

## Chapter XXI - NOVATO POLITICAL FAIRNESS CAMPAIGN ACT

**Sections:**

## I. - Purpose, Applicability of Act and Definitions

## 21-1 - Purpose and Intent.

It is the purpose and intent of the city council of Novato in enacting this chapter to insure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of city council candidates and that said electoral process is not corrupted by nor appear to be corrupted by such financial strength and/or the contributions given in support and opposition to candidates for said office. To achieve such purpose, this chapter is designed to minimize the opportunity for, and the appearance or perception of, corruption; and to insure that individuals and interest groups continue to have an opportunity to participate in electing city candidates. It is the further purpose and intent of this chapter to ensure that the Novato electorate receives full, fair and timely disclosure sufficient to reveal the true source of campaign contributions to a candidate and to any committee which supports or opposes Novato city council candidates. It is further the intent of the council to provide full and fair enforcement of all of the provisions of this chapter. This chapter shall only apply to Novato city council candidate elections. The provisions of this chapter, and all proceedings under it, are to be construed liberally so as to effect its purposes.

(Ord. No. 1490, § 1; Ord. No. 1512, § 1)

## 21-2 - Citation.

This chapter shall be cited as "The Novato Political Fairness Ordinance."

(Ord. No. 1490, § 1)

## 21-3 - Application of the Political Reform Act.

- a. The definitions of the Political Reform Act of 1974, as amended, commencing with Government Code Section 81000, et seq. (the "Act") and as interpreted by the Fair Political Practices Commission in regulations from time to time promulgated by said commission shall govern the terms of this chapter, unless the term is specifically defined in section 21-4 herein.
- b. This chapter shall only apply to Novato city council candidate elections.

(Ord. No. 1490, § 1)

## 21-4 - Definitions.

- a. "*City office*" shall mean the office of council member of the City of Novato.
- b. "*Campaign statement*" or "statement" shall be a statement as is described by the Act (See, California Government Code Section 82006, and Chapter 4, incl. Section 84211) but shall be governed by the dollar amounts set forth in this chapter.
- c. "*Day*" shall mean calendar day, unless otherwise specified.
- d. "*Person*" shall be as defined by the Act, and shall expressly include a trust.

- e. "*City election*" means any general election for city council, special election for city council or any election seeking the of any city council member.

(Ord. No. 1490, § 1; Ord. No. 1512, § 2)

## II. - Prohibited Campaign Contributions

### 21-5 - Prohibition of "Laundered" Campaign Contributions.

No candidate, committee, or campaign treasurer shall accept any campaign contribution made directly or indirectly, by any person in a name other than the name by which the contributor is known and identified for legal purposes, or in the name of any different person, or combination of persons, other than the name of the actual contributor. No person shall, in his or her or its own name, make a contribution of any thing of value belonging to another person, or that was received from another person on the condition that it be used as a campaign contribution. Such practices are commonly known as "laundering" campaign contributions. Upon discovery by any candidate, committee, or campaign treasurer of the receipt of any such "laundered" campaign contributions in violation of this section, the candidate, committee or campaign treasurer shall promptly pay to the city clerk for deposit to the city's general fund, from any of the candidate's or committee's available campaign funds, the amount of such "laundered" campaign contributions received in violation of this section.

(Ord. No. 1490, § 1)

### 21-6 - No Transfer of Committee Funds.

No funds may be transferred into any candidate's controlled committee for city office from any other committee controlled by the candidate.

(Ord. No. 1490, § 1)

### 21-7 - Limitation on Anonymous Contributions.

- a. No person shall make any anonymous contributions to any candidate for city office, or to a candidate's controlled committee of twenty-five (\$25.00) dollars or more in a calendar year. Any such anonymous contribution of twenty-five (\$25.00) dollars or more shall not be retained by or on behalf of the intended recipient, but instead, the portion exceeding twenty-four dollars and ninety-nine (\$24.99) cents shall be promptly paid, within five business days of its receipt, to the city clerk for deposit in the general fund of the City of Novato.
- b. No person shall make any anonymous contributions of twenty-five (\$25.00) dollars or more to any committee which is formed to support or to oppose any candidate for city office. Any such anonymous contribution of twenty-five (\$25.00) dollars or more shall not be retained by or on behalf of the intended recipient, but instead, the amount exceeding twenty-four dollars and ninety-nine (\$24.99) cents shall be promptly paid, within five business days of its receipt, to the city clerk for deposit in the general fund of the City of Novato.
- c. No candidate for city office, controlled committee or committee which is formed or existing primarily to support or oppose candidates for city office shall receive more than four hundred (\$400.00) dollars, cumulatively, in anonymous contributions in a calendar year. After a candidate for city office or such committee has received four

hundred (\$400.00) dollars in anonymous contributions in a calendar year, all additional anonymous contributions received by a candidate for city office or such committee during that same calendar year shall be promptly paid, within five business days of their receipt, to the city clerk for deposit in the general fund of the City of Novato.

