

ORDINANCE NO. 453

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA, REPEALING AND REPLACING CHAPTER 9.08 (ELECTION CAMPAIGN REGULATIONS) OF THE LEMON GROVE MUNICIPAL CODE

WHEREAS, this Chapter is enacted pursuant to Article XI, Section 7 of the California Constitution, Section 22808 of the California Elections Code, and Section 81013 of the California Government Code; and

WHEREAS, it is the intent of the City Council of the City of Lemon Grove in enacting this Chapter to supplement the provisions of the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.), as amended, and the regulations adopted by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, Sections 18110 through 18997) with regard to making and reporting of campaign Contributions and Expenditures. In the event of a conflict between the provisions of the Political Reform Act or the Fair Political Practices Commission regulations and the provisions of this Chapter, the provisions of the Political Reform Act and/or the Fair Political Practices Commission regulations shall prevail; and

WHEREAS, monetary contributions to political campaigns are a legitimate form of participation in the American 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. Candidates should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them; and

WHEREAS, limiting campaign contributions and expenditures in municipal elections helps ensure equal opportunities for all candidates, promotes diversity among candidates, and strengthens the community's trust that their government is representative; and

WHEREAS, Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign contributions and expenditures and requiring appropriate reporting requirements to ensure these limitations are enforced; and

WHEREAS, by enacting this Chapter, the City Council seeks to: (1) ensure that individuals have a fair and equal opportunity to participate in the municipal elective and governmental processes; (2) reduce the influence of large campaign contributors with a specific financial stake in matters before City governmental bodies; (3) curtail overall expenditures in campaigns; (4) reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) improve the disclosure of contribution sources in reasonable and effective ways; and (6) help maintain public trust in governmental and electoral institutions, and protect the integrity of the City election process; and

WHEREAS, this Chapter shall not apply to contributions given to a committee organized solely for the purpose of supporting or opposing the qualifications for the ballot or the adoption of one or more City measures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California, does ordain as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Chapter 9.08 (Election Campaign Regulations) of the Lemon Grove Municipal Code is hereby repealed and replaced and shall read as shown in Exhibit A.

Section 3. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish the title thereof as a summary as required by State Law.

Section 4. The City Clerk is hereby directed to submit a copy of this Ordinance to the Fair Political Practices Commission following its adoption.

INTRODUCED by the City Council of the City of Lemon Grove on October 1, 2019.

PASSED AND ADOPTED on November 5, 2019, the City Council of the City of Lemon Grove, California, adopted Ordinance No. 453, passed by the following vote:

AYES: VASQUEZ, ARAMBULA, JONES, J. MENDOZA

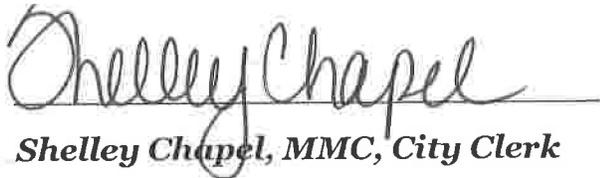
NOES: NONE

ABSENT: NONE

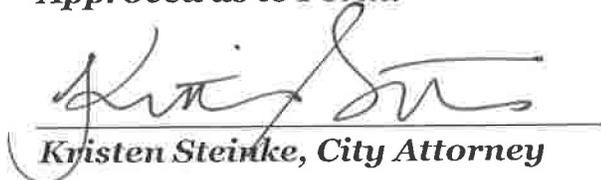
ABSTAIN: NONE


Racquel Vasquez, Mayor

Attest:


Shelley Chapel, MMC, City Clerk

Approved as to Form:


