office, a  
12 committee controlled by such officer or candidate, or a committee primarily formed to support or  
13 oppose such officer or candidate, or any committee primarily formed to support or oppose a ballot  
14 measure to be voted on only in San Francisco.

15           (c) On an annual basis, the Executive Director shall initiate audits of one or more lobbyists  
16 selected at random. At the request of the Executive Director, the Controller may assist in conducting  
17 these audits. This requirement shall not restrict the authority of the Executive Director or the Ethics  
18 Commission to undertake any other audits or investigations of a lobbyist authorized by law or  
19 regulation.

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21           Section 2. The Campaign and Governmental Conduct Code is hereby amended by  
22 amending Section 3.1-104 to read as follows:

23           **SEC. 3.1-104. FILING OFFICER REPORTS.**

24           (a) On or before April 10th of each year, every filing officer shall submit a written  
25 report to the Ethics Commission setting forth the names of those persons who are required to

1 file an annual statement with that filing officer under this Chapter but have failed to do so, or a  
2 report stating that all such persons have filed.

3 (b) On or before April 10th of each year, the Ethics Commission shall prepare a report setting  
4 forth the names of those persons who are required to file an annual statement with the Ethics  
5 Commission under this Chapter but have failed to do so, or a report stating that all such persons have  
6 filed. On or before May 10th of each year, the Ethics Commission shall prepare a supplemental report  
7 setting forth the names of any persons who are required to file an annual statement with the Ethics  
8 Commission under this Chapter but have failed to do so by May 1st, or a report stating that all such  
9 persons have filed. The Ethics Commission shall make these reports publicly available, including by  
10 posting the reports on its website.

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12 Section 3. The Campaign and Governmental Conduct Code is hereby amended by  
13 adding Section 3.302 to read as follows:

14 **SEC. 3.302. PUBLIC GUIDE FOR CONTRIBUTORS.**

15 The Ethics Commission shall prepare and distribute a public guide regarding campaign  
16 contributions. The guide shall include a summary of local law regarding contribution limits, required  
17 reporting by contributors and committees, and rules regarding who may contribute to committees. The  
18 guide shall be for informational purposes only, and shall not have the force or effect of law or  
19 regulation.

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21 Section 4. The Campaign and Governmental Conduct Code is hereby amended by  
22 adding Sections 3.405 and 3.410 to read as follows:

23 **SEC. 3.405. DEFINITIONS.**

24 “Contact” means any communication, oral or written, including communication made through  
25 an agent, associate or employee.

1           “Client” means the person for whom permit consulting services are performed by a permit  
2 consultant.

3           “Permit consultant” is any individual who receives or is promised compensation to provide  
4 permit consulting services. This includes any employee who receives salary attributable to time spent  
5 on permit consulting services. This does not include:

6           (1) The licensed architect or engineer of record for construction activity allowed or  
7 contemplated by the permit, or an employee of the architect or engineer; or

8           (2) The contractor who will be responsible for all construction activity associated with  
9 the requested permit.

10           “Permit consulting services” means any contact with the Department of Building Inspection,  
11 the Entertainment Commission, the Planning Department, or the Department of Public Works to help a  
12 permit applicant obtain a permit.

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14           **SEC. 3.410. PERMIT CONSULTANT REGISTRATION AND DISCLOSURES.**

15           (a) REGISTRATION OF PERMIT CONSULTANTS REQUIRED. Permit consultants shall  
16 register with the Ethics Commission and comply with the disclosure requirements imposed by this  
17 Chapter. Such registration shall occur no later than five business days after providing permit  
18 consulting services, but the permit consultant shall register prior to providing any further permit  
19 consulting services.

