

## CHAPTER 3.06: CAMPAIGN FINANCE AND OTHER POLITICAL ACTIVITIES

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### **Cross-reference:**

*General provisions relating to officers and employees, see Charter §§1400 et seq.*

*Officers and employees, see Ch. 3.02*

### **§ 3.06.005 INTENT AND PURPOSE.**

It is the intent of this Chapter to supplement the requirements of the Political Reform Act of 1974 (Cal. Gov't Code §§ 81000 et seq., as amended, hereafter "Political Reform Act"), with regard to placing realistic and enforceable limits on the amount individuals, corporations, and committees may contribute to political campaigns in City elections, to inform the public of the sources of campaign contributions and expenditures, and to prevent corruption, or the appearance of corruption, in City government.

('65 Code, § 2-117) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.010 DEFINITIONS.**

Except as specifically provided for herein, the words and phrases in this Chapter shall have the same meanings as in the Political Reform Act and regulations adopted thereunder.

**ADVERTISEMENT.** Has the same meaning as in Cal. Gov't Code § 84501, and includes, but is not limited to, any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office.

**CANDIDATE.** An individual who is a candidate for elective office of the City of Culver City and meets the definition set forth in Cal. Gov't Code § 82007. **CANDIDATE** also includes an incumbent who was elected or appointed to an elective office of the City of Culver City.

**COMMITTEE.** Has the same meaning as in Cal. Gov't Code § 82013, and includes, but is not limited to, any person or combination of persons who directly or indirectly receives contributions totaling One Thousand Dollars (\$1,000.00) or more in a calendar year, or makes independent expenditures totaling One Thousand Dollars (\$1,000.00) or more in a calendar year.

**CONTRIBUTION.** Has the same meaning as in Cal. Gov't Code § 82015, and includes, but is not limited to, a payment, a non-monetary contribution consisting of donated goods, services or facilities, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. A non-monetary contribution shall be valued at the fair market value of the goods, services, or facilities contributed to the campaign. The fair market value for goods or services is the price that a person would be required to pay to acquire the same goods or services in the open market place. **CONTRIBUTION** does not include the following:

1. Volunteer personal services; or
2. A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office, if all costs for the meeting or fundraising event are paid for by the occupant, and if the total costs for the meeting or fundraising event are Five Hundred Dollars (\$500.00) or less, exclusive of the fair rental value of the premises.

**ELECTION.** Any general, special or recall election for an elective office of the City of Culver City.

**EXPENDITURE.** Has the same meaning as in Cal. Gov't Code § 82025, and includes, but is not limited to, a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

**INDEPENDENT EXPENDITURE.** Has the same meaning as in Cal. Gov't Code § 82031, and includes an expenditure made by any person in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate.

**MASS MAILING.** Has the same meaning as in Cal. Gov't Code § 82041.5, and includes two hundred (200) or more substantially similar pieces of mail.

**PERSON.** Has the same meaning as in Cal. Gov't Code § 82047, and includes, but is not limited to, 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.

**SERVICES.** Includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities, and equipment.

**SMALL CONTRIBUTOR COMMITTEE.** Any committee that meets all of the following criteria:

1. The committee has been in existence for at least three (3) months;
2. The committee receives contributions from twenty (20) or more persons;
3. No one person has contributed to the committee more than Two Hundred Dollars (\$200.00) per calendar year; and
4. The committee makes contributions to two (2) or more candidates for elected City office.

('65 Code, § 2-118) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.015 LIMITATIONS ON CONTRIBUTIONS.**

A. Except as provided for a Small Contributor Committee, no person, other than a candidate in aid of himself or herself, shall make, and no person, including a candidate, shall solicit or accept any contribution which will cause the total amount contributed by such person to a candidate to exceed One Thousand Dollars (\$1,000.00) with respect to a single election.

B. No Small Contributor Committee shall make, and no candidate shall solicit or accept from any Small Contributor Committee, any contribution which will cause the total amount contributed by such committee to exceed Two Thousand Dollars (\$2,000.00) with respect to a single election.

C. The amounts identified in Subsections A. and B. above shall be adjusted in February (or as soon thereafter as practicable) of each odd numbered year commencing in 2017 for any increase in the consumer price index for the preceding calendar year (January - December) for the Los Angeles-Riverside-Orange County CPI-U (LA-R-OC CPI-U) as published by the United States Department of Labor, Bureau of Labor Statistics rounded to the nearest Ten Dollars (\$10.00). In the event the Bureau of Labor Statistics discontinues the publication of the LA-R-OC CPI-U, then a comparable statistic shall be used as determined by the City's Chief Financial Officer. The City Clerk, no later than thirty (30) days after the LA-R-OC CPI-U (or comparable statistic) is published, shall issue a public notice establishing the amounts as adjusted in accordance with this Subsection.

