

## Chapter 1.13 - CAMPAIGN EXPENDITURE LIMITS

## 1.13.010 - Purpose.

It is the purpose of this chapter:

- A. To insure that individuals and interest groups in the city have a fair and equal opportunity to participate in municipal elective and governmental processes;
- B. To assist serious candidates in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or contributions, thereby promoting public discussion of the important issues involved in political campaigns;
- C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters;
- D. To increase the value to candidates of smaller contributions;
- E. To eliminate fund raising except during an election cycle;
- F. To reduce the fund raising advantage of incumbents and thus encourage competition for elective office;
- G. To allow candidates and officeholders to spend a lesser proportion of their time on fund raising and a greater proportion of their time dealing with issues of importance to their constituents;
- H. To improve the disclosure of contribution sources in reasonable and effective ways.

(Ord. 595 § 1 (part), 1997)

## 1.13.020 - Definitions.

For purpose of this chapter, the following words and phrases shall have the meanings set forth as follows unless the contrary is stated or clearly appears from the content:

"Election cycle" means that period commencing with January 1st of an odd-numbered year and ending with December 31st of the same year.

"Person" means any individual, organization or political action committee whose contributions or expenditure activities are financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons.

Two or more entities shall be deemed one person when any of the following circumstances apply:

1. The entities share the majority of members of their boards of directors; or
2. The entities share two or more officers; or
3. The entities are owned or controlled by the same majority shareholder or shareholders; or

4. The entities are in a parent-subsidary relationship.

An individual and any general partnership in which the individual is a general partner, or an individual and any corporation in which the individual owns a controlling interest, shall be deemed one person.

"Qualified campaign expenditure" means any of the following:

1. Any expenditure made by a candidate for city council, or by a committee controlled by such a candidate, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any such candidate;
2. A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder;
3. That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the greater of the cost actually paid or incurred by the committee or controlled committee of the candidate or the proportionate share of the total cost attributable to each such candidate. The number of candidates sharing costs and the emphasis on or space devoted to each such candidate shall be considered in determining the cost attributable to each such candidate;
4. "Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

(Ord. 595 § 1 (part), 1997)

1.13.030 - Interpretation.

Unless a term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Section 82000 et seq., shall govern the interpretation of this chapter.

(Ord. 595 § 1 (part), 1997)

1.13.040 - Limitations on contributions from persons.

- A. No person shall make to any candidate or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than two hundred and fifty dollars for any election for the office of city councilmember.
- B. No person shall make to any committee which supports or opposes any candidate and no such committee shall accept from each such person a contribution or contributions totaling more than two hundred and fifty dollars for election for the office of city councilmember.

(Ord. 595 § 1 (part), 1997)

1.13.050 - Prohibition on nonelection cycle contributions.

No candidate or officeholder or the controlled committee of such a person shall accept any contribution except during an election cycle in which the candidate or officeholder intends to run for or be a write-in candidate for the office for which the contribution is made.

(Ord. 595 § 1 (part), 1997)

#### 1.13.060 - Return of contributions.

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized and is returned to the donor within thirty days of receipt.

(Ord. 595 § 1 (part), 1997)

#### 1.13.070 - Loans.

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.
- B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement which shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.
- C. Extensions of credit for a period of more than thirty days are subject to the contribution limitations of this chapter.

(Ord. 595 § 1 (part), 1997)

#### 1.13.080 - Maximum applicable expenditures.

Notwithstanding any other provision of this chapter: (1) a candidate for city council shall not loan or otherwise transfer to his or her campaign, funds, or other thing of value, in excess of five thousand dollars in any election; (2) a candidate for city council shall not make campaign expenditures exceeding five thousand dollars in any single election.

(Ord. 595 § 1 (part), 1997)

#### 1.13.090 - Family contributions.

- A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.
- B. Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent, one-half to each parent or the total amount to a single custodial parent.

(Ord. 595 § 1 (part), 1997)

#### 1.13.100 - Treatment of money received as contributions, income or gifts.

Any funds received by any elected official or candidate seeking election in the city or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this chapter unless such campaign contributions are used exclusively for elections held outside the city. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Section 87100 et seq.

(Ord. 595 § 1 (part), 1997)

1.13.110 - One campaign committee and one checking account per candidate.

Except as may be otherwise provided by state law, a candidate shall have no more than one campaign committee and one checking account out of which all expenditures shall be made. This section shall not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

(Ord. 595 § 1 (part), 1997)

1.13.120 - Candidate acceptance or rejection of expenditure ceilings.

- A. Each candidate for office, at the time of filing his or her nomination papers, or by the last day for filing nomination papers, shall file a statement accepting or rejecting the expenditure ceilings set forth in Sections 1.13.040 and 1.13.080 above.
- B. If a candidate declines to accept the expenditure ceiling, the candidate shall be subject to applicable contribution limitations on campaigns for local government elective office found in state law.
- C. A candidate who agrees to accept the expenditure ceiling may not change that decision, except that if an opposing candidate files a statement of rejection, then the candidate may rescind his or her acceptance within ten calendar days of the last date for filing nomination papers provided that the candidate has not received, within the meaning of Section 1.13.060, any contributions in amounts greater than the limitations set forth in Sections 1.13.040 and 1.13.080.

