

ORDINANCE NO. 6.18

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XII,
RELATING TO CAMPAIGN FINANCE AND THE
VOLUNTARY EXPENDITURE LIMIT PROGRAM

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Section 2.104 of the Mountain View City Code is hereby amended to read as follows:

"SEC. 2.104. - Contribution cut-off – Final disclosure report.

a. No candidate, including the candidate's controlled committee, and no committee primarily formed to support or oppose a candidate(s) for the city council, shall accept any contributions after 5:00 p.m. on the Tuesday prior to the election. The candidate or councilmember-elect can accept contributions beginning the Wednesday after the election, provided the checks are drawn and dated from that date forward.

b. Each candidate, including the candidate's controlled committee and a committee formed primarily to support or oppose a candidate(s) for the city council, shall file a final disclosure report disclosing all contributions of one hundred dollars (\$100) or greater for the period ending the Tuesday prior to the election with the city clerk on or before 5:00 p.m. on the Thursday before the election. The candidate shall file the FPPC form for the third preelection statement as required by this section."

Section 2. Section 2.105 of the Mountain View City Code is hereby amended to read as follows:

"SEC. 2.105. - Definitions.

The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Section 82000 et seq.) shall govern the interpretation of this division, unless otherwise specified herein.

"Advertisement" means any general or public communication which is authorized and paid for by a committee for the purpose of supporting or opposing a candidate(s) for municipal elective office or a municipal ballot measure(s). A communication that expressly advocates for or against a clearly identified municipal candidate(s) or measure(s), as defined in Government Code Section 82025, supports or opposes a candidate(s) for municipal elective office or a municipal ballot measure(s). Advertisement excludes communications paid for by a candidate or candidate-controlled committee established for elective office for the controlling candidate and communications from an organization to its members other than a communication from a political party to its members. Advertisement includes print and written advertisements, including mass mailings (as defined in Government Code Section 82041.5 and includes e-mail), newspaper ads, and flyers. This division does not apply to small promotional items such as pens, pencils, mugs, clothing, skywriting or other items where the required disclosures are impracticable or cannot be reasonably printed or displayed in an easily legible typeface. This division does not apply to video or audio advertisements.

"Candidate" means a candidate for City Council.

"Committee" means the same as set forth by California Government Code Section 82013, and as may be amended from time to time.

"Contribution" means the same as set forth by California Government Code Section 82015, and Title 2 of the CCR, Section 18215, and in addition includes an enforceable promise to make a payment by a donor to a committee placing an advertisement when made subject to a condition, agreement or understanding with the committee that all or a portion would be used to pay for the advertisement.

"Cumulative Contribution" means the cumulative amount of contributions received by a committee beginning six (6) months before the date of the expenditure and ending seven (7) days before the time the advertisement is sent to the printer.

"Earmarked funds" means any of the following:

(1) The contributor solicited and received the funds from donors for the purpose of making a contribution to the committee paying for the advertisement;

(2) The funds were given to the contributor subject to a condition, agreement or understanding with the donor that all or a portion would be used to make a contribution to the committee paying for the advertisement, including the identification of the committee as a potential recipient;

(3) The contributor had existing funds from a donor and a subsequent agreement or understanding was reached with the donor that all or a portion of the funds would be used to contribute to the committee paying for the advertisement, including the identification of the committee as a potential recipient;

(4) The funds were promised, subject to an enforceable promise, to the contributor subject to a condition, agreement or understanding with the donor that all or a portion would be used to make a contribution to the committee paying for the advertisement, including the identification of the committee as a potential recipient.

"Top contributors" means the persons from whom the committee paying for an advertisement has received its five (5) largest cumulative contributions of two thousand five hundred dollars (\$2,500) or more. If two (2) or more contributors of identical amounts qualify, the most recent contributor of that amount shall be listed as the top contributor in any disclosure required by this article. If a contributor appears to qualify as a top contributor but received earmarked funds to make the contribution, the person, entity or committee that earmarked the funds and gave the funds to the contributor shall instead be disclosed as the top contributor. The person, entity or committee that transferred earmarked funds shall disclose the true source of the funds to the committee receiving the earmarked funds at the time the funds are promised or transferred."

Section 3. Section 2.106 of the Mountain View City Code is hereby amended to read as follows:

"SEC. 2.106. - Disclosure on advertisements, generally.

a. In addition to required disclosures under the Political Reform Act, an advertisement paid for by a committee must disclose the top contributors. Any advertisement paid for by a committee, following the identification of the committee as required under the Political Reform Act, shall disclose the names of the top contributors to the committee paying for the advertisement. If fewer than five (5) contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If no contributors qualify as top contributors, this disclosure is not required. The disclosure shall read: "Major funding by (name and occupation or

business interest)" identifying the top contributors to the committee paying for the advertisement.

b. Notwithstanding Government Code Section 84505, if a top contributor is a committee, the top three (3) contributors to that contributing committee must also be disclosed. If any disclosed contributor is a committee, the top three (3) contributors who contributed two thousand five hundred dollars (\$2,500) to that contributing committee must also be disclosed.

c. A copy of the advertisement and a list of FPPC forms filed and with which jurisdictions in support of the disclosures shall be provided to the city clerk if not included on FPPC forms filed with the city.

d. Exceptions.

