

1 [Campaign and Governmental Conduct Code – Contribution Limits, Coordination of  
2 Expenditures, and Penalties]

3 **Ordinance amending the Campaign and Governmental Conduct Code to apply the**  
4 **candidate campaign contribution limit to other types of candidate-controlled**  
5 **committees, specify that if a third party makes expenditures to republish a candidate’s**  
6 **campaign materials that is considered a contribution to the candidate’s campaign for**  
7 **the purpose of the candidate campaign contribution limit, and establish limits on the**  
8 **use of committee funds to administrative penalties.**  
9

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

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

18 Section 1. Article I, Chapter 1 of the Campaign and Governmental Conduct Code is  
19 hereby amended by revising Sections 1.114, 1.115, and 1.170, to read as follows:

20 **SEC. 1.114. CONTRIBUTIONS – LIMITS AND PROHIBITIONS.**

21 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

22 *(1) No person other than a candidate shall make, and no candidate for City elective*  
23 *office or campaign treasurer for a candidate committee shall solicit or accept, any*  
24 *contribution which will cause the total amount contributed by such person to such*  
25 *candidate committee in an election to exceed \$500.*

1           (2) In addition to the limit in subsection (a)(1), no person other than the candidate shall make,  
2           and no candidate for City elective office or candidate-controlled committee controlled by  
3           such a candidate shall solicit or accept, any contribution which will cause the total  
4           amount contributed to that committee by such person to exceed the limit in subsection  
5           (a)(1) per election cycle. The contribution limit in this subsection (a)(2) shall not apply to:  
6                     (A) A committee primarily formed to support the candidate in seeking election to a  
7                     county central committee of a qualified political party; or  
8                     (B) A committee primarily formed to oppose a recall measure in which the candidate  
9                     is the subject of the recall.  
10          (3) Notwithstanding the limitation in subsection (a)(2) the contribution limit for candidate-  
11          controlled legal defense funds shall be \$10,000 per election cycle and may be amended  
12          through Ethics Commission Regulation.  
13          (4) The limitations in subsections (a)(2) and (a)(3) only apply to candidates who are actively  
14          running for City elective office as defined by Ethics Commission Regulation.

15          \* \* \* \*

16          **SEC. 1.115. COORDINATION OF EXPENDITURES AND REPUBLICATION OF**  
17          **CANDIDATE CAMPAIGN MATERIALS.**

18          (a) **General.** An expenditure is not considered independent and shall be treated as a  
19          contribution from the person making the expenditure to the candidate on whose behalf, or for  
20          whose benefit the expenditure is made, if the expenditure funds a communication that  
21          expressly advocates the nomination, election or defeat of a clearly identified candidate and is  
22          made under the following circumstance:

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

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

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

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

9 (b) **Rebuttable Presumption of Coordination.** In addition to Subsection (a) of this  
10 section, there shall be a presumption that an expenditure funding a communication that  
11 expressly advocates the nomination, election or defeat of a clearly identified candidate is not  
12 independent of the candidate on whose behalf or for whose benefit the expenditure is made,  
13 when:

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

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

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

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

24 (5) In the same election that the expenditure is made, the spender or spender's agent is  
25 serving or served in an executive or policymaking role for the candidate's campaign or

1 participated in strategy or policy making discussions with the candidate's campaign relating to  
2 the candidate's pursuit of election to office and the candidate is pursuing the same office as a  
3 candidate whose nomination or election the expenditure is intended to influence.

4 (c) **Exceptions.** Notwithstanding the foregoing, an expenditure shall not be considered a  
5 contribution *per subsections (a) or (b)* to a candidate merely because:

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

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

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

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

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

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

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

22 **(d) Dissemination, distribution, reproduction, or republication of candidate campaign materials.**

23 *Notwithstanding subsections (a-c), for the purposes of the contribution limit in subsection 1.114(a), an*  
24 *expenditure shall be treated as a contribution from the person making the expenditure to the candidate*  
25 *for whose benefit the expenditure is made, if the expenditure funds a communication that disseminates,*

1 distributes, reproduces, or republishes, in whole or in part, any written, graphic, audio, audiovisual, or  
2 any other form of campaign material prepared, produced, disseminated, distributed, or published by  
3 the candidate, the candidate's candidate committee, or agents thereof. However, such a contribution is  
4 not received or accepted by the candidate, and is not required to be reported by the candidate, unless  
5 the spending is coordinated as defined in subsections (a-c). The Ethics Commission may exempt the use  
6 of certain campaign materials from being considered a contribution under subsection (d) by regulation.

