

1 [Post-Election Fundraising Limitations.]

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3 **Ordinance amending Article I, Chapter 1 of the Campaign and Governmental Conduct**
4 **Code by amending sections 1.100 and 1.104 and adding section 1.119 to define net**
5 **debt outstanding; prohibit fundraising by candidates after an election in amounts**
6 **greater than the net debt outstanding on the date of the election; and require that**
7 **candidates file a statement with the Ethics Commission disclosing the net debt**
8 **outstanding on the date of an election.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
14 amended by amending Section 1.100, to read as follows:

15 **SEC. 1.100. PURPOSE AND INTENT.**

16 (a) Huge sums of moneys often are necessary to finance American election
17 campaigns. Inherent to the high cost of election campaigning is the problem of improper
18 influence, real or potential, exercised by campaign contributors over elected officials. In
19 addition, this fundraising distracts public officials seeking reelection from focusing upon
20 important public matters, encourages contributions, which may have a corrupting influence,
21 and gives incumbents an unfair fundraising advantage over potential challengers. These
22 developments undermine the integrity of the governmental process, the competitiveness of
23 campaigns and public confidence in local officials.

24 (b) It is the purpose and intent of the People of the City and County of San
25 Francisco in enacting this Chapter to:

1 (1) Place realistic and enforceable limits on the amount individuals may
2 contribute to political campaigns in municipal elections and to provide full and fair enforcement
3 of all the provisions in this Chapter;

4 (2) Ensure that all individuals and interest groups in our city have a fair
5 opportunity to participate in elective and governmental processes;

6 (3) Create an incentive to limit overall expenditures in campaigns, thereby
7 reducing the pressure on candidates to raise large campaign war chests for defensive
8 purposes beyond the amount necessary to communicate reasonably with voters;

9 (4) Reduce the advantage of incumbents and thus encourage competition for
10 elective office;

11 (5) Allow candidates and officeholders to spend a smaller proportion of their
12 time on fundraising and a greater proportion of their time dealing with issues of importance to
13 their constituents' community;

14 (6) Ensure that serious candidates are able to raise enough money to
15 communicate their views and positions adequately to the public, thereby promoting public
16 discussion of the important issues involved in political campaigns;

17 (7) Limit contributions to candidates and committees, including committees
18 that make independent expenditures, to eliminate or reduce the appearance or reality that
19 large contributors may exert undue influence over elected officials; *and*

20 (8) Eliminate any actual or perceived corruption associated with post-election
21 fundraising by candidates for City elective office;

22 (9) Provide that City officials and citizens have accurate and timely information
23 regarding the campaign contributions and expenditures of candidates for City elective office in order to
24 make informed decisions, detect violations of campaign laws, and deter any actual or perceived
25 corruption; and

1 ~~(8)~~(10) Help restore public trust in governmental and electoral institutions.

2 (c) This Chapter is enacted in accordance with the terms of Sections 5 and 7
3 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter of
4 the City and County of San Francisco.

5
6 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
7 amended by amending Section 1.104, to read as follows:

8 **Sec. 1.104. DEFINITIONS.**

9 Whenever in this Chapter the following words or phrases are used, they shall mean:

10 (a) “Candidate” shall mean any individual listed on the ballot for election to any City and
11 County elective office or who otherwise has taken affirmative action to seek nomination or
12 election to such office. The term “candidate” shall also mean the candidate’s campaign
13 committee.

14 (b) “Charitable organization” shall mean an entity exempt from taxation pursuant to
15 Title 26, Section 501 of the United States Code.

16 (c) “City elective office” shall mean the offices of Mayor, Member of the Board of
17 Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender,
18 Member of the Board of Education of the San Francisco Unified School District and Member
19 of the Governing Board of the San Francisco Community College District.

20 (d) “Committee” shall be defined as set forth in the Government Code of the State of
21 California (commencing at Section 81000).

22 (e) “Contribution” shall be defined as set forth in the Government Code of the State of
23 California (commencing at section 81000); provided, however, that “contribution” shall include
24 loans of any kind or nature.

1 (f) "Election" shall mean any primary, general or run-off municipal election held in the
2 City and County of San Francisco for City elective office. With respect to the offices of Public
3 Defender and Assessor, primary and general elections are separate elections for purposes of
4 this ordinance. The primary election period for these offices shall extend from January 1 of
5 the first year of an election cycle up to and including the date of the primary election, and the
6 general election period for the offices shall extend from the day following the primary election
7 up to and including December 31 of the fourth year of the election cycle. With respect to the
8 offices of Mayor, City Attorney, District Attorney, Sheriff, Treasurer and Supervisor, general
9 and run-off elections are separated elections for the purposes of this ordinance. The general
10 election period shall extend from January 1 of the first year of an election cycle up to and
11 including the date of the general election, and the run-off election period shall extend from the
12 date of the general election up to and including December 31 of the fourth year of the election
13 cycle.

