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Ordinance #08-10

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING IN ITS ENTIRETY
CHAPTER VII CITY OF ALBANY CAMPAIGN FINANCE REFORM ACT OF 1996 OF
THE ALBANY MUNICIPAL CODE**

WHEREAS, the City Council has reviewed a report and recommendations of the Social and Economic Justice Commission on the subject of the City of Albany Campaign Finance Reform Act of 1996 ("Act");

WHEREAS, after listening to public comment about adopting recommendations to revise the Act, the City Council determined that it wished to modify the Act for the upcoming election period;

WHEREAS, the Albany City Charter authorizes the passage of urgency matters with one reading of an ordinance if passed by a 4/5 vote and the Council finds that it is a matter of urgency to modify the Act prior to the period for candidates to file nomination papers in August, 2008 to preserve the orderly conduct of election matters for the November, 2008 general election;

WHEREAS, Government Code §36937 authorizes the passage of election ordinances upon one reading;

WHEREAS, the City Council finds that the modification of the Act is an election related ordinance;

WHEREAS, the City Council finds that it is in the best interests of the City of Albany to modify the Act prior to when nomination papers may be taken out in August, 2008 until such future time as a replacement ordinance can be thoroughly studied and determined to be an effective tool for controlling campaign spending;

1
2 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS THAT CHAPTER 7**
3 **IS HEREBY AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:**

4 **Section 1:**

5 Chapter VII, entitled City of Albany Campaign Finance Reform Act of 1996 is hereby
6 amended in its entirety to read as follows:
7

8 **7-1 TITLE.**

9 This Chapter shall be known as the "City of Albany Campaign Finance Reform Act of
10 1996." (Ord. #96-06; Ord. #04-05, §1)

11 **7-1.1 Findings and Declarations.**

12 The people find and declare each of the following:

13
14 a. Monetary contributions to political campaigns are a legitimate form of
15 participation in the American political process, but the financial strength of certain individuals,
16 persons or organizations should not permit them to exercise a disproportionate or controlling
17 influence on the election of candidates.

18 b. The rapidly increasing costs of political campaigns have forced many candidates
19 to raise larger and larger proportions of their campaign funds from interest groups with a specific
20 financial stake in matters before the City Council. This has caused the public perception that
21 votes are improperly influenced by monetary contributions. This perception is undermining the
22 credibility and integrity of the governmental process.

23 c. Candidates are raising less money in small contributions and more in large
24 individual and organization contributions. This has created the public impression that the small
25 contributor has an insignificant role to play in political campaigns.

26 **7-1.2 Intent of This Act.**

27 a. To limit the amount of money that may be contributed to each candidate for
28 public office by any person or organization in any election;

1 b. To limit the amount of money that each candidate will spend in the course of an
2 election campaign, by voluntary agreement; and

3 c. To provide sufficient incentives to elicit voluntary commitments from candidates
4 that they will limit campaign expenditures.

5 d This law is enacted in accordance with the terms of Section 5 of Article XI of the
6 Constitution of the State of California and pursuant to the police powers of the Charter of the
7 City of Albany.

8 **7-2 INTERPRETATION OF THIS ACT.**

9 Unless otherwise specified, the definitions set forth in Government Code Sections 82000
10 et seq. shall govern the interpretation of this Act, except that, for the purposes of this chapter, the
11 word "contribution" shall be interpreted to include loans to candidates and campaigns.
12

13 **7-3 LIMITATIONS ON CONTRIBUTIONS.**

14 a. It is unlawful for a candidate, committee supporting or opposing a candidate, or
15 person acting on behalf of a candidate or committee to solicit or accept from any other person a
16 contribution which will cause the total amount contributed by that other person in support of or
opposition to a candidate to exceed one hundred (\$100.00) dollars for any single election.

17 b. It is unlawful for any person to make to any candidate or committee supporting or
18 opposing a candidate a contribution that will cause the total amount contributed by that person in
19 support of or opposition to a candidate to exceed one hundred (\$100.00) dollars for any single
election, except as provided for candidates who agree to the expenditure limit ceiling.

20 c. Nothing in this section is intended to limit the amount of his or her own money or
21 property that a candidate may contribute to, including loan to, or expend on behalf of candidate's
own campaign.

22 d. The contribution limits contained in Section 7-3b. apply to the total contributions
23 of a person to a candidate.

