

ORDINANCE NO. 2298

AN ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 2.52 TO THE CHULA VISTA MUNICIPAL CODE
REGULATING CAMPAIGN CONTRIBUTIONS

The City Council of the City of Chula Vista does hereby
ordain as follows:

SECTION I: That Chapter 2.52 is hereby added to the
Chula Vista Municipal Code to read as follows:

CHAPTER 2.52 CAMPAIGN CONTRIBUTIONS

Sec. 2.52.010 Findings.

In enacting this ordinance, the City Council of the
City of Chula Vista finds and declares the following:

- A. Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates for City offices.
- B. The rapidly increasing costs of political campaigns have forced many candidates for elective office to raise larger and larger sums from individuals or interest groups with a specific financial stake in City matters. This can cause the public perception that the votes of City Council members and decisions of elected officials are being improperly influenced by monetary contributions. This perception can undermine the credibility of the City Council and the governmental process.
- C. It is the policy of this City to protect the integrity of the electoral process.
- D. The best interests of the citizens of this City are served by reducing the direct and indirect costs of campaigns.

Sec. 2.52.020 Purpose.

The City Council of the City of Chula Vista enacts this ordinance to accomplish the following purposes.

- A. To encourage public trust in the electoral and decision-making processes of the City, and ensure that individuals and interest groups have a fair and equal opportunity to participate in the elective and legislative process.
- B. To reduce the influence of large contributors with a specific financial stake in matters before the City, thus countering the perception that decisions of City officials are influenced more by the size of contributions than the merits of proposals or the best interests of the people of the City.

Sec. 2.52.030 Interpretation of this Ordinance.

Unless the term is specifically defined in this ordinance or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Government Code Sections 81000 et. seq.) shall govern the interpretation of this ordinance.

Sec. 2.52.040 Definitions.

- A. "Candidate" means a candidate for any City elective office, the candidate's campaign committee, committee(s) controlled by the candidate, agents of the candidate, and any person acting at the behest of a candidate. An incumbent shall be presumed to be a candidate unless he or she files a written statement with the City Clerk stating the he or she does not intend to be a candidate for the next election for his or her office.
- B. "City Campaign Statement" means the statement which must be filed with the City Clerk by candidates for City elective office pursuant to this ordinance.
- C. "City Elective Office" means the offices held by members of the City Council and any other separately elected offices of the City.
- D. "Contributions" are defined in a manner identical with the definition found in Government Code Section 82015 and any related provisions in the California Administrative Code.

- E. "Election Period" means the entire time period between elections for the City elective office. This would include the time period between each election for the same elective office, including separately as applicable, each primary, general, recall or other election for that office.
- F. "Intermediary" means a person who delivers to a candidate or committee a contribution from another person unless such contribution is from the person's employer, immediate family or an association to which the person belongs. No person who is the Treasurer of the committee to which the contribution is made or is the candidate who controls the committee to which the contribution is made shall be an intermediary for such contribution.
- G. "Organization" means a proprietorship, labor union, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, or committee, including a political action committee.
- H. "Person" means a natural individual.
- I. "Political Purpose" means an action by a candidate for the purpose of influencing, or attempting to influence, either directly or indirectly, the actions of the voters for or against the election of that candidate or any other candidate for the same City elective office.
- J. "State Campaign Statement" means an itemized report which is prepared on a form prescribed by the Fair Political Practices Commission and which provides the information required by Chapter 4 of Title 9 of the Government Code.

Sec. 2.52.050 Limitation on Contributions from Persons.

- A. No person shall make to any candidate for City elective office, and no such candidate shall accept from any person, a contribution or contributions totaling more than \$250 in any single election period which includes the entire amount of time between elections for a particular office. To the extent federal law prohibits limitations on expenditures, this ordinance is meant to be consistent with federal law.
- B. To the extent that a candidate receives a contribution in excess of the limit imposed in Suosection A, such candidate shall remit any amount

in excess of the limitation set forth in Subsection A to the City Clerk for deposit in the Campaign Enforcement Fund no later than the next date on which the candidate is required to file a State or City Campaign statement, whichever date is earlier. A candidate shall be personally liable for any excess funds which this section requires to be remitted to the City Clerk.