(Ord. No. 1490, § 1)

#### 21-8 - Return of Contributions.

Unless otherwise provided in this chapter or in the provisions of the Act made expressly applicable hereto, a contribution shall not be considered to be received (and, thus, shall not be deemed a contribution under this chapter) if it is not negotiated, deposited or utilized, and, in addition, if it is returned to the donor within 14 calendar days of receipt. If, after the exercise of good faith, the identity and/or location of the donor cannot be ascertained, any contribution from said donor shall not be considered received or deemed a contribution under this chapter if, within said 14 calendar day period, the contribution is paid over to the city clerk for depositing in the city's general fund. If, during said 14 calendar day period, the identity and/or location of the donor is ascertained and the contribution from that donor is mailed or otherwise attempted to be delivered and/or returned to the donor, but the contribution is returned to the donee, is undeliverable or otherwise is not returned to the donor, upon the receipt of the undelivered or unreturned contribution, said contribution shall be immediately paid over to the city clerk for depositing in the city's general fund.

(Ord. No. 1490, § 1)

#### 21-8A - Contribution Limitations.

- a. No candidate for city office, candidate controlled committee or councilmember shall solicit or accept any contribution given in connection with a city election that will cause the total contributions to that candidate, committee or person from any contributor given in connection with that city election to exceed four hundred (\$400.00) dollars. No person shall contribute to a candidate or a candidate's controlled committee more than four hundred (\$400.00) dollars cumulatively in connection with a given city election. The excess from any contribution which would cause the total amount of contributions to a candidate from a contributor to exceed four hundred (\$400.00) dollars in connection with a given city election shall, within seven days after the excess becomes known or should have been known, be returned to the contributor.
- b. The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign and/or to his or her controlled committee. Contributions by the spouse of a candidate from such spouse's separate property shall be subject to the contribution limitations set forth in subsection a of this section.

(Ord. No. 1512, § 3)

#### 21-8B - Limitation on Personal Loans.

A candidate for city office shall not loan more than an amount equal to 50 percent of the applicable voluntary expenditure limitation established pursuant to section 21-32 of his or her personal funds to his or her own campaign.

(Ord. No. 1512, § 3)

### III. - Solicitation, Advertisements and Additional Campaign Statements

## 21-9 - Written Solicitations by Candidates and Controlled Committees; Notice.

In the event that a candidate or his or her controlled committee makes a written solicitation for a contribution for the candidate's campaign for city office, that written solicitation shall include the following written notice in no less than ten-point type on each such solicitation:

## Notice

All contributions of twenty-five (\$25.00) dollars and above will be disclosed.

(Ord. No. 1490, § 1)

## 21-10 - Disclosure of Contributions and Expenditures to and by Candidates and Controlled Committees.

Each person, candidate for city office and each committee shall disclose in the campaign statements required by the Act and by this chapter, all of the following:

- a. The information required under Section 84211(c) of the Act as to contributions received from persons who have given a cumulative amount of twenty-five (\$25.00) dollars or more;
- b. The information required under Section 84211(d) of the Act as to contributions received from persons who have given a cumulative amount of less than twenty-five (\$25.00) dollars;
- c. The information required under Section 84211(f) of the Act as to each person with respect to whom the cumulative amount of contributions (including loans) received from that person is twenty-five (\$25.00) dollars or more and a contribution or loan has been received from that person during the period covered by the campaign statement;
- d. The information required under Section 84211(g) of the Act as to each person with respect to whom the cumulative amount of loans received from or made to that person is twenty-five (\$25.00) dollars or more, and a loan has been received from or made to that person during the period covered by the campaign statement or is outstanding during the period covered by the campaign statement;
- e. The information required under Section 84211(k) of the Act as to each person to whom an expenditure of twenty-five (\$25.00) dollars or more has been made during the period covered by the campaign statement;
- f. The information required under Section 84211(i) of the Act as to expenditures made to persons who have received twenty-five (\$25.00) dollars or more;
- g. The information required under Section 84211(j) of the Act as to expenditures made to persons who have received less than twenty-five (\$25.00) dollars;
- h. All of the other information required by Section 84211 of the Act.