Kristen Steinke, City Attorney

Title 9 PUBLIC WELFARE AND ELECTIONS

- Chapter 9.08 Election Campaign Regulations
- Chapter 9.12 Cardrooms and Gambling
- Chapter 9.16 Urination or Defecation in Public
- Chapter 9.20 Public Nudity
- Chapter 9.24 Noise Abatement and Control
- Chapter 9.26 Police Services at Parties, Gatherings or Events
- Chapter 9.28 Obstructing Passage
- Chapter 9.32 Prohibition of Application of Graffiti to Private or Public Property, and the Defacement of Private or Public Property
- Chapter 9.36 Obstructing Free Movement, Soliciting, Camping and Storage of Personal Property
- Chapter 9.40 Curfew—Minors
- Chapter 9.44 Firearms
- Chapter 9.48 Consumption of Alcohol
- Chapter 9.49 Police and Fire Services at Parties and Events and Social Host Responsibilities Concerning the Consumption of Alcohol and Controlled Substances by Minors or Juveniles
- Chapter 9.50 Spectators Prohibited at Illegal Speed Contests or Exhibitions of Speed
- Chapter 9.70 Forfeiture of Nuisance Vehicles Engaged in Illegal Motor Vehicle Speed Contest or Exhibition of Speed

Title 9 PUBLIC WELFARE AND ELECTIONS

Chapter 9.08 ELECTION CAMPAIGN REGULATIONS

Sections:

- 9.08.010 Purpose and intent.
- 9.08.020 Definitions.
- 9.08.030 Campaign statements and filing fees.
- 9.08.040 Campaign contributions—Limitations and disclosures.
- 9.08.050 Identification of expenditures by independent committees.
- 9.08.060 Election campaign accounts.
- 9.08.070 Enforcement authority.
- 9.08.080 Violation—Penalty.
- 9.08.090 Rules of construction.
- 9.08.100 Election signs.
- 9.08.110 Electioneering.

9.08.010 Purpose and intent.

This Chapter is enacted pursuant to Article XI, Section 7 of the California Constitution, Section 22808 of the California Elections Code, and Section 81013 of the California Government Code. It is the intent of the City Council of the City of Lemon Grove in enacting this Chapter to supplement the provisions of the Political Reform Act of 1974 (California Government Code Sections 81000 et seq.), as amended, and the regulations adopted by the Fair Political Practices Commission (California Code of Regulations, Title 2, Division 6, Sections 18110 through 18997) with regard to making and reporting of campaign Contributions and Expenditures. In the event of a conflict between the provisions of the Political Reform Act or the Fair Political Practices Commission regulations and the provisions of this Chapter, the provisions of the Political Reform Act and/or the Fair Political Practices Commission regulations shall prevail.

In enacting this Chapter, the City Council finds and declares the following:

A. Monetary Contributions to political campaigns are a legitimate form of participation in the American 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. Candidates should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.

B. Limiting Campaign Contributions and Expenditures in municipal elections helps ensure equal opportunities for all Candidates, promotes diversity among Candidates, and strengthens the community's trust that their government is representative.

C. Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign Contributions and Expenditures and requiring appropriate reporting requirements to ensure these limitations are enforced.

D. By enacting this Chapter, the City Council seeks to: (1) ensure that individuals have a fair and equal opportunity to participate in the municipal elective and governmental processes; (2) reduce the influence of large Campaign contributors with a specific financial stake in matters before City governmental bod-

ies; (3) curtail overall Expenditures in Campaigns; (4) reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) improve the disclosure of Contribution sources in reasonable and effective ways; and (6) help maintain public trust in governmental and electoral institutions, and protect the integrity of the City Election process.

E. This Chapter shall not apply to Contributions given to a Committee organized solely for the purpose of supporting or opposing the qualifications for the ballot or the adoption of one or more City measures.

