

CHAPTER 3.06: CAMPAIGN AND OTHER POLITICAL ACTIVITIES

Section

- 3.06.005 Intent and purpose
- 3.06.010 Definitions
- 3.06.015 Limitations on contributions
- 3.06.020 Limitations on contractor contributions
- 3.06.025 Assumed name contributions
- 3.06.030 Contributions of organizations
- 3.06.035 Election campaign accounts
- 3.06.040 Identification of sponsor of political advertisements
- 3.06.045 Violations and penalties
- 3.06.050 Enforcement; injunctive relief
- 3.06.055 Political activity of officers, employees and contractors; violations

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 Cal. Gov't Code §§ 81000 et seq., as amended, with regard to placing realistic and enforceable limits on the amount individuals may contribute to political campaigns in City elections, to inform the public of the sources of campaign contributions and expenditures, and to prevent potential undue or improper influence by or on elected city officers, employees or contractors.

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

§ 3.06.010 DEFINITIONS.

Except for those terms specifically defined herein, the definitions set forth in Cal. Gov't Code, §§ 82000 et seq., as amended, shall be applicable to the provisions of this Chapter.

CANDIDATE. An individual who is listed on the ballot, or who has qualified to have write-in votes counted, for nomination for or election to any elective City office. **CANDIDATE** also means an individual who receives a contribution, makes an expenditure, or gives his or her consent for any other person to receive a contribution or make an expenditure, with the intention of bringing about his or her nomination or election to any elective City office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received, or the expenditure is made, and whether or not he or she has announced his or her candidacy, or filed a declaration of candidacy, at such time. **CANDIDATE** also includes any City office holder who is the subject of a recall election. An individual who becomes a candidate, pursuant to this definition, shall retain his or her status as a candidate until such as that status is terminated pursuant to Cal. Gov't Code § 82414, as amended.

COMMITTEE. Any person or combination of persons who directly or indirectly receives contributions and/or makes independent expenditures for political purposes.

CONTRIBUTION. Shall have the same definition as that given in Cal. Gov't Code § 82015, as amended. For the purposes of this Chapter, however, **CONTRIBUTION** does not relate to in-kind transfers.

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

§ 3.06.015 LIMITATIONS ON CONTRIBUTIONS.

A. No person, other than a candidate in aid of himself or herself, shall directly or indirectly 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 Five Hundred Dollars (\$500.00) with respect to a single election in support of or in opposition to a candidate, including contributions to all committees supporting or opposing such candidate.

B. No committee shall make and no candidate shall receive from any such committee any contribution which will cause the total amount contributed by such committee to exceed One Thousand Dollars (\$1,000.00), with respect to a single election in support of, or opposition to, a candidate, including contributions to all committees supporting or opposing such candidate. No such candidate shall receive any contributions in excess of Two Thousand Five Hundred Dollars (\$2,500.00) combined total contributions from all committees.

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

§ 3.06.020 LIMITATIONS ON CONTRACTOR CONTRIBUTIONS.

No contributions shall be made directly or indirectly to any candidate or committee by any person, hereinafter "contractor," other than a candidate in aid of himself or herself, who has contracted with the City within one (1) year of the date of the proposed contribution and has received or is owed Twenty-Five Thousand Dollars (\$25,000.00) or more for such contract(s). No candidate or committee shall accept a contribution from any such contractor. For the purposes of this Section, if a contractor is a corporation, firm, partnership, association, or other similar organization, a contribution from a controlling individual(s) shall be deemed a contribution from the contractor. Control shall mean any individual who has more than a ten percent (10%) proprietary or voting interest in or is a trustee, director, partner or officer of a contractor.

('65 Code, § 2-120) (Ord. 89-035 § 1)

§ 3.06.025 ASSUMED NAME CONTRIBUTIONS.

A. No contributions shall be made directly or indirectly by any person or combination of persons acting jointly in a name other than the name by which they are identified for legal purposes nor in the name of another person or combination of persons.

B. No person shall make a contribution in his, her, or its name if such contribution was received from another person with the condition it be used as a contribution.

C. No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution, the full name, street address, occupation, and employer, if any, or principal place of business if self-employed, of such person, intermediary or agent; the recipient of the contribution shall also be made aware of the full name, street address, occupation and the name of the employer, if any, or principal place of business if self-employed, of the actual contributor.

D. Upon discovery by a candidate or the candidate's campaign treasurer or committee that a contribution has been received in violation of this Section, the amount received shall be paid promptly to the Treasurer of the City for deposit in the general fund of the City to be used for the purpose of deferring the City's election costs and shall not be used to benefit any candidate or committee.

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

§ 3.06.030 CONTRIBUTIONS OF ORGANIZATIONS.

A contribution received from a person, which is a corporation, firm, partnership, association, or other similar organization, hereinafter "organization," shall be deemed a contribution of a controlling individual(s). For purposes of this Section, control shall mean any

individual who has more than a ten percent (10%) proprietary or voting interest in or is a trustee, director, partner or officer of the contributing organization. Any contributions from an organization, shall identify any individual(s) having more than a ten percent (10%) proprietary or voting interest in that organization or who is a trustee, director, partner or officer of the contributing organization.

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

§ 3.06.035 ELECTION CAMPAIGN ACCOUNTS.

A. Any campaign bank account established pursuant to Cal. Gov't Code § 85201, shall be opened in a state or federally chartered bank or savings and loan association or credit union of the campaign treasurer's choice within the City. The account shall be identified as the "election campaign account."