(Ord. No. 1490, § 1)

## 21-11 - Additional Pre-Election Campaign Statements; Friday Before Election and Late Contribution Reports.

In addition to the campaign statements which every candidate, elected officer and committee which, in whole or in part, supports or opposes, any candidate for Novato city council is required to file under Government Code Section 84200 et seq., the following campaign statements shall be filed with the city clerk:

- a. Each candidate for city office and the candidate's controlled committee, shall file an additional campaign

statement at the office of the city clerk, which is to be received by 1:00 p.m. on the Friday before the election. Said campaign statement shall cover the period between the closing date of the last campaign statement filed under the Act and 5:00 p.m. on the Thursday immediately preceding the Friday before the election. In addition, each candidate shall provide to the city clerk sufficient copies of said additional campaign statement to enable the clerk to provide one copy thereof to each other candidate and three additional copies for use by the media. The campaign statement shall include the same information required by the Act, and by this chapter.

- b. Other than a candidate's controlled committee, any committee formed or existing primarily to support or oppose candidacies or a candidate for city office (or a city general purpose committee active only in the city) which expends more than five hundred (\$500.00) dollars in a calendar year to support or oppose any candidate for city office, shall file an additional campaign statement at the office of the city clerk, which is to be received by 1:00 p.m. on the Friday before the election. Said campaign statement shall cover the period between the closing date of the last campaign statement filed under the Act and 5:00 p.m. on the Thursday immediately preceding the Friday before the election. In addition, each such committee shall provide to the city clerk sufficient copies of the additional campaign statement to enable the clerk to provide one copy thereof to each other candidate and three additional copies for use by the media. The campaign statement shall include the same information required by the Act, and by this chapter.
- c. Other than a candidate's controlled committee, any committee formed or existing primarily to support or oppose candidacies or a candidate for city office (or a city general purpose committee active only in the city) which expends more than five hundred (\$500.00) dollars in a calendar year to support or oppose any candidate for city office, shall file a late contribution report with the Novato city clerk which reports all contributions of two hundred (\$200.00) dollars or more and to be used to support or oppose any candidate for city office, received from any source during the period commencing at the end of the period covered in the last campaign statement filed before the election and ending on midnight of the day before the city election.
  1. The late contribution report filings required by subsection c of this section shall be made at and received by the office of the city clerk within 24 hours of the committee's or candidate's (other than candidate controlled committees') receipt of the reported contributions.
- d. Notwithstanding the amount specified in Government Code Section 82036.5, any independent expenditure committee formed or existing primarily to support or oppose candidacies or a candidate for city office which expends more than five hundred (\$500.00) dollars in a calendar year to support or oppose any candidate for city office, shall file a late contribution report with the Novato city clerk which reports all contributions of two hundred (\$200.00) dollars or more and to be used to support or oppose any candidate for city office, received from any source during the period commencing at the end of the period covered in the last campaign statement filed before the election and ending on midnight of the day before the city election.
  1. The late contribution report filings required by subsection d of this section shall be made at and received by the office of the city clerk within 24 hours of the committee's (other than candidate controlled committees') receipt of the reported contributions.
- e. Notwithstanding the amount specified in Government Code Section 82036, all late contributions to a candidate for city office, or a candidate's controlled committee, of two hundred (\$200.00) dollars or more shall, during and for the same period specified in subsection c of this section, be reported to the city clerk

within 24 hours of the contribution with all of the information required of late contribution reports under the Act.