9.08.020 Definitions.

The capitalized terms used in this Chapter shall have the same definitions as specified in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) and the Fair Political Practices Commission regulations (California Code of Regulations, Title 2, Division 6, Sections 18110 et seq.), unless otherwise specified in this Chapter. When used in this Chapter, the following words and terms shall be interpreted as follows, unless the text indicates a different meaning:

- A. "Candidate," as referred to in this Chapter, only applies to Persons seeking an Elective City Office.
- B. "City Election" means any primary, general, or special election, including recall election, held within the City of Lemon Grove for Elective City Office. Each general or special election is a separate City Election for purposes of this Chapter.
- C. "Committee" shall only mean a Candidate's Controlled Committee or a Committee formed or primarily to support or oppose a Candidate, or a City general purpose Committee active only in the City, for purposes of all filing requirements in this Chapter.
- D. "Electioneering" means the visible display or audible dissemination of information that advocates for or against any Candidate or measure on the ballot.
- E. "Elective City Office" means member of the City Council, including the Mayor.
- F. "Enforcement Authority" shall mean the special counsel, officer, agent or organization designated by action of the City Council to enforce the provisions of this Article. Nothing in this Article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Article under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.
- G. "Independent Committee" shall mean a Committee that receives Contributions or makes Expenditures for the purpose of influencing or attempting to influence a City Election, which is not made with the cooperation, consultation or in concert with, or at the request or suggestion of, any Candidate or his or her Committee, or any of their agents.

9.08.030 Campaign statements and filing fees.

A. Campaign Statements. Each Candidate and each Committee shall be required to file those campaign statements required by the Political Reform Act of 1974 in the manner required by the Act. Campaign statements filed with the City Clerk shall be a matter of public record. The City Clerk shall, within three (3) City business days of the date of filing, post copies of campaign statements online at the City's website.

B. Late Filing of Campaign Statements. If any Person files a campaign statement after any deadline imposed, he/she shall, in addition to any other penalties or remedies established by this Chapter, be liable to the City Clerk in the amounts as set forth by State guidelines per calendar day until the statement is filed. The City Clerk shall deposit any funds received under this Section into the general fund of the City to defray the cost of City Elections.

C. Filing Fees. A filing fee of twenty-five dollars (\$25.00) is established for a Candidate's nomination papers for City Elective Office. The filing fee shall be paid to the City Clerk by each Candidate for a City Elective Office at the time the Candidate's nomination paper is filed with the City Clerk, in addition to the Candidate statement fees determined in February of each odd numbered year. The City Clerk shall deposit all fees received into the general fund. All filing fees and Candidate statement fees are non-refundable. (Government Code Section 10228).

9.08.040 Campaign contributions—Limitations and disclosures.

A. Contributions by Persons to Candidates or Controlled Committees. No Person shall make any Contribution to a Candidate and/or the Candidate's Controlled Committee, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

B. Acceptance or Solicitation by Candidates or Controlled Committees. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any Contribution from any Person, with respect to any single City Election, which will cause the total amount contributed by such Person to the Candidate and the Candidate's Controlled Committee, when combined, to exceed one thousand dollars (\$1,000.00) in a calendar year.

C. Contributions by Candidates. The provisions of Subsections (A) and (B) of this Section shall not apply to contributions from a Candidate to his or her Controlled Committee nor to the expenditure, by the Candidate, of his or her personal funds on behalf of his or her candidacy.

D. Contributions to Committees. Contributions made to any Person or a Committee, and not to a Candidate or Controlled Committee, shall not be considered as Contributions to the Candidate or Controlled Committee, notwithstanding the fact that such Person or Committee supports the Candidate or uses the Contribution to bring about the nomination or election of the Candidate.

E. Anonymous Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall accept anonymous Contributions of one hundred dollars (\$100.00) or more. No Person shall make a Contribution or loan for any other Person under an assumed name or under the name of any other Person.

F. Extensions of Credit. Extensions of credit for a period of more than thirty (30) days are prohibited. Extensions of credit of more than one thousand dollars annually are prohibited. Provided, however, a Candidate may personally borrow an unlimited amount and such funds shall be considered a Contribution by the Candidate to himself or herself; provided, further, that such transaction is fully disclosed and documented in accordance with applicable law.

G. Candidate Loan to Campaign. If a Candidate is loaning the campaign money, such loan is required to be reported on Fair Political Practices Commission (FPPC) campaign filing forms in accordance with the applicable State law.