14 (g) "Election cycle" shall mean a four-year period preceding a term of office as defined
15 by the San Francisco Charter, beginning on January 1, and ending on December 31 of the
16 fourth year thereafter.

17 (h) "Enforcement authority" shall mean the District Attorney of the City and County of
18 San Francisco for criminal enforcement and the City Attorney for civil enforcement. Nothing in
19 this Chapter shall be construed as limiting the authority of any law enforcement agency or
20 prosecuting attorney to enforce the provisions of this Chapter under any circumstances where
21 such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

22 (i) "Ethics Commission" shall mean the San Francisco Ethics Commission.

23 (j) "Executive Director" shall mean the Executive Director of the Ethics Commission, or
24 the Executive Director's designee.

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1 (k) "Matching contribution" shall mean a contribution, other than a qualifying
2 contribution, that is made by an individual who is a resident of San Francisco and that
3 complies with all requirements of this Chapter.

4 (l) "Measure" shall mean any City referendum, recall or ballot proposition, whether or
5 not it qualifies for the ballot.

6 (m) "Net Debt Outstanding" shall mean the total amount of unpaid debt and obligations
7 incurred with respect to an election remaining on the date of the election. Unpaid debt and obligations
8 incurred shall include but not be limited to:

9 (1) an amount necessary to cover the cost of raising funds as permitted by this Chapter;

10 (2) any estimated costs associated with complying with the post-election legal requirements and
11 other administrative costs associated with winding down the campaign, including but not limited to
12 office space rental, staff salaries, and office supplies;

13 (3) the total amount of unpaid debt incurred with respect to an election, including but not
14 limited to loans and accrued expenditures, less the sum of:

15 (A) the total cash on hand available to pay those debt and obligations, including: currency,
16 balances on deposit in banks, savings and loan institutions and other depository institutions; traveler's
17 checks; certificates of deposit; treasury bills; tangible assets that are not subject to the requirements of
18 section 1.148 of this Chapter, including, but not limited to computers, printers copiers and telephones
19 valued at fair market value; and any other committee investments valued at fair market value; and

20 (B) the total amounts owed to the candidate in the form of credits, refunds of deposits, returns,
21 or receivables, or a commercially reasonable amount based on the ability to collect those credits,
22 refunds, returns, or receivables; and

23 (4) any other unpaid campaign debt or obligation as defined by state or local regulations.

24 ~~(m)~~(n) "Person" shall mean any individual, partnership, corporation, association, firm,
25 committee, club or other organization or group of persons, however organized.

1 ~~(n)~~(o) “Qualified campaign expenditure” for candidates shall mean

2 (1) Any expenditure made by a candidate, or by a committee controlled by the
3 candidate, for the purpose of influencing or attempting to influence the actions of the voters for
4 the election of the candidate to City elective office.

5 (2) A nonmonetary contribution provided to the candidate, officeholder or committee
6 controlled by the candidate.

7 (3) The total cost actually paid or incurred by the candidate or controlled committee of
8 the candidate for a slate mailing or other campaign literature produced or authorized by more
9 than one candidate.

10 (4) “Qualified campaign expenditure” shall not include expenses incurred in connection
11 with an administrative or judicial proceeding, payments for administrative, civil or criminal
12 fines, including late filing fines, or for inaugural activities or officeholder expenses.

13 ~~(o)~~(p) “Qualifying contribution” shall mean a contribution of not less than \$10 and not
14 more than \$100 that is made by written instrument by an individual who is a resident of San
15 Francisco and that complies with all requirements of this Chapter.

16 ~~(p)~~(q) “Recorded telephone message” shall mean a recorded audio message that
17 expressly supports or opposes a candidate for City elective office that is distributed by
18 telephone to 500 or more individuals or households.

19 ~~(q)~~(r) “Surplus funds” shall mean unexpended funds held by a candidate after the date
20 on which the candidate was either elected or not elected to City elective office.

1 Section 3. The San Francisco Campaign and Governmental Conduct Code is hereby
2 amended by adding Section 1.119, to read as follows:

3 **Sec. 1.119 POST-ELECTION LIMITS.**

4 (a) Within five working days after the date of an election, each candidate shall file a statement
5 with the Ethics Commission disclosing the amount of the candidate’s net debt outstanding. The Ethics
6 Commission shall prescribe the form and content for these statements, and may require that these
7 statements be filed electronically.

8 (b) In addition to any other contribution limits imposed by this Article for that election, no
9 candidate shall solicit or accept any contribution after the date of an election, if the contribution will
10 cause the total amount of contributions received after the election to exceed the candidate's net debt
11 outstanding.

12 (c) The Ethics Commission may amend the amount of a candidate's net debt outstanding if clear
13 and convincing evidence demonstrates that the amount disclosed pursuant to subsection (a) of this
14 section either underestimates or overestimates the total amount of a candidate's net debt outstanding.

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

17 By: _____
18 CHAD A. JACOBS
19 Deputy City Attorney