

1 **DRAFT S.F. LOBBYIST ORDINANCE REGULATIONS (6/25/14)**

2 **Regulation 2.105-1. Construction.** The provisions of Article Two, Chapter One of the
3 Campaign and Governmental Conduct Code, as well as its implementing regulations, shall be
4 construed in a manner that provides for the greatest disclosure of lobbyist activity in the City
5 and County.

6 **Regulation 2.105-2. Lobbyist Employer; Definition.** "Lobbyist employer" includes, but is
7 not limited to, an entity that is: (a) required to provide an Internal Revenues Service Form W-2
8 wage and tax statement to an employee who performs lobbyist services; or (b) owned by a
9 lobbyist and which performs and charges clients for lobbyist services, even if the entity is not
10 required to provide an Internal Revenues Service Form W-2 wage and tax statement to an
11 employee who performs lobbyist services.

12 **Regulation 2.105-3. Lobbyist Services; Definition.** For purposes of Section 2.105,
13 "lobbyist services" include but are not limited to, contacting officers of the City and County and
14 preparing for such contacts, as well as conducting analysis, performing research, providing
15 advice and recommending strategy with respect to any pending, proposed or potential local
16 legislative or administrative action.

17 **Regulation 2.105-4. Activity Expenses; Disclosure.** Activity expenses incurred or
18 arranged by a lobbyist's employer at the behest of the lobbyist shall be reported pursuant to
19 Section 2.110(c)(7).

20 **Regulation 2.106-1. Contacts; Use of Intermediary.** A "contact" for purposes of Section
21 2.106 includes but is not limited to any communication for the purposes of influencing local
22 legislative or administrative action with a member of the staff of an officer of the City and
23 County when it is understood, or could be reasonably expected, that the staff member will
24 transmit the terms of the communication to an officer of the City and County.

1 Examples of such staff members include, but are not limited to, the legislative aides of
2 members of the Board of Supervisors, the Mayor's Chief of Staff, and the deputy directors of
3 City departments.

4 Example: A lobbyist meets with the legislative aide of a member of the Board of Supervisors
5 to advocate for an amendment of pending legislation sponsored by the Board member.

6 Although the Board member does not attend the meeting, the lobbyist has made a contact
7 and should report a contact with the Board member.

8 **Regulation 2.106-2. Contacts; Modes of Communication.** A "contact" for purposes of
9 Section 2.106 includes, but is not limited to, an in-person meeting, telephone call, video
10 conference, letter, fax, e-mail, and text message.

11 Example #1. A lobbyist sends an e-mail to the personal e-mail address of a member of the
12 Board of Supervisors. The message includes a personal message about their pick-up
13 basketball game the night before as well as an attempt to influence the member's vote on an
14 upcoming resolution. The lobbyist has made a contact.

15 Example #2. A lobbyist sends a text message to a member of the Board of Supervisors in
16 order to urge the member to vote against an ordinance. The lobbyist has made a contact.

17 **Regulation 2.106-3. Contacts; Determining Number.** This regulation sets forth the rules
18 for determining the number of contacts an individual has with an officer of the City and
19 County. These rules are illustrative and the principles contained therein shall be applied to
20 other situations not directly addressed in this regulation.

21 (a) A meeting with an officer regarding a single local legislative or administrative action
22 constitutes one contact, a meeting regarding two local legislative or administrative actions
23 constitutes two contacts, etc.

24 (b) A meeting with an officer and a member of that officer's staff regarding a single local
25 legislative or administrative action constitutes one contact with that officer.

1 (c) A meeting with two officers regarding a single local legislative or administrative action
2 constitutes two contacts.

3 (d) Meeting or otherwise communicating multiple times in the same day with an officer to
4 discuss the same local legislative or administrative action discussed earlier in the day
5 constitutes one contact.

6 (e) Each letter, fax, e-mail, text message, or similar communication, or copies thereof sent to
7 other recipients, that pertains to a single local legislative or administrative action constitutes a
8 separate contact even if such letters, faxes, e-mails text messages, or other communications
9 are identical or substantially similar. However, multiple copies of the same communication
10 sent to the same officer shall constitute only one contact.

11 Example #1: A lobbyist sends an e-mail to four of the seven members of the SFMTA Board
12 urging them to vote in support of a particular agenda item. The lobbyist copies the Executive
13 Director of the SFMTA on the e-mail. The lobbyist has made five contacts.

14 Example #2: A lobbyist sends a text message to a member of the Board of Supervisors and
15 to her legislative aide urging the Board member to vote in favor of a proposed ordinance. The
16 lobbyist has made one contact with the Board member.