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

9  
10 **SEC. 1.170. PENALTIES.**

11 (a) CRIMINAL. Any person who knowingly or willfully violates any provision of this [Chapter](#)  
12 [1](#) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of  
13 not more than \$5,000 for each violation or by imprisonment in the County jail for a period of  
14 not more than six months or by both such fine and imprisonment; provided, however, that any  
15 willful or knowing failure to report contributions or expenditures done with intent to mislead or  
16 deceive or any willful or knowing violation of the provisions of Sections [1.114](#), [1.126](#),  
17 or [1.127](#) of this [Chapter 1](#) shall be punishable by a fine of not less than \$5,000 for each  
18 violation or three times the amount not reported or the amount received in excess of the  
19 amount allowable pursuant to Sections [1.114](#), [1.126](#), or [1.127](#) of this [Chapter 1](#), or three times  
20 the amount expended in excess of the amount allowable pursuant to Section [1.130](#) or [1.140](#),  
21 whichever is greater.

22 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of  
23 this [Chapter 1](#) shall be liable in a civil action brought by the City Attorney for an amount up to  
24 \$5,000 for each violation or three times the amount not reported or the amount received in  
25 excess of the amount allowable pursuant to Sections [1.114](#), [1.126](#), or [1.127](#) or three times the

1 amount expended in excess of the amount allowable pursuant to Section [1.130](#) or [1.140](#),  
2 whichever is greater. In determining the amount of liability, the court may take into account the  
3 seriousness of the violation, the degree of culpability of the defendant, and the ability of the  
4 defendant to pay.

5 (c) ADMINISTRATIVE. Any person who violates any of the provisions of this [Chapter](#)  
6 [1](#) shall be liable in an administrative proceeding before the Ethics Commission held pursuant  
7 to the Charter for any penalties authorized therein.

8 (d) LIMITATIONS ON USING COMMITTEE FUNDS TO PAY PENALTIES. Candidates for City  
9 elective office and City elective officers are prohibited from using funds from any legal defense fund  
10 that they control to pay administrative penalties arising from violations of this Chapter 1 for which they  
11 are personally liable. Administrative penalties arising from violations of this Chapter 1 may be paid  
12 using funds from other candidate-controlled committees, insofar as such committee is also liable for the  
13 violations in question, unless the candidate or City elective officer personally violated the chapter in a  
14 knowing or willful manner.

15 (~~d~~e) LATE FILING FEES

16 (1) **Fees for Late Paper Filings.** In addition to any other penalty, any person who files a  
17 paper copy of any statement or report after the deadline imposed by this Chapter shall be  
18 liable in the amount of ten dollars (\$10) per day after the deadline until the statement is filed.

19 (2) In addition to any other penalty, any person who files an electronic copy of a  
20 statement or report after the deadline imposed by this Chapter shall be liable in the amount of  
21 twenty-five dollars (\$25) per day after the deadline until the electronic copy or report is filed.

22 (3) **Limitation on Liability.** Liability imposed by Subsection (d)(1) shall not exceed the  
23 cumulative amount stated in the late statement or report, or one hundred dollars (\$100),  
24 whichever is greater. Liability imposed by Subsection (d)(2) shall not exceed the cumulative  
25

1 amount stated in the late statement or report, or two hundred fifty dollars (\$250), whichever is  
2 greater.

3 (4) **Reduction or Waiver.** The Ethics Commission may reduce or waive a fee imposed  
4 by this subsection if the Commission determines that the late filing was not willful and that  
5 enforcement will not further the purposes of this Chapter.

6 (ef) MISUSE OF PUBLIC FUNDS. Any person who willfully or knowingly uses public funds,  
7 paid pursuant to this Chapter, for any purpose other than the purposes authorized by this  
8 Chapter shall be subject to the penalties provided in this Section.

9 (fg) PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS  
10 COMMISSION; WITHHOLDING OF INFORMATION. Any person who knowingly or willfully  
11 furnishes false or fraudulent evidence, documents, or information to the Ethics Commission  
12 under this Chapter, or misrepresents any material fact, or conceals any evidence, documents,  
13 or information, or fails to furnish to the Ethics Commission any records, documents, or other  
14 information required to be provided under this Chapter shall be subject to the penalties  
15 provided in this Section.