(Ord. No. 1490, § 1)

#### 21-12 - Disclosure in Mass Mailings of Contributors to Independent Expenditure Committees.

- a. Any independent expenditure committee that makes, during the calendar year in which the election is held, more than five hundred (\$500.00) dollars in independent expenditures in support of or in opposition to a candidate for city office shall disclose the following information in a clear and legible manner in at least six point type on the bottom portion of the front page of any mass mailing by the committee in the election for which the independent expenditures were made:
  1. As of the date of the distribution of the mass mailing, the names and occupations of individuals who and the names and business interests of non-individuals which are the six largest contributors ("Largest Contributors") to the committee during the 12 months preceding the date of the election, listed in order of the amount of contributions. If two or more of the largest contributors have contributed the same amount, they shall be listed according to chronological sequence of their contributions. The disclosure shall read: "Major funding by: (name and occupation or business interest of each of the Largest Contributors)." In the case of contributions from committees, the disclosure shall read: "Major funding by (name of committee); Expenditures directed by: (name and occupation or business interest of persons or entities who direct or control the expenditures of the committee)"; and
  2. If, as of the date the mass mailing is distributed the committee has received at least 40 percent of its total contributions during the 12 months preceding the date of the election from large out of town contributor(s) (defined below), the top portion of the disclosure shall state in at least six point type, "Major funding from large out of town contributors." The names of the five largest out of town contributors during the 12 months preceding the date of the election, listed in order of their contribution amounts (the largest contributor listed first), and the residence or business location of the contributors, shall be stated in not less than six point type. "Large out of town contributors" means those contributors (a) who either are not residents of the City of Novato or do not have a principal place of business in the City of Novato, and (b) whose cumulative contributions to the committee are one hundred (\$100.00) dollars or more during the 12 months preceding the date of the election.
  3. The total production and postage cost of the mailing.
- b. When making the disclosures required in subsections a.1 and a.2 of this section, the independent expenditure committee must use the same type size for all words in both disclosures. The committee must list each contributor on a new line. The independent expenditure committee shall use the bottom portion of the front page of the mass mailing solely for the purpose of making the disclosures required in subsection a of this section.
- c. For purposes of this section, "front page" shall mean the envelope, page or panel where the address is or, in the case of unaddressed items, any outside panel.
- d. For each mailing to Novato residents in excess of 200 pieces, the independent expenditure committee shall send a copy of the mailing to the city clerk and to each candidate for city office at the same time the pieces are mailed to the other Novato residents.
- e. The mailing shall state in a prominent place, in clear legible type (not less than six point type), the following: "This

mailing is not authorized or approved by any candidate for Novato city council."

- f. This section does not apply to communications from an organization to its members, except for mailings by a political party to its members, as to which this section does apply.

(Ord. No. 1490, § 1)

#### 21-13 - Ads and Television Promotions to State by Whom Authorized.

- a. Any advertisements consisting of printed literature distributed (but not mailed) by a candidate or controlled committee to more than 200 Novato residents shall state on the advertisement in type not less than six point, in a clear legible manner, whether or not the advertisement has been authorized by any candidate for city office, and, if not, by whom the advertisement was authorized.
- b. All cable television promotions or shows that promote or oppose a candidate for city office and that air after the close of the candidate filing period must, in either their oral statements or visual depictions, state in clear and understandable language, all of the following:
1. Whether or not the promotion or show has been authorized by any candidate for city office, and, if not, by whom the promotion or show was authorized;
  2. As of the date of the promotion's or show's airing, the names and occupations of individuals who and the names and business interests of non-individuals which, during the 12 months preceding the date of the election, are the six largest contributors to the person or committee paying for the promotion or show, listed in order of the amount of contributions (with the largest contributor being listed first). If two or more of the largest contributors have contributed the same amount, they shall be listed according to chronological sequence of their contributions. The disclosure shall read or state: "Major funding for this promotion (or advertisement) came from: (name and occupation or business interest of each of the largest contributors)." In the case of contributions from committees, the disclosure shall read or state: "Major funding for this promotion (or advertisement) came from (name of committee); Expenditures of the committee are directed by: (name and occupation or business interest of persons or entities who direct or control the expenditures of the committee)."
  3. If, as of the date of the promotion's or show's airing, the person or committee paying for the promotion or show has received at least 40 percent of his/her/its total contributions during the 12 months preceding the date of the election from out of town contributor(s) (defined below), the disclosure shall read or state "Major funding for this promotion (or advertisement) came from the following, large out of town contributors." Following which, the promotion or show shall state or disclose the names of the five largest out of town contributors during the 12 months preceding the date of the election, listed in order of their contribution amounts (with the largest contributor being listed first), and the residence or business location of the contributors. "Large out of town contributors" means those contributors (a) who either are not residents of the City of Novato or do not have a principal place of business in the City of Novato, and (b) whose cumulative contributions to the person or committee paying for the promotion or show are one hundred (\$100.00) dollars or more for the 12 months preceding the date of the election.
- c. Notwithstanding subsection b of this section to the contrary, subsection b shall not apply to cable television promotions or shows on which all the candidates for city office appear or are featured, or have been invited to participate.
- d. Subsection b of this section shall apply to candidates, candidates' controlled committees and independent

expenditure committees governed by Section 21-12a of this chapter.

