



NEWPORT BEACH

FROM: City Council Ad Hoc Committee on Election Reform
TITLE: Public Input Meeting Regarding Proposed Election Reform Amendments

DISCUSSION:

On April 9, 2019, the City Council adopted Resolution No. 2019-33 that formed an Ad Hoc Committee on Election Reform (“Ad Hoc Committee”). The City Council appointed Mayor Pro Tem Will O’Neill, Council Member Brad Avery, and Council Member Joy Brenner to the Ad Hoc Committee. The Resolution directed the Ad Hoc Committee to determine whether the provisions of the Newport Beach Municipal Code governing elections should be modified or updated and make a recommendation to the entire City Council in regards thereto.

The Ad Hoc Committee has focused on four specific areas raised by the Council Member initiating this process:

1. Lobbyist registration for public disclosure.
2. Clearer enforcement guidelines for receiving or giving money exceeding the contribution limits.
3. Limiting campaign contributions to the year of and year succeeding a candidate’s election.
4. Addressing slate mail laws at the local level.

The Ad Hoc Committee drafted revisions and additions to the Newport Beach Municipal Code addressing the first two issues. While the Ad Hoc Committee understands the position of limiting campaign donations to specific years, the Committee has reservations about the unintended consequences of such a decision, such as its likely entrenchment of incumbents, increased influence of independent expenditure committees, and significantly negative impact on a candidate unable to self-fund a campaign. Finally, the Ad Hoc Committee will discuss State Law preemption issues associated with slate mail, but further discuss it in the context of existing provisions in the Newport Beach Municipal Code.

The Ad Hoc Committee invites members of the public to join its public meeting on Monday, October 14, 2019, at 5:00 p.m. in the Friends Room of the Newport Beach Central Library. In advance of this meeting, the Ad Hoc Committee’s proposed Municipal Code revisions are attached.

ATTACHMENTS:

- Exhibit A – Draft Ordinance re: Increasing Transparency in Government Operations and Establishing Lobbyist Registration, Reporting and Disclosure Requirements
- Exhibit B – Draft Ordinance re: Campaign Contributions and Expenditure Limits (clean)
- Exhibit C – Draft Ordinance re: Campaign Contributions and Expenditure Limits (redline)

EXHIBIT A

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE CITY OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADDING CHAPTER 1.28 TO TITLE 1 OF THE NEWPORT BEACH MUNICIPAL CODE TO INCREASE TRANSPARENCY IN GOVERNMENT OPERATIONS AND ESTABLISH LOBBYIST REGISTRATION, REPORTING AND DISCLOSURE REQUIREMENTS

WHEREAS, all actions and deliberations by public agencies should, to the greatest extent possible, be conducted openly;

WHEREAS, an informed public and transparency in decision-making is essential to democracy;

WHEREAS, it is the goal and intent of this ordinance, to ensure that citizens of Newport Beach have timely access to information and an opportunity to address the various legislative bodies of the City prior to governmental decisions being made;

WHEREAS, the citizens, staff and City Council of the City ought to know the identity of persons engaged in compensated lobbying activities aimed at influencing decisions by City government and which interests such persons represent; and

WHEREAS, public disclosure of the financing of lobbyists and those who employ their services helps maintain citizen confidence in the integrity of City government.

NOW, THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Section 1.12.020 of Chapter 1.12 of Title 1 of the Newport Beach Municipal Code is hereby amended to add Section J to read as follows:

J. The City Clerk shall have the power to issue administrative citations for violations of Chapter 1.28.

Section 2: Chapter 1.28 is hereby added to Title 1 of the Newport Beach Municipal Code to read as follows:

Chapter 1.28
LOBBYIST REGISTRATION AND REPORTING

Sections:

- 1.28.010 Purpose and Findings.
- 1.28.020 Definitions.
- 1.28.030 Exemptions.
- 1.28.040 Lobbyist Registration and Annual Reporting.
- 1.28.050 Identification of Clients.
- 1.28.060 Prohibited acts.
- 1.28.070 Enforcement.