16 (gh) PERSONAL LIABILITY. Candidates and treasurers are responsible for complying with  
17 this Chapter and may be held personally liable for violations by their committees. Nothing in  
18 this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay,  
19 any fines or other payments imposed pursuant to administrative or judicial proceedings.

20 (hi) JOINT AND SEVERAL LIABILITY. If two or more persons are responsible for any  
21 violation of this Chapter, they shall be jointly and severally liable.

22 (ij) EFFECT OF VIOLATION ON CANDIDACY.

23 (1) If a candidate is convicted, in a court of law, of a violation of this Chapter at any time  
24 prior to his or her election, his or her candidacy shall be terminated immediately and he or she  
25 shall be no longer eligible for election, unless the court at the time of sentencing specifically

1 determines that this provision shall not be applicable. No person convicted of a misdemeanor  
2 under this Chapter after his or her election shall be a candidate for any other City elective  
3 office for a period of five years following the date of the conviction unless the court shall at the  
4 time of sentencing specifically determine that this provision shall not be applicable.

5 (2) If a candidate for the Board of Supervisors certified as eligible for public financing is  
6 found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten  
7 percent or more at any time prior to his or her election, such violation shall constitute official  
8 misconduct. The Mayor may suspend any member of the Board of Supervisors for such a  
9 violation, and seek removal of the candidate from office following the procedures set forth in  
10 Charter Section [15.105\(a\)](#).

11 (3) A plea of *nolo contendere*, in a court of law, shall be deemed a conviction for  
12 purposes of this Section.

13  
14 Section 2. Article 3, Chapter 2 of the Campaign and Governmental Conduct Code is  
15 hereby amended by revising Section 3.242, to read as follows:

16  
17 **SEC. 3.242. PENALTIES AND ENFORCEMENT.**

18 (a) **Criminal Penalties.** Any person who knowingly or willfully violates this [Chapter 2](#) shall  
19 be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not  
20 more than \$10,000 for each violation or by imprisonment in the County jail for a period of not  
21 more than one year in jail or by both such fine and imprisonment.

22 (b) **Civil Penalties.** Any person who intentionally or negligently violates this [Chapter](#)  
23 [2](#) shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for  
24 each violation.  
25

1 (c) **Injunctive Relief.** The City Attorney or any San Francisco resident may bring a civil  
2 action on behalf of the people of San Francisco to enjoin violations of or compel compliance  
3 with this [Chapter 2](#).

4 (1) No resident may commence a civil action under this Section [3.242](#) without first  
5 notifying the City Attorney in writing of the intent to file a civil action under this Section [3.242](#).  
6 If the City Attorney fails to notify the resident within 120 days of receipt of the notice that the  
7 City Attorney has filed or will file a civil action, the complainant may file the action. No resident  
8 may file an action under this Section [3.242](#) if the City Attorney responds within 120 days that  
9 the City Attorney intends to file an action or has already filed a civil action.

10 (2) No resident may bring an action under this Section [3.242](#) if the Ethics Commission  
11 has issued a finding of probable cause arising out of the same facts, the District Attorney has  
12 commenced a criminal action arising out of the same facts, or another resident has filed a civil  
13 action under this Section [3.242](#) arising out of the same facts.

14 (3) A court may award reasonable attorney's fees and costs to any resident who obtains  
15 injunctive relief under this Section [3.242](#).

16 (d) **Administrative Penalties.** Any person who violates this [Chapter 2](#) shall be liable in an  
17 administrative proceeding before the Ethics Commission held pursuant to the Charter. In  
18 addition to the administrative penalties set forth in the Charter, the Ethics Commission may  
19 issue warning letters to City officers and employees.

20 *(e) Prohibition on Using Committee Funds to Pay for Ethics Penalties. City elective officers are*  
21 *prohibited from using funds from any candidate-controlled committee, as defined in Section 1.104, that*  
22 *they control, to pay administrative penalties under subsection (d) for which they are personally liable.*

23 (ef) **Statute of Limitations.** No person may bring a criminal, civil or administrative action  
24 under this Section [3.242](#) against any other person more than four years after the date of the  
25 alleged violation.