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2 **Ordinance #08-09**

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

11 **WHEREAS**, the City Council wishes to modify the City of Albany's Campaign Finance
12 Reform Act to include some of the recommendations of the Commission and to include various
13 other modifications; 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16 **IS HEREBY REPEALED IN ITS ENTIRETY AND IS AMENDED TO READ AS**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 de. This law is enacted in accordance with the terms of Section 5 of Article XI of the
19 Constitution of the State of California and pursuant to the police powers of the Charter of the
20 City of Albany.

21 **7-2 INTERPRETATION OF THIS ACT.**

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

25 **7-3 LIMITATIONS ON CONTRIBUTIONS.**

26 a. It is unlawful for a candidate, committee supporting or opposing a candidate, or
27 individual acting on behalf of a candidate or committee to solicit or accept from any other
28 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 two hundred and fifty (\$250.00) dollars for
2 any single election.

3 b. It is unlawful for any individual to make to any candidate a contribution that will
4 cause the total amount contributed by that individual in support of or opposition to a candidate to
5 exceed two hundred and fifty (\$250.00) dollars for any single election.

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

9 d. The contribution limits contained in Section 7-3b. apply to the total contributions
10 of an individual to a candidate's controlled committee.

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

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

21 **~~7-4 PROHIBITIONS AND LIMITS ON CONTRIBUTIONS FROM ORGANIZATIONS.~~**

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

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

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

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

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

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8 **7-45 OBLIGATION TO RETURN CONTRIBUTIONS.**

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

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

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

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

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

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

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

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

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

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

6 d. The candidate or committee treasurer shall promptly deliver from available funds,
7 if any, an amount equal to any monetary contribution constituting a violation of this Chapter that
8 is deposited into the campaign contribution checking account to the City Clerk and made payable
9 to the City Treasurer. The City Treasurer shall deposit any contribution or equivalent amount he
10 or she receives under Section 7-4 into the City's General Fund.
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12 **7-56 PAYMENT AND DISCLOSURE OF PAYMENT FOR GOODS AND SERVICES.**

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

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

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

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

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

(Ord. #04-05, §1)

27 **7-67 VOLUNTARY AGREEMENT TO EXPENDITURE CEILING.**

28 Each candidate for office, at the time of filing his or her nomination papers, shall file a
statement of acceptance or rejection of a campaign expenditure ceiling, stating that the total

1 campaign expenditures by the candidate and the controlled committee of such candidate will not
2 exceed a limit equal to seventy (\$0.70) cents per registered voter, as of the most recent
3 presidential election, the amount rounded to the nearest one hundred (\$100.00) dollars and
4 indexed for inflation.

5 **7-78 INCENTIVES FOR AGREEMENT TO EXPENDITURE CEILING.**
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7 Each candidate for office filing a statement of acceptance of the campaign expenditure
8 ceiling and agreement not to accept more than twenty-five (25 %) percent of her/his campaign
9 funds from persons residing in communities other than Albany, California shall not be subject to
10 the obligations in Section 7-5 and the restrictions in Section 7-3 and shall be subject to the
11 following restrictions:

12 a. *Contribution Limit.* No individual shall make to the candidate and the controlled
13 committee of such a candidate, and the candidate and the candidate's controlled committee shall
14 not accept from each such individual, a contribution or contributions totaling more than five
15 hundred (\$500.00) dollars for each election in which the candidate is on the ballot or is a write-
in candidate.

16 (Ord. #96-06; Ord. #04-05, §1)

17 **7-89 DUTIES OF THE LOCAL FILING OFFICER.**

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

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

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

25 (Ord. #96-06; Ord. #04-05, §1)
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1 **~~7-910~~ CRIMINAL MISDEMEANOR ACTIONS.**

2 Any person who violates any provision of this Act is guilty of a misdemeanor. Any
3 individual who causes any other person to violate any provision of this Act, or who aids and
4 abets any other individual in the violation of any provision of this Act, shall be liable under the
5 provisions of this section. Prosecution for violation of any provision of this Act shall be
6 commenced within four (4) years after the date on which the violation occurred. (Ord. #96-06;
7 Ord. #04-05, §1)
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9 **~~7-9.110.1~~ Civil Actions.**

10 Any person who intentionally or negligently violates any provision of this Act shall be
11 liable in a civil action brought by the City Attorney for an amount not more than three (3) times
12 the amount of the unlawful contribution or expenditure. (Ord. #96-06; Ord. #04-05, §1)
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14 **~~7-9.210.2~~ Injunctive Relief.**

15 The City Attorney may sue for injunctive relief to enjoin violations or to compel
16 compliance with the provisions of this Act. (Ord. #96-06; Ord. #04-05, §1)

17 **~~7-1011~~ APPLICABILITY OF OTHER LAWS.**

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

20 **Section 2: Publication**

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

24 **Section 3: Severability**

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

1 **Section 4: Effective Date**

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

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Date:

Mayor Robert S. Lieber