

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PASADENA IMPOSING CAMPAIGN CONTRIBUTION LIMITS AND CERTAIN ADDITIONAL REPORTING AND DISCLOSURE REQUIREMENTS FOR CITY ELECTION CAMPAIGNS

THE CITY COUNCIL: OF THE CITY OF PASADENA DOES HEREBY ORDAIN AS FOLLOWS:

Part 1: Findings and Intent

A significant result of the high cost of election campaigning is the perceived problem of improper or disproportionate influence exercised in the political process by a relatively small number of persons who make large campaign contributions to candidates for public office. This problem contributes to a lack of public confidence in the electoral process and can cause a perception in the community that campaign contributions in amounts that significantly exceed the community norm could be corrupting. Eliminating any perception or appearance of corruption in local elections is of vital importance to the community.

The City Council hereby finds as follows:

This Ordinance imposes realistic, narrowly tailored, and enforceable limits on the amounts which may be contributed for political campaigning in municipal elections; and

This Ordinance will ensure and promote integrity, honesty, and fairness in decisions of public policy; and

This Ordinance favors or disfavors no individual or group over another; and

This Ordinance ensures a level of discussion of public issues adequate for a viable political campaign; and

The limits imposed herein are not so low as to infringe on candidates' ability to communicate with the voters; and

This Ordinance requires a full public disclosure of campaign contributions received, the names and addresses of: contributors to such campaigns, and the purpose and amounts of expenditures in political campaigns in municipal elections; and

This Ordinance will provide for the full and fair enforcement of all the provisions of this Chapter.

In seeking to establish such realistic limitations on campaign costs, it is the intent of the Council to promote a broader and more open participation by all citizens in the electoral process, and it is in no way intended that such limitations should act to deprive or restrict any citizen in the exercise of his or her rights guaranteed under the First and Fourteenth Amendments of the United States Constitution. The Council further finds, based on research and a report from staff, public input, and the Council Member's own experience in the local political process, that in recent elections for Member of the City Council the large majority of contributions were made in amounts that were at or lower than the limits imposed herein.

Based on that information, the Council further finds that the limitations imposed in this Ordinance are the least restrictive means necessary to serve the cited goals in enacting this Ordinance. The Council further finds that the City is empowered to enact an ordinance limiting campaign contributions in municipal elections by Section 301 of the City Charter and Section 10202 of the Elections Code of the State of California. Further, pursuant to Section: 81013 of the California Government Code it is determined that the additional requirements imposed by this Ordinance will not preclude any person from complying with the California Political Reform Act.

Part 2

Chapter 1.22 is hereby added to Title 1 of the Pasadena Municipal Code to read as follows:

"CHAPTER 1.22. CITY ELECTION CAMPAIGNS: CONTRIBUTION LIMITS AND DISCLOSURE REQUIREMENTS

Sec. 1.22.010. Purpose

The purposes of: this Chapter are:

- (a) To eliminate the possibility of corruption or the appearance of corruption in local elections, arising as a result of disproportionately large political contributions, by adopting the least restrictive limits possible on the amounts of money any person may contribute or otherwise cause to be available to candidates for City elective office and those who support or oppose such candidates; and

- (b) To promote informed actions by the electors of the City by requiring the full and truthful disclosure of contributions and expenditures in City election campaigns; and
- (c) To inhibit improper or illegal campaign activity, and to ensure vigorous enforcement of this Chapter; and
- (d) Pursuant to Section 301 of the Charter of the City of Pasadena, California Government Code Section 81013, and Elections Code Section-10202, to impose contribution limitations, disclosure requirements, and prohibitions in addition to those imposed by State law, but that do not prevent any person from complying with State law.

Sec.1.22.020. Definitions.

The definitions set forth in the California Political Reform Act, as amended (Government Code Sections 81000 et seq.), and the regulations promulgated pursuant thereto, shall govern the interpretation of this Chapter except as to those terms defined below:

(a) **Candidate.**

"Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials for nomination or election to any City elective office, or who, receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any City elective office, whether or not the specific City elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any elected City officer who is the subject of a recall effort. For the purpose of this Chapter, an elected City officer becomes the subject of a recall effort, and therefore becomes a candidate, at such time as the notice of intention to circulate recall petitions is served on that officer. Thereafter, any action taken by a person to advocate the recall of the candidate shall be deemed to be opposing the candidate, and any action taken by a person to oppose the recall of the candidate shall be deemed to be supporting the candidate. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214 of the California Government Code. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971.

(b) City Elective Office.

"City Elective Office" means the offices of Member of the City Council and elected Mayor, should the City Charter be amended to provide for that office.

