

1 [Campaign and Governmental Conduct Code - Campaign Finance Amendments]

2

3 **Ordinance amending the Campaign and Governmental Conduct Code to 1) require**
 4 **candidates to attest, under penalty of perjury, to the lack of any coordination with other**
 5 **committees; 2) require that the Voter Information Pamphlet note which candidates have**
 6 **agreed to voluntary spending limits; 3) clarify supplemental reporting for the public**
 7 **financing program; 4) require written disclaimers to appear in 14-point font; 5) require**
 8 **that disclaimers be included at the beginning of audio and video advertisements; 6)**
 9 **require that disclaimers include the top four donors to committees, if the donors have**
 10 **contributed \$20,000 or more; and 7) prior to each municipal election, require the Ethics**
 11 **Commission to distribute a pamphlet to San Francisco voters regarding third-party**
 12 **spending.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 16 **Board amendment additions** are in double-underlined Arial font.
 17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 18 **Asterisks (* * * *)** indicate the omission of unchanged Code
 19 subsections or parts of tables.

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

21 Section 1. The Campaign and Governmental Conduct Code is hereby amended by
 22 revising Sections 1.115, 1.128, 1.142, 1.152, 1.161, and 1.162, and adding Section 1.165, to
 23 read as follows:

24 **SEC. 1.115. COORDINATION OF EXPENDITURES.**

25 (a) **General.** An expenditure is not considered independent and shall be treated as a
 contribution from the person making the expenditure to the candidate on whose behalf, or for
 whose benefit the expenditure is made, if the expenditure funds a communication that

1 expressly advocate the nomination, election or defeat of a clearly identified candidate and is
2 made under the following circumstance:

3 (1) The expenditure is made at the request, suggestion, or direction of, or in
4 cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for
5 whose benefit, the expenditure is made; or

6 (2) The communication funded by the expenditure is created, produced or
7 disseminated:

8 (A) After the candidate has made or participated in making any decision
9 regarding the content, timing, location, mode, intended audience, volume of distribution, or
10 frequency of placement of the communication; or

11 (B) After discussion between the creator, producer or distributor of a
12 communication, or the person paying for that communication, and the candidate or committee
13 regarding the content, timing, location, mode, intended audience, volume of distribution or
14 frequency of placement of that communication, the result of which is agreement on any of
15 these topics.

16 (b) **Rebuttable Presumption of Coordination.** In addition to ~~Subsection (a) of this~~
17 ~~section~~ subsection (a), there shall be a presumption that an expenditure funding a
18 communication that expressly advocates the nomination, election or defeat of a clearly
19 identified candidate is not independent of the candidate on whose behalf or for whose benefit
20 the expenditure is made, when:

21 (1) It is based on information about the candidate or committee's campaign
22 needs or plans provided to the spender by the candidate;

23 (2) It is made by or through any agent of the candidate in the course of the
24 agent's involvement in the current campaign;

1 (3) The spender retains the services of a person, including a campaign
2 consultant, who provides, or has provided, the candidate with professional services related to
3 campaign or fund raising strategy for that same election;

4 (4) The communication replicates, reproduces, republishes or disseminates, in
5 whole or in substantial part, a communication designed, produced, paid for or distributed by
6 the candidate; or

7 (5) In the same election that the expenditure is made, the spender or spender's
8 agent is serving or served in an executive or policymaking role for the candidate's campaign
9 or participated in strategy or policy making discussions with the candidate's campaign relating
10 to the candidate's pursuit of election to office and the candidate is pursuing the same office as
11 a candidate whose nomination or election the expenditure is intended to influence.

12 (c) **Exceptions.** Notwithstanding the foregoing, an expenditure shall not be
13 considered a contribution to a candidate merely because:

14 (1) The spender interviews a candidate on issues affecting the spender;

15 (2) The spender has obtained a photograph, biography, position paper, press
16 release, or similar material from the candidate;

17 (3) The spender has previously made a contribution to the candidate;

18 (4) The spender makes an expenditure in response to a general, non-specific
19 request for support by a candidate, provided that there is no discussion with the candidate
20 prior to the expenditure relating to details of the expenditures;

21 (5) The spender has invited the candidate or committee to make an appearance
22 before the spender's members, employees, shareholders, or the families thereof, provided
23 that there is no discussion with the candidate prior to the expenditure relating to details of the
24 expenditure;

25

1 (6) The spender informs a candidate that the spender has made an expenditure
2 provided that there is no other exchange of information not otherwise available to the public,
3 relating to the details of the expenditure; or

4 (7) The expenditure is made at the request or suggestion of the candidate for
5 the benefit of another candidate or committee.