1.28.010 Purpose and Findings.

The City Council of the City of Newport Beach finds and declares as follows:

- A. City government functions to serve the needs of all citizens.
- B. The citizens of the citizens, staff and City Council of the City ought to know the identity of persons engaged in compensated lobbying activities aimed at influencing decisions by City government and which interests such persons represent.
- C. Public disclosure of the financing of lobbyists and those who employ their services helps maintain citizen confidence in the integrity of City government.
- D. It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions, or attempt to deceive a City representative through false communications; do not place a City representative under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City representative.
- E. It is in the public interest to adopt this chapter to ensure adequate and effective disclosure of information about efforts to lobby City government.

1.28.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. "City representative" means the Mayor, Mayor Pro Tem, members of the City Council, members of all City Boards, Commissions and Committees, the City Manager, Assistant City Manager, Department Directors, Deputy Department Directors, the Police

Chief, the Deputy Police Chief, the City Attorney, Assistant City Attorney, the City Clerk, and the Zoning Administrator.

B. "Commission" means the Orange County Campaign Finance and Ethics Commission.

C. "Influence" and "Influencing" means contacting, either directly or indirectly, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions of a City representative, by any means, including, but not limited to providing, preparing, processing, or submitting information, incentives, statistics, studies or analyses.

D. "Lobbyist" means any individual who receives compensation of one thousand dollars (\$1,000.00) or more in consideration in any calendar month, other than reimbursement for reasonable travel expenses, for engaging in lobbying activities, or who is employed by his or her employer and receives compensation of one thousand dollars (\$1,000.00) or more in compensation in any calendar month, other than reimbursement for reasonable travel expenses, for engaging in lobbying activities.

E. "Lobbying activities" means influencing or attempting to influence a City representative, by means of oral, written, or electronic communication, in regards to any legislative, quasi-judicial or administrative action or decision to: (1) adopt an ordinance, resolution, regulation or policy; (2) grant or deny any permit, license or other entitlement of use; (3) award of a contract or grant; or (4) decide to initiate, defend, appeal or take any other action related to litigation.

F. "Lobbying firm" means any person that employs or is controlled or managed by a lobbyist.

G. "Person" means any individual and any form of business entity including, but not limited to, a domestic or foreign corporation, association, syndicate, joint stock corporation, partnership of every kind, club, business or trust, society, or limited liability company.

1.28.030 Exemptions

The following persons are exempt from the requirements of this chapter unless otherwise specified:

A. A public official or public employee acting in his or her official capacity.

- B. An attorney, licensed to practice law in the state of California, who represents a party or potential party in litigation, or in any proceeding the decision of which is reviewable by a court pursuant to California Code of Civil Procedure Section 1094.5.
- C. A person who owns, publishes or is employed by a newspaper, radio station, television station or other media outlet that is engaged in the business of broadcasting of news items, editorials, or commentary, which directly or indirectly urges governmental action.
- D. A person hired by the City for work performed on behalf of the City.
- E. A person who meets with a City representative solely to lodge "whistleblower" complaints relating to improper governmental activity such as gross mismanagement, waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- F. A person who meets with the City Manager, City Attorney, City Clerk, Assistant City Manager, Assistant City Attorney, Department Directors, Deputy Department Directors, the Police Chief, or the Deputy Police Chief, regarding any claim or litigation matter, the resolution of any dispute, or potential dispute, or negotiation of any agreement where the City will be a party to the agreement.
- G. An expert witness retained to provide opinions or testimony at an official City proceeding.

1.28.040 Lobbyist Registration and Annual Reporting.

- A. Any lobbyist and/or lobbying firm who engages in lobbying activities shall register with the Commission, file the necessary completed registration form supplied by the Commission, and pay all filing fees required by the County of Orange:
 - 1. Within ten (10) days of qualifying as a lobbyist; and
 - 2. Within ten (10) days of the annual anniversary of the lobbyist and/or lobbying firms initial registration, if the lobbyist and/or lobbying firm continues to qualify as a lobbyist.
- B. An amendment to registration form must be completed and filed by the lobbyist and/or lobbying firm with the Commission within ten (10) days if the lobbyist and/or

lobbying firm knows, or should have known, of any change in the accuracy of the information reported on the registration form.