H. Cash Contributions. No Candidate or Controlled Committee, including the Candidate's campaign treasurer, shall solicit or accept any cash Contribution from any Person totaling one-hundred dollars (\$100.00) or more. A cash Contribution shall not be deemed received if it is not negotiated or deposited, and is returned to the contributor before the closing date of the campaign statement on which the Contribution would otherwise be reported. If a cash Contribution, other than a late Contribution, as defined by Section 82036 of the Political Reform Act, is negotiated or deposited, it shall not be deemed received if it is refunded within seventy-two (72) hours of receipt. In the case of a late Contribution, as defined by Section 82036 of the Political Reform Act, it shall not be deemed received if it is returned to the Contributor within forty-eight (48) hours of receipt.

I. Contributions of One Hundred Dollars (\$100.00) or More. All Contributions totaling one hundred dollars (\$100.00) or more must be made by check, web portal, or electronic application which accepts Payments that are recordable. Contributions totaling one hundred dollars (\$100.00) or more made by money order, cashier's check, or traveler's cheque are prohibited and must be returned to the contributor.

J. Identification of Contributors. No Contribution shall be deposited into a Candidate or Committee's City Election campaign account totaling Twenty-Five Dollars (\$25.00) or more unless the full name, street address including zip code, are on file with the Candidate or Committee receiving the Contribution. For Contributions totaling One Hundred Dollars (\$100.00) or more, the contributor's occupation and employer's name, or if self-employed, the name of the business of the Person making the Contribution, must also be recorded.

K. Family Contributions. Contributions by spouses 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 attributed equally to each parent or guardian.

L. Applicability of Section to Candidate and Committees. The terms of this Section are applicable to any Contributions made to a Candidate or Committee hereunder, whether used by such Candidate or Committee to finance a current campaign, to pay deficits incurred in prior campaigns or otherwise.

M. Adjustment for Cost of Living. The Campaign Contribution limits and Contribution acceptance and solicitation limits specified in Subsections (A) and (B) of this Section, shall be adjusted in February of each odd numbered year commencing in 2013 for changes in the Consumer Price Index (CPI) over the previous two (2) year period. The City Clerk shall use the annual percent change in the CPI for All Urban Consumers (CPI-U) for the San Diego Metropolitan Area to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this Subsection shall be rounded to the nearest five dollars (\$5.00) or other comparable cost of living index chosen by the City Council. (Ord. 406 § 3, 2011)

9.08.050 Identification of expenditures by independent committees.

Independent Committees which make Expenditures for or against a Candidate shall indicate clearly on any Independent Expenditure material published, displayed, or broadcast the name of the Independent Committee and the fact that the material was paid for by an Independent Committee, and the true name of any Person on whose behalf the Independent Expenditure is made, if made as the agent or intermediary of another.

9.08.060 Election campaign accounts.

A. City Election Campaign Account. Each Candidates' campaign treasurer and every Committee, whether composed of the Candidate alone, another single individual, or otherwise, that receives or expends

more than two thousand dollars (\$2,000.00), shall open only one (1) checking account at a State or Federally chartered bank, credit union, or savings and loan association. The account shall be identified as the City Election campaign account. The account number shall be provided to the City Clerk in writing within ten (10) days of the opening of such account. Any Committee that receives or expends more than two thousand dollars (\$2,000.00) shall file with the City Clerk a Statement of Organization Form (FPPC Form 410) not later than ten (10) days following the opening of the City Election campaign account.

B. Deposits of Contributions. All campaign Contributions accepted by a campaign treasurer or Committee shall be deposited within five (5) days of receipt into the election campaign account by the campaign treasurer, Committee or authorized agent.

C. Funds in the election campaign account shall not be considered for any purpose to be personal funds of a Candidate, campaign treasurer, or any other Person.

D. Surplus Funds shall be disbursed according to the guidelines provided by the Political Reform Act and reported accurately.

