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2 **Ordinance #08-06**

3 **AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER VII**
4 **CITY OF ALBANY CAMPAIGN FINANCE REFORM ACT OF 1996 OF THE ALBANY**
5 **MUNICIPAL CODE**

6 **WHEREAS**, the Social and Economic Justice Commission has reviewed the City of
7 Albany's Campaign Finance Reform Act and made a recommendation to modify provisions of
8 the Campaign Finance Reform Act;

9
10 **WHEREAS**, those recommendations have been reviewed by the City Council of the City
11 of Albany; and

12 **WHEREAS**, the City Council wishes to modify the City of Albany's Campaign Finance
13 Reform Act; and

14 **WHEREAS**, the City Council has introduced and moved that the ordinance be adopted.

15 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS THAT CHAPTER 7**
16 **IS HEREBY REPEALED IN ITS ENTIRETY AND IS AMENDED TO READ AS**
17 **FOLLOWS:**

18 **Section 1:**

19 Chapter VII, entitled City of Albany Campaign Finance Reform Act of 1996 is hereby
20 amended to read as follows:

21 **7-1 TITLE.**

22 This Chapter shall be known as the "City of Albany Campaign Finance Reform Act of
23 1996." (Ord. #96-06; Ord. #04-05, §1)

24 **7-1.1 Findings and Declarations.**

25 The people find and declare each of the following:

26 a. Monetary contributions to political campaigns are a legitimate form of
27 participation in the American political process, but the financial strength of certain individuals or
28 organizations should not permit them to exercise a disproportionate or controlling influence on
the election of candidates.

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

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

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11 **7-1.2 Intent of This Act.**

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

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

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

18 ~~d. It is the purpose and intent of this law to prohibit contributions by organizations in
19 order to develop a broader base of political advocacy within the community.~~

20 de. This law is enacted in accordance with the terms of Section 5 of Article XI of the
21 Constitution of the State of California and pursuant to the police powers of the Charter of the
22 City of Albany.

23 **7-2 INTERPRETATION OF THIS ACT.**

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

27 **7-3 LIMITATIONS ON CONTRIBUTIONS.**

28 a. It is unlawful for a candidate, committee supporting or opposing a candidate, or
individual acting on behalf of a candidate or committee to solicit or accept from any other
individual a contribution which will cause the total amount contributed by that other individual

1 in support of or opposition to a candidate to exceed one hundred (\$100.00) dollars for any single
2 election.

3 b. It is unlawful for any individual to make to any candidate ~~or committee~~
4 supporting or opposing a candidate a contribution that will cause the total amount contributed by
5 that individual in support of or opposition to a candidate to exceed one hundred (\$100.00) dollars
6 for any single election.

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

10 d. The contribution limits contained in Section 7-3b. apply to the total contributions
11 of an individual to a candidate, ~~whether to the candidate's controlled committee or to a~~
12 ~~committee that makes independent expenditures in support of that candidate.~~

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

19 f. ~~For the purposes of this Chapter, "person" means any individual, firm,~~
20 ~~partnership, joint venture, syndicate, business trust, personal trust, family trust, company,~~
21 ~~corporation, association, proprietorship, sole proprietorship, committee, labor union, or any other~~
22 ~~organization or group of person acting in concert.~~

22 **~~7-4 PROHIBITIONS AND LIMITS ON CONTRIBUTIONS FROM ORGANIZATIONS.~~**

23 ~~a. It is unlawful for a candidate, committee, committee treasurer or other individual~~
24 ~~acting on behalf of a candidate or committee to accept a contribution from any person other than~~
25 ~~an individual.~~

26 ~~b. It is unlawful for a person other than an individual to make a contribution to any~~
27 ~~candidate or committee except to a committee that is organized solely for the purpose of~~
28 ~~supporting or opposing the qualifications of a City measure for the ballot, or the adoption or~~
~~defeat of a City measure, and the committee pursues no other purpose.~~

1 ~~c. For purposes of Section 7-4a. and b., the term "committee" includes any~~
2 ~~committee that makes independent expenditures, in addition to any controlled committee.~~

3 ~~d. Notwithstanding Section 7-4a, a committee may accept a contribution from any~~
4 ~~person if the committee is organized solely for the purpose of supporting or opposing the~~
5 ~~qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the~~
6 ~~committee pursues no other purpose.~~

7 ~~e. For purposes of Section 7-4b. and d., a recall election is not an election on a City~~
8 ~~measure.~~

9
10 **7-45 OBLIGATION TO RETURN CONTRIBUTIONS.**

11 a. If a candidate, committee, or committee treasurer is offered a contribution the
12 acceptance of which would constitute a violation of this Chapter, the candidate, committee or
13 committee treasurer shall refuse the offer.