(Ord. No. 1490, § 1)

#### 21-14 - Disclosure by "Primarily Formed" Committee.

Any committee formed or existing primarily to support or oppose candidacies or a candidate for city office (or a city general purpose committee active only in the city), including such a committee formed on or any time between the 18th day before the then pending election and the date of the election, which advocates for the election of any candidate(s) for city office, or opposes any candidate(s) for election to city office, and which makes, cumulatively, five hundred (\$500.00) dollars or more in expenditures in support of or in opposition to candidates for city office in a calendar year, shall report all contributions and, separately, all expenditures in support of or in opposition to candidates for city office, as required by this chapter. For each expenditure and contribution, the committee shall report what amount or portion was of benefit to the city office candidate the expenditure and/or contribution benefited. In addition, such committee shall also disclose the full name, street address, employer, and employer's address of all officers of the committee.

(Ord. No. 1490, § 1)

#### 21-15 - Electronic Filing of Campaign Statements.

- a. Effective November 1, 2006, any candidate for city office, any candidate's controlled committee and any committee formed or existing primarily to support or oppose candidacies or a candidate for city office (or a city general purpose committee active only in the city), shall file thereafter, in addition to each duly executed original campaign statement and any copies thereof as required by this chapter and/or the Act, campaign statements as required herein that are in an electronic format, if any has been approved by the city council, for use on the city's internet site.
- b. The city clerk shall cause to be placed on the city's web site a copy of each campaign statement, if any, filed electronically in accordance with subsection a hereof, within 24 hours of the statement's filing with the city clerk, except that the clerk shall cause to be placed on the city's web site the additional pre-election statements required under sections 21-11a and b of this chapter by 5:00 p.m. on the day said statement is filed.
- c. Notwithstanding the foregoing to the contrary, candidates and committees shall be exempt from the electronic filing requirements of this section if along with each campaign statement required hereunder, they submit a written statement, signed under penalty of perjury, certifying that for the entirety of the election campaign (i) they have not used and will not use or (ii) they (or the person who prepares their campaign statements does) do not have the qualifications, skill or competency to use computers or the other applicable technology required to fill out and/or prepare campaign statements in the electronic format approved by the city council.

(Ord. No. 1490, § 1)

#### 21-16 - Information Required Before Depositing Contributor's Contribution.

- a. Any candidate for city office, and the candidate's controlled committee, shall not cash, deposit, or otherwise negotiate any contribution of twenty-five (\$25.00) dollars or more from any contributor for which the candidate or the candidate's controlled committee does not have the full name, street address, occupation, and employer (or, if self-employed, the name of the business) of the contributor.
- b. Except as provided in section 21-8, whether or not the candidate or the controlled committee has the



information required by subsection a of this section, the contribution shall be deemed received as of the date of its receipt or pledge, and the full amount of the contribution shall be timely reported as required by the Act and by this chapter.

(Ord. No. 1490, § 1)

#### 21-17 - Disclosure During Unsolicited Campaign Telephone Calls to Novato Residents.

- a. Any person who (i) makes or causes to be made more than 100 unsolicited telephone calls to Novato residents for the purpose of supporting or opposing any candidate for city office or (ii) conducts a poll of more than 100 Novato residents which, in whole or in part, inquires as to one or more candidates for city office, and is paid for making such telephone calls or conducting such poll, shall disclose or cause to be disclosed to the person called or polled, at the commencement of the call or poll, and, in addition, at any time when so requested by the person called or being polled, the following information:
  1. The name of the individual calling or polling, the name of the individual's employer (if any), and the name of the person paying for the telephone calls or poll.
  2. In addition, if the person answering the call or responding to the poll so requests, the caller or pollster shall also provide the address and telephone number of the employer and of the person paying for the telephone call or poll.
- b. This section shall not apply to pre-recorded, automatic telephone calls or calls by volunteers.

