

[Campaign and Governmental Conduct Code - Contribution Limits, Coordination of Expenditures, and Penalties]

Ordinance amending the Campaign and Governmental Conduct Code to apply a campaign contribution limit to other types of candidate-controlled committees, including candidate-controlled ballot measure committees; create a \$10,000 contribution limit to candidate-controlled legal defense funds; specify that third party expenditures that republish a candidate's campaign materials are considered a contribution to the candidate's campaign for the purpose of the candidate campaign contribution limit; and establish limits on the use of committee funds to pay administrative or ethics penalties.

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

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

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

SEC. 1.114. CONTRIBUTIONS – LIMITS AND PROHIBITIONS.

(a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

(1) Contributions to Candidate Committees. No person other than a candidate shall make, and no candidate for City elective office or campaign treasurer for a candidate

1 committee shall solicit or accept, any contribution which will cause the total amount
2 contributed by such person to such candidate committee in an election to exceed \$500.

3 (2) Contributions to Other Candidate-Controlled Committees. In addition to the limit
4 in subsection (a)(1) of this Section 1.114, no person other than a candidate shall make, and no
5 candidate for City elective office or candidate-controlled committee controlled by such a candidate
6 shall solicit or accept, any contribution which will cause the total amount contributed by such person to
7 such committee to exceed the limit in subsection (a)(1) per election cycle. The contribution limit in this
8 subsection (a)(2) shall not apply to:

9 (A) A committee primarily formed to support the candidate in seeking
10 election to a county central committee of a qualified political party; or

11 (B) A committee primarily formed to oppose a recall measure in which
12 the candidate is the subject of the recall.

13 (3) Notwithstanding the limitation in subsection (a)(2) the contribution limit for
14 candidate-controlled legal defense funds shall be \$10,000 per election cycle and may be adjusted by
15 the Ethics Commission to reflect changes in the California Consumer Price Index, provided that such
16 adjustments shall be rounded to the nearest \$100.

17 (4) The limitations in subsections (a)(2) and (a)(3) only apply to candidates who are
18 actively running for City elective office as further defined by Ethics Commission Regulation.

19 (A) Any candidate who controls a candidate-controlled committee prior
20 to filing a declaration of candidacy for City elective office shall return, use, or dispose of all funds held
21 by the committee in excess of the limit in subsection (a)(1) using the means specified in subsection
22 1.122(b)(4) within 30 days after the date that the candidate files a declaration of candidacy for City
23 elective office.

1 (B) The limitations in subsections (a)(2) and (a)(3) and the process
2 required in subsection (a)(4)(A) shall apply even if the candidate is no longer identified as controlling
3 the committee.

4 * * * *

5
6 **SEC. 1.115. COORDINATION OF EXPENDITURES AND REPUBLICATION OF**
7 **CANDIDATE CAMPAIGN MATERIALS.**

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

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

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

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

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

1 **(b) Rebuttable Presumption of Coordination.** In addition to ~~§~~subsection (a) of this
2 ~~§~~section 1.115, there shall be a presumption that an expenditure funding a communication that
3 expressly advocates the nomination, election or defeat of a clearly identified candidate is not
4 independent of the candidate on whose behalf or for whose benefit the expenditure is made,
5 when:

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

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

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

13 (4) The communication disseminates, distributes, reproduces, or republishes, in
14 whole or in part, campaign materials prepared, produced, disseminated, distributed, or published by
15 the candidate, the candidate's candidate committee, or agents thereof~~replicates, reproduces,~~
16 ~~republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid~~
17 ~~for or distributed by the candidate~~; or

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

1 (c) **Exceptions.** Notwithstanding the foregoing, an expenditure shall not be
2 considered a contribution under subsections (a) and (b) of this Section 1.115 to a candidate merely
3 because:

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

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

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

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

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

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

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

20 **(d) Dissemination, distribution, reproduction, or republication of candidate campaign**
21 **materials.** Notwithstanding subsections (a) through (c) of this Section 1.115, for the purposes of the
22 contribution limit in subsection 1.114(a), an expenditure shall be treated as a contribution from the
23 person making the expenditure to the candidate for whose benefit the expenditure is made, if the
24 expenditure funds a communication that disseminates, distributes, reproduces, or republishes, in whole
25 or in part, any written, graphic, audio, audiovisual, or any other form of campaign material prepared,

produced, disseminated, distributed, or published by the benefitting candidate, that candidate's candidate committee, or agents thereof. However, such a contribution is not received or accepted by the candidate, and is not required to be reported by the candidate, unless the spending is coordinated as defined in subsections (a) through (c). The Ethics Commission may promulgate regulations that exempt the use of certain campaign materials from being considered a contribution under this subsection (d).

