

ORDINANCE NO. 03-09

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WALNUT ADOPTING CAMPAIGN AND ELECTION
REFORM REGULATIONS**

THE CITY COUNCIL OF THE CITY OF WALNUT HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17A of Title III of the Walnut Municipal Code regarding campaign and election regulations is hereby enacted to read as follows:

"Chapter 17A
Campaign and Election Reform

Sec. 17A-2 Definitions. The following definitions apply to the provisions of this Chapter.

Ballot Measure Relating to City Law. A ballot measure relating to city law includes initiatives, referendums, resolutions, advisory measures, and measures which are required by law to be submitted to a vote by the electorate.

City Election. A City election includes any municipal election to fill public offices in the City of Walnut, to hold recall elections for city office, and to vote on ballot measures relating to city law.

Contribution. "Contribution" shall have the meaning set forth in California Government Code Section 82015 as amended from time to time.

Election Cycle. For each elective city office, the term "election cycle" means the period beginning January 1 of the calendar year preceding the date of the election and ending December 31 of the calendar year of the date of the election. The offices of City Council shall be subject to the election cycle as stated herein.

Person. Person means an 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.

Political Reform Act. The Political Reform Act of 1974 as contained in California Government Code Sections 83100 and following, and as it may be amended from time to time.

Special Election Cycle. Special Election Cycle means the day on which the office becomes vacant until the day of the special election.

All other words and terms shall have the meanings ascribed to them by the definitions set forth in the Political Reform Act.

Sec. 17A-4. Contribution Limitations.

(a) Purpose. The purpose of this section is to prevent improper influence over elected officials and to prevent the appearance of such improper influence.

(b) Contributions may not be made or received outside of an election cycle.

(c) Monetary Contributions by Persons. In any election cycle or special election cycle, no person shall make and no candidate for elective city office or campaign treasurer shall accept any monetary contribution which would cause the total amount of monetary contributions contributed by such person to that candidate for elective city office or any committees controlled by that candidate to exceed one thousand dollars (\$1000.00).

(d) Monetary Contributions to Political Committees. In any election cycle or special election cycle, no person shall make and no political committee shall accept any monetary contribution which would cause the total amount of monetary contributions contributed by such person to that committee to exceed seven hundred fifty dollars (\$750.00).

(e) In-Kind Contributions by Persons. In any election cycle or special election cycle, no person shall make and no candidate for elective city office or campaign treasurer shall accept any in-kind goods or services (non-monetary contribution) which would cause the total amount of non-monetary contributions contributed by such person to that candidate for elective city office or any committees controlled by that candidate to exceed two thousand dollars (\$2000.00).

(f) In-Kind Contributions to Political Committees. In any election cycle or special election cycle, no person shall make and no political committee shall accept any in-kind goods or services (non-monetary contribution) which would cause the total amount of non-monetary contributions contributed by such person to that committee to exceed fifteen hundred dollars (\$1500.00).

(g) Exclusions from Contribution Limitations.

(1) Payments for communications to members, employees or shareholders or families of members, employees or shareholders of an organization for the purpose of supporting or opposing a candidate or ballot measure, shall not be considered contributions

or independent expenditures, if the requirements of Gov't Code §85312 are satisfied.

(2) Contributions of a candidate's own personal funds to further his own candidacy.

(h) Return of Excess Contributions. Contributions, which either in the aggregate or on their face exceed the contribution limits of this chapter, shall be deemed not to have been accepted, if returned prior to deposit or negotiations, within the earliest of the following deadlines:

(1) Within ten (10) working days of receipt; or

(2) By the reporting deadline for the reporting period in which the contribution is received; or

(3) In the case of a late contribution, within twenty-four (24) hours of receipt.

(4) A non-monetary contribution shall be returned by returning to the contributor either the non-monetary contribution or its monetary equivalent. It is permissible to return only the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of this chapter.

(i) Return of Unrecorded Contributions. The candidate or committee shall return within sixty (60) days any contribution (monetary or non-monetary) of fifty dollars (\$50.00) or more for which the candidate or committee does not have on file in the records of the candidate or committee, the name, address, occupation, and employer of the contributor.

(j) Majority Membership on Certain Related Committees Prohibited. To prevent circumvention of the contribution limitations of this chapter, no primarily formed committee which supports or opposes a candidate or candidates for elective city office shall have as a majority of its officers individuals who serve as the majority of officers on any other committee which supports or opposes the same candidate or candidates. This subsection shall not apply to treasurers of primarily formed committees if these treasurers do not participate in any way in a decision on whether the candidate or candidates supported by the primarily formed committee accepts particular contributions.