('65 Code, § 2-119) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.020 LIMITATIONS ON CONTRACTOR CONTRIBUTIONS.**

A. No person who contracts with the City, other than a candidate in aid of herself or himself, shall make a contribution exceeding Two Hundred and Fifty Dollars (\$250.00) to any candidate at any time between the commencement of negotiations and either a final determination by the City to reject the award of contract or one (1) year after approval of the contract or termination of negotiations for the contract, where that person has received, is owed or would be owed Twenty-Five Thousand Dollars (\$25,000.00) or more for such contract. Such contracts shall include, but are not limited to, contracts for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, for selling any land or building to the City, or for purchasing any land or building from the City. For purposes of this section, commencement of negotiations begins on the earlier of:

1. The date on which a request for proposals or notice inviting bids is released by the City; or
2. As otherwise reasonably determined by the City Manager that negotiations have commenced.

B. For purposes of this Section, if the person contracting with the City is a corporation, firm, partnership, association, or other entity, a contribution from a board member, officer or employee of that entity shall not be deemed a contribution from the person contracting with the City, unless the entity is majority owned by the board member, officer or employee making the contribution.

('65 Code, § 2-120) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.025 AGGREGATION OF CONTRIBUTIONS MADE BY RELATED DONORS.**

For purposes of the contribution limits of this chapter, and as provided in Cal. Gov't Code § 85311(b):

A. The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

B. If two (2) or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

C. Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of that majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

('65 Code, § 2-121) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.030 ELECTION CAMPAIGN ACCOUNTS AND RECORDS.**

A. As provided in Cal. Gov't Code § 85201, upon the filing of a statement of intention to be a candidate, the individual who intends to be a candidate for an elective office in Culver City shall establish one (1) campaign bank account at an office of a financial institution located in the state. The account shall be identified as the "election campaign account."

B. As provided in Cal. Gov't Code § 85201(c), all campaign contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's committee shall be deposited into the account identified in Subsection A.

C. In addition to filing with the state Fair Political Practices Commission, the campaign treasurer shall file with the City Clerk the name and address of the financial institution in which the account has been established, and the account number.

D. The City Clerk, the City Attorney, a special prosecutor or other investigating official appointed by the City Attorney, shall have full access at all reasonable hours to the records concerning the election campaign account.

E. For the campaign committee, the candidate, treasurer, and principal officer shall maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the requirements of Chapter 4 of the Political Reform Act. The detailed accounts, records, bills, and receipts shall be retained by the filer for a period of four (4) years after the election for which they were used.

('65 Code, § 2-122) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.035 MASS MAILING AND POLITICAL ADVERTISING DISCLOSURE.**

A. As required in Cal. Gov't Code § 84305, and except as provided in Subsection B., no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one (1) of the inserts included within each piece of mail in no less than six- (6) point type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be listed in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.

B. If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

C. As required by Cal. Gov't Code § 84506.5, an advertisement supporting or opposing a candidate that is paid for as an independent expenditure must include a statement that it was not authorized by a candidate or a committee controlled by a candidate. That statement must substantially conform to the following: "This political advertisement was not authorized by [the candidate's name]."

('65 Code, § 2-123) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.040 ENFORCEMENT.**

A. *City Clerk.* The City Clerk may monitor all campaign forms and statements filed by any person and shall notify the person pursuant to this Chapter of any of the following apparent violations:

1. The non-filing or late filing of any required forms or statements under this Chapter.
2. A statement that does not conform on its face with the requirements of this Chapter.
3. Any reported contributions that exceed the allowable maximums established by this Chapter.

B. *City Attorney.* The City Attorney may commence an investigation regarding an alleged violation of this Chapter. If the City Attorney determines that such investigation warrants further action, the City Attorney may utilize administrative remedies pursuant to Chapter 1.02 of this Code, file a civil action for injunctive or other relief, or file a criminal action. Further, the City Attorney may appoint a special prosecutor who may perform further investigation and/or pursue any or all of these remedies; or, if permitted under state law, refer the matter to the Fair Political Practices Commission, to further pursue enforcement of §§ 3.06.015 through 3.06.035.

C. *Citizen Complaint.* Upon receipt of a written complaint from a resident of Culver City, which shall include a statement of the grounds for the belief that a violation of this Chapter has occurred, the City Attorney shall review the complaint and determine whether it requires further action. The City Attorney's written determination shall be made within fifteen (15) calendar days after receipt of the written complaint. If the City Attorney determines that such complaint or investigation warrants further action, the City Attorney may utilize administrative remedies pursuant to Chapter 1.02 of this Code, file a civil action for injunctive or other relief, or file a criminal action. Further the City Attorney may appoint a special prosecutor who may perform further investigation and/or pursue any or all of these remedies; or, if permitted under state law, refer the matter to the Fair Political Practices Commission, to further pursue enforcement of §§ 3.06.015 through 3.06.035. Further, the City Attorney may send notice to the person accused, with copies available to the public, of any other allegation(s) of violation, or take any other action available under law.

