

ORDINANCE NO. 92-060

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF OCT 27 1992

**AN ORDINANCE ADDING ARTICLE II TO CHAPTER 62
OF THE SACRAMENTO CITY CODE RELATING TO
CONTRIBUTION LIMITATIONS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article II of Chapter 62 of the Sacramento City Code is hereby added to read as follows:

Article II. Campaign Contribution Limitations

Division 1. General Findings

§ 62.200 Title.

This article may be cited as the "Campaign Contribution Limits Code" of the City of Sacramento.

§ 62.201 Findings.

The City Council of the City of Sacramento finds and declares as follows:

- (a) The policy of this city is to protect the integrity of the electoral process.
- (b) Monetary contributions to political campaigns are a legitimate form of participation in the political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates for municipal office. The increasing amounts of expenditures in political campaigns have forced many candidates for elective office to raise larger and larger sums from individuals or interest groups with a specific financial stake in City matters. This can cause the

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public perception that the votes of City Council members and decisions of elected officials are being improperly influenced by monetary contributions. Such a perception can undermine the credibility of the City Council and the governmental process.

- (c) The best interests of the citizens of the City of Sacramento are served by reducing the direct and indirect costs of campaigns.
- (d) The City finds that limitations on contributions of money, services and materials by individuals or groups to municipal election campaigns should be imposed by law to protect the public health, safety and welfare. These limitations, however, should be reasonable so as not to discourage personal expression or participation in the political process.
- (e) Campaign spending for municipal office campaigns is escalating to dangerous and unreasonable levels.
- (f) The integrity of the legislative process, the competitiveness of campaigns, and public confidence in elected municipal officials are all diminishing.

§ 62.202 Purpose and Intent.

The City Council of the City of Sacramento enacts this ordinance to accomplish the following purposes:

- (a) To encourage public trust in the electoral and decision-making processes of the City, and to ensure that individuals and interest groups have a fair and equal opportunity to participate in the elective and legislative process;
- (b) To reduce the potential for influence by large contributors with a specific financial stake in matters before the City, thus countering the perception that decisions of municipal officials are influenced more by the size of contributions than by the merits of proposals and what is in the best interest of the people of the City;
- (c) To encourage smaller contributions;
- (d) To help ensure public trust in the City's legislative and electoral institutions;
- (e) To reduce off-year fundraising to allow officeholders and candidates to devote less time to fundraising and more time to addressing issues facing the city; and

- (f) To limit the use of loans and credit in the financing of political campaigns for municipal elective office.

Division 2. Definitions

§ 62.210 Definitions.

Unless a particular word or phrase is otherwise specifically defined in this article, or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Government Code Sections 81000 *et seq.*) shall govern the construction, meaning, and application of words and phrases used in this article. References to particular sections of the Government Code or other statutes or laws, including references in this section, shall be deemed to include any changes to such sections, statutes or laws, including any amendments, deletions, additions, renumberings or recodifications that may occur subsequent to the enactment of this ordinance.

- (a) **California "Political Reform Act"** shall mean the California Political Reform Act, Government Code Sections 81000 et seq.
- (b) **"Campaign contribution account"** means an account established pursuant to California Government Code Section 85201.
- (c) **"Candidate"** means an individual who has filed a statement pursuant to California Government Code Section 85200 indicating an intent to run for City office.
- (d) **"City office"** shall mean the offices of Mayor and City Council member.
- (e) **"Contribution"** shall mean contribution as defined in California Government Code Section 82015, and shall include non-monetary contributions, extensions of credit, and loans to the extent that loans are considered contributions pursuant to California Government Code Section 84216.
- (1) Unsecured loans: If the loan is not secured or guaranteed, it shall be considered a contribution from the maker and shall be subject to the contribution limits of this article.
- (2) Secured or guaranteed loans: Notwithstanding Government Code Section 84216, a loan which is secured or guaranteed shall be considered a contribution from the lender and guarantor or person whose property secures the loan, and shall be subject to the contribution limits of this article.