(k) Other Committees. Primarily formed committees or similarly organized committees formed or existing primarily to support or oppose a single candidate or a group of specific candidates for elective city office being voted upon in the same city election shall be subject to the campaign contribution limits and disclosure requirements of this chapter. Committees organized solely to support or oppose ballot measure(s) relating to city law shall be subject to the disclosure provisions

of this chapter and the Political Reform Act.

(l) Contributions for Legal Defense. A candidate for elective city office may receive contributions to be held in a special account for legal defense, subject to the limitations contained herein if all the requirements of Gov't Code §85304 are satisfied.

Sec. 17A-6 Campaign Statements Required.

(a) Purpose. The purpose of this section is to further the City's goal of an informed electorate.

(b) Every candidate or committee shall commence filing campaign statements after collecting or spending \$1,000.

(c) Campaign Statements. The campaign statements which every candidate, elected officer, and committee involved in a city election are required to file under Gov't Code §84200 et seq., shall when practical be posted on the City of Walnut Website, www.ci.walnut.ca.us and posted at City Hall.

(d) Late Contribution Reports. Late contribution reports shall be filed in accordance with the provisions of the Fair Political Practices Act, but shall be filed for contributions of One Hundred Dollars (100) or more, shall be posted on the City of Walnut Website, www.ci.walnut.ca.us, and shall be posted at City Hall.

(e) Committee or Individual Filing Recall Petition, Initiative Petition, or Referendum Petition. In the event a recall petition, initiative petition, or referendum petition relating to city law is filed, the committee or individual filing the petition shall be subject to the same campaign disclosure provisions as are applicable to candidates for elective city office.

Sec. 17A-8. Required Disclosure of Contributions and Expenditures.

(a) Each campaign statement required by the Political Reform Act or by Section 17A-6 of this Code shall contain the same information as required in Section 84211 of the Government Code, however:

(1) If the cumulative amount of contributions (including loans) received from a person is One Hundred Dollars (\$100.00) or more, and a contribution or loan had been received from that person during the period covered by the campaign statement, the campaign statement shall be itemized as required by Gov't Code §84211(f).

(2) For each person to whom an expenditure of One Hundred Dollars (\$100.00) or more has been made during the period covered by the campaign statement, the campaign statement shall be itemized as required by Gov't Code §84211 (k).

(b) All contributions that are received after the first \$1,000 reported must be deposited within ten (10) days of receipt and reported during the reporting cycle designated in Section 17A-6.

Sec. 17A-10. Non-Monetary (or In-Kind) Contributions For any non-monetary contributions, the committee must use the "fair market value" of the contribution. The fair market value is the amount you or your committee would pay on the open market for the item. You should first try to obtain this information in writing from the contributor. If this information is unavailable, the committee can contact vendors who provide the same or similar goods or services for an estimate of the fair market value. The committee should maintain a written record that describes the method it used to assess the fair market value of the contributed good or service.

Sec. 17A-12 Loans to the Candidate or Committee. A loan is considered a contribution to the campaign. Therefore, a record of the name, address, occupation, and name of the employer of any guarantor, or any person liable directly, indirectly or contingently for the loan, along with the interest rate and due date, if any, must be maintained. If a personal loan, including a loan from a commercial lending institution, is received, the lender, not the candidate, must be reported as the source of the loan.

Sec. 17A-13 Filing Fee. Each candidate for elective municipal office shall pay a filing fee of twenty-five dollars (\$25.00) at the time the candidates nomination papers are filed with the city clerk.

Sec. 17A-14 City Clerk Review. In addition to other duties required by law, the City Clerk shall monitor all campaign statements. The City Clerk shall determine whether the campaign statement required by this chapter has been timely filed with the City Clerk. The candidate or committee may correct any mistake made in the preparation of any statement within five (5) days after receipt of the notice from the City Clerk.

Sec. 17A-16 Informational Meeting. The City Clerk and City Attorney shall invite all qualified candidates for city office to a meeting, in the week following the close of the nomination period for city office, to inform candidates of the provisions of this chapter.

Sec. 17A-18 Candidate's Voluntary Fair Campaign Pledge.