6 (d) **Definition.** For purposes of ~~this Section~~ subsections (a)-(c), the terms "candidate"
7 includes an agent of the candidate when the agent is acting within the course and scope of
8 the agency.

9 (e) **Candidate Statements Regarding Coordination of Expenditures.** Candidates required to
10 file campaign disclosure statements with the Ethics Commission shall attest, under penalty of perjury,
11 that their candidate committees have not failed to report any expenditure made by another committee
12 that would constitute a contribution to their candidate committees. Candidates shall file the form
13 required by this subsection (e) on the deadlines established by Section 1.135 for supplemental
14 preelection statements and on the day of any election for which they appear on the ballot.

15 **SEC. 1.128. ACCEPTANCE OR REJECTION OF VOLUNTARY EXPENDITURE**
16 **CEILINGS.**

17 (a) Eligible Candidates. Candidates for Assessor, City Attorney, District Attorney,
18 Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified
19 School District or the Governing Board of the San Francisco Community College District may
20 accept the applicable voluntary expenditure ceiling. Candidates for the Board of Supervisors
21 or Mayor may not accept a voluntary expenditure ceiling.

22 (b) Acceptance of Voluntary Expenditure Ceiling. To accept the applicable voluntary
23 expenditure ceiling, a candidate must file a statement with the Ethics Commission accepting
24 the applicable voluntary expenditure ceiling. A candidate who has filed such a statement may not
25 make qualified campaign expenditures in excess of the voluntary expenditure ceiling, unless under

1 Section 1.134, the Ethics Commission has lifted the applicable voluntary expenditure ceiling. The
2 candidate shall file this statement no later than the deadline for filing nomination papers with
3 the Department of Elections. A candidate may not withdraw the statement accepting the
4 voluntary expenditure ceiling after filing the statement. A candidate may not file the statement
5 accepting the applicable voluntary expenditure ceiling if the Ethics Commission has lifted the
6 voluntary expenditure ceiling under Section 1.134 of this Chapter.

7 **(c) Voter Information Pamphlet.**

8 **(1) Notice regarding each eligible candidate.** *The Director of Elections shall include*
9 *in the Voter Information Pamphlet a notice informing voters whether each candidate for Assessor, City*
10 *Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San*
11 *Francisco Unified School District or the Governing Board of the San Francisco Community College*
12 *District has accepted the voluntary expenditure ceiling. For candidates who have accepted the*
13 *voluntary expenditure ceiling, the notice shall state: “The above candidate has accepted the City’s*
14 *voluntary spending limit.” For candidates who have not accepted the voluntary expenditure ceiling,*
15 *the notice shall state: “The above candidate has NOT accepted the City’s voluntary spending limit.”*
16 *If a candidate was precluded from accepting the voluntary expenditure ceiling because the expenditure*
17 *ceiling for a particular race was lifted under Section 1.134 of the Chapter before the candidate filed the*
18 *statement required by this Section, the notice for that candidate shall state: “The City’s voluntary*
19 *spending limit was lifted before the candidate decided whether to accept or not accept the limit.” The*
20 *notice shall be printed in the same font size and type, and on the same page, as the candidate’s*
21 *statement of qualifications.*

22 **(2) Notice regarding candidates for the Board of Supervisors and Mayor.** *The*
23 *Director of Elections shall include in the Voter Information Pamphlet a notice informing voters that*
24 *candidates for the Board of Supervisors and Mayor are not eligible to accept voluntary expenditure*
25 *ceilings. Within 60 days after the effective date of the ordinance in Board File No. _____, after*

1 consulting with the Executive Director of the Ethics Commission, the Director of Elections shall
2 determine the wording of the notice.

3 ~~(e)~~ (d) **Website.** The Ethics Commission shall maintain, on its website, a list of the
4 candidates who have accepted the voluntary expenditure ceiling. If the Ethics Commission
5 has lifted a voluntary expenditure ceiling for a particular race under Section 1.134 of this
6 Chapter, the Ethics Commission shall instead maintain a list of the candidates who have
7 accepted, but are no longer subject to the voluntary expenditure ceiling in that race.

8 ~~(d) A candidate who has accepted the applicable voluntary expenditure ceiling and makes~~
9 ~~qualified campaign expenditures in excess of the voluntary expenditure ceiling, at a time when the~~
10 ~~Ethics Commission has not lifted the applicable voluntary expenditure ceiling, is subject to the~~
11 ~~penalties in Section 1.170.~~

12 **SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY**
13 **THE ETHICS COMMISSION.**

14 (a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each candidate
15 for the Board of Supervisors or Mayor must sign and file a Statement of Participation or Non-
16 Participation in the public financing program. The statement must be filed by the candidate
17 with the Ethics Commission no later than the deadline for filing nomination papers. On the
18 statement, each candidate shall indicate whether he or she intends to participate in the public
19 financing program. A statement of participation or non-participation may not be amended after
20 the deadline for filing nomination papers.