1.28.050 Identification of Clients.

A. Appearances. To the extent otherwise permitted by law, each lobbyist or lobbying firm who appears before the City Council or City board, commission or committee to engage in lobbying activities shall identify himself or herself and the client(s) he or she represents upon addressing the body.

B. Oral lobbying contacts. Any lobbyist or lobbying firm who makes an oral lobbying contact with a City representative shall, at the time of the initial lobbying contact with each City representative, identify himself or herself as a registered lobbyist and identify the client or clients on whose behalf the lobbying contact is made.

C. Written lobbying contacts. Any lobbyist or lobbying firm who makes an initial written lobbying contact (including an electronic communication) with a City representative and/or City employee shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

1.28.060 Prohibited Acts.

No lobbyist or lobbying firm shall:

A. Do any act, or refrain from doing any act, with the express purpose and intent of placing any City representative under personal obligation to such lobbyist or lobbying firm.

B. Deceive any City representative with regard to any material fact pertinent to any pending or proposed legislative, administrative, or quasi-judicial action.

C. Represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any City representative.

1.28.070 Enforcement.

Violations of this chapter shall be punishable in accordance with Chapter 1.05 of this Code. Administrative fines for violation of this chapter shall be assessed in the following amounts:

A. A fine not exceeding fifty dollars (\$50.00) for a first violation;

B. A fine not exceeding one hundred dollars (\$100.00) for a second violation within one year from the date of a prior violation;

C. A fine not exceeding two hundred dollars (\$200.00) for a third violation, or any subsequent violation, within one year from the date of the prior violations.

The City Clerk shall post on the City website and make available to the public a list of all lobbyist and/or lobbying firms who have paid fines for violating the provisions of this chapter within the previous two (2) years.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the ____ day of _____, 2019, and adopted on the ____ day of _____, 2019, by the following vote, to-wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT COUNCILMEMBERS _____

DIANE B. DIXON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

AARON C. HARP, CITY ATTORNEY

EXHIBIT B

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE CITY OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING CHAPTER 1.25 TO TITLE 1 OF THE NEWPORT BEACH MUNICIPAL CODE PERTAINING TO MUNICIPAL CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS

WHEREAS, on April 9, 2019, the City Council adopted Resolution No. 2019-33 forming an Ad Hoc Committee on Election Reform (“Committee”) to review the provisions of the Newport Beach Municipal Code (“NBMC”) governing elections and determine whether those provisions should be modified or updated;

WHEREAS, the Committee has recommended the City Council modify and update Chapter 1.25 of Title 1 of the NBMC to clarify what constitutes a violation of the campaign contribution limits; provide a process for handling excess contribution that were inadvertently made by a person or received by a candidate or candidate controlled committee; and provide a clear path for the enforcement of violations of the campaign contribution ordinance; and

WHEREAS, the City Council has reviewed the proposed modifications to Chapter 1.25 of Title 1 of the NBMC and has determined that these modifications are consistent with the purpose and findings set forth in Section 1.25.010, Chapter 1.25 of Title 1 of the NBMC.

NOW, THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Chapter 1.25 of Title 1 of the Newport Beach Municipal Code is hereby amended read as follows:

Chapter 1.25

MUNICIPAL ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE CONTROL*

Sections:

- 1.25.010 Purpose and Findings.**
- 1.25.015 Intent.**
- 1.25.020 Definitions.**
- 1.25.030 Campaign Contributions—Limitations.**

1.25.040 Enforcement and Penalties.

1.25.010 Purpose and Findings.

The City Council of the City of Newport Beach finds and declares as follows:

- A. The primary purpose of the ordinance codified in this chapter is to prevent corruption, or the appearance of corruption, which results from the real or imagined influence of large contributions on the conduct or actions of candidates elected to office.
- B. The limits on contributions to candidates and candidates' controlled committees imposed by this chapter will encourage candidates and their supporters to raise funds from a greater number of persons than would otherwise involve themselves in the political process.
- C. Contribution limits encourage persons to expend funds that would otherwise be contributed to candidates on direct political expression which will broaden the discussion and debate on issues of importance to the electorate.
- D. These contribution limits will not reduce the total amount of money potentially available, or used, to promote expression in the context of a political campaign, but will increase the amount of independent expenditures and encourage the dissemination of political expression through a wider variety of media sources.
- E. Local campaign contribution limits are municipal affairs and this chapter is authorized pursuant to the laws and Constitution of the State of California, as well as the Charter of the City of Newport Beach.
- F. The contribution limitations imposed by this chapter are consistent with the spirit, intent and letter of the Political Reform Act of 1974.