D. *Special Prosecutor.* The City Attorney, after consultation with the City Manager, shall have the authority to withdraw the appointment of a special prosecutor at any time when he or she determines doing so is in the best interest of the City.

E. *Injunctive Relief.* If a resident of Culver City files a complaint with the City Attorney and receives a written determination by the City Attorney indicating that no further action shall be taken, such resident may sue for injunctive relief to enjoin violations or to compel compliance with this Chapter; provided that, any request for temporary or preliminary relief may be obtained only upon a showing by a preponderance of evidence that a violation or non-compliance occurred.

F. *Statute of Limitations.* An action for violation of this Chapter must be commenced within two (2) years of the time the alleged violation occurred.

G. *Attorney's Fees.* In a civil action, the court may award to the prevailing party the cost of litigation, including reasonable attorney's fees, if the City establishes an agreement with the Fair Political Practices Commission, attorney's fees shall be allocated as determined by such agreement.

H. *Referral to Fair Political Practices Commission.* The City Attorney may refer to the Fair Political Practices Commission any complaint alleging, or providing evidence of, a violation of this Chapter and/or a violation of the Political Reform Act or, after consultation with the City Manager, may terminate any agreement made with the Fair Political Practices Commission at any time when he or she determines doing so is in the best interest of the City.

('65 Code, § 2-124) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.045 VIOLATIONS AND PENALTIES.**

A. Any person who violates a provision of this Chapter shall be guilty of an infraction, punishable pursuant to §§ 1.01.035 through 1.01.055 of this Code; provided that such person shall be guilty of a misdemeanor if he or she has been convicted of three (3) or more violations of this Chapter within the twelve (12) month period immediately preceding the violation.

B. Any person who knowingly or intentionally violates a provision of this Chapter, shall be guilty of a misdemeanor, punishable pursuant to §§ 1.01.035 through 1.01.055 of this Code; provided that a minimum fine of Five Hundred Dollars (\$500.00) shall be imposed.

C. For purposes of this section, a bail forfeiture, plea of guilty, or plea of no contest shall be deemed a conviction.

D. If, after election, a candidate is convicted of a misdemeanor for knowingly or intentionally violating any provision of this Chapter, that candidate's election to office shall be void and such office shall immediately become vacant effective on the date of sentencing. In such event, the vacancy shall be filled in accordance with the City Charter. If a candidate is convicted of a misdemeanor for a knowing or intentional violation of any of the provisions of this Chapter, at any time prior to election, his or her candidacy shall be terminated immediately, and he or she shall no longer be eligible for election or appointment to office in that election, unless the court at the time of sentencing specifically determines, in the interest of justice, that this provision should not be applicable.

E. In addition to Subsections B. and D. above, no person convicted of a misdemeanor for knowingly or intentionally violating a provision of this Chapter shall be qualified to be a candidate for elective City office for a period of four (4) years following the date of conviction, unless the court at the time of sentencing specifically determines, in the interest of justice, that this provision should not be applicable.

('65 Code, § 2-125) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.050 POLITICAL ACTIVITY - BALLOT MEASURE ON WORKING CONDITIONS.**

No officer or employee of the City shall be prevented from soliciting or receiving contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions in the City; provided that such activities shall not be conducted during working hours nor on any premises owned or operated by the City during working hours.

('65 Code, § 2-126) (Ord. No. 89-035 § 1; Ord. No. 2006-009 § 22 (part); Ord. No. 2015-006 § 1 (part))

### **§ 3.06.055 POLITICAL ACTIVITY OF CITY OFFICERS, EMPLOYEES AND CONSULTANTS.**

A. No City officer, employee or consultant shall participate in political activities of any kind while in uniform.

B. No City officer, employee or consultant shall use or permit others to use public resources for a campaign activity. For

purposes of this section, "campaign activity" means an activity constituting a contribution or an expenditure as defined in § 3.06.010 of this Chapter, but does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities. "Public resources" means any property or asset owned or operated by the City, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and City-compensated time.

C. No officer, employee or contractor of the City shall coerce political action for any City elective office by directly or indirectly using, promising, threatening or attempting to use any official action, authority or influence, whether then possessed or merely anticipated.

D. No City officer, employee or contractor shall knowingly solicit contributions to be used for any campaign for a City elective office from any employee or contractor of the City. This provision does not prohibit solicitations made to a significant segment of the public.

E. Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on City activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this City and the state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

F. In addition to the provisions of §1.01.035 of the Code, a violation of this section shall be grounds for disciplinary action, including termination of position or employment of any employee.

('65 Code, §§ 2-127 - 2-129) (Ord. No. 89-035 § 1; Ord. No. 2015-006 § 1 (part))

### **§ 3.06.060 APPLICATION OF OTHER LAWS.**

Nothing in this Chapter shall exempt any person or committee from applicable provisions of any other laws of this State.

(Ord. No. 2015-006 § 1 (part))