21 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing
22 of campaign expenses under this Chapter, a candidate shall declare, under penalty of perjury,
23 that the candidate satisfies the requirements specified in Section 1.140. Candidates shall be
24 permitted to submit the declaration and any supporting material required by the Ethics
25 Commission to the Ethics Commission no earlier than nine months before the date of the

1 election, but no later than the 70th day before the election. Once the declaration and
2 supporting material are submitted, they may not be amended. The declaration and supporting
3 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
4 day before the election.

5 If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal
6 holiday, the deadline shall be the next business day.

7 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
8 Commission shall review the candidate's declaration and supporting material to determine
9 whether the candidate is eligible to receive public funds under this Chapter. The Executive
10 Director may audit the candidate's records, interview contributors and take whatever steps the
11 Executive Director deems necessary to determine eligibility. At the request of the Executive
12 Director, the Controller shall assist in this review process.

13 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
14 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a
15 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
16 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
17 and may review any other material.

18 (e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor
19 or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive
20 Director shall notify the candidate and certify to the Controller that the candidate is eligible to
21 receive public financing under this Chapter. The Executive Director shall not certify that a
22 candidate is eligible to receive public financing if the candidate's declaration or supporting
23 material is incomplete or otherwise inadequate to establish eligibility. Except as provided in
24 subsection (h), the Executive Director shall determine whether to certify a candidate no later
25 than 30 days after the date the candidate submits his or her declaration and supporting

1 material, provided that the Executive Director shall make all determinations regarding whether
2 to certify a candidate no later than the 55th day before the election.

3 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
4 eligible to receive public financing under this Chapter, the Executive Director shall notify the
5 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
6 business days of the date of notification, resubmit the declaration and supporting material. If
7 the candidate does not timely resubmit, the Executive Director's determination is final.

8 If, after viewing resubmitted material, the Executive Director declines to certify that a
9 candidate is eligible to receive public financing under this Chapter, the Executive Director
10 shall notify the candidate of this fact. Additional resubmissions may be permitted in the
11 Executive Director's discretion. If the candidate fails to resubmit in the time specified by the
12 Executive Director, or if no further resubmissions are permitted, the Executive Director's
13 determination is final.

14 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
15 certify that a candidate is eligible to receive public financing under this Chapter, the candidate
16 may appeal the Executive Director's final determination to the Ethics Commission. The
17 candidate must deliver the written appeal to the Ethics Commission within five days of the
18 date of notification of the Executive Director's determination.

19 ~~(h) SUPERVISORIAL CANDIDATES SEEKING ELECTION IN NOVEMBER 2012. The~~
20 ~~Executive Director shall not certify any supervisorial candidates seeking election in November 2012 as~~
21 ~~eligible to receive public funds until the Redistricting Task Force, convened by the Board of~~
22 ~~Supervisors in Ordinance No. 93-11, has completed its 2012 revision of supervisorial district~~
23 ~~boundaries. Supervisorial candidates seeking election in November 2012 may submit their declaration~~
24 ~~and any supporting material concerning their eligibility to the Ethics Commission prior to the~~
25 ~~completion of the Redistricting Task Force's revision of supervisorial district boundaries.~~

1 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
2 **SUPERVISORS AND MAYOR.**

3 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

4 (1) In addition to the campaign disclosure requirements imposed by the
5 California Political Reform Act and other provisions of this Chapter, each candidate committee
6 supporting a candidate for the Board of Supervisors shall file a statement with the Ethics
7 Commission indicating when the committee has received contributions to be deposited into its
8 Campaign Contribution Trust Account or made expenditures that equal or exceed ~~\$5,000~~
9 \$10,000 within 24 hours of reaching or exceeding that amount.

10 (2) In addition to the supplemental report in Subsection (a)(1) of this Section,
11 each candidate committee supporting a candidate for the Board of Supervisors shall file a
12 statement with the Ethics Commission disclosing when the committee has received
13 contributions to be deposited into its Campaign Contribution Trust Account or made
14 expenditures that in the aggregate-equal or exceed \$100,000. The candidate committee shall
15 file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
16 candidate committee shall file an additional supplemental report within 24 hours of every time
17 the candidate committee receives additional contributions to be deposited into its Campaign
18 Contribution Trust Account or makes additional expenditures that in the aggregate equal or
19 exceed \$10,000.