(c) Committee.

"Committee" means any person or combination of persons who directly or indirectly does any of the following in connection with supporting or opposing a candidate or candidates for City elective office or a City measure:

(1) Receives contributions totaling one thousand dollars (\$1,000.00) or more in a calendar year.

(2) Makes independent expenditures: totaling one thousand dollars (\$1,000.00) or more in a calendar year.

(3) Makes contributions totaling two thousand~dollars (\$2,000.00) or more in a calendar year.

A person or combination of persons that becomes a committee shall retain its status as committee until such time as that status is terminated pursuant to California Government Code Section 84214.

(d) Contribution.

(1) "Contribution" means a payment, a forgiveness of a loan or debt, a payment of a loan or debt by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. Any expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure. The term "contribution" includes (i) the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; (ii) the candidate's own money or property used on behalf: his or her candidacy; (iii) the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; (iv) the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration; (v) any transfer of anything of value received by a committee from another person, unless full and adequate consideration is received; (vi) any loan, or any extension of credit, in excess of thirty (30) days, except as provided below, from the maker and/or guarantor of the loan or extension of credit.

(2) The term "contribution" does not include: (i) amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement; (ii) a payment made by an occupant of a home or office for costs related to any meeting or fund-raising event held in the occupant's home or office if the costs for the meeting or fund-raising event are five hundred dollars (\$500.00) or less; (iii) volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her; (iv) the proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public, which is not guaranteed by any other party, and for which a written agreement has been executed and filed with the candidate's first campaign statement due after the date the loan it made; (v) the costs of internal communications to only the members, employees, or shareholders of an organization for the purpose of communicating the organization's support of or opposition to a candidate for City elective office or a measure, provided such payments are not for the cost of campaign materials to be used for communications with the general public.

(3) A contribution shall not be considered to have been received or accepted if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within fourteen (14) days of receipt, or prior to the closing date of the statement on which the contribution would otherwise be reported, whichever is earlier.

(e) **Measure.**

"Measure" means any City initiative, referendum, charter amendment, or City Council sponsored ballot question which is submitted to the voters of Pasadena at a regular municipal election or special election called for the purpose.

(f) **Person.**

"Person" means an individual, proprietorship, firm, partnership joint venture, syndicate, business trust, committee, company, corporation, limited liability corporation, association, and any other organization or group of persons acting in concert.

(g) **Political Reform Act.**

"Political Reform Act" means Title-9 of the Government Code, 581000 et seq., as it now exists or may be amended.

1.22.030. Contribution Limits.

(a) **Limit on contributions by persons and committees.**

(1) No person or committee shall make contributions to any candidate for City Council, including the controlled committee of such candidate, and no such candidate or such candidate's controlled committee shall solicit or accept, any contribution that will cause the amount contributed by the contributor to such candidate or the candidate's controlled committee to exceed two hundred fifty dollars (\$250.00) for any single election.

(2) No person or committee shall make to any candidate for elected Mayor, including the controlled committee of such candidate, and no such candidate or such candidate's controlled committee shall solicit or accept, any contribution that will cause the amount contributed by the contributor to such candidate or the candidate's controlled committee to exceed one thousand dollars (\$1,000.00) for any single election.

(3) No person shall make to any committee which supports or opposes any candidate or candidates for City elective office and no such committee shall accept from any such person a contribution or contributions totaling more than two hundred fifty dollars (\$250.00) in any calendar year.

(4) The City Council may adjust the contribution limits established in this paragraph (a) in August of every even numbered year to reflect any increase or decrease in the California Consumer Price Index since the last such adjustment of the contribution limit. such adjustments shall be rounded to the nearest ten dollar (\$10) amount.

(5) For the purpose of this Section, a primary election and a subsequent general election shall be deemed to be separate "single elections."

(6) The limitations of this paragraph (a) shall not apply to contributions of a candidates personal funds to his or her controlled campaign committee on behalf of his or her own candidacy, and shall apply to contributions from the candidates spouse.

(b) **Restrictions on when contributions may be received.**

(1) No candidate, including the candidate's controlled committee, and no committee primarily formed to support or oppose any candidate or candidates for City elective office, shall accept any contributions more than six (6) calendar months prior to any election in which the candidate is attempting, or has qualified, to be on the ballot or is a write-in candidate. In the case of a recall effort, the pre-election fund raising period set forth in this paragraph (b)(1) shall commence on the date a notice of intent to circulate a recall petition is served on the officer.