1.25.015 Intent.

The intent of this chapter is to impose limits on the amount of money that may be contributed to a candidate or candidate's controlled committee to achieve the purposes specified in Section 1.25.010. This chapter is not intended, and shall not be construed, to establish any reporting, filing, or procedural requirement in addition to, or different from, the Political Reform Act or the regulations adopted by the Fair Political Practices Commission (FPPC).

1.25.020 Definitions.

The terms used in this chapter shall have the same definitions as specified in the Political Reform Act and FPPC regulations. In those cases where definitions in the Political Reform Act or FPPC regulations contain a specific reference to any State election, candidate, or electoral criteria, the definition shall be modified to reflect the municipal equivalent, or, in the absence of a municipal equivalent, to delete the specific reference.

1.25.030 Campaign Contributions—Limitations.

A. Contributions by Persons to Candidates or Candidate's Controlled Committee. No person shall knowingly and willfully contribute to a candidate and/or the candidate's controlled committee, with respect to any single election, an amount that would cause the total contributed by such person to the candidate and the candidate's controlled committee, when combined, to exceed one thousand two hundred dollars (\$1,200.00).

B. Acceptance or Solicitation by Candidates or Candidate's Controlled Committee. No candidate or candidate's controlled committee shall knowingly and willfully solicit or accept any contribution from any person, which would cause the total amount contributed by such person, with respect to any single election, to the candidate and the candidate's controlled committee, when combined, to exceed the sum of one thousand two hundred dollars (\$1,200.00).

C. Adjustment for Cost of Living Changes. The campaign contribution limits and contribution acceptance and solicitation limits set forth in subsections (A) and (B) shall be adjusted in two-year intervals, beginning in June 2021, by the City Clerk to reflect annual changes in the Consumer Price Index (CPI) over the previous two-year period. The City Clerk shall use the annual percent change in the Consumer Price Index for All Urban Consumers (CPI-U) in the selected local area of Los Angeles-Long Beach-Anaheim, California, to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this subsection shall be rounded to the nearest one hundred dollars (\$100.00).

D. Demand for Return of Excess Contributions. It shall not be a violation of subsection (A) if the person: (1) first became aware the person violated the limitations set forth in subsection (A) when the person received a return of the excess contribution(s) from the candidate or candidate's controlled committee; or (2) if the person demands, in writing, a return of the portion of any contribution(s) donated in excess of the limitations imposed by subsection (A), within fourteen (14) calendar days from the date the City provides written notice to the person of the alleged violation of subsection (A) or the date the person discovers that the person's contribution(s) exceed the contribution limit set forth in subsection (A), whichever is sooner. A copy of the written notification by the person demanding the return of the portion of any contribution(s) donated in excess of the limitations imposed by subsection (A) shall be provided via certified mail or courier delivery to the last known address of the candidate or the candidate's controlled committee. If the excess contributions were not returned by the candidate or candidate's controlled committee prior to sending the written demand, the person shall provide the City Clerk with a copy of the written demand, and proof of delivery thereof, within fourteen (14) calendar days of the date the demand is made.

E. Return of Excess Contributions. It shall not be a violation of subsection (B) if the candidate or candidate's controlled committee returns the portion of any contribution(s) donated in excess of the limitations imposed by subsection (B), within fourteen (14) calendar days from the date the City provides written notice to the candidate or candidate's controlled committee of the alleged violation of subsection (B) or the date the

candidate or candidate's controlled committee discovers that the contribution(s) exceed the contribution limit set forth in subsection (B), whichever is sooner. If the City notified the candidate or candidate's controlled committee that the contributions exceeded the limitations imposed by subsection (B), written notification showing the donor's name, the amount returned, and the date of the return shall be provided to the City Clerk within fourteen (14) calendar days of the date of the return.