24 e. Total anonymous contributions to a candidate or committee, which exceed in the
25 aggregate two hundred (\$200.00) dollars with respect to a single election shall not be used by the
26 candidate or committee for whom it was intended. To the extent that total anonymous
27 contributions exceed two hundred (\$200.00) dollars, the excess shall be paid promptly from
28 available campaign funds, if any, to the City Clerk and made payable to the City Treasurer for
deposit in the General Fund of the City.

1 f. For the purposes of this Chapter, "person" means any individual, firm,
2 partnership, joint venture, syndicate, business trust, personal trust, family trust, company,
3 corporation, association, proprietorship, sole proprietorship, committee, labor union, or any other
4 organization or group of person acting in concert.
5

6 **7-4 OBLIGATION TO RETURN CONTRIBUTIONS.**

7 a. If a candidate, committee, or committee treasurer is offered a contribution the
8 acceptance of which would constitute a violation of this Chapter, the candidate, committee or
9 committee treasurer shall refuse the offer.
10

11 b. If a candidate, committee, or committee treasurer receives a monetary
12 contribution the acceptance of which would constitute a violation of this Chapter, neither the
13 candidate, committee, nor committee treasurer shall be subject to any penalty for receipt of that
14 contribution if the candidate, committee, or committee treasurer:

15 1. Does not deposit the contribution into the campaign contribution checking
16 account; and,

17 2. Returns the contribution within twenty (20) business days of the calendar day the
18 contribution was received.

19 c. If a candidate, committee, or committee treasurer deposits into the campaign
20 contribution checking account a monetary contribution the acceptance of which constitutes a
21 violation of this Chapter, the candidate, committee, or committee treasurer shall within ten (10)
22 calendar days of the date of the candidate's committee's or committee treasurer's discovery of the
23 violation provide in writing to the City Clerk all facts pertaining to the contribution, including
24 but not limited to:

25 1. A copy of any check(s), draft(s) or other instrument(s) by which the contribution
26 was made; and

27 2. If made in cash, a report of the amount and denominations of currency tendered
28 and a legible photocopy of the bank deposit slip; and

3. If by wire or other electronic fund transfer, a legible printout or photocopy of the
transaction; and

1 4. A report of the means of tender, delivery or confirmation of the contribution (e.g.,
2 U.S. Postal Service or private mail, courier service, in person, etc.); and

3 5. A report of the full name and street address of the contributor.

4 d. The candidate or committee treasurer shall promptly deliver from available funds,
5 if any, an amount equal to any monetary contribution constituting a violation of this Chapter that
6 is deposited into the campaign contribution checking account to the City Clerk and made payable
7 to the City Treasurer. The City Treasurer shall deposit any contribution or equivalent amount he
8 or she receives under Section 7-4 into the City's General Fund.

9
10 **7-5 PAYMENT AND DISCLOSURE OF PAYMENT FOR GOODS AND SERVICES.**

11 a. An expenditure is made on the date the payment is made or the date that the
12 candidate or committee receives the goods or services, whichever is earlier.

13 b. Every candidate and committee shall disclose expenditures in the same time and
14 manner required by California Government Code Section 84211. An expenditure that has been
15 incurred but not paid during a reporting period shall be disclosed as an accrued expense.

16 c. Each candidate or treasurer of a controlled committee that supports or opposes a
17 candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or
18 services in whole or in part.

19 d. The treasurer of a committee that makes independent expenditures in support of
20 or in opposition to a candidate shall pay, or cause to be paid, each vendor upon receipt of the
21 vendor's goods or services in whole or in part.

22 e. In addition to any of other laws requiring disclosure, disclosure of payments for
23 goods and services shall be filed with the City Clerk seven (7) days before the date of the
24 election.

(Ord. #04-05, §1)

25 **7-6 VOLUNTARY AGREEMENT TO EXPENDITURE CEILING.**

26 Each candidate for office, at the time of filing his or her nomination papers, shall file a
27 statement of acceptance or rejection of a campaign expenditure ceiling, stating that the total
28 campaign expenditures by the candidate and the controlled committee of such candidate will not
exceed a limit equal to seventy (\$0.70) cents per registered voter, as of the most recent

1 presidential election, the amount rounded to the nearest one hundred (\$100.00) dollars and
2 indexed for inflation.

3 **7-7 INCENTIVES FOR AGREEMENT TO EXPENDITURE CEILING.**

4 Each candidate for office filing a statement of acceptance of the campaign expenditure
5 ceiling and agreement not to accept more than twenty-five (25%) percent of her/his campaign
6 funds from persons residing in communities other than Albany, California shall not be subject to
7 the obligations in Section 7-5 and the restrictions in Section 7-3 and shall be subject to the
8 following restrictions:
9

10 a. *Contribution Limit.* No person shall make to the candidate and the controlled
11 committee of such a candidate, and the candidate and the candidate's controlled committee shall
12 not accept from each such person, a contribution or contributions totaling more than two hundred
13 fifty (\$250.00) dollars for each election in which the candidate is on the ballot or is a write-in
14 candidate.