(2) No candidate or the controlled committee of such candidate, and no committee primarily formed to support or oppose any candidate or candidates for City elective office, shall accept any contributions: after **the earlier of** (i) ninety (90) days after the date of the candidates withdrawal as a candidate, defeat or election to office; or (ii) the date on which outstanding bills or debts owed by the candidate or committee are paid in full, contributions received during such ninety (90) day period shall be used only to pay outstanding bills or debts owed by the candidate or committee for that election. The limitations of this paragraph (b) shall not apply to funds raised by a candidate or the candidate's controlled committee to retire outstanding debts from any election for City elective office held prior to the effective date of this Ordinance, provided that such funds are collected pursuant to the contribution limits established in this Chapter. Such funds raised to retire debts remaining from election held prior to the effective date of this Ordinance shall not count against the per election contribution limits established in this Chapter.

(3) If, at the end of the period specified in Section 1.22.030(b)(2), there remains any unexpended balance in the campaign bank account of any candidates or committees, such unexpended funds remaining in the account shall be immediately disposed of in the following manner:

- (i) Subject to the limitations in Section 1.22.040, funds may be transferred from the candidate's campaign account to the candidates officeholder account, if such an account is permitted to be established by this Chapter.
- (ii) Any remaining unexpended funds shall be returned to contributors pro rata or turned over to the General Fund of the City of Pasadena, to be earmarked for the purpose of offsetting any costs incurred by the City in enforcing this Chapter.

(4) Under no circumstances shall funds raised for a campaign for City elective officiate redesignated, transferred, or used for any future election other than the single election for which the funds were contributed.

(c) **Limitations on loans.**

Any loan, or any extension of credit, for a period of more than 30 days, other than loans to the candidate from commercial lending institutions without a guarantor made in the regular course of business on the same terms available to members of the public, shall be considered a contribution from the maker and/or guarantor of the loan or the creditor, and shall be subject to all applicable contribution limits.

(d) Anonymous contributions.

No person shall make to any candidate for City elective office or the candidate's controlled committee, or to any committee that supports or opposes any such candidate or candidates, and no such candidate or committee shall solicit or accept, any anonymous contribution that exceeds twenty five dollars (\$25.00).

(e) Cash Contributions.

No person shall make to any candidate for City elective office or such candidate's controlled committee, or to any committee that supports or opposes any such candidate or candidates, and no such candidate or committee shall solicit or accept a cash contribution that exceeds twenty five dollars (\$25.00). No contribution that causes the total amount contributed by the donor to the recipient to exceed twenty-five dollars (\$25.00), other than an in-kind contribution as defined by the Political Reform Act, shall be accepted or made unless it is made by written instrument containing the name of the donor and the name of the payee.

(f) Assumed Name Contribution.

No contribution shall be made, directly or indirectly, by any person or combination of persons acting jointly in a name other than the name by which they are identified for legal purposes, nor in the name of another person or combination of persons. No person shall make a contribution in his or her name of anything belonging to another person or received from another person on the condition that it be used as a contribution. Upon discovery by a candidate for City elective office, or his or her campaign treasurer or committee, or the City Clerk that a contribution has been received in violation of this subsection, the amount received in violation of this subsection shall be promptly paid from available campaign funds to the Treasurer of the City for deposit in the General Fund of the City, and shall be earmarked to be used for the purpose of defraying any costs incurred by the City in enforcing this Chapter, and shall not be used to benefit any candidate or committee.

(g) Family contributions.

Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated. Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed one-half to each parent or the total amount to a single custodial parent.

(h) Aggregation of contributions.

Contributions shall be aggregated and, hence, treated as though made by the same person, when made by:

- (1) entities which share a majority of members on their boards of directors, unless such entities in fact act independently in their decisions to make contributions;
- (2) entities which share two or more officers, unless: much entities it fact act independently in their decisions to make contributions;
- (3) entities which are in a parent-subsiary relationship, or where one entity is a branch, division, affiliate, department or local unit of the other;
- (4) an individual or group of individuals and any legal entity or entities in which the individual or group of individuals own greater than fifty percent (50%) of the voting or other class of stock of the entity, or who receive or are entitled to receive greater than fifty percent of :the profits of the entity.
- (5) an individual and any other legal entity or entities for which the individual is in fact solely responsible for decisions regarding the making of contributions.

Sec. 1.22.040. Officeholder Accounts.

(a) **Generally.**

(1) Each Member of the City Council may establish one segregated officeholder account for expenses directly related to assisting, serving, or communicating with constituents, or to carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed ten thousand dollars (\$10,000) in any calendar year, and that expenditures from an officeholder account are not made in connection with any campaign for elective office in any jurisdiction or any ballot measure.