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

18 1. Does not deposit the contribution into the campaign contribution checking
19 account; and,

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

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

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

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

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

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

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

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

13
14 **7-56 PAYMENT AND DISCLOSURE OF PAYMENT FOR GOODS AND SERVICES.**

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

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

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

23 **bd.** The treasurer of a committee that makes independent expenditures in support of
24 or in opposition to a candidate shall pay, or cause to be paid, each vendor upon receipt of the
25 vendor's goods or services in whole or in part.

26 **ce.** In addition to any of other laws requiring disclosure, disclosure of payments for
27 goods and services shall be filed with the City Clerk seven (7) days before the date of the
28 election.

(Ord. #04-05, §1)

1 **7-67 VOLUNTARY AGREEMENT TO EXPENDITURE CEILING.**

2 Each candidate for office, at the time of filing his or her nomination papers, shall file a
3 statement of acceptance or rejection of a campaign expenditure ceiling, stating that the total
4 campaign expenditures by the candidate and the controlled committee of such candidate will not
5 exceed a limit equal to fifty (\$0.~~70~~50) cents per registered voter, as of the most recent
6 presidential election, the amount rounded to the nearest one hundred (\$100.00) dollars and
7 indexed for inflation.
8

9 **7-78 INCENTIVES FOR AGREEMENT TO EXPENDITURE CEILING.**

10 Each candidate for office filing a statement of acceptance of the campaign expenditure
11 ceiling and agreement not to accept more than twenty-five (25%)~~ten (10%)~~ percent of her/his
12 campaign funds from persons residing in communities other than Albany, California shall not be
13 subject to the obligations in Section 7-6 and the restrictions in Section 7-3 and shall be subject to
14 the following restrictions:

15 a. *Contribution Limit.* No individual shall make to the candidate and the controlled
16 committee of such a candidate, and the candidate and the candidate's controlled committee shall
17 not accept from each such individual, a contribution or contributions totaling more than two
18 hundred fifty (\$250.00) dollars for each election in which the candidate is on the ballot or is a
19 write-in candidate.

(Ord. #96-06; Ord. #04-05, §1)

20 **7-89 DUTIES OF THE LOCAL FILING OFFICER.**

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

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

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

(Ord. #96-06; Ord. #04-05, §1)

1
2 **~~7-910~~ CRIMINAL MISDEMEANOR ACTIONS.**

3
4 Any person who violates any provision of this Act is guilty of a misdemeanor. Any
5 individual who causes any other person to violate any provision of this Act, or who aids and
6 abets any other individual in the violation of any provision of this Act, shall be liable under the
7 provisions of this section. Prosecution for violation of any provision of this Act shall be
8 commenced within four (4) years after the date on which the violation occurred. (Ord. #96-06;
9 Ord. #04-05, §1)

10 **~~7-9.110.1~~ Civil Actions.**

11
12 Any person who intentionally or negligently violates any provision of this Act shall be
13 liable in a civil action brought by the City Attorney or by an individual residing within the
14 jurisdiction for an amount not more than three (3) times the amount of the unlawful contribution
15 or expenditure. (Ord. #96-06; Ord. #04-05, §1)

16 **~~7-9.210.2~~ Injunctive Relief.**

17 Any person residing in the jurisdiction, including the City Attorney, may sue for
18 injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.
19 (Ord. #96-06; Ord. #04-05, §1)

20 **~~7-1011~~ APPLICABILITY OF OTHER LAWS.**

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

23 **Section 2: Publication**

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

27 **Section 3: Severability**

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

1 ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the
2 fact that any one or more sections, subsections, sentences, clause or phrases be declared invalid.

3 **Section 4: Effective Date**

4 This ordinance shall become effective 30 days on or after its final passage and adoption.

5 Implementation of the ordinance shall commence January 1, 2010.

6
7 Date:

8 _____
Mayor Robert S. Lieber