
**Chapter 2.30
CAMPAIGN CONTRIBUTION LIMITATIONS IN MUNICIPAL ELECTIONS**

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Prior legislation: Ords. 1059, 1144, 1353 and 1492.

2.30.010 Title, purpose and intent.

This chapter may be referred to as the “campaign contribution ordinance” of the city of Fremont.

It is the purpose and intent of the city council in enacting this chapter to minimize the potential for undue influence by individuals or groups (including political parties and other candidates and campaign committees) on the mayor and councilmembers by placing realistic and enforceable limits on the amount of money that individuals or groups may contribute to political campaigns in municipal elections while providing for a level of public participation adequate for a meaningful election campaign; to ensure and promote integrity, honesty and fairness in decisions of public policy; to provide for a campaign contribution and expenditure reporting process that will inform the public; and to enhance the opportunity for challengers to be competitive with incumbents.

In seeking to establish such limitations on campaign contributions, it is the intent of the city council to promote a

broader and more open participation by all citizens in the electoral process. It is not intended that such limitations should act to deprive or restrict any citizen of his/her rights guaranteed under the First and Fourteenth Amendments of the United States Constitution.

In addition, these provisions are intended to supplement the provisions contained in the Political Reform Act of 1974 (Cal. Gov't Code Title 9). (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2282 § 1, 3-10-98; amended during 2012 reformat. 1990 Code § 2-1400.)

2.30.020 Definitions.

Unless the term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Cal. Gov't Code §§ 81000 et seq.) shall govern the interpretation of this chapter.

(a) Election Period.

(1) For each general municipal election held in November every two years to elect a mayor and three councilmembers, the election period means the period beginning on January 1st after the previous general municipal election for the affected office and ending on December 31st after the next following (and current) general municipal election for the affected office.

(2) For each special municipal election held to fill a vacancy in the office of mayor or councilmember, the election period means the period beginning on the day the vacancy began and ending on the sixtieth day following the special municipal election. However, for any candidate in the special election who has established, prior to the vacancy, a committee for the election to the affected office of mayor or councilmember, the election period begins on January 1st after the previous general municipal election for the affected office. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2387 § 3, 6-27-00; Ord. 13-2018 § 1, 5-1-18. 1990 Code § 2-1401.)

2.30.030 Campaign contributions – Limitations.

(a) No person shall make a contribution to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall accept from each such person a contribution or contributions, totaling more than \$640.00 for any election period.

(b) Beginning January 1, 2019, the city clerk shall once biennially, on a calendar-year basis, increase the contribution limitation amount upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amount shall not exceed the CPI increase, using the index published in June 2017 as the index year. The adjustment shall be rounded up to the nearest \$10.00. The city clerk shall publish the contribution limitation amounts no later than February 1st of each year in which an increase occurs.

(c) The candidate's own money or property used in the furtherance of the candidate's campaign shall not be subject to the contribution limits of this chapter. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2111 § 1, 2-21-95; Ord. 14-2006 § 1, 7-25-06; Ord. 17-2006 § 1, 9-12-06; Ord. 13-2018 § 2, 5-1-18. 1990 Code § 2-1402.)

2.30.040 Additional preelection campaign statement.

In addition to the two preelection campaign statements required to be filed pursuant to Cal. Gov't Code §§ 84200.5 and 84200.8, a third statement is required to be filed in and received by the office of the city clerk by 2:00 p.m. of the Friday preceding the election. Said statement shall cover the period from the close of the second preelection statement through the Wednesday preceding the election and shall contain such information as is required in the previous two statements. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 13-2018 § 3, 5-1-18. 1990 Code § 2-1403.)

2.30.050 Aggregation of contributions.

For the purpose of the contribution limitations in Section [2.30.030](#), contributions from persons shall be aggregated as follows:

- (a) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make contributions to support or oppose a candidate or candidates for elective office, those affiliated entities shall be considered one person.
- (b) Business entities in a parent-subsidary relationship and business entities with the same controlling (more than 50 percent) owner shall be considered one person, unless the business entities act completely independently in their decisions to make contributions to support or oppose candidates for elective office.
- (c) No committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1404.)