- a) Exception: 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 either unsecured, personally guaranteed by the candidate, or secured by property owned by the candidate shall not be subject to the contribution limits of this article.
- (f) **Controlled committee**" shall mean controlled committee as defined in California Government Code Section 82016.
- (g) **"Off-election year"** shall mean each of the three years during the term of a City elective office in which an election for that office is not held; provided that (i) if a candidate for City elective office receives a majority of votes cast in the primary election, the period from July 1st through December 31st shall be considered an off-election year for purposes of applicable contribution limitations; (ii) for purposes of a special election to fill a City elective office that became vacant in a year prior to the year of the election, that year shall not be considered an off-election year; and (iii) for purposes of a special election to fill a City elective office, the period from the first day of the month following the month in which a special election is held through December 31st shall be considered an off-election year for purposes of applicable contribution limitations.
- (h) **"Person"** shall mean an individual or any proprietorship, labor union, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, political action committee, committee, or any other entity or organization or group of persons, however organized.

Division 3. Contribution Limitations.

§ 62.220 Contribution Limitations.

Contributions to candidates for the office of City Council member and for the office of the Mayor shall be subject to the following limitations:

- (a) **Individual Contribution Limits**
- (1) **Council members**: No person shall make, and no candidate for the office of City Council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the

candidate's controlled committee, to exceed five hundred dollars (\$500.00) for each of the following elections for the office of City Council member: a primary election, a general election, or a special election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for City Council from his or her personal funds.

- (2) **Mayor:** No person shall make, and no candidate for the office of Mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed seven hundred fifty dollars (\$750.00) for each of the following elections for the office of Mayor: a primary election, a general election, or a special election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for Mayor from his or her personal funds.
- (3) **Off-election-year contributions to officeholders:** Contributions to an incumbent Mayor or an incumbent City Council member during off-election years shall be considered contributions for the election in which the incumbent acquired his or her office, unless the contributions are accepted and deposited into a new campaign contribution account for a future election to the same or different office.
- (4) **Timing of contributions:** For purposes of this section, a contribution made and accepted on or before June 30th to a candidate for a City elective office in a regular election shall be deemed to be contributions for the primary election, and contributions made and accepted on or after July 1st to a candidate for a City elective office in a regular election shall be deemed to be contributions for the general election.

(b) **Cumulative Off-Election-Year Contribution Limitations.**

- (1) **City Council members:** No incumbent or candidate for the office of City Council member, or a controlled committee of said incumbent or candidate, shall accept contributions totaling more than Ten Thousand Dollars (\$10,000.00) in any single off-election year. The intent of this section is to impose an absolute limit of Ten Thousand Dollars (\$10,000.00) on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section

62.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.220 above.

- (2) **Mayor:** No incumbent or candidate for the office of Mayor or a controlled committee of said incumbent or candidate shall accept contributions totaling more than Twenty Thousand Dollars (\$20,000.00) in any single off-election year. The intent of this section is to impose an absolute limit of Twenty Thousand Dollars (\$20,000.00) on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section 62.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.220 above.
- (3) **Exception: Campaign indebtedness:** The aggregate contribution limitations for off-election years shall not apply to candidates or incumbents whose campaigns for City elective office are in debt following the election(s). The candidate or incumbent who is in debt following an election may only collect funds in excess of the cumulative limits set forth above in the amounts necessary to eliminate the debt incurred by the candidate, and shall thereafter be subject to the aggregate off-election-year limits. Nothing in this exception is intended to allow a contributor to give, or a candidate or incumbent, or controlled committee of said candidate or incumbent, to accept, contributions in amounts exceeding the individual contribution limits set forth in Section 62.220. For purposes of the contribution limits set forth in Section 62.220, the contributions to the candidate shall be considered to be contributions for the last election in which the candidate was on the ballot for the City elective office in which the debt was incurred.

§ 62.221 Legal Expense Funds.

- (a) In addition to contributions received in connection with an election to an elective City office, an elected City officer or a candidate for elective City office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or officer's legal defense to any civil, criminal, or

administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the officer's governmental activities and duties.