(2) If the City Charter is amended to provide for the office, the elected Mayor of the City may establish one segregated officeholder account for expenses directly related to assisting, serving, or communicating with constituents, or to carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed forty thousand dollars (\$40,000) in any calendar year, and that expenditures from an officeholder account are not made in connection with any campaign for elective office in any jurisdiction or any ballot measure.

(b) **Officeholder Account Contribution Limits.**

(1) No person shall make, and no Member of the City Council or his or her officeholder account shall solicit or accept, a contribution or contributions to the Member's officeholder account totaling more than two hundred fifty dollars (\$250.00) in any calendar year.

(2) No person shall make, and the elected Mayor of the City or his or her officeholder account shall neither solicit nor accept, a contribution or contributions to the elected Mayor's officeholder account totaling more than one thousand dollars (\$1,000.00) in any calendar year. This provision shall have no effect unless the City Charter is first amended to provide for the office of elected Mayor.

(3) Contributions to an officeholder account shall not be considered to be campaign contributions for the purpose of this Chapter.

(c) Reporting and Recordkeeping.

Officeholder accounts are subject to the campaign disclosure, reporting, and recordkeeping requirements of the Political Reform Act and this Chapter. Any funds remaining in an officeholder account when the officeholder leaves office shall be turned over to the General Fund of the City of Pasadena within ten (10) calendar days of the date the officeholder leaves office.

(d) Proposition 208.

In the event that the provisions of California Government Code Sections 85313(a) and (b) are ordered to be enforced by a court of competent jurisdiction, the aggregate and individual contribution limits imposed therein for officeholder accounts shall replace the limits set forth in this Section.

Sec. 1.22.050. Filing Requirements.

(a) Generally.

Filing requirements of this Chapter that are in any way additional or different from those set forth in Government Code Sections 84100 *et seq.* shall apply only to candidates for City elective office, to such candidates' controlled committees, or to committees not controlled by candidates but that are formed or existing primarily to support or oppose a candidate or any measure which is being voted on only in a municipal election in the City of Pasadena.

(b) Filing thresholds: Statement of Organization.

Notwithstanding the filing thresholds established in California Government Code Sections 82013(a) and 84101, any person that qualifies as a committee by virtue of Section 1.22.020(c) shall file a statement of organization as required by California Government Sections 84101 through 84103, inclusive, within ten (10) days after that person has qualified as a committee.

(c) Times for filing campaign reports.

Committees shall file all required campaign statements and semi-annual statements in compliance with the Political Reform Act and this Chapter. In addition to the statements required to be filed by the Political Reform Act, any candidate or committee which is required to file pre-election statements in connection with an election for any City elective office or any City measure shall file with the City Clerk an additional pre-election statement not later than 5:00 p.m. on the Tuesday immediately preceding the election. Such additional campaign statement shall cover the period beginning sixteen (16) days before the election and ending ten (10) days prior to the election. Such statement shall be filed with the City Clerk by personal delivery or by guaranteed overnight delivery service.

(d) Reporting of late contributions and independent expenditures.

Notwithstanding the one thousand dollar (\$1,000) threshold contained in California Government Code Sections 82036, 82036.5, 84203, and 84204, any late contribution or late independent expenditure of one hundred dollars (\$100) or more in connection with any election for City elective office or any City measure shall be reported to the City Clerk in the form prescribed by the Fair Political Practices Commission for that purpose within 24 hours in compliance with those sections.

1.22.060. Disclosure of Major Sources of Campaign Funds

In addition to the requirements under the Political Reform Act that "sponsors" of committees be identified and publicly disclosed, the following requirements apply to all persons that support or oppose any City measure and to all independent expenditures in support of or opposition to any candidate for City elective office:

(a) Ballot Measure Communications.

Any communication that supports or opposes any City measure shall include a disclosure statement in the body, text, audio, or video of the communication that clearly and unambiguously identifies any person who has contributed one thousand dollars (\$1,000.00) or more to the committee that causes the communication to be disseminated in the twelve (12) month period immediately preceding the dissemination of the communication. In the event that there are more than two contributors of one thousand dollars (\$1,000.00) or more, the committee shall be required only to identify the contributors of the highest and second highest amounts, in that order. In the event that more than two donors have met this disclosure threshold at identical amounts, contributors to be identified shall be selected according to the most recent dates the contributors reached the identification threshold.

(b) Independent Expenditure Communications.

Any communication that advocates the election or defeat of any candidate for City elective office and that is an independent expenditure shall include a disclosure statement in the body, text, audio, or video of the communication that clearly and unambiguously identifies the two persons making the largest contributions to the committee that causes the communication to be disseminated. In the event that there are more than two contributors of identical amounts, contributors to be identified shall be selected according to the most recent dates the contributors reached the identification threshold.