F. Contributions by Candidates. The provisions of subsections (A) and (B) of this section shall not apply to contributions from a candidate to his or her controlled committee(s) nor to the expenditure, by the candidate, of his or her personal funds.

G. Contributions to Committees. Contributions made to any person or a committee, and not to a candidate or candidate's controlled committee, shall not be considered as contributions to the candidate or candidate's controlled committee notwithstanding the fact that such person or committee supports the candidate or uses the contribution with a view to bringing about the nomination or election of the candidate.

H. Anonymous Contributions. No candidate or candidate's controlled committee shall knowingly and willfully accept anonymous contributions, with respect to any single election, which would cause the total amount of anonymous contributions received by the candidate and the candidate's controlled committee, when combined, to exceed one hundred dollars (\$100.00). Subject to the provisions of State law, it shall not be a violation of this subsection if the candidate or candidate's controlled committee pays to the City, for deposit into the general fund to be used to defray the costs of municipal elections, the portion of any contributions accepted in excess of the limitations imposed by this subsection within fourteen (14) calendar days from the date the City provides written notice to the candidate or candidate's controlled committee of the alleged violation of this subsection or within fourteen (14) calendar days of the date the candidate or candidate's controlled committee discovers the contribution(s) exceed the contribution limit set forth in this subsection, whichever is sooner.

I. Notice from the City. For purposes of this section, written notification by the City shall be by certified mail to the person to be notified at the persons last known address. Service by certified mail shall be deemed completed at the time of deposit with the post office.

J. City Clerk. If the City Clerk has a good faith belief that a person, candidate, or candidate's controlled committee has violated Section 1.25.030, the City Clerk shall refer the matter to the District Attorney.

1.25.040 Enforcement and Penalties.

A. Any person who violates the provisions of Section 1.25.030 is guilty of a misdemeanor.

B. In addition to any criminal penalty, if, after a candidate is elected, the candidate is convicted of a misdemeanor for violating Section 1.25.030, the election to office of such candidate shall be void and the office shall become vacant as of the date of conviction or on the date upon which the candidate would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the provisions of Section 403 of the City Charter. If a candidate is convicted of a misdemeanor for violating Section 1.25.030 at any time prior to the election of the candidate, the candidacy shall be terminated immediately and the candidate shall no longer be eligible for election. A plea of nolo contendere shall be deemed a conviction for purposes of this subsection.

C. For purposes of this chapter, the district attorney of the county is the civil and criminal prosecutor. If after a candidate is convicted of a misdemeanor there is a need to bring an enforcement action pursuant to subsection (B) and the district attorney of the county refuses to bring the action, the City Council shall have authority to appoint a special counsel to act as the civil prosecutor to enforce the civil penalties provided for in subsection (B).

Section 2: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 3: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 4: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 5: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the ____ day of _____, 2019, and adopted on the ____ day of _____, 2019, by the following vote, to-wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT COUNCILMEMBERS _____

DIANE B. DIXON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

AARON C. HARP, CITY ATTORNEY

EXHIBIT C

MUNICIPAL ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE CONTROL*

Sections:

1.25.010 Purpose and Findings.

1.25.015 Intent.

1.25.020 Definitions.

1.25.030 Campaign Contributions—Limitations.

1.25.040 Enforcement and Penalties.

~~**1.25.050 Severability**~~

1.25.010 Purpose and Findings.

The City Council of the City of Newport Beach finds and declares as follows:

- A. The primary purpose of the ordinance codified in this chapter is to prevent corruption, or the appearance of corruption, which results from the real or imagined influence of large contributions on the conduct or actions of candidates elected to office.
- B. The limits on contributions to candidates and candidates' controlled committees imposed by this chapter will encourage candidates and their supporters to raise funds from a greater number of persons than would otherwise involve themselves in the political process.
- C. Contribution limits encourage persons to expend funds that would otherwise be contributed to candidates on direct political expression which will broaden the discussion and debate on issues of importance to the electorate.
- D. These contribution limits will not reduce the total amount of money potentially available, or used, to promote expression in the context of a political campaign, but will increase the amount of independent expenditures and encourage the dissemination of political expression through a wider variety of media sources.
- E. Local campaign contribution limits are municipal affairs and this chapter is authorized pursuant to the laws and Constitution of the State of California, as well as the Charter of the City of Newport Beach.
- F. The contribution limitations imposed by this chapter are consistent with the spirit, intent and letter of the Political Reform Act of 1974.