(1) This Division does not apply when top contributors are required to be disclosed in advertisements under state law. Only the state law disclosure requirements shall apply.

(2) Disclosure of a top contributor is not required if the city is presented with reasonable evidence that there is a probability that disclosure of a top contributor would subject the individual to threats, harassment and reprisals."

Section 4. Section 2.107 of the Mountain View City Code is hereby amended to read as follows:

"SEC. 2.107. - Disclosures on print advertisements.

a. For purposes of this section, print advertisement shall mean print and written advertisements. A print advertisement shall include the disclosures required in this division, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one (1) page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color.

(2) The text shall be in an Arial equivalent type that is easily legible to an average reader or viewer, with a type size of at least ten (10) point for print advertisements designed to be individually distributed, including, but not limited to, mailers, flyers and door hangers.

(3) The top contributors, if any, shall each be disclosed on a separate horizontal line, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area.

b. Notwithstanding paragraph (2) of subsection (a), a print advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall include disclosures in Arial equivalent type with a type size of at least five (5) percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average person. Each top contributor shall be disclosed either on a separate horizontal line as set forth in subsection (a)(3) above or by use of a comma.

c. Notwithstanding the definition of "top contributors," print advertisements in newspapers, magazines and other similar publications that are

twenty (20) square inches or less shall be required to disclose only the top three (3) contributors of two thousand five hundred dollars (\$2,500) or more.”

Section 5. Section 2.150 of the Mountain View City Code is hereby amended to read as follows:

“SEC.2.150. – Voluntary expenditure limit.

a. **Purpose.** In the year 2000, the city council adopted a voluntary expenditure limit (VEL) believing that if candidates knew that other candidates were willing to limit their expenditures, it may attract additional qualified candidates and allow all candidates and officeholders to spend a lesser proportion of their time on fund-raising and a greater proportion of their time communicating issues of importance to voters and constituents. In that action, adopted by resolution, the council set a voluntary expenditure limit in the year 2000 of fifteen thousand dollars (\$15,000). This expenditure limit is indexed to keep pace with changes in the cost of living and running campaigns. For the 2016 general municipal election, consistent with this index, the voluntary expenditure limit is twenty-four thousand seventy-three dollars (\$24,073).

b. The voluntary expenditure limit is established in year 2000 at fifteen thousand dollars (\$15,000) and shall be increased at the rate of three (3) percent per year to keep pace with the changes in the cost of living and conducting a campaign (the adjusted VEL). For the 2016 general municipal election, consistent with this index, the voluntary expenditure limit is twenty-four thousand seventy-three dollars (\$24,073). Each candidate for office, at the time of filing his/her nomination papers with the city clerk, shall be advised by the city clerk of the applicable VEL for that year and file a statement of acceptance or rejection of the voluntary expenditure limit ceiling.

c. No candidate for the city's elective office who accepts the voluntary expenditure limit, and no controlled campaign committee of such candidate shall make campaign expenditures in excess of the voluntary expenditure limit established in this section.

d. In-kind contributions, including goods or services that are required to be reported under the Political Reform Act, received by a candidate for municipal office which are used, or intended by the donor or recipient to be used, for the candidate's campaign, shall count toward the VEL and shall be valued at fair market value.

e. The following shall not count toward the VEL:

(i) Filing fees related to the candidacy, including the candidate statement filing fee, whether paid by the candidate or the city, and fees paid to the Secretary of State to open or maintain a committee;

(ii) Contributions returned by the candidate within thirty (30) days of receipt; and

(iii) Expenditures paid from a campaign bank account not related to the support of a candidacy (e.g., maintenance of a P.O. box after an election; an after-election party).

f. The city clerk shall maintain appropriate records of expenditures which shall be available for inspection in the city clerk's office during regular business hours.”

Section 6. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 7. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 8. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 9. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

The foregoing ordinance was regularly introduced at the Special Meeting of the City Council of the City of Mountain View, duly held on the 3rd day of April 2018, and thereafter adopted at the Regular Meeting of said Council, duly held on the 24th day of April 2018, by the following roll call vote:

AYES: Councilmembers Abe-Koga, Clark, Rosenberg, Showalter, Vice Mayor Matichak, and Mayor Siegel

NOES: Councilmember McAlister

ABSENT: None

NOT VOTING: None

ATTEST:


LISA NATUSCH

CITY CLERK

APPROVED:


LEONARD M. SIEGEL
MAYOR

I do hereby certify that the foregoing ordinance was passed and adopted by the City Council of the City of Mountain View at a Regular Meeting held on the 24th day of April 2018, by the foregoing vote, and was published in the *San Jose Post Record* by reference on the 20th day of April 2018, and posted in three prominent places in said City.


Lisa Natusch
City Clerk
City of Mountain View

KB/2/ORD/015-04-17-18o-E