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The City of Thousand Oaks, CA Municipal Code

CHAPTER 13. CITY ELECTION CAMPAIGNS: CONTRIBUTION LIMITS AND DISCLOSURE REQUIREMENTS.*

**Chapter 13 entitled "Disclosure of Contributions Concerning City Recall, Initiative or Referendum Efforts," consisting of Sections 1-13.01–1-13.09 codified from Ordinance No. 1285-NS, repealed by Section 2, Ordinance No. 1325-NS, effective August 13, 1998. Chapter 13, entitled "City Election Campaigns: Contribution Limits and Disclosure Requirements," consisting of Sections 1-13.01 - 1-13.08, as established by Ordinance No. 1325-NS, and amended by Ordinances No. 1356-NS, 1367-NS, 1410-NS, 1425-NS, 1437-NS, 1453-NS, 1463-NS, 1496-NS, 1533-NS, and 1572-NS, were subsequently repealed and replaced by Ord. 1592-NS, effective December 21, 2013.*

Sec. 1-13.01. 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 the City Council 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 election campaigns; and
- (c) To inhibit improper or illegal campaign activity, and to provide for enforcement of this chapter; and
- (d) Pursuant to 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.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)

Sec. 1-13.02. Definitions.

The definitions set forth in the California Political Reform Act, as it now exists or may be 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 in this section:

“Candidate” means an individual: (i) who is listed on the ballot; or (ii) who has qualified to have write-in votes on his or her behalf counted by election officials for nomination or election to the City Council; or (iii) 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 the City Council, whether or not the specific City Council 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 member of the City Council who is the subject of a recall effort.

For the purpose of this chapter, a member of the City Council becomes the subject of a recall effort, and therefore becomes a candidate, at such time as the notice of intention to circulate petitions is served on that member. 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.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)

Sec. 1-13.03. Contribution limitations.

(a) Limits on contributions by persons and committees.

(1) No person or committee shall make to any candidate, 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 the candidate or the candidate's controlled committee to exceed Five Hundred Thirty and no/100ths (\$530.00) Dollars for any single election.

(2) Except for independent expenditure committees or other committees not controlled by the candidate, no person shall make to any committee, which supports or opposes any candidate or candidates for City Council, and no such committee shall accept from any such person a contribution or contributions totaling more than Five Hundred Thirty and no/100ths (\$530.00) Dollars for any single election.

(3) The City Council shall adjust the contribution limits established in this subsection in March of every odd 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 and no/100ths (\$10.00) Dollar amount. The contribution limit will be re-evaluated five years from the effective date of this ordinance (December 2018).

(4) The limitations of this subsection shall not apply to contributions of a candidate's personal funds to his or her controlled campaign committee on behalf of his or her own candidacy, and shall apply to contributions from the candidate's 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 Council, shall accept any contributions (including candidate's personal funds) more than six (6) calendar months prior to any election in which the candidate is attempting 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 subsection 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 Council, shall accept any contributions (including candidate's personal funds) after the earlier of: (i) ninety (90) days after the date of their candidate's withdrawal as a candidate, defeat or date of the election; 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.

(3) If, at the end of the period specified in Section 1-13.03(b)(2), there remains any unexpended balance in the campaign bank account of any such candidates or committees, such unexpended funds remaining in the account shall be disposed of by either returning the funds to contributors pro rata, turning such funds over to the General Fund of the City of Thousand Oaks, or donated to any bona fide charitable, educational, civic, religious, or similar tax exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer. Under no circumstances shall such unexpended funds be redesignated or used for any future election other than the election for which the funds were contributed.

(c) Limitations on loans. Any loan or extension of credit for a period of more than sixty (60) 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 Council 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 and no/100ths (\$25.00) Dollars.

(e) Cash contributions. No person shall make to any candidate for City Council 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 and no/100ths (\$25.00) Dollars. No contribution that causes the total amount contributed by the donor to the recipient to exceed Twenty-five and no/100ths (\$25.00) Dollars, 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, or by electronic transaction approved by the Fair Political Practices Commission, containing the name of the donor and the name of the payee.

(f) Assumed name contributions. 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 elective office, or his or her campaign treasurer or committee, or ballot measure committee, 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 not be used to benefit any candidate or committee.

(g) Local aggregate contribution limit. No person shall contribute more than the local aggregate contribution limit to all candidates for the City Council and their controlled committees. For the purpose of this subsection, the local aggregate contribution limit shall be calculated by multiplying Five Hundred Thirty and no/100ths (\$530.00) Dollars by the number of members of the City Council to be elected at that election, and adding Five Hundred Thirty and no/100ths (\$530.00) Dollars to the resulting amount.