(a) Purpose. The purposes of this section are to emphasize the need for fair campaigns, to make all candidates for city offices aware of the City's commitment to fair campaigns, to specify the characteristics of a fair campaign, and to give every candidate for city office the opportunity to commit himself or herself to fair campaign practices.

(b) Pledge. With the declaration of candidacy, the City Clerk shall issue, to each candidate for city office, a form for a Voluntary Campaign Pledge, which shall read as follows:

California Code of Fair Campaign Practices

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold, in order that, after vigorously contested, but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties which merit such criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on race, sex, religion, national origin, physical health status, or age.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections, or which hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics which I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.

(7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

_____ Date _____ Signature

(c) Voluntary Nature. Each candidate may choose to sign or not sign the Fair Campaign Pledge.

(d) Filing. The Fair Campaign Pledge may be filed with the Declaration of Candidacy.

(e) Public Record. Every Fair Campaign Pledge is a public record which shall be open to inspection at all times during city business hours.

(f) Press Release. At the close of the nomination period for city office, the City Clerk shall issue a general press release stating the name of each candidate for city office who has, and who has not, subscribed to the Fair Campaign Pledge.

Sec. 17A-19 Disclosure of Contribution or Gift. Notwithstanding, the conflict of interest disclosure requirements of the Political Reform Act, every elected city official, appointed commissioner, and all staff persons required to file a financial disclosure statement, shall disclose receipt of any contribution in excess of one hundred dollars or gift in excess of fifty dollars within the past twelve months, prior to participating in or making a decision which affects the person or entity who made the contribution or gift.

Sec. 17A-20 Criminal Enforcement; Civil Action; Injunctive Relief; Cost of Litigation.

(a) Criminal Enforcement.

(1) 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 or abets any other person in the violation of any provision of this chapter shall be liable under the provisions of this section.

(2) Prosecution of a violation of any provision of this chapter shall be commenced within one (1) year after the date of the violation.

(3) No person convicted of a violation of this chapter shall act as a City contractor or consultant for a period of four (4) years following the date of conviction unless the court at the time of the sentencing specifically determines that this provision shall not be applicable.

(4) For the purposes of this section, a plea of nolo contendere shall be deemed a conviction.

(b) Civil Action.

(1) Any person who intentionally or negligently violates any provisions of this chapter shall be liable in a civil action brought by the District Attorney, City Attorney or by any person residing within the City for not more than three (3) times the amount the person failed to report properly, unlawfully contributed, expended, gave, or received; but in no event shall the person be liable for more than Five Thousand Dollars (\$5,000.00) per violation.

(2) If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

(3) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive fifty (50) percent of the amount recovered. The remaining fifty (50) percent shall be deposited into the City's General Fund. In an action brought by the City Attorney, the entire award shall be paid to the General Fund.

(4) No civil action alleging a violation of this chapter may be filed more than two (2) years from the date the violation occurred.

(c) Injunctive Relief. Any person residing within the City of Walnut, or the City Attorney, may seek injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

(d) Cost of Litigation. The court may award to a party, other than an agency, who prevails in any civil action authorized by this chapter, his or her costs of litigation, including reasonable attorney's fees. If the costs or fees are awarded against the City, the payment of such awards shall be the responsibility of the City, subject to Council approval."

SECTION 2. The City Council hereby declares it would have passed this ordinance sentence

ORDINANCE NO. 03-09

Page 9

by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this ordinance are severable and, if for any reason any sentence, paragraph, or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 3. The City Clerk shall certify to the adoption of this ordinance, and the City Clerk shall cause this ordinance to be posted or published as prescribed by law.

ADOPTED AND APPROVED this 12th day of November, 2003 by the following vote:

AYES:	COUNCILMEMBER(S):	Cartagena, King, Lim, Rzonca, Sykes
NOES:	COUNCILMEMBER(S):	None
ABSENT:	COUNCILMEMBER(S):	None
ABSTAIN:	COUNCILMEMBER(S):	None

Joaquin Lim, Mayor

Teresa De Dios, Acting City Clerk

I, TERESA DE DIOS, do hereby certify that I am the duly appointed and acting City Clerk of the City of Walnut and that the foregoing Ordinance was introduced at a regular meeting held on the 22nd day of October 2003, and was adopted by the City Council of the City of Walnut voting for and against the Ordinance as above set forth at a regular meeting thereof on the 12th day of November, 2003.

Teresa De Dios, Acting City Clerk