Sec. 2.52.060 Prohibition of Contributions by Organizations.

No organization shall make a contribution to any candidate, and no such candidate shall accept a contribution from an organization.

Sec. 2.52.070 Written Solicitations by Candidates.

Any candidate making a written solicitation for a contribution for his or her campaign for City elective office shall include the following written notice in no less than ten point type on each such solicitation:

NOTICE

Ordinance _____ of the City of Chula Vista limits contributions to campaigns for City elective office to two hundred fifty dollars (\$250) per contributor. When contributions from an individual cumulatively amount to \$100 or more, the complete name, address, occupation and employer (or name of business if self-employed) of each donor must be reported in the City campaign statement.

Sec. 2.52.080 Returned Contributions.

A contribution shall not be considered to be received if it has not been negotiated, deposited, or utilized, and is returned to the donor within ten (10) days of receipt, or no later than the date on which the candidate is required to file a State or City Campaign Statement, whichever date is earlier.

Sec. 2.52.090 Loans.

A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this ordinance. Loans from the candidate to him or herself shall be subject to the contribution limitations of this ordinance.

- B. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed personally and solely by the candidate shall not be subject to the contribution limits of this ordinance.
- C. Extensions of credit, other than loans pursuant to Subsection B, for a period of more than thirty (30) days are subject to the contribution limits of this ordinance.

Sec. 2.52.100 Family Contributions.

- A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated where the checks are drawn separately and signed by the spouse making the contribution.
- B. Contributions by children under the age of eighteen (18) shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

Sec. 2.52.110 One Campaign Committee and One Checking Account Per Candidate.

A candidate for City elective office shall have no more than one campaign committee and one checking account out of which all expenditures shall be made.

Sec. 2.52.120 Prohibition on Transfers.

- A. No candidate for City elective office shall make any contribution from his or her campaign funds to another candidate running for City elective office or to a candidate for a non-City elective office. This section shall not prohibit a candidate from making a contribution from his or her own personal funds to his or her candidacy or to the candidacy of any other candidate for elective office.
- B. No candidate shall use or transfer contributions received for his or her campaign for City elective office to any campaign by the same person as a candidate for the same office or any other elective office consistent with state law.
- C. The use of any funds which were received prior to January 1, 1989 shall be governed by the Political Reform Act (Government Code Section 81000 et seq.) and any regulations adopted by the Fair Political Practices Commission pursuant thereto.

Sec. 2.52.130 Contents of City Campaign Statements.

A. All City Campaign Statements required to be filed with the City Clerk pursuant to this ordinance shall contain the following information:

- (1) The information required by Government Code Section 84211 and any administrative regulations adopted pursuant thereto; and
- (2) Any information required by the City Clerk.

B. All City Campaign Statements required to be filed with the City Clerk pursuant to this ordinance, shall be on a form prescribed by the City Clerk. To the extent practicable, such form should be similar to, or consolidated with, those required by state law.

Sec. 2.52.140 Duties of Treasurers and Candidates.

All City Campaign Statements filed under this ordinance shall be signed under penalty of perjury and verified by both the candidate and the campaign treasurer. The verification shall state that the candidate and the campaign treasurer have used all reasonable diligence in its preparation, and that to the best of their knowledge it is true and complete.

Sec. 2.52.150 Duties of City Clerk with Respect to Campaign Statements.

A. It shall be the duty of the City Clerk to determine whether required City Campaign Statements have been filed. In order to fulfill this duty, if the City Clerk is aware that a candidate has an obligation to file a City Campaign Statement and has failed to do so, the City Clerk shall notify the candidate of the obligation to file a City Campaign Statement. In determining whether required documents have been filed, the City Clerk shall not be required to conduct any investigation to determine whether or not a candidate has an obligation to file a City Campaign Statement.

B. It shall be the duty of the City Clerk to determine whether City Campaign Statements filed conform on their face with the requirements of this ordinance.