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

SEC. 1.170. PENALTIES.

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

(b) **CIVIL.** Any person who intentionally or negligently violates any of the provisions of this Chapter ~~1~~ shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation or three times the amount not reported or the amount received in 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 ~~+~~ 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
9 City elective office and City elective officers are prohibited from using funds from any legal defense
10 fund that they control to pay administrative penalties arising from violations of this Chapter for which
11 they are personally liable. Administrative penalties arising from violations of this Chapter 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 this Chapter in a
14 knowing or willful manner.

15 (~~de~~) LATE FILING FEES

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

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

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

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

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

6 (~~ef~~) MISUSE OF PUBLIC FUNDS. Any person who willfully or knowingly uses public
7 funds, paid pursuant to this Chapter, for any purpose other than the purposes authorized by
8 this 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
17 with this Chapter and may be held personally liable for violations by their committees. Nothing
18 in this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to
19 pay, 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 (~~il~~) EFFECT OF VIOLATION ON CANDIDACY.

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

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

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

12 (3) A plea of *nolo contendere*, in a court of law, shall be deemed a conviction
13 for purposes of this Section.
14

15 Section 2. Article 3, Chapter 2 of the Campaign and Governmental Conduct Code is
16 hereby amended by revising Section 3.242, to read as follows:
17

18 **SEC. 3.242. PENALTIES AND ENFORCEMENT.**

19 (a) **Criminal Penalties.** Any person who knowingly or willfully violates this Chapter
20 ~~z~~ shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of
21 not more than \$10,000 for each violation or by imprisonment in the County jail for a period of
22 not more than one year in jail or by both such fine and imprisonment.
23
24
25

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

4 (c) **Injunctive Relief.** The City Attorney or any San Francisco resident may bring a
5 civil action on behalf of the people of San Francisco to enjoin violations of or compel
6 compliance with this Chapter-2.

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

14 (2) No resident may bring an action under this Section 3.242 if the Ethics
15 Commission has issued a finding of probable cause arising out of the same facts, the District
16 Attorney has commenced a criminal action arising out of the same facts, or another resident
17 has filed a civil action under this Section 3.242 arising out of the same facts.

18 (3) A court may award reasonable attorney's fees and costs to any resident
19 who obtains injunctive relief under this Section 3.242.

20 (d) **Administrative Penalties.** Any person who violates this Chapter-2 shall be liable
21 in an administrative proceeding before the Ethics Commission held pursuant to the Charter. In
22 addition to the administrative penalties set forth in the Charter, the Ethics Commission may
23 issue warning letters to City officers and employees.

24 (e) **Prohibition on Using Committee Funds to Pay for Ethics Penalties.** City elective officers
25 are prohibited from using funds from any candidate-controlled committee, as defined in Section 1.104,

1 that they control, to pay administrative penalties under subsection (d) for which they are personally
2 liable.

3 (ef) **Statute of Limitations.** No person may bring a criminal, civil or administrative
4 action under this Section 3.242 against any other person more than four years after the date
5 of the alleged violation.
6

7 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the “Note’ that appears under
12 the official title of the ordinance.
13

14 Section 4. Prerequisites for Enactment; Super-Majority Vote Requirement. The
15 enactment of Sections 1 and 2 of this ordinance is subject to provisions of the Campaign and
16 Governmental Conduct Code that require the amendments to be approved by the Ethics
17 Commission by a supermajority vote of at least four members of the Commission, and
18 approved by a supermajority vote of at least eight members of the Board of Supervisors
19

20 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance, or any application thereof to any person or circumstance, is held to be
22 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
23 shall not affect the validity of the remaining portions or applications of the ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and each and
25 every section, subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 6. Effective Date. This ordinance shall become effective on the 31st day after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 This ordinance shall become operative on the later of January 1, 2027, or the 31st day
9 after the effective date.

10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/ Michael Gerchow
14 MICHAEL GERCHOW
Deputy City Attorney

15 4933-6525-5353