(Ord. 627 § 1, 2003; Ord. 595 § 1 (part), 1997)

1.13.130 - Contribution limitations.

Any person who makes independent expenditures supporting or opposing a candidate shall not accept any contribution in excess of the amounts set forth in Sections 1.13.040 and 1.13.080.

(Ord. 595 § 1 (part), 1997)

1.13.140 - Reproduction of materials.

Any person who reproduces, broadcasts or distributes any material which is drafted, printed, prepared or previously broadcast by a candidate or a committee controlled by such candidate shall report such activity and its value as a non-monetary contribution to such candidate or committee.

(Ord. 595 § 1 (part), 1997)

#### 1.13.150 - Notice of independent expenditures.

Any person who makes independent expenditures of more than two hundred and fifty dollars in support of or in opposition to any candidate shall notify the city clerk and all candidates running for the same seat by telegram each time such an expenditure is made.

(Ord. 595 § 1 (part), 1997)

#### 1.13.160 - Additional pre-election campaign statement.

In addition to the campaign statement required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 81000, candidates, their controlled committees and independent committees primarily formed to support or oppose candidates subject to this chapter shall file a pre-election statement on the last Friday before each election. This statement shall have a closing date of the last Wednesday immediately preceding the election date.

(Ord. 595 § 1 (part), 1997)

#### 1.13.170 - Disclosure of occupation and employer.

No contribution of one hundred dollars or more shall be deposited into a campaign checking account unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

(Ord. 595 § 1 (part), 1997)

#### 1.13.180 - Surplus funds defined.

Any funds remaining to a candidate, or any controlled committee of such candidate, at the end of the election cycle during which such funds have been raised, shall be defined as "surplus funds" and shall be disposed of only as provided for in this section. Funds retained by a candidate and specifically earmarked for payment of campaign expenses lawfully incurred during the election cycle need not be included in surplus funds. If such payment is not made on or before the December 31st next following the end of the election cycle, such funds so retained shall thereafter be deemed surplus funds. Any person holding office as a result of a successful campaign resulting in surplus funds may retain up to one thousand dollars of such surplus funds for expenditures associated with holding such office in accordance with the provisions of Sections 89512 and 89513 of the Government Code.

(Ord. 595 § 1 (part), 1997)

#### 1.13.190 - Disposal of surplus funds.

Except as provided in Section 1.13.180, surplus funds shall be disposed of as provided in Section 89515 of the Government Code and must be so expended no later than the December 31st next following the end of the election cycle.

(Ord. 595 § 1 (part), 1997)

1.13.200 - Criminal actions.

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Act shall be guilty of a misdemeanor. Any person convicted of such a misdemeanor, unless provision is otherwise made herein, shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.
- B. As an alternative to the penalty provided in subsection A of this section, violation of or failure to comply with any provision of or condition lawfully imposed under this chapter may be deemed to constitute an infraction as provided in Section 17 of the California Penal Code, and penalties for such infractions shall be as set forth in Subdivision 19e of the Penal Code.
- C. Any person who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be equally subject to the provisions of this section.

(Ord. 595 § 1 (part), 1997)

1.13.210 - Civil action.

- A. Any person who violates any provision of this chapter shall be liable in a civil action brought by the city attorney or an attorney retained by the city on the city attorney's recommendation, or by or on behalf of a person residing within the jurisdiction, for an amount not more than three times the amount of the unlawful contribution or expenditure.
- B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
- C. Any person, before filing a civil action pursuant to this section, shall first file with the city attorney a written request for the city attorney to commence the action. The request shall contain a statement of the grounds for believing the cause of action exists. The city attorney shall respond within thirty days after receipt of the request indicating whether he intends to file a civil action. If the city attorney or, when applicable, independent counsel indicates in the affirmative and files a suit within thirty days thereafter, no other action may be brought, unless the action brought by the city attorney or independent counsel is dismissed without prejudice.
- D. 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, the entire amount shall be paid into the general fund of the city.
- E. No civil action alleging a violation of any provision of this Act shall be filed more than four years after the date the violation occurred.

(Ord. 595 § 1 (part), 1997)

1.13.220 - Injunctive relief.

Any person residing in the jurisdiction, including the city attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

(Ord. 595 § 1 (part), 1997)

#### 1.13.230 - Cost of litigation.

The court may award to a plaintiff, or a defendant other than a public agency, who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

(Ord. 595 § 1 (part), 1997)

#### 1.13.240 - Disqualification.

In addition to any other penalties prescribed by law, if an official receives a contribution violative of Section 1.13.040 or 1.13.080, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence any governmental decision in which the contributor has a financial interest. The provisions of Government Code Section 87100 et seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

(Ord. 595 § 1 (part), 1997)

#### 1.13.250 - Applicability of other laws.

Nothing in this chapter shall exempt any person from applicable provisions of any other law.

(Ord. 595 § 1 (part), 1997)