

ORDINANCE NO. 20-1421

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY
AMENDING CHAPTER 11 ("CAMPAIGN FINANCE REFORM
REGULATIONS") OF ARTICLE II OF THE DOWNEY MUNICIPAL CODE**

WHEREAS, in August 2011, the City Council adopted an ordinance regulating campaign contributions and expenditures in local elections; and,

WHEREAS, since 2011, changes in the law and new case authority governing local regulations of campaign contributions and expenditures has necessitated changes to the City's ordinance; and,

WHEREAS, over the past four election cycles, candidates have raised questions regarding the interpretation of the City's ordinance, which are clarified in this amended Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Article II, Chapter 11 ("Campaign Finance Reform Regulations") of the Downey Municipal Code is hereby amended in its entirety to read as follows:

"CHAPTER 11 – CAMPAIGN FINANCE REFORM REGULATIONS

SECTION 2940. PURPOSE

The purposes of this chapter are:

- (a) To eliminate the opportunity for the appearance of *quid pro quo* corruption in local elections arising from individuals or organizations making unduly large financial contributions to a particular candidate by adopting the most closely drawn limits possible on the amount of money a person or organization may contribute, or otherwise cause to be available, to the candidate running for City Council without unnecessarily abridging the contributor's associational freedoms;
- (b) In establishing contribution limits, the City Council has considered the economic factors unique to its jurisdiction, such as the size of the voting population, the cost of running a city council campaign, and other considerations, and finds that the limits set forth in this Ordinance will avoid rendering contributions useless and a candidate's campaign ineffective;
- (c) To eliminate the need for candidates and their supporters and opponents to seek large campaign contributions by establishing a reasonable voluntary expenditure ceiling for campaigns that, if accepted, provides incentives for agreeing to the expenditure ceiling;
- (d) To deter improper and illegal campaign activity using an effective enforcement mechanism; and
- (e) Pursuant to the City's right as a charter city and pursuant to Article XI, Section 5 of the California Constitution, to enact a ban on the use of public funds to finance municipal election campaigns.

SECTION 2941. RELATIONSHIP TO THE POLITICAL REFORM ACT OF 1974

Pursuant to California Government Code Section 81013 and Elections Code Section 10202, this chapter is intended to enact contribution limitations and other requirements, in addition to those imposed by the Political Reform Act of 1974 (Government Code Sections 81000-91014) (the "Political Reform Act" or "Act") and which do not prevent any person from complying with the Act, as amended, or render a candidate's election campaign ineffective.

SECTION 2942. DEFINITIONS

Terms in this chapter shall have the same meaning as those defined in the Political Reform Act, and the regulations promulgated pursuant to Title 2, Division 6 of the California Code of Regulations by the Fair Political Practices Commission, except as to those terms defined below:

(a) "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 for or election to the Downey City Council, 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 the Downey City Council, 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 City Council member who is the subject of a recall election. An individual who becomes a candidate for the Downey City Council 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.

(b) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not a payment 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.

(1) A "contribution" includes:

(i) The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events;

(ii) The candidate's own money or property used on behalf of his or her candidacy, except personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code and Government Code Section 85200;

(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 the services are rendered or

expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration;

(v) The transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received;

(vi) Any goods or services received by or requested by a City Council candidate at no charge;

(vii) Cash;

(viii) An extension of credit for more than thirty (30) days, except as provided in Section 2944; and

(ix) Expenditures coordinated with a candidate.

(2) A "contribution" does not include:

(i) Amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution and otherwise comply with the limits of this chapter. 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 fundraising event held in the occupant's home or office if the costs for the meeting or fundraising 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 is made. Loans shall be subject to the requirements of Section 2944.

(c) "Controlled Committee" means a committee that is controlled directly or indirectly by a candidate or that acts jointly with or in coordination with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if such candidate or the candidate's agent, or any other committee such candidate controls has a significant influence on the actions or decision of the committee or if such committee coordinates its expenditures with the expenditures of a candidate or a committee controlled by a candidate, whether or not such candidate is personally aware of such coordination.

(d) "Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

(e) "Payment made for political purposes" is a payment, whether directly or indirectly, made:

(i) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a City Council candidate or the recall of a City Council member; or

(ii) Received by or made at the request of a candidate.

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

SECTION 2943. CAMPAIGN CONTRIBUTION LIMITATIONS

(a) Declaration of Candidacy. No person may make, and no candidate or the controlled committee of that candidate, may solicit, accept or receive any campaign contribution until an FPPC Form 501, Candidate Intention Statement, has been filed pursuant to Section 18520 of Title 2, Division 6 of the California Code of Regulations and Government Code Section 85200.

(b) Contribution Limits.

(1) Contribution Limits for Districts 1 Through 4.

(i) For City Council elections in Districts 1 through 4, candidates or their controlled committees may accept contributions of up to one thousand dollars (\$1,000.00) from any single person in any single election.

(2) Contribution Limits for District 5.

(i) For City Council elections in District 5, candidates or their controlled committees may accept contributions of up to two thousand dollars (\$2,000.00) from any single person in any single election.

(3) The contribution limits set forth in this section do not apply to any contribution received by a candidate or his or her controlled committee if such contribution shall be used solely to retire campaign debt existing on or before the effective date of the ordinance codified in this chapter. If the contributions received are used, in whole or in part, to seek nomination for or election to the Downey City Council, the contribution limits established in this section shall apply.