- (b) Any elected City officer or candidate for elective City office wishing to establish a legal expense fund pursuant to this section shall file a statement of organization for the legal expense fund pursuant to Government Code section 84101, as amended, with the Secretary of State and a copy with the City Clerk. The legal expense fund shall be named "The (name of candidate or officeholder) Legal Expense Fund." The statement of organization shall identify the specific civil, criminal or administrative proceeding or proceedings for which the legal expense fund is established and shall conform to the requirements of Government Code sections 84102-84104, as amended.
- (c) The legal expense fund shall establish a single account at an office of a financial institution located in the City of Sacramento, and all contributions to the officer or candidate for his or her legal expenses shall be deposited into that account.
- (d) Only contributions that are specifically designated by the donor as being made to the legal expense fund may be deposited into the legal expense fund may be deposited into the legal expense fund account. All such contributions must be made payable to the legal expense fund, and no contribution that is not specifically made payable to the legal expense fund may be deposited into the legal expense fund account. However, non-monetary contributions may be received and used for purposes directly related to the legal expenses for which the fund is established if the donor specifically designates in writing that the contributions have been made for such purposes.
- (e) No person (other than the officer or candidate) shall make, and no legal expense fund committee for an elective City officer or candidate for elective City office shall solicit or accept, contributions from any person to a legal defense fund totaling more than Seven Hundred Fifty Dollars (\$750.00).
- (f) Expenditures from the legal expense fund account shall be made only for legal costs directly related to the civil, criminal, or administrative proceeding or proceedings for which the legal expense fund was established. In no event, however, shall any expenditures from the legal expense fund account be used to pay or reimburse any fines, penalties, judgments or settlements in connection with any criminal prosecution or any civil or administrative action in which the officer or candidate is found to have committed, or admits to, an intentional or negligent violation of the law.

- (g) No funds may be transferred from the legal expense fund to any other committee. Surplus funds remaining in the legal expense fund account after the proceeding or proceedings in connection with which the account was established have concluded, and after all debts are paid, may not be used for any other purpose. Such surplus funds shall be returned to donors on a pro rata basis or given to the City's General Fund within six (6) months after final conclusion of the proceeding or proceedings and the payment of all debts incurred.
- (h) The legal expense fund shall file campaign disclosure statements containing the same information and at the same times that the candidate or elective City officer files his or her statements in accordance with Government Code sections 84100, *et seq.*, as amended.
- (i) Except as provided in this section, a donation to a legal expense fund established pursuant to this section shall not be subject to contribution limitations.
- (j) This section shall constitute the sole authority for soliciting or accepting donations for legal costs for the defense of an action relating to the election process or an officer's conduct in office.

§ 62.222 Making and Acceptance of a Contribution.

For purposes of this article, a contribution shall have been considered to have been "made" and "accepted" as follows:

- (a) **Monetary contributions:**
 - (1) **Making of monetary contributions:** For purposes of the contribution limitations of this article, a monetary contribution is "made" on the date the contribution is mailed, delivered, or otherwise transmitted to the candidate or a controlled committee. The date of the check or other negotiable instrument by which the contribution is made may be presumed by the candidate or controlled committee to be the date on which the contribution is mailed, delivered or otherwise transmitted, unless it is known to the candidate to be later than the date the contribution is mailed, delivered or otherwise transmitted, in which case the earlier date shall be considered the date on which the contribution is "made."
 - (2) **Acceptance of monetary contributions:** For purposes of the contribution limits of this article, a monetary contribution shall be deemed "accepted" on the date that it is made; provided that a monetary contribution shall not

be considered accepted for purposes of this article if it is not cashed, negotiated or deposited, and, in addition, is returned to the donor within fourteen (14) days of receipt.

(3) **Non-monetary contributions:**

- (a) **Making of non-monetary contributions:** A non-monetary contribution is "made" by the contributor on the earlier of the following dates: (i) the date that funds are expended by the contributor for goods or services if the specific expenditure is made at the request of the candidate or controlled committee; (ii) the date that the candidate or controlled committee or agent of the candidate or controlled committee obtains possession or control of the goods or services; or (iii) the date that the candidate or controlled committee otherwise receives the benefit of the expenditure.
- (b) **Acceptance of non-monetary contributions:** A non-monetary contribution is deemed "accepted" on the date that it is "made" by the contributor; provided that a non-monetary contribution shall be deemed not to have been accepted for purposes of this article if it is returned within fourteen (14) days of having been made by returning to the contributor any of the following: (i) the non-monetary contribution; (ii) its monetary equivalent; or (iii) the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of this article.

