

ATTACHMENT 2

Article VI. Enforcement

2.130.190 Penalties for violation of this chapter.

Pursuant to SCCC [1.05.070](#), the enforcement of violations of the provisions of this chapter may be prosecuted as an infraction or misdemeanor.

(a) Infraction/Misdemeanor. Any person who violates any of the provisions of this chapter shall be guilty of an infraction and/or misdemeanor.

(b) Prosecution. Every violation of this chapter shall be a misdemeanor; provided, however, that where the prosecutor has determined that such action would be in the best interest of justice, the prosecutor may specify in the accusatory pleading or citation, that the violation shall be prosecuted as an infraction.

(c) Penalty for Infraction. Each and every violation of this chapter which is deemed an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250.00).

(d) Penalty for Misdemeanor. Each and every violation of this chapter which is deemed a misdemeanor is punishable by a penalty of not more than one thousand dollars (\$1,000.00), or by imprisonment in the City or County jail for a period of not exceeding six months, or by both penalty and imprisonment. (Ord. 1924 § 1, 4-22-14).

2.130.200 Civil actions.

(a) Any person who intentionally or negligently violates any provision of this chapter shall be liable in a civil action brought by a person residing within the city for an amount not more than three times the amount of the unlawful contribution or expenditure.

(b) If two or more persons are responsible for any violation, they shall be jointly and severally liable.

(c) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited into the general fund of the City. In an action brought by the District Attorney, the judgment shall be paid to the general fund of the County of Santa Clara.

(d) No civil action alleging a violation of any provision of this Act shall be filed more than two years after the date the violation occurred.

(e) The provisions of SCCC [2.130.240](#), Effect of violation on outcome of election, shall apply. (Ord. 1745 § 2, 1-11-00; Ord. 1924 § 1, 4-22-14. Formerly 2.130.190).

2.130.210 Injunctive relief.

Any person residing in the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter. (Ord. 1745 § 2, 1-11-00; Ord. 1924 § 1, 4-22-14. Formerly 2.130.200).

2.130.220 Cost of litigation.

The court may award to a plaintiff or defendant who prevails in any action authorized by this chapter, costs of litigation, including reasonable attorneys' fees. (Ord. 1745 § 2, 1-11-00; Ord. 1924 § 1, 4-22-14. Formerly 2.130.210).

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2.130.230 Disqualification.

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of this chapter, the official shall not be permitted to make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code § [87100](#) et seq., and the pertinent regulations of the Fair Political Practices Commission (Title [2](#), Division 6, Chapter 7 (entitled "Conflicts of Interest" – Section 18700 et seq.)) shall apply to interpretations of this section. (Ord. 1745 § 2, 1-11-00; Ord. 1924 § 1, 4-22-14. Formerly 2.130.220).

2.130.240 Effect of violation on outcome of election.

If a candidate is found by a court (or jury) to have violated any provision of this chapter, the court shall make a determination as to whether the violation had a material effect on the outcome of the election. If the court finds the violation did have a material effect on the election, the following shall apply.

- (a) If the court determination becomes final before the date of the election, the votes for such candidate shall not be counted and the election shall be determined on the basis of the votes cast for the other candidates in that race;
- (b) If the court determination becomes final after the date of the election, and if such candidate was declared to have been elected, then such candidate shall not assume office, the office shall be deemed vacant and shall be filled as otherwise provided in the City Charter and City Code;
- (c) If the court determination becomes final after the candidate has assumed office, then the candidate shall be removed from office, the office shall be deemed vacant and shall be filled as otherwise provided in the City Charter and City Code;
- (d) The court may determine the candidate shall be ineligible to hold any elective City office for a period of four years after the date of such court determination that a violation occurred;
- (e) In a criminal proceeding, a plea of nolo contendere shall form the basis for a court determination of the impact of the violation of this chapter. (Ord. 1745 § 2, 1-11-00; Ord. 1924 § 1, 4-22-14. Formerly 2.130.170).

2.130.250 Right to cure violation.

A candidate or candidate controlled committee that accepts a contribution in violation of this chapter shall not be penalized, if the candidate or candidate controlled committee returns the contribution or contributes it to the City general fund or to a charitable organization within seven days of its receipt. (Ord. 1924 § 1, 4-22-14).