(Ord. #96-06; Ord. #04-05, §1)

15 **7-8 DUTIES OF THE LOCAL FILING OFFICER.**

16 The City Administrator shall assign duties, as appropriate, for the implementation of this
17 Chapter, including but not limited to the following:

18 a. Adjustment of the expenditure ceilings and contribution limitations in January of
19 even-numbered years to reflect any increase or decrease in the Consumer Price Index and in the
20 number of registered voters in the City of Albany. Such adjustments in dollar figures shall be
21 rounded off to the nearest hundred for the limitations on contributions and the expenditure
22 ceiling.

23 b. Prescription of the necessary forms for filing the appropriate statements.

(Ord. #96-06; Ord. #04-05, §1)

24
25 **7-9 CRIMINAL MISDEMEANOR ACTIONS.**

26 Any person who violates any provision of this Act is guilty of a misdemeanor. Any person
27 who causes any other person to violate any provision of this Act, or who aids and abets any other
28 person in the violation of any provision of this Act, shall be liable under the provisions of this

1 section. Prosecution for violation of any provision of this Act shall be commenced within four (4)
2 years after the date on which the violation occurred. (Ord. #96-06; Ord. #04-05, §1)

3
4 **7-11 APPLICABILITY OF OTHER LAWS.**

5 Nothing in this Act shall exempt any person from applicable provisions of any other laws
6 of this State or jurisdiction, except this act shall supersede Government Code Section 85300.
7

8
9 **Section 2: Publication**

10 This ordinance shall be published in a newspaper of general circulation in the City of
11 Albany, which said newspaper is designated for that purpose, or it shall be posted in three
12 locations.

13 **Section 3: Severability**

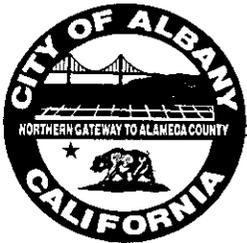
14 If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason
15 held to be invalid, such decision shall not affect the validity of the remaining portions of the
16 ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the
17 fact that any one or more sections, subsections, sentences, clause or phrases be declared invalid.

18 **Section 4: Effective Date**

19 This ordinance is effective upon passage by a 4/5 vote or more of the City Council as an
20 urgency ordinance.

21 Date:


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Mayor Robert S. Lieber



City of Albany

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FAX (510) 526-9190

CITY CLERK
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FAX (510) 528-5797

CITY COUNCIL
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FAX (510) 528-5797

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FAX (510) 528-8914

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Childcare Program
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- Senior Center
PH. (510) 524-9122
FAX (510) 524-8940
- Teen Center
PH. (510) 525-0576

STATE OF CALIFORNIA)
COUNTY OF ALAMEDA) ss
CITY OF ALBANY)

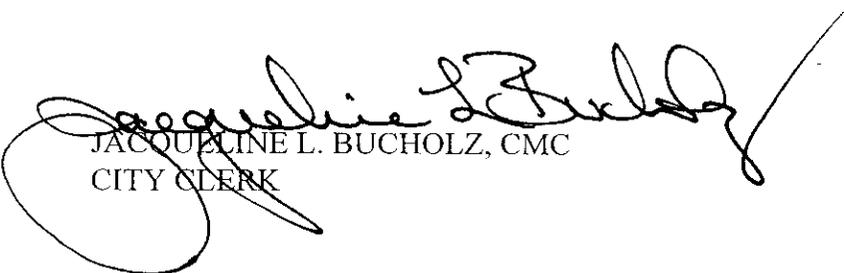
I, **JACQUELINE L. BUCHOLZ**, City Clerk of the City of Albany, California, do hereby certify that the whole number of members of the City Council of said City of Albany is five and that the foregoing is a true and correct copy of Ordinance No 08-10 which was passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council on the 4th day of August 20 08 A.D., and that the same was so passed and adopted by the following votes and duly published or posted according to State law.

AYES: Council Members Javandel, Okawachi, Wile & Mayor Lieber

NOES: Council Member Atkinson

ABSENT: None

In witness whereof, I have hereunto set my hand and affixed the official seal of the City of Albany, this 6th day of August, 20 08.


JACQUELINE L. BUCHOLZ, CMC
CITY CLERK

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



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