17 Example #3: A lobbyist sends an e-mail to a member of the Board of Supervisors urging her
18 to vote in favor of a proposed ordinance. The same day, the lobbyist sends the same e-mail
19 to the Board member's legislative aide regarding the same ordinance. The lobbyist has made
20 one contact with the Board member.

21 **Regulation 2.106-4. Contacts; Exemptions Generally.** A communication with an officer
22 regarding multiple local legislative or administrative actions is exempt from the definition of
23 "contact" for purposes of Section 2.106 only when an exemption exists with respect to each
24 local legislative or administrative action mentioned in the communication.

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1 Example #1: A lobbyist and an engineer meet with a member of the Board of Supervisors.
2 The lobbyist urges the Board member to oppose a proposed ordinance. The engineer
3 provides purely technical data and analysis related to that ordinance, and the lobbyist will
4 report that the engineer was present at the meeting when disclosing this contact. Later in the
5 meeting, the engineer urges the Board member at the behest of his employer to support a
6 different ordinance with respect to employment issues. The engineer has made one lobbying
7 contact.

8 Example #2: A paid representative of a City employee labor union meets with the Mayor's
9 Chief of Staff regarding the working conditions of the union's members. During the
10 conversation, the paid representative also asks that the Mayor support a particular land use
11 measure. The union representative has made one lobbying contact.

12 **Regulation 2.107-1. Practice of Law; Determination.** Any determination of whether
13 communications with an officer of the City and County or other activities constitute the
14 practice of law shall be based on analysis of whether those communications or activities
15 would constitute the unauthorized practice of law if performed by a layperson instead of a
16 licensed attorney, and shall not be based on whether the person engaging in that
17 communication or those activities is in fact a licensed attorney.

18 Example #1: An attorney is representing a corporation that opposes a proposed ordinance.
19 The attorney and the Chief Executive Officer of the corporation meet with the Mayor's Chief of
20 Staff. The attorney begins the meeting by stating that he represents the corporation, and that
21 he is acting in his capacity as an attorney for the corporation. Throughout the meeting, the
22 attorney and the CEO urge the Board member to oppose the proposed ordinance because it
23 would adversely affect the corporation and other companies in the same business sector.
24 The attorney has made a contact.

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1 Example #2: An attorney is representing a person involved in ongoing litigation with the City
2 and County. The attorney contacts the City Attorney and urges him to dismiss the City's
3 complaint against his client, arguing that the City's legal claims are not supported by existing
4 law. The attorney has not made a contact.

5 **Regulation 2.110-1. Economic Consideration; Client Payments.** A lobbyist shall report on
6 his or her monthly disclosure reports economic consideration received or expected by the
7 lobbyist or the lobbyist's employer from each client during the reporting period for the
8 provision of lobbyist services, as that term is defined in Section 2.105 and Regulation 2.105-3,
9 as well as reimbursements for travel costs and other expenses related to the lobbyist
10 services. The lobbyist shall not report other services provided by the lobbyist to the client that
11 are not related to the lobbyist services.

12 **Regulation 2.110-2. Economic Consideration; Shared Client Reporting.** If two or more
13 lobbyists work for the same employer, all economic consideration received or expected from
14 all of the employer's clients for lobbyist services may be reported by a single registered
15 lobbyist on his or her monthly disclosure report so long as that lobbyist discloses all such
16 economic consideration in that manner throughout the calendar year.

17 **Regulation 2.110-3. Economic Consideration; Employer Payments.** The amount of
18 reportable economic consideration received or expected by a lobbyist from his or her
19 employer in a given month shall be calculated by multiplying the lobbyist's salary, plus any
20 bonuses or other incentive compensation not directly related to the lobbyist services, received
21 or expected by the lobbyist in that month by the percentage of the lobbyist's time spent
22 performing lobbyist services, as defined in Section 2.105 and Regulation 2.105-3, in that
23 month. It shall also include the full amount of any bonuses or other incentive compensation
24 directly related to the lobbyist services.

1 Example #1. A public policy expert at a social welfare organization is a registered lobbyist
2 and earns a salary of \$5,000 per month. He spends 20 percent of his time one month
3 performing lobbyist services for his employer. He must report \$1,000 in economic
4 consideration received or expected for lobbyist services.

5 Example #2. The Director of Governmental Affairs at a large corporation is a registered
6 lobbyist and earns a salary of \$10,000 per month. She spends 10 percent of her time in
7 December performing lobbyist services for her employer. She also earns a year-end bonus of
8 \$10,000 in December based on her overall work performance. She must report receiving
9 \$2,000 in economic consideration for lobbyist services in December.