20           (b) REGISTRATION. At the time of initial registration each permit consultant shall report  
21 to the Ethics Commission the following information:

22           (1) The name, business address, e-mail address, and business telephone number of the  
23 permit consultant;

24           (2) The name, business address, e-mail address, and business telephone number of  
25 each client for whom the permit consultant is performing permit consulting services;

1           (3) The name, business address, e-mail address, and business telephone number of the  
2 permit consultant's employer, firm or business affiliation; and

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

5           (c) PERMIT CONSULTANT DISCLOSURES. For each calendar month, each permit  
6 consultant shall submit the following information no later than the fifteenth calendar day following the  
7 end of the month:

8           (1) The name, business address, e-mail address, and business telephone number of  
9 each person from whom the permit consultant or the permit consultant's employer received or expected  
10 to receive economic consideration for permit consulting services during the reporting period, and the  
11 amount of economic consideration the permit consultant received or expected to receive;

12           (2) For each contact with the Department of Building Inspection, the Entertainment  
13 Commission, the Planning Department, or the Department of Public Works in the course of providing  
14 permit consulting services during the reporting period:

15           (A) The name of each officer or employee of the City and County of San  
16 Francisco with whom the permit consultant made contact;

17           (B) The date of each contact;

18           (C) A description of the permit sought or obtained, including the application  
19 number for the permit; and

20           (D) The client on whose behalf the contact was made.

21           (3) All political contributions of \$100 or more made by the permit consultant or the  
22 permit consultant's employer during the reporting period to an officer of the City and County, a  
23 candidate for such office, a committee controlled by such officer or candidate, a committee primarily  
24 formed to support or oppose such officer or candidate, or any committee primarily formed to support  
25 or oppose a ballot measure to be voted on only in San Francisco.



1 "Nonprofit organization" shall mean any corporation formed pursuant to California  
2 Corporations Code Sections 5000 et seq. for any public or charitable purpose, and/or any organization  
3 described within 26 United States Code Section 501(c), that within the past two years has attempted to  
4 influence City legislative or administrative action.

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6 **SEC 3.520. REQUIRED DISCLOSURE**

7 (a) Any developer of a project for which the Planning Commission has certified an  
8 Environmental Impact Report shall, within 30 days of the date of certification, report the following  
9 information to the Ethics Commission:

10 (1) The developer's name, business address, e-mail address and business telephone  
11 number.

12 (2) The Environmental Impact Report case number and a description of the project.

13 (3) The date the Planning Commission certified the Environmental Impact Report.

14 (4) The name, business address, business telephone number and website of any  
15 nonprofit organization to whom the developer has made cumulative donations of \$5,000 or more since  
16 the date one year before the application for environmental review of the project was filed with the  
17 Planning Department.

18 (5) For each nonprofit organization reported pursuant to Subsection (a)(4), the date and  
19 amount of each donation the developer made to the nonprofit during the reporting period.

20 (6) Any other information required by the Ethics Commission consistent with the  
21 purposes and provisions of this Chapter.

22 (b) After a developer files a report required by Subsection (a), the developer shall file four  
23 quarterly reports, according to the following schedule: The developer shall file a report on April 15 for  
24 the period starting January 1 and ending March 31; on July 15 for the period starting April 1 and  
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1 ending June 30; on October 15 for the period starting July 1 and ending September 30; and on January  
2 15 for the period starting October 1 and ending December 31. Each quarterly report shall include:

- 3           (1) The developer's name, business address, and business telephone number.
- 4           (2) The Environmental Impact Report case number and a description of the project.
- 5           (3) The date the Planning Commission certified the Environmental Impact Report.
- 6           (4) The name, business address, business telephone number and website of any nonprofit  
7 organization to whom the developer has made cumulative donations of \$5,000 or more since the date  
8 one year before the application for environmental review of the project was filed with the Planning  
9 Department.
- 10           (5) For each nonprofit organization reported pursuant to Subsection (b)(4), the date and  
11 amount of each donation the developer made to the nonprofit during the reporting period.
- 12           (6) Any other information required by the Ethics Commission consistent with the  
13 purposes and provisions of this Chapter.

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15           Section 6. Effective Date. This ordinance shall become effective 30 days from the  
16 date of passage.

17           Section 7. In enacting this ordinance, the Board intends to amend only those words,  
18 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,  
19 or any other constituent part of the Campaign and Governmental Conduct Code that are  
20 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and  
21 Board amendment deletions in accordance with the "Note" that appears under the official title  
22 of the ordinance.

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

By: \_\_\_\_\_  
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Deputy City Attorney

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