(c) Avoidance of Disclosure Requirements.

No person or committee shall create or use any non-controlled committee or non-sponsored committee to avoid, or that results in the avoidance of, the disclosure of the actual identity of any person as required by this Section.

(d) Printed or Broadcast Identification

On printed communications, the identification of contributors required by this Section shall be printed clearly and legibly in no smaller than 10 point type, and in a color that contrasts with the background or paper color of the communication. In electronic and/or broadcast communications, the identification shall be conveyed audibly or visually in a manner that will clearly deliver the required information to the public.

(e) Communications

For the purposes of this Section, the term "communication" shall include the dissemination to the public of a message including, without limitation: (i) radio, television, newspaper, outdoor, cable television, computerized, or other advertising; (ii) mass mailings as defined by the Political Reform Act; and (iii) printed or written materials delivered to the public by any means. The term "communication" shall not include campaign buttons, bumper stickers smaller than sixty (60) square inches, and communications from an organization directly and solely to its members.

1.22.070. Recordkeeping and Audits

(a) Recordkeeping

It shall be the duty of each candidate, treasurer, and principal officer of any committee to maintain such detailed accounts, records, bills, copies of checks, and receipts that are necessary to prepare the campaign statements required by this Chapter and the Political Reform Act. Such records shall be maintained and retained by the filer pursuant to the provisions of the Political Reform Act and regulations promulgated by the Fair Political Practices Commission. Persons

maintaining such records shall, upon not less than seven (7) days written notice, make such records available for review and/or audit by a designated representative of the City of Pasadena.

(b) Audits

For the specific purpose of enforcing the provisions of this Chapter only, the City Clerk or the City Prosecutor, or their designated representatives, may investigate and audit the records and reports of any candidate, candidate's controlled committee, and any other committee that supports or opposes any candidate or candidates for City Elective Office or any City measure.

1.22.080. Remedies.

(a) Liability for violations.

In the case of any violation of this Chapter by a committee, the treasurer and any principal officers or, in the case of a controlled committee, the candidate, may be liable for violations as provided herein. If two or more persons are liable for any violation, they shall be jointly and severally liable.

(b) Misdemeanor violations and fines.

Any person or candidate for City Elective Office who knowingly or wilfully violates any provision of Section 1.22.030(a) through (g), inclusive, Section 1.22.040(a) through (c), inclusive, Sections 1.22.050(b) through (d), inclusive, Section 1.22.060(a) through (d), inclusive, or Section 1.22.070(a), shall be guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding one thousand dollars or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. Allegations that such violations have occurred may be prosecuted by the City Prosecutor or, in the discretion of the City Prosecutor, be referred to the Los Angeles County District Attorney for investigation and prosecution.

(c) Civil injunctive relief and civil penalties.

Any person residing in the City may sue in Los Angeles County Superior Court to enjoin violations of, or to compel compliance with, the provisions of this Chapter. Any person who is found by a court of competent jurisdiction in such an action to have intentionally or negligently violated any provision of this Chapter may be liable for a civil penalty not to exceed three times the amount in controversy. In determining the amount of a civil penalty, if any, the court shall take into consideration the seriousness of the violation, and the degree of culpability of the defendant. The prevailing party in any such action shall be entitled to seek and be awarded its attorneys fees and court costs. Any action for civil injunctive relief and/or civil penalty must be filed within one (1) year of the date of the alleged violation. No civil action may be brought if a criminal action is pending for the same or related violations, unless such criminal action is

dismissed by the City Prosecutor."

Part 3: Severability

If any provision or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance. The City Council hereby declares that this Ordinance, and each section, subsection, sentence, clause and phrase thereof, would have been adopted by the City Council regardless of the fact that any other section, subsection, sentence, clause or phrase might be declared invalid or unconstitutional.

Part 4: Effective Date

The City Council hereby finds that this Ordinance relates to an election and shall therefore take effect immediately upon its passage pursuant to California Elections Code Section 9235(a).

Signed and approved this ____ Day of _____, 1998.

CHRIS HOLDEN
MAYOR

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held _____, 1998, by the following vote:

AYES;

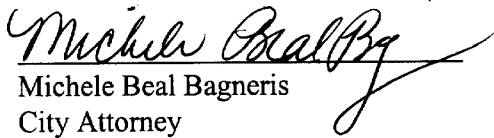
NOES:

ABSENT:

ABSTAIN:

JANE RODRIGUEZ
CITY CLERK

Approved as to form


Michele Beal Bagneris
City Attorney