10 **Regulation 2.110-4. Contributions; Disclosure.**

11 (a) Contributions that are reportable pursuant to Section 2.110 include, but are not limited to,
12 those contributions that the lobbyist knows or has reason to know were raised as a result of
13 fundraising activity by the lobbyist, the lobbyist's agent, or the lobbyist's employer.

14 (b) "Fundraising activity" includes, but is not limited to:

- 15 (1) Requesting that another person make a contribution;
- 16 (2) Inviting a person to a fundraising event;
- 17 (3) Supplying names to be used for invitations to a fundraising event;
- 18 (4) Permitting one's name or signature to appear on a solicitation for contributions or an
19 invitation to a fundraising event;
- 20 (5) Permitting one's official title to be used on a solicitation for contributions or an invitation to
21 a fundraising event;
- 22 (6) Providing the use of one's home or business for a fundraising event;
- 23 (7) Paying for at least 20 percent of the costs of a fundraising event;
- 24 (8) Hiring another person to conduct a fundraising event;
- 25 (9) Delivering a contribution, other than one's own, either by mail or in person; or

1 (10) Acting as an agent or intermediary in connection with the making of a contribution.

2 Example #1. A lobbyist's employer was listed as a co-host on the invitation to a campaign
3 fundraiser for a candidate for the Board of Supervisors. The fundraiser is paid for by the
4 candidate's committee. The lobbyist knows or has reason to know that the event raised
5 \$5,000 for the candidate. The lobbyist must disclose those contributions.

6 Example #2. A lobbyist's employer invites 5 people to attend a campaign fundraiser held by a
7 candidate for the Board of Supervisors. The lobbyist knows or has reason to know that the
8 invited persons contributed a total of \$1,000 to the candidate. The lobbyist must disclose
9 those contributions.

10 **Regulation 2.110-5. Contributions; Multiple Parties.**

11 (a) If two or more lobbyists working for the same employer together arrange contributions, or
12 if the lobbyist's employer arranges such contributions, whether through a fundraising event or
13 otherwise, all such arranged contributions may be reported by a single registered lobbyist.

14 (b) If two or more lobbyists not working for the same employer together arrange contributions,
15 or if two or more lobbyist employers and/or lobbyists arrange such contributions, whether
16 through a fundraising event or otherwise, all such arranged contributions shall be reported
17 either: (1) according to which lobbyist or employer bore primary responsibility for soliciting the
18 contribution; or (2) in approximate proportion to each lobbyist's or employer's participation in
19 the fundraising activity.

20 (c) If a lobbyist arranges contributions with another individual who is not a lobbyist and is not
21 employed by the lobbyist's employer, all such contributions shall be reported by the lobbyist.

22 **Regulation 2.110-6. Lobbyists and Permit Consultants; Separate**

23 **Registration/Reporting.** Individuals who qualify as lobbyists and permit consultants must
24 register and file disclosure reports as a lobbyist pursuant to Article Two, Chapter One and
25 register and file disclosure reports as a permit consultant pursuant to Section 3.400 et seq.

1 Example. A permit consultant decides to lobby members of the Board of Supervisors
2 regarding a land use ordinance on behalf a client for whom the consultant is currently
3 providing permit consulting services. The consultant must register as a lobbyist and file
4 monthly reports disclosing his contacts with the Supervisors, in addition to filing quarterly
5 reports as a permit consultant.

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7 **Regulation 3.400-1. Construction.** The provisions of Section 3.400 et seq. of the Campaign
8 and Governmental Conduct Code, and its implementing regulations, shall be construed in a
9 manner that provides for the greatest disclosure of permit consulting activity in the City and
10 County.

11 **Regulation 3.410-1. Permit Consultants; Single Disclosure of Contacted Officials.** A
12 permit consultant is not required on his or her quarterly report to repeat the name of any
13 officer or employee contacted multiple times during the applicable quarter with respect to the
14 same permit and on behalf of the same client. A single disclosure of that officer's or
15 employee's name, along with the permit at issue and the client, shall suffice.

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17 **Regulation 3.520-1. Developer Disclosure.** A developer required to file quarterly reports
18 under Section 3.520(b) must disclose on each report the name, business address, business
19 e-mail address, business telephone number and website of any nonprofit organization: (a) to
20 which the developer or any affiliate of the developer has made cumulative donations of \$5,000
21 or more since the date one year before the Environmental Evaluation Application for the major
22 project was filed; (b) that, with regard to the developer's major project, has had one or more
23 contacts with an officer of the City and County or has provided public comment at any hearing
24 before any board or commission of the City and County; and (c) which has not previously

1 been disclosed on a report filed with the Ethics Commission with respect to the same major
2 project.

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