1.25.015 Intent.

The intent of this chapter is to impose limits on the amount of money that may be contributed to a candidate or candidate's controlled committee to achieve the purposes specified in Section 1.25.010. This chapter is not intended, and shall not be construed, to establish any reporting, filing, or procedural requirement in addition to, or different from, the Political Reform Act or the regulations adopted by the Fair Political Practices Commission (FPPC).

1.25.020 Definitions.

The terms used in this chapter shall have the same definitions as specified in the Political Reform Act and FPPC regulations. In those cases where definitions in the Political Reform Act or FPPC regulations contain a specific reference to any State election, candidate, or electoral criteria, the definition shall be modified to reflect the municipal equivalent, or, in the absence of a municipal equivalent, to delete the specific reference.

1.25.030 Campaign Contributions—Limitations.

A. Contributions by Persons to Candidates or Candidate's Controlled Committee~~(s)~~. No person shall knowingly and willfully ~~make any contribution~~ contribute to a candidate and/or the candidate's controlled committee~~(s)~~, with respect to any single election, an amount that ~~which~~ would cause the total ~~amount~~ contributed by such person to the candidate and the candidate's controlled committee~~(s)~~, when combined, to exceed one thousand two hundred dollars (\$1,200.00).

B. -Acceptance or Solicitation by Candidates or Candidate's Controlled Committee~~(s)~~. No candidate or candidate's controlled committee shall knowingly and willfully solicit or accept any contribution from any person, which would cause the total amount contributed by such person, with respect to any single election, to the candidate and the candidate's controlled committee~~(s)~~, when combined, to exceed the sum of one thousand two hundred dollars (\$1,200.00).

C. Adjustment for Cost of Living Changes. The campaign contribution limits and contribution acceptance and solicitation limits set forth in subsections (A) and (B) shall be adjusted in two-year intervals, beginning in June 2021, by the City Clerk to reflect annual changes in the Consumer Price Index (CPI) over the previous two-year period. The City Clerk shall use the annual percent change in the Consumer Price Index for All Urban Consumers (CPI-U) in the selected local area of Los Angeles-Long Beach-Anaheim, California, to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this subsection shall be rounded to the nearest one hundred dollars (\$100.00).

D. Demand for Return of Excess Contributions. It shall not be a violation of subsection (A) if the person: (1) first became aware the person violated the limitations set forth in subsection (A) when the person received a return of the excess contribution(s) from the candidate or candidate's controlled committee; or (2) if the person demands, in writing, a return of the portion of any contribution(s) donated in excess of the limitations imposed by subsection (A), within fourteen (14) calendar days from the date the City provides written notice to the person of the alleged violation of subsection (A) or the date the person discovers that the person's contribution(s) exceed the contribution limit set forth in subsection (A), whichever is sooner. A copy of the written notification by the person demanding the return of the portion of any contribution(s) donated in excess of the limitations imposed by subsection (A) shall be provided via certified mail or courier delivery to the last known address of the candidate or the candidate's controlled committee. If the excess contributions were not returned by the candidate or candidate's controlled committee prior to sending the written demand, the person shall provide the City Clerk with a copy of the written demand, and proof of delivery thereof, within fourteen (14) calendar days of the date the demand is made.

E. Return of Excess Contributions. It shall not be a violation of subsection (B) if the candidate or candidate's controlled committee returns the portion of any contribution(s) donated in excess of the limitations imposed by subsection (B), within fourteen (14) calendar days from the date the City provides written notice to the candidate or candidate's controlled committee of the alleged violation of subsection

(B) or the date the candidate or candidate's controlled committee discovers that the contribution(s) exceed the contribution limit set forth in subsection (B), whichever is sooner. If the City notified the candidate or candidate's controlled committee that the contributions exceeded the limitations imposed by subsection (B), written notification showing the donor's name, the amount returned, and the date of the return shall be provided to the City Clerk within fourteen (14) calendar days of the date of the return.