(h) Family contributions. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed one-half (1/2) to each parent or the total amount to a single custodial parent.

(i) Aggregation of contributions. For purposes of determining when contributions are aggregated: "Entity" means any person, other than an individual; "Majority owned" means an ownership of more than fifty percent.

(1) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual;

(2) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated;

(3) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decision to make contributions.

(§ 3, Ord. 1592-NS, eff. December 21, 2013; § 1, Ord. 1609-NS, eff. October 16, 2015; § 1, Ord. 1635-NS, eff. December 29, 2017)

Sec. 1-13.04. Filing requirements.

(a) Generally. Filing requirements of this chapter that are in any way additional or different from those set forth in Government Code Section 84100, et seq. shall apply only to candidates for elective office seeking election to the City Council, 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 Thousand Oaks.

(b) 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 a member of the City Council shall file with the City Clerk an additional pre-election statement not

later than the close of public business hours on the Tuesday immediately preceding the election. In order not to overlap with the last reporting period under state law, such additional campaign statements shall cover the period beginning sixteen (16) days before the election and ending ten (10) days prior to the election. Such statements shall be filed with the City Clerk by personal delivery or by guaranteed overnight delivery service.

(c) Reporting of late contributions and late independent expenditures. For the period starting ten (10) days prior to the election, and notwithstanding the One Thousand and no/100ths (\$1,000.00) Dollar threshold contained in California Government Code Sections 82036, 82036.5, 84203, and 84204, any late contribution or late independent expenditure of One Hundred and no/100ths (\$100.00) Dollars or more in connection with any election for the City Council 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 twenty-four (24) hours of the receipt of the contribution or the expenditure in compliance with those state law sections.

(d) A late filing fee consistent with State law may be imposed for all filings required pursuant to this Section. The City Clerk shall deposit any funds received under this subsection into the General Fund of the City.

(e) Duties of City Clerk upon receipt of filing. Upon receipt of any filing required by this chapter, the City Clerk shall make such documents available for review by the public the next business day, and shall cause such documents to be posted on the City's website, if one exists, within three (3) business days.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)

Sec. 1-13.05. Printed disclosure on advertisements of major contributors.

Any proponent, opponent or committee, which disseminates an advertisement in favor of or opposed to any City recall, City measure, initiative or referendum effort, shall provide a written disclosure in that advertisement identifying the contributing person (herein the "major contributor") who has made a loan or cumulative loans of Two Thousand and no/100ths (\$2,000.00) Dollars or more, a monetary contribution of Two Thousand and no/100ths (\$2,000.00) Dollars or more, or cumulative contributions totaling Two Thousand and no/100ths (\$2,000.00) Dollars or more, or provided nonmonetary contributions with a total value of Two Thousand and no/100ths (\$2,000.00) Dollars or more, to that proponent, opponent or committee during the previous twelve (12) month period prior to the printing, copying, publication or broadcasting of the advertisement. If the advertisement is by means of a radio or televised spot, then disclosure shall be by an oral audible announcement of all major contributors. If the loan is from a bank, savings and loan or other recognized financial institution, the name of that bank, savings and loan or financial institution need not be listed, but any co-signor or guarantor of the loan must be listed as a major contributor. If the advertisement is in a typed or printed format, this disclosure shall be in a clear and legible form in at least ten (10) point type. If there are more than two (2) major contributors of Two Thousand and no/100ths (\$2,000.00) Dollars or more, the proponent, opponent or committee shall only be required to disclose the two (2) highest major contributors.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)

Sec. 1-13.06. 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.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)

Sec. 1-13.07. 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 (2) 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 elective office who knowingly or willfully violates any provision of Sections 1-13.03(a) through (g), inclusive, Sections 1-13.04(b) through (d), inclusive, Section 1-13.05, or Section 1-13.06 is guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding One Thousand and no/100ths (\$1,000.00) Dollars or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Allegations that such violations have occurred shall be referred directly to the Ventura County District Attorney for investigation and prosecution.

(c) Civil injunctive relief and civil penalties.

(1) Any person residing in the City may sue in Ventura 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 (3) 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 year of the date of the alleged violation.

(2) Complaints for violations of this chapter and the Political Reform Act may also be referred to the Fair Political Practices Commission for investigation and enforcement.

(§ 3, Ord. 1592-NS, eff. December 21, 2013)