

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1512

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING THE NOVATO POLITICAL FAIRNESS ORDINANCE AND ESTABLISHING CAMPAIGN CONTRIBUTION LIMITATIONS AND OTHER COUNCIL ELECTION REQUIREMENTS

Findings and Declarations

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;

WHEREAS, the rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from individuals and interest groups with a specific financial stake in matters before or likely to come before the City Council. This has caused a public perception that votes are being improperly influenced by monetary contributions to candidates. This perception is undermining the credibility and integrity of the governmental process;

WHEREAS, high campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The periodic pressure to raise contributions distracts officeholders from urgent governmental matters;

WHEREAS, the integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are adversely affected by the high cost of running local elections and the campaigns conducted to garner greater and greater sums of money to finance such campaigns; and

WHEREAS, over 120 California cities and counties have enacted local ordinances to limit contributions, as is allowed by the California Constitution and Government Code;

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

Section 1. Section 21-1 of the Novato Municipal Code ("Code") is amended to read as follows:

Sec. 21-1 Purpose and Intent

It is the purpose and intent of the City Council of Novato in enacting this Chapter to insure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of City Council candidates and that said

electoral process is not corrupted by nor appear to be corrupted by such financial strength and/or the contributions given in support and opposition to candidates for said office. To achieve such purpose, this Chapter is designed to minimize the opportunity for, and the appearance or perception of, corruption; and to insure that individuals and interest groups continue to have an opportunity to participate in electing City candidates. It is the further purpose and intent of this Chapter to ensure that the Novato electorate receives full, fair and timely disclosure sufficient to reveal the true source of campaign contributions to a candidate and to any committee which supports or opposes Novato City Council candidates. It is further the intent of the Council to provide full and fair enforcement of all of the provisions of this Chapter. This Chapter shall only apply to Novato City Council candidate elections. The provisions of this Chapter, and all proceedings under it, are to be construed liberally so as to effect its purposes.

Section 2.

Section 21-4 "Definitions" of the Code is amended to add the following provisions:

e. "City election" means any general election for city council, special election for city council or any election seeking the recall of any city council member.

Section 3.

Sections 21-8A and 21-8B are added to the Code to read as follows:

21-8A Contribution Limitations

a. No candidate for city office, candidate controlled committee or councilmember shall solicit or accept any contribution given in connection with a City election that will cause the total contributions to that candidate, committee or person from any contributor given in connection with that City election to exceed four hundred dollars (\$400.00). No person shall contribute to a candidate or a candidate's controlled committee more than four hundred dollars (\$400.00) cumulatively in connection with a given City election. The excess from any contribution which would cause the total amount of contributions to a candidate from a contributor to exceed four hundred dollars (\$400.00) in connection with a given City election shall, within seven days after the excess becomes known or should have been known, be returned to the contributor.

b. The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign and/or to his or her controlled committee. Contributions by the spouse of a candidate from such spouse's separate property shall be subject to the contribution limitations set forth in subsection a.

21-8B Limitation on Personal Loans

A candidate for city office shall not loan more than an amount equal to fifty percent (50%) of the applicable voluntary expenditure limitation established pursuant to Section 21-32 of his or her personal funds to his or her own campaign.

Section 4.

Section VI, 21-32 is added to the Code to read as follows:

VI. Voluntary Expenditure Limitation

21-32 Voluntary Expenditure Limitation

a. All candidates for city office, and their controlled committees, should voluntarily limit their expenditures incurred during the city election in which the candidates are seeking to be elected to the city council (and all councilmembers and their controlled committees should voluntarily limit their expenditures incurred during any recall election in which the councilmembers are sought to be recalled) to an amount less than or equal to fifty thousand dollars (\$50,000.00).