E. Retention of Records. The Candidate, Committee or authorized agent thereof shall retain all campaign records for a period of five (5) years, if unsuccessful, and indefinitely, if successful, after the election. This includes all receipts, and bank records.

9.08.070 Enforcement authority.

A. The Enforcement Authority appointed by the City Council shall enforce the provisions of this Chapter.

B. Any Person who believes that a violation of any portion of this Chapter has occurred may file a complaint with the Enforcement Authority by depositing such complaint in the Office of the City Clerk. The City Clerk shall forward the complaint to the Enforcement Authority within three (3) working days. If the Enforcement Authority determines that there is reason to believe a violation of this Chapter has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this Chapter has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

C. The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this Chapter and may demand records of campaign Contributions and Expenditures at any time.

D. The Enforcement Authority shall determine whether required statements and declarations have been filed as required, and, if so, whether they conform with the requirements of this Chapter.

E. The Enforcement Authority may enforce this Chapter using civil, administrative, or criminal remedies in its discretion. The Enforcement Authority may seek administrative remedies pursuant to Chapter 1.24 of the Lemon Grove Municipal Code. (Ord. 406 § 3, 2011)

9.08.080 Violation—Penalty.

A. Any Person who knowingly violates any provision of this Chapter may be prosecuted, either as an infraction or as a misdemeanor, at the discretion of the prosecutor. For purposes of this Chapter, the district attorney of the County is the civil and criminal prosecutor. In addition to any other penalty provided by

law, any willful or knowing violation of this Chapter, done with intent to mislead or deceive, shall be punishable by a fine of not less than one-thousand (\$1,000) dollars per occurrence payable to the City Clerk, who will deposit any funds received under this Section into the General Fund of the City to defray the costs of City Elections. The Chairperson and/or Treasurer of any Committee shall be both civil and criminally responsible for any violation of this Committee. These violations and penalties are in addition to any pursued by the State. (Ord. 406 § 3, 2011)

B. Any Person who violates any provision of this chapter shall be liable for civil and criminal actions brought by the Enforcement Authority and shall be liable for the reasonable attorneys' fees and costs incurred by the Special Counsel in any civil proceeding filed to enforce these provisions.

C. All fines shall be deposited into the general fund of the City to defray the cost of City Elections.

9.08.090 Rules of construction.

This Chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the City to control campaign Contributions and Expenditures shall avoid the effect of this Chapter. This Chapter shall be interpreted in a manner consistent with the Federal Constitution, State Constitution, and the California Political Reform Act (Government Code Section 81000 et seq.) including its implementing regulations, as amended. (Ord. 406 § 3, 2011)

9.08.100 Election signs.

In conjunction with Chapter 18.12 (Signs) of the Lemon Grove Municipal Code, this Section is specific to election signs.

A. All Candidates and Committees are required to obtain a sign permit at no cost to place signs of any kind within the City boundaries. The sign permit will provide the candidate with a list of City-approved locations to place signs, and a City staff contact and phone number.

B. All signs will follow the State guidelines on reporting "Paid for by Committee Name" at minimum and Committee Number issued by the Secretary of State will be included on all signs and mailing materials by all Candidates and Committees within the City boundaries.

C. Timing, Removal. Placement of signs shall be made no earlier than sixty (60) days prior to the election. All signs shall be removed within five (5) days after the election. If any sign is not removed within the specified time period, the City may remove and destroy or otherwise dispose of the sign without liability whatsoever to the City.

9.08.110 Electioneering.

It is unlawful for any Person to participate in Electioneering as a Candidate, for a Candidate, Committee or any other election campaign on City-owned property or at a City-hosted or City-sponsored event. This includes but is not limited to, any of the following:

A. A display of a Candidate's name, likeness, or logo.

B. A display of a ballot measure's number, title, subject, or logo.

- C. Buttons, hats, pencils, pens, shirts, signs, or stickers containing Electioneering information.
- D. Dissemination of audible Electioneering information.
- E. At vote by mail ballot drop boxes, loitering near or disseminating visible or audible Electioneering information.