2.30.060 Loans and unpaid debts to vendors.

- (a) Every loan to a candidate or committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.
- (b) Loans shall be subject to the contribution limitations in Section [2.30.030](#).
- (c) Debts owed by a candidate or committee to a vendor for goods or services rendered shall be considered campaign contributions for the purposes of this section if such debts are not repaid within one year following the election, unless the vendor has made a good faith effort to collect. A good faith effort shall consist of contracting with a collection agency for action, or the filing of a legal action to collect. To the extent such contribution exceeds the contribution limitation established in Section [2.30.030](#), it shall be a violation of this chapter, and

subject to the enforcement provisions of Sections [2.30.100](#) et seq. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2218 § 1, 2-4-97; Ord. 2282 § 1, 3-10-98. 1990 Code § 2-1405.)

2.30.070 Debt retirement committee.

A candidate may continue a controlled committee from a previous election period for the sole purpose of receiving contributions for the retirement of campaign debt from the previous election. Contributions to said committee shall be subject to all the limitations of this chapter and shall be cumulated to the previous election period for the purpose of the limits established in Sections [2.30.020](#) and [2.30.030](#). (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1406.)

2.30.080 Identification of contributors.

Identification of contributors is required whenever the cumulative contributions from a single source total \$100.00 or more during an election period. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1407.)

2.30.090 Return of campaign contributions.

The intended recipient of any contribution which would cause the total amount of contributions to a committee from a single donor to exceed the contribution limitations in Section [2.30.030](#) shall, within 48 hours of receipt thereof, return any such excess to the donor. In the event an excessive campaign contribution is received and reported in the campaign report, the recipient shall, within 48 hours of notification by the city clerk, return such excess to the donor; if such excess is not returned within such 48 hours, the recipient shall promptly transmit to the city clerk for deposit in the general fund of the city a sum equal to such excess. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2282 § 1, 3-10-98; Ord. 17-2006 § 2, 9-12-06. 1990 Code § 2-1408.)

2.30.100 Enforcement – Violations – Criminal.

- (a) Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor.
- (b) No person convicted of a misdemeanor under this chapter shall be a candidate for an elected city council office for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section.
- (c) In addition to other penalties provided by law, a fine up to the greater of \$1,000 or three times the amount the person failed to report properly or unlawfully contributed, gave or received may be imposed upon conviction of each violation.
- (d) Prosecution for violation of this chapter must be commenced within four years after the date on which the violation occurred.
- (e) Whether or not a violation is inadvertent, the presence or absence of good faith shall be considered in applying the remedies and sanctions of this chapter.

(f) If two or more persons are responsible for any violation, they shall be jointly and severally liable. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1409.)

2.30.110 Enforcement – Injunction.

Any person residing in the city may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter. The court may, in its discretion, require the plaintiff to file a complaint with the district attorney prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his/her costs of litigation, including reasonable attorneys' fees. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; amended during 2012 reformat. 1990 Code § 2-1410.)

2.30.120 Enforcement – Civil liability.

(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.

(b) Any person who makes or receives a contribution, in violation of the provisions of this chapter, is liable in a civil action brought by the district attorney or by a person residing in the city for an amount up to \$500.00 or three times the amount of the unlawful contribution or gift, whichever is greater.

(c) Any person who violates any provision of this chapter for which no specific penalty is provided shall be liable in a civil action brought by the district attorney for an amount up to \$1,000.

(d) No civil action alleging a violation of this chapter may be filed against a person pursuant to this section if the district attorney is maintaining a criminal action against that person pursuant to [Section 2.30.100](#).

(e) 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 shall respond within 40 days after receipt of the request, indicating whether he/she intends to file a civil action. If the district attorney indicates in the affirmative, and files suit within 40 days thereafter, no other action may be brought unless the action brought by the district attorney is dismissed without prejudice as provided for in subsection (f) of this section.

(f) Not more than one judgment on the merits with respect to any violation may be obtained pursuant to this section. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Civil actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the district attorney or any plaintiff in an action based on the same violation.

(g) In determining the amount of liability under this section, the court may take into account the seriousness of

the violation and the degree of culpability of the defendant. Whether or not a violation is inadvertent, the presence or absence of good faith shall be considered. If a judgment is entered against the defendant or defendants in an action brought by a person residing in the city under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the general fund of the city. In an action brought by the district attorney, the entire amount recovered shall be paid to the general fund of the city.

(h) No civil action alleging a violation of any provisions of this chapter shall be filed more than four years after the date the violation occurred.

(i) The court may award to a plaintiff (including the district attorney) or defendant, who prevails in any action authorized by this chapter, the costs of litigation incurred by such party, including reasonable attorneys' fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; amended during 2012 reformat. 1990 Code § 2-1411.)