(c) Return of Contributions. Any amount in excess of the applicable contribution limit received from any single person shall be returned to the person making the contribution within fifteen (15) business days of the candidate or candidate's controlled committee's receipt of the excess contribution. The excess contribution and the date of its return shall be reported on a form provided by the City Clerk and filed within fifteen (15) business days of its return to the donor, or no later than the applicable voting day, whichever is earlier.

(d) **Family Contributions.** Contributions by a husband and wife shall be treated as contributions by separate persons and shall not be aggregated. Contributions by children under eighteen (18) years of age are presumed to be a contribution from the parent or guardian of the child.

(e) **Personal Funds.** The limitations of this section shall not apply to contributions of a candidate's personal and community property funds to his or her controlled campaign committee on behalf of his or her own candidacy, but shall apply to contributions from the candidate's spouse or registered domestic partner.

SECTION 2944. LOANS.

(a) Loans to a candidate or the candidate's controlled committee, whether made by a commercial lending institution in the regular course of business on the same terms available to members of the public or personal loans, shall not exceed fifteen thousand dollars (\$15,000.00) in any single election.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement, 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 is made. A candidate shall not accept a loan by verbal agreement to avoid reporting requirements.

(c) Extensions of credit (other than loans pursuant to subsections (a) and (b)) for a period of more than thirty (30) days are subject to contribution limitations of this chapter.

SECTION 2945. VOLUNTARY EXPENDITURE LIMIT.

(a) **Voluntary Expenditure Limits by Districts.**

(1) Districts 1 through 4. For City Council elections in Districts 1 through 4, no candidate or the candidate's controlled committee who voluntarily accepts the expenditure limit shall make campaign expenditures, including the expenditure of loan proceeds, in excess of an amount equal to forty thousand dollars (\$40,000.00). This expenditure limit will be adjusted annually following the November, 2020 election in accordance with subsection (c).

(2) District 5. For City Council elections in District 5, no candidate or the candidate's controlled committee who voluntarily accepts the expenditure limit shall make campaign expenditures, including the expenditure of loan proceeds, in excess of an amount equal to sixty-five thousand dollars (\$65,000.00). This expenditure limit will be adjusted annually following the November, 2020 election in accordance with subsection (c).

(b) **Statement of Acceptance or Rejection.** Each candidate must file with the City Clerk at the time nomination papers are filed a statement of acceptance or rejection of the voluntary expenditure limit prior to accepting any contributions. The statement of acceptance or rejection of the voluntary expenditure limit may be rescinded within fifteen (15) calendar days after nomination papers are filed with the City Clerk and so long as the candidate has not received any contributions for that election cycle.

(c) **Adjustment to Expenditure Limits.** The voluntary expenditure limits established in subsection (a) shall be automatically adjusted annually, following the November, 2020 election, based on the increase or decrease in the Los Angeles-Long Beach-Anaheim,

All Urban Consumers, Consumer Price Index for the prior twelve (12) month period ending on August 31st. Such adjustments shall be rounded to the nearest one hundred (\$100.00) dollars. The City Clerk shall publish the voluntary expenditure limit no later than February 1st of each year.

(d) **Committee Expenditures.** Expenditures by a candidate's controlled committee shall be deemed expenditures by the candidate for the purposes of this chapter.

(e) **Notification to Voters.** The City Clerk shall prominently designate on the "Notice of Nominees for Public Office" those candidates who voluntarily accept expenditure limits which notice shall be published as required by law and posted on the City's website.

SECTION 2946. VIOLATION AND PENALTY.

(a) **Misdemeanor Actions.** Any person who violates any provision of this chapter is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be guilty of a misdemeanor. Prosecution for violation of any provision of this chapter shall be commenced by the City Prosecutor within four (4) years after the date on which the violation occurred.

(b) **Civil Actions.** Any person who intentionally or negligently violates the contribution provisions of this chapter shall be liable in a civil action brought by the City Attorney or by a person residing within the jurisdiction for an amount not more than three (3) times the amount of the unlawful contribution.

(c) **Injunctive Relief.** Any person residing in the jurisdiction, including the City Prosecutor, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

SECTION 2947. PUBLIC FUNDS.

No candidate may accept or expend public monies for the purpose of seeking public office.

SECTION 2948. SEVERABILITY.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid by a court, the remainder of this chapter and the application of the provision to other persons or circumstances are not affected by that determination, to the extent that the provision or its application can be given effect."

SECTION 2. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each article, section, subsection, paragraph, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraph, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.


SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 28th day of January, 2020.



BLANCA PACHECO, Mayor

ATTEST:




MARIA ALICIA DUARTE, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF DOWNEY)

I HEREBY CERTIFY that the foregoing Ordinance No. 20-1421 was introduced at a Regular Meeting of the City Council of the City of Downey held on the 14th day of January, 2020, and adopted at a Regular Meeting of the City Council of the City of Downey held on the 28th day of January, 2020, by the following vote, to wit:

AYES:	Council Members:	Ashton, Rodriguez, Saab, Frometa, Mayor Pacheco
NOES:	Council Member:	None.
ABSENT:	Council Member:	None.
ABSTAIN:	Council Member:	None.

I FURTHER CERTIFY that a Summary of the foregoing Ordinance No. 20-1421, was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on January 16, 2020 (after introduction), and on January 30, 2020 (after adoption, including the vote thereon). It was also posted in the regular posting places in the City of Downey on the same dates.



MARIA ALICIA DUARTE, CMC
City Clerk