§ 62.223 Aggregation of Contributions.

For the purposes of the contribution limitations contained in this Article, the following shall apply:

- (a) All payments made by a person or organization whose contributions or expenditure activities are financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons, shall be considered to be made by the person financing, maintaining, or controlling the contribution or expenditure.

- (b) Two or more persons shall be treated as one and the same person for purposes of the contribution limitations set forth in (a) and (b) above, and their contributions shall be aggregated and shall not exceed the limitations set forth in (a) and (b) above, in the following situations:
- (1) Related entities. Two or more entities shall be treated as one person when such entities:
 - a) Share the majority of members of their boards of directors;
 - b) share two or more corporate officers;
 - c) are owned or controlled by the same majority shareholder or shareholders; or
 - d) are in a parent-subsiidiary relationship. A parent-subsiidiary relationship exists when one corporation directly or indirectly owns shares possessing more than fifty percent (50%) of the voting power of another corporation.
 - (2) Controlling interest. A person and any general or limited partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one person. For purposes of this subsection, a controlling interest in a corporation means fifty percent (50%) or more of the voting power of a corporation.
- (c) Notwithstanding the provisions of Section 62.231, a candidate shall not be deemed to be in violation of this section if he or she accepts a contribution from a person that was made to such candidate in violation of subsections (1) and (2) above. It is the intent of this section to make contributors, and not candidates, liable for violations of this section occurring as a result of the applicability of subsections (1) and (2) to a contribution.

§ 62.224 Contributions by Spouses and Children.

- (a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

- (b) Contributions by dependent children shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

§ 62.225 Contributions by Spouse, Children, or Family Members of Candidate.

Contributions to a candidate by his or her spouse, children, or any other family member shall be subject to the contribution limits of this chapter.

§ 62.226 Cost of Living Adjustments.

Commencing in 1995, the individual contribution limits, the cumulative off-election-year limits, and the limits on contributions to a legal expense fund, as set forth in Sections 62.220 and 62.221, shall be adjusted not later than July 1 of every odd-numbered year to reflect any increase or decrease in the cost of living since January of 1993 through December 31st of the year prior to the year in which the adjustment is made, as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U). Such adjustments shall be rounded off to the nearest Fifty Dollars (\$50.00).

§ 62.227 Effective Date of Contribution Limitations.

- (a) The contribution limits of this article shall apply to contributions made on or after January 1, 1993 to a candidate for City Office, including an incumbent, who sought or who will seek election in any election for City elective office. Contributions made prior to January 1, 1993, shall not be considered for purposes of the individual or cumulative contribution limits contained in Sections 62.220 and 62.221.
- (b) No candidate or other person shall be deemed to have violated any provisions of this article solely because contributions in excess of the limitations contained in Sections 62.220 and 62.221 were accepted or made before the date specified in (a) above. Nothing in this subparagraph shall be deemed to require the return of any contribution made prior to the effective date of this ordinance.

Division 4. Enforcement

§ 62.230 Application of State Laws.

Nothing in this article shall be deemed to exempt any person from complying with applicable provisions of any other laws of this state, including but not limited to, the contribution limitations contained within the California Political Reform Act for special elections.

§ 62.231 Enforcement.

- (a) Any person who wilfully or knowingly violates any provision of this article is guilty of a misdemeanor.
- (b) In addition to the penalties provided in subparagraph (a), if after election a candidate is convicted of a violation of this article, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon or on the date upon which the candidate, if he or she is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City offices. If a candidate is convicted of a violation of this division at any time prior to election, his or her candidacy shall be terminated immediately and the candidate shall no longer be eligible for election. Any person convicted of a violation of this article shall be ineligible to hold City office for a period of five (5) years from and after the date of conviction.

§ 62.232 Severability.

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

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MAYOR

ATTEST:


CITY CLERK

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