(Ord. No. 1490, § 1)

#### IV. - Campaign Accounts, Debates and Recalls

#### 21-18 - Funds Shall be on Deposit Before Making Expenditures.

Except for debt incurred in paying for utilities, an independent expenditure committee which expends funds greater than five hundred (\$500.00) dollars in support of or in opposition to a Novato candidate shall have on deposit, in good funds, all of the funds needed to pay for the total production, printing, and mailing cost of any mailings, flyers, newspaper ads, radio, TV or other advertisements, before the mailings, flyers, newspaper ads, radio, TV, or other advertisements, are distributed to more than 200 Novato residents.

(Ord. No. 1490, § 1)

#### 21-19 - One Campaign Committee and One Checking Account Per Candidate for City Office.

A candidate for city office shall have no more than one candidate controlled committee and one checking account for the city office being sought, out of which all expenditures by that committee for the campaign for that office shall be made. This section should not prohibit the establishment of savings accounts, but no campaign expenditure shall be made out of any savings account. This section does not apply to officeholder accounts.

(Ord. No. 1490, § 1)

#### 21-20 - Election Campaign Accounts.

- a. Except as provided in section 21-8, all campaign contributions accepted by a campaign treasurer or committee shall be deposited within seven days of receipt into the election campaign account by the campaign treasurer, committee or authorized agent thereof. Except as provided in section 21-8, whether or not each contribution is in fact deposited, be duly reported on the campaign statements required to be filed by this chapter.
- b. The candidate, committee or authorized agent thereof, shall retain all campaign records for a period of four years after the final, post-election campaign statements is due.

(Ord. No. 1490, § 1)

#### 21-21 - Naming of Independent Expenditure Committee.

If the name of an independent expenditure committee which expends funds to support or to oppose a candidate for city office reflects a profession, at least 25 percent of the total amount of contributions thereto shall only be from members of the profession named.

(Ord. No. 1490, § 1)

#### 21-22 - Written Acknowledgment.

Any candidate for city office shall be required to acknowledge, in writing, receipt of a copy of this chapter. Each candidate shall provide a copy of this chapter to any treasurer of the candidate's controlled committee. A refusal or failure of the candidate to sign or otherwise acknowledge receipt of the copy of this chapter shall not affect the applicability or enforceability of this chapter to said candidate or to his/her controlled committee.

(Ord. No. 1490, § 1)

#### 21-23 - Debates.

Candidates are strongly encouraged to participate in two or more nonpartisan candidate debates for each election. The city may assist independent, non-biased debate moderators by providing space and TV coverage for at least two debates and shall rebroadcast the debates at least once prior to the election date.

(Ord. No. 1490, § 1)

#### 21-24 - Recall Campaign.

Recall elections are governed by this chapter.

(Ord. No. 1490, § 1)

### V. - Penalties and Enforcement

#### 21-25 - No Criminal Penalties for Violations of Chapter.

- a. Notwithstanding anything to the contrary stated in this chapter and/or the Novato Municipal Code, violations of this chapter shall not constitute crimes and shall not be prosecuted or punished as such.

(Ord. No. 1490, § 1)

## 21-26 - Administrative Penalties.

The city clerk shall impose administrative penalties against any candidate for city office, his or her campaign committee, or any other committee governed by this chapter for any violation of the provisions of this chapter as follows:

- a. For failure to timely file with the city clerk the campaign statements required under section 21-11, the penalty shall be twenty-five (\$25.00) dollars per day after the deadline until the statement is filed.
- b. All penalties assessed shall be paid by the candidate or his or her campaign committee and/or the treasurer of any other committee governed by this chapter within 15 days of the date that written notice of the penalty is deposited in the United States mail and upon receipt shall be deposited in the city's general fund.
- c. The city clerk may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this section. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in Marin County. In order to obtain a judgment in a proceeding under this section, the city clerk shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:
  1. That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this chapter.
  2. That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.
  3. That a demand for payment has been made by the city clerk and full payment has not been received.