20 (3) The Executive Director shall post the information disclosed on statements
21 required by this subsection on the website of the Ethics Commission within two business days
22 of the statement's filing.

23 * * * *

24 **SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

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

6 (1) TOP ~~TWO~~ FOUR CONTRIBUTORS. The disclaimer requirements for
7 primarily formed independent expenditure committees and primarily formed ballot measure
8 committees set forth in the Political Reform Act with respect to a committee's top two major
9 contributors shall apply to the top four contributors of \$20,000 or more. The Ethics
10 Commission may adjust this monetary threshold to reflect any increases or decreases in the
11 Consumer Price Index. Such adjustments shall be rounded off to the nearest five thousand
12 dollars.

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

18 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any
19 disclaimer required by the Political Reform Act and by this section on a mass mailing, door
20 hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement
21 shall be printed in at least ~~12-point~~ 14-point font.

22 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate
23 committees shall include the following disclaimer statements: "Paid for by _____ (insert
24 the name of the candidate committee)." and "Financial disclosures are available at
25 sfethics.org." Except as provided in subsection (a)(3), the statements' format, size and speed

1 shall comply with the disclaimer requirements for independent expenditures for or against a
2 candidate set forth in the Political Reform Act and its enabling regulations.

3 (5) AUDIO AND VIDEO ADVERTISEMENTS. For audio advertisements, the
4 disclaimers required by this Section 1.161 shall be spoken at the beginning of such advertisements.
5 For video advertisements, the disclaimers required by this Section 1.161 shall appear in writing and be
6 spoken at the beginning of such advertisements.

7 * * * *

8 **SEC. 1.162. ELECTIONEERING COMMUNICATIONS.**

9 (a) DISCLAIMERS.

10 (1) Every electioneering communication for which a statement is filed pursuant
11 to subsection (b) shall include the following disclaimer: "Paid for by _____ (insert the
12 name of the person who paid for the communication)." and "Financial disclosures are
13 available at sfethics.org."

14 (2) Any disclaimer required by this Section shall be included in or on an
15 electioneering communication in a size, speed or format that complies with the disclaimer
16 requirements for independent expenditures supporting or opposing candidates set forth in the
17 Political Reform Act and its enabling regulations.

18 (3) Notwithstanding subsection (a)(2), any disclaimer required by this Section:
19 (A) to appear on a mass mailing, door hanger, flyer, poster, oversized
20 campaign button or bumper sticker, or print advertisement, shall be printed in at least ~~12-point~~
21 14-point font;

22 (B) to be included in an audio advertisement, shall be spoken at the beginning of
23 such advertisements; or

24 (C) to be included in a video advertisement, shall appear in writing and be
25 spoken at the beginning of such advertisements.

1 * * * *

2 **SEC. 1.165. INFORMATION REGARDING THIRD-PARTY SPENDING IN MUNICIPAL**
3 **ELECTIONS.**

4 (a) **Webpage.** Prior to each municipal election, the Ethics Commission shall create a public
5 webpage that provides the most readily available information regarding independent expenditures
6 made in support of or opposition to candidates or ballot measures appearing on the ballot for that
7 election, the committees that made the independent expenditures, all donors who contributed over
8 \$20,000 to each of the listed committees, and the total amount those donors contributed. The Director
9 of Elections shall include in the Voter Information Pamphlet a reference to this Ethics Commission
10 webpage.

11 (b) **Ethics Commission Pamphlet.** The Ethics Commission shall mail to each registered San
12 Francisco voter a pamphlet regarding the independent expenditures made in support of or opposition
13 to candidates or ballot measures appearing on the ballot for that election, the committees that made the
14 independent expenditures, the top four donors who contributed over \$20,000 to each of the listed
15 committees, the total amount those donors contributed, and referencing the webpage required by
16 subsection (a). The Ethics Commission shall mail these pamphlets by a date that would allow each San
17 Francisco voter to receive them no later than 14 days before each municipal election.

18
19 Section 2. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23
24 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the “Note” that appears under
4 the official title of the ordinance.

5

6 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
7 of this ordinance, or any application thereof to any person or circumstance, is held to be
8 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
9 shall not affect the validity of the remaining portions or applications of the ordinance. The
10 Board of Supervisors hereby declares that it would have passed this ordinance and each and
11 every section, subsection, sentence, clause, phrase, and word not declared invalid or
12 unconstitutional without regard to whether any other portion of this ordinance or application
13 thereof would be subsequently declared invalid or unconstitutional.

14

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

17 By: _____
18 ANDREW SHEN
19 Deputy City Attorney

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