B. In addition to filing with the state Fair Political Practices Commission, the campaign treasurer shall file with the City Clerk the name of the financial institution in which the account has been established, the specific location and account number. All campaign contributions accepted by a campaign treasurer, committee, and candidate shall be deposited into the election campaign account by the campaign treasurer or his or her authorized agent.

C. The City Clerk, the City Attorney and a special prosecutor, appointed pursuant to § 3.06.050 of this Chapter, shall have full access at all reasonable hours to the records concerning the election campaign account.

D. The campaign treasurer shall retain all campaign records for a period of four (4) years after the election for which they were used.

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

§ 3.06.040 IDENTIFICATION OF SPONSOR OF POLITICAL ADVERTISEMENTS.

A. All campaign literature and mailings used for political advertisement shall contain the identity of the sponsor, in at least six (6) point type, including the name and address of the individual, group or committee sponsor and the name of the treasurer, if a group or committee is involved. For purposes of this Section, *POLITICAL ADVERTISEMENT* shall mean two hundred (200) or more identical, or nearly identical, pieces of written material which support, oppose, or express an opinion relating to any candidate or measure on a ballot.

B. Subsection A. is not intended to apply to mass mailings or other matters regulated by Cal. Gov't Code §§ 84305 and 85600, as amended.

C. All other non-written media used for political advertisement shall also inform the public in a reasonable manner, of the identity of the sponsor, including the name and address of the individual, group or committee sponsor and the name of the treasurer, if a group or committee is involved.

D. Unless the candidate has given his or her express written consent to any political advertisement described above, such advertisement shall contain, in a prominent location or in a manner which will inform the public, the following admonition: "This political advertisement was made without the authorization of [the candidate's name]."

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

§ 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 or more violations of this Chapter within the twelve (12) month period immediately preceding the violation and such prior convictions are admitted by the defendant or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

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 plea of guilty or no contest shall be deemed a conviction.

D. If, after election, a candidate is convicted of knowingly or intentionally violating any provision of this Chapter, that candidate's election to office shall be void and such office immediately become vacant. In such event, the vacancy shall be filled in accordance with the City Charter. If the candidate is convicted of 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 office in that election, unless the Court at the time of sentencing specifically determines, in the interest of justice, this provision should not be applicable.

E. In addition to Subsections B. and D. above, no person convicted of 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, this provision should not be applicable.

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

§ 3.06.050 ENFORCEMENT; INJUNCTIVE RELIEF.

A. The City Attorney may institute an investigation regarding an alleged violation of this Chapter. If based only on admissible evidence, it is determined, by the City Attorney, such investigation warrants further action, the City Attorney shall appoint a special prosecutor to further pursue enforcement of §§ 3.06.005 through 3.06.040. The remaining Sections of this Chapter may be enforced through regular means.

B. Upon receipt of a written complaint, from a resident of Culver City, which shall include a statement of the grounds for the belief 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) days after receipt of the written complaint. If based only on admissible evidence, it is determined such complaint or investigation warrants further action, the City Attorney shall appoint a special prosecutor to further pursue enforcement of §§ 3.06.005 through 3.06.040. The remaining Sections of this Chapter may be enforced through regular means.

C. 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 it is in the best interest of the City.

D. If a person filed a complaint with the City Attorney and received a written determination by the City Attorney indicating no further action shall be taken, such person 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, a violation or noncompliance occurred.

E. Prosecution for violation of this Chapter must be commenced within two (2) years of the time the alleged violation occurred.

F. The Court may award to the prevailing party the cost of litigation including reasonable attorney's fees and upon conviction of a violation of this Chapter shall award the City the cost of litigation including reasonable attorneys fees for prosecuting the action.

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

§ 3.06.055 POLITICAL ACTIVITY OF OFFICERS, EMPLOYEES AND CONTRACTORS; VIOLATIONS.

A. *Restrictions.*

1. a. No employee or contractor of the City, or person who is seeking employment with the City or a contract with the City, shall conduct any campaign activity in support of or opposition to any candidate or ballot measure during the hours which that person:

(1) Works or conducts business with or for the City; or

(2) Is in any City uniform; or

(3) Is on any premises owned or operated by the City; provided that, this Subsection shall not prohibit activity conducted at or on a traditional public forum.

b. This Subsection is not intended to apply to City elective or appointive officers.

2. 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 office or authority or influence, whether then possessed or merely anticipated, gained from a petition with the City; and

3. No officer, employee or person on an employee eligible list or contractor of the City shall knowingly solicit political funds, or contributions, to be used for any campaign for a City elective office, from any employee, person on an employee eligible list, or contractor of the City. This Subsection does not prohibit an officer, employee, person on an employee eligible list or contractor from communicating through the mail, or by other means, requests for political funds or contributions to a significant segment of the public, which may include employees, persons on an employee eligible list or contractors of the City.

('65 Code, § 2-127)

B. *Ballot measure on working conditions.* No officer or employee of the City shall be prevented from soliciting or receiving political funds or 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, § 2-128)

C. *Violations.* In addition to the provisions of § 1.01.035 of the Code, the violation of Subsections A. or B. of this Section shall be grounds for disciplinary action, including termination of position or employment of any employee and shall be cause for termination of any contract or agreement then held with a contractor.

('65 Code, § 2-129)

(Ord. No. 89-035 § 1)