b. At the time a candidate for city council files his/her nomination papers and other documents with the city clerk evidencing his/her candidacy for city council s/he shall also file a signed statement indicating whether or not s/he chooses to observe the voluntary expenditure limit specified herein. The form of said statement shall be developed by the city clerk. At the time each candidate files said signed form, s/he shall thereafter promptly deliver a copy of said completed and signed form to each of the other candidates. In the event a candidate changes his/her original decision to honor or ignore this voluntary expenditure limitation, s/he shall promptly and within 24 hours of changing his/her decision so inform the city clerk as well as each of the other candidates, in writing.

c. For purposes of this Section, "expenditures" or "campaign expenditures" shall pertain to all expenditures incurred by the candidate or the candidate's controlled committee in support of his or her candidacy and shall include such expenditures which a candidate or candidate's controlled committee is required to report pursuant to the Act and/or this chapter, as the same may be amended from time to time, whether those expenditures are made before or after the filing of nomination papers.

d. The voluntary expenditure limit specified in subsection a, above, shall be adjusted by the city clerk for each city election. For city elections conducted with the city's general municipal election, the adjustment will be made as of June 1. For special city elections called to fill a vacant seat on the city council and for recall elections, the adjustment will be made as of ninety days before the election. The adjustment called for by this Section shall be the cost of living adjustment (COLA) computed by reference to the Consumer Price Index (CPI) for all urban consumers for the San Francisco/Oakland Bay Area (all items) provided by the U.S. Bureau of Labor Statistics as indexed from a base year that commences in November 2007. No adjustments

shall be made to the voluntary expenditure limit specified in subsection a, above, for the November 2007 city election or any special or other city election which takes place prior to November 2007.

Section 5.

Section 21-27 of the Code is amended to read as follows:

Sec. 21-27 Civil Enforcement

a. Any person who intentionally or negligently violates any of the reporting requirements of this chapter shall be liable in a civil action brought by the District Attorney or by a person residing within the City for an amount not more than the amount or value not properly reported. Any person who intentionally or negligently violates any of the contribution limitation provisions of Section 21-8A shall be liable in a civil action brought by the District Attorney or by a person residing within the City for an amount not more than the amount of contributions accepted in excess of the limits specified in said Section 21-8A. Any amount recovered by the District Attorney shall be retained by and deposited in those funds as lawfully directed by the District Attorney. Any amount recovered by a City resident shall be retained and owned by the resident. In any such action, the court may award to a prevailing plaintiff or defendant his/her costs of litigation, including reasonable attorney's fees.

b. Any person, before filing a civil action pursuant to this Section, must first file with the District Attorney a written request for the District Attorney to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The District Attorney may respond to the person in writing, indicating whether he or she intends to file a civil action.

1. If the District Attorney responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice for the reasons specified in Cal. Gov't Code Section 91008.
2. If the District Attorney responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the District Attorney. If, pursuant to this subdivision, the District Attorney does not respond within 120 days, the District Attorney shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.
3. The time period within which a civil action shall be commenced, as set forth in Section 21-31, shall be tolled from the date of receipt by the District Attorney of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the District Attorney, but only for a civil action

brought by the person who requested the District Attorney to commence the action.

c. Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to this Section or Section 20-28 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the City Clerk a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

1. The full title and number of the case.
2. The court in which the case is pending.
3. The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.
4. A statement that the case raises issues under the Novato Political Fairness Ordinance.

d. No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subsection c, above.

Section 6: Severability:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

Section 7: Publication and Effective Date:

This ordinance shall be published in accordance with applicable provisions of law, by either:
publishing the entire ordinance once in the *Novato Advance*, a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in the *Novato Advance* at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance, and

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 10th day of October, 2006, and was passed and adopted at a regular meeting of the Novato City Council on the 24th day of October, 2006.

AYES: Councilmembers Arnold, Eklund, Leland, MacLeamy, Dillon-Knutson

NOES: Councilmembers None

ABSTAIN: Councilmembers None

ABSENT: Councilmembers None

/Carole Dillon-Knutson/
Mayor of the City of Novato

Attest:

/Shirley Gremmels/
City Clerk of the City of Novato

Approved as to form:

/Jeffrey A. Walter/
City Attorney of the City of Novato

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