(Ord. No. 1490, § 1)

## 21-27 - Civil Enforcement.

- a. Any person who intentionally or negligently violates any of the reporting requirements of this chapter shall be liable in a civil action brought by the district attorney or by a person residing within the city for an amount not more than the amount or value not properly reported. Any person who intentionally or negligently violates any of the contribution limitation provisions of section 21-8A shall be liable in a civil action brought by the district attorney or by a person residing within the city for an amount not more than the amount of contributions accepted in excess of the limits specified in said section 21-8A. Any amount recovered by the district attorney shall be retained by and deposited in those funds as lawfully directed by the district attorney. Any amount recovered by a city resident shall be retained and owned by the resident. In any such action, the court may award to a prevailing plaintiff or defendant his/her costs of litigation, including reasonable attorney's fees.
- b. Any person, before filing a civil action pursuant to this section, must first file with the district attorney a written request for the district attorney to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The district attorney may respond to the person in writing, indicating whether he or she intends to file a civil action.
  1. If the district attorney responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice for the reasons specified in Cal. Gov't Code Section 91008.
  2. If the district attorney responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the

response from the district attorney. If, pursuant to this subdivision, the district attorney does not respond within 120 days, the district attorney shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

3. The time period within which a civil action shall be commenced, as set forth in section 21-31, shall be tolled from the date of receipt by the district attorney of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the district attorney, but only for a civil action brought by the person who requested the district attorney to commence the action.
- c. Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to this section or section 20-28 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the city clerk a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:
    1. The full title and number of the case.
    2. The court in which the case is pending.
    3. The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.
    4. A statement that the ease raises issues under the Novato Political Fairness Ordinance.
  - d. No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subsection c of this section.

(Ord. No. 1490, § 1; Ord. No. 1512, § 5)

#### 21-28 - Injunctive Relief.

Any person residing within the city's limits, including the district attorney (irrespective of his/her place of residence), may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney's fees.

(Ord. No. 1490, § 1)

#### 21-29 - Prohibited Acts Defined.

Any person who violates any provision of this chapter, who purposely or negligently causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this chapter, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this chapter.

(Ord. No. 1490, § 1)

#### 21-30 - Remedies Cumulative.

All remedies provided for in this chapter shall be cumulative and not exclusive.

(Ord. No. 1490, § 1)

## 21-31 - Statute of Limitations.

Civil prosecution of a violation of any provision of this chapter shall be commenced within two years after the filing of the final, post-election campaign statements pertinent to the election in regards to which the violation(s) occurred.

(Ord. No. 1490, § 1)

## VI. - Voluntary Expenditure Limitation

## 21-32 - Voluntary Expenditure Limitation.

- a. All candidates for city office, and their controlled committees, should voluntarily limit their expenditures incurred during the city election in which the candidates are seeking to be elected to the city council (and all councilmembers and their controlled committees should voluntarily limit their expenditures incurred during any recall election in which the councilmembers are sought to be recalled) to an amount less than or equal to fifty thousand (\$50,000.00) dollars.
- b. At the time a candidate for city council files his/her nomination papers and other documents with the city clerk evidencing his/her candidacy for city council s/he shall also file a signed statement indicating whether or not s/he chooses to observe the voluntary expenditure limit specified herein. The form of said statement shall be developed by the city clerk. At the time each candidate files said signed form, s/he shall thereafter promptly deliver a copy of said completed and signed form to each of the other candidates. In the event a candidate changes his/her original decision to honor or ignore this voluntary expenditure limitation, s/he shall promptly and within 24 hours of changing his/her decision to inform the city clerk as well as each of the other candidates, in writing.
- c. For purposes of this section, "expenditures" or "campaign expenditures" shall pertain to all expenditures incurred by the candidate or the candidate's controlled committee in support of his or her candidacy and shall include such expenditures which a candidate or candidate's controlled committee is required to report pursuant to the Act and/or this chapter, as the same may be amended from time to time, whether those expenditures are made before or after the filing of nomination papers.
- d. The voluntary expenditure limit specified in subsection a of this section shall be adjusted by the city clerk for each city election. For city elections conducted with the city's general municipal election, the adjustment will be made as of June 1. For special city elections called to fill a vacant seat on the city council and for recall elections, the adjustment will be made as of ninety days before the election. The adjustment called for by this section shall be the cost of living adjustment (COLA) computed by reference to the Consumer Price Index (CPI) for all urban consumers for the San Francisco/Oakland Bay Area (all items) provided by the U.S. Bureau of Labor Statistics as indexed from a base year that commences in November 2007. No adjustments shall be made to the voluntary expenditure limit specified in subsection a of this section for the November 2007 city election or any special or other city election which takes place prior to November 2007.

(Ord. No. 1512, § 4)