F.C. Contributions by Candidates. The provisions of subsections (A) and (B) of this section shall not apply to contributions from a candidate to his or her controlled committee(s) nor to the expenditure, by the candidate, of his or her personal funds.

G.D. Contributions to Committees. Contributions made to any person or a committee, and not to a candidate or candidate's controlled committee, shall not be considered as contributions to the candidate or candidate's controlled committee notwithstanding the fact that such person or committee supports the candidate or uses the contribution with a view to bringing about the nomination or election of the candidate.

H.E. Anonymous Contributions. No candidate or candidate's controlled committee shall knowingly and willfully accept anonymous contributions, with respect to any single election, which would cause the total amount of anonymous contributions received by the candidate and the candidate's controlled committee(s), when combined, to exceed two-one hundred dollars (\$1200.00). Subject to the provisions of State law, it shall not be a violation of this subsection if the candidate or candidate's controlled committee pays to the City, for deposit into the general fund to be used to defray the costs of municipal elections, the portion of any contributions accepted in excess of the limitations imposed by this subsection within fourteen (14) calendar days from the date the City provides written notice to the candidate or candidate's controlled committee of the alleged violation of this subsection or within fourteen (14) calendar days of the date the candidate or candidate's controlled committee discovers the contribution(s) exceed the contribution limit set forth in this subsection, whichever is sooner. ~~in the event any candidate or controlled committee(s) receive(s) an anonymous contribution that would, if accepted in whole or in part, result in a violation of this subsection, the candidate or controlled committee(s) shall promptly pay that sum to the City for deposit into the general fund to be used to defray the costs of municipal elections.~~

~~F.— Adjustment for Cost of Living Changes. The campaign contribution limits and contribution acceptance and solicitation limits set forth in subsections (A) and (B) of this section shall be adjusted in February at two-year intervals beginning in 2011 by the City Clerk to reflect annual changes in the Consumer Price Index (CPI) over the previous two-year period. The City Clerk shall use the annual percent change in the Consumer Price Index for All Urban Consumers (CPI-U) in the selected local area of Los Angeles—Riverside—Orange County, California, to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this subsection shall be rounded to the nearest one hundred dollars (\$100.00).~~

I. Notice from the City. For purposes of this section, written notification by the City shall be by certified mail to the person to be notified at the persons last known address. Service by certified mail shall be deemed completed at the time of deposit with the post office.

J. City Clerk. If the City Clerk has a good faith belief that a person, candidate, or candidate's controlled committee has violated Section 1.25.030, the City Clerk shall refer the matter to the District Attorney.

1.25.040 Enforcement and Penalties.

A. Any person who ~~knowingly and willfully~~ violates the provisions of Section 1.25.030 is guilty of a misdemeanor.

B. In addition to any criminal penalty, if, after a candidate is elected, the candidate is convicted of a ~~misdemeanor for violating on of the provisions of~~ Section 1.25.030, the election to office of such candidate shall be void and the office shall become vacant as of the date of conviction or on the date upon which the candidate would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the provisions of Section 403 of the City Charter. If a candidate is convicted of a ~~misdemeanor for violating violation of~~ Section 1.25.030 at any time prior to the election of the candidate, the candidacy shall be terminated immediately and the candidate shall no longer be eligible for election. A plea of nolo contendere shall be deemed a conviction for purposes of this subsection.

C. For purposes of this chapter, the district attorney of the county is the civil and criminal prosecutor. If after a candidate is convicted of a misdemeanor there is a need to bring an enforcement action pursuant to subsection (B) and the district attorney of the county refuses to bring the action, the City Council shall have authority to appoint a special counsel to act as the civil prosecutor to enforce the civil penalties provided for in subsection (B). The City Attorney shall have the power to enforce this chapter only to the extent that that office has authority to enforce provisions of the Political Reform Act. In the event that the City Attorney is not authorized to enforce the provisions of this chapter, the District Attorney shall generally function as criminal prosecutor and the City Council shall have the authority to appoint a special counsel to enforce civil penalties as provided in subsection (B) of this section, or to function as the criminal prosecutor in the event that the District Attorney is unable or unwilling to do so.

1.25.050 Severability.

~~If any provision of the ordinance codified in this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the ordinance codified in this chapter to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of the ordinance codified in this chapter are severable.~~