C. It shall be the duty of the City Clerk to accept for filing any City Campaign Statement which this ordinance requires to be filed. In those cases where the City Clerk discovers in his or her review of City Campaign Statements that a candidate has filed an

incorrect, incomplete or illegible statement, or a statement which cannot be reproduced, he or she shall promptly notify the candidate of the error or omission. However, no notification is required in those cases in which the errors or omissions are minor ones which do not recur throughout the statement. An error or omission is minor if it does not result in omission of the amount of an individual contribution or expenditure. An error or omission in connection with the identification of a donor or intermediary is minor if such person is identified by name and either street address, occupation, employer or principal place of business. An error or omission in connection with the identification of the recipient of an expenditure or person providing consideration for an expenditure is minor if such person is identified by name.

Sec. 2.52.160 Audits.

- A. The City Finance Director may make, or have made, investigations or audits with respect to any City Campaign Statements required by this ordinance, or any campaign accounts for City elective office maintained by any candidate, at any time between the last day for filing a Declaration of Candidacy for a City elective office and one year following the date of the election in which a candidate is elected to that City elective office.
- B. Any candidate whose Campaign Statements are subject to an investigation or audit by the City shall provide the Finance Director with all financial records, documents and any other information or material required by the Finance Director.

Sec. 2.52.170 Criminal Sanctions.

Any knowing or willful violation of any provision of this chapter may be prosecuted either as an infraction or as a misdemeanor at the discretion of the prosecutor.

Sec. 2.52.180 Injunctive Relief.

Any candidate or other resident of the City may bring an action, at any time during an election period or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations or, or to compel compliance with, or to obtain judicial declarations regarding, the provisions of this ordinance.

Sec. 2.52.190 Enforcement.

- A. The City Attorney shall not investigate or prosecute any alleged violations of the chapter, but shall defend the constitutionality and legality of this chapter in any civil proceeding in which the City or the City Council is a party.
- B. Review of complaints of violation of this chapter and criminal prosecution thereof shall be commenced only by special counsel who shall be the District Attorney, the Attorney General or such other qualified and independent special counsel or combination of the foregoing as may be appointed by the City Attorney. Such special counsel shall also commence and prosecute civil litigation to compel compliance with this chapter or to enjoin conduct in violation of this chapter. At least six months prior to a City election, special counsel shall be appointed for that election. No enforcement of prosecution or action of special counsel shall be subject to the review or control of the City Council or the City Attorney.
- C. Any person residing in the City who believes that a violation of this chapter has occurred may file a written complaint requesting investigation of such violation by the special counsel. If the special counsel determines that there is reason to believe a violation of this chapter has occurred, it shall conduct an investigation and may commence such administrative, civil, or criminal legal action as it deems necessary for the enforcement of this chapter.
- D. The special counsel shall have such investigative powers as are necessary for the performance of duties described in this chapter and may demand and be furnished records of campaign contributions and expenditures of any person or committee at any time. In the event that production of such records is refused, the special counsel may commence civil litigation to compel such production.
- E. The special counsel shall be immune to liability for its enforcement of this chapter.
- F. The special counsel may maintain on behalf of the City, a candidate or other resident of the City may maintain on their own behalf, a civil action to recover personally from a candidate any contributions received by the candidate in excess of the contributions limits established by this ordinance or

any contributions which a candidate fails or refuses to remit to the City Clerk or return to the donor. Any money recovered in any action maintained pursuant to this section shall be deposited in the Campaign Enforcement Fund.

G. Any action alleging violation of this chapter must be commenced within four years of the time the alleged violation occurred.

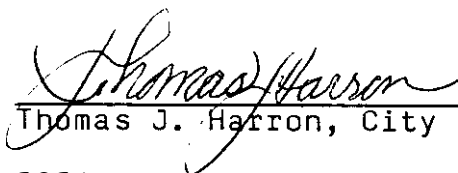
H. Violations involving wilful acceptance of cumulative illegal contributions of \$2500 or more shall constitute a crime of moral turpitude pursuant to City Charter Section 303.

Sec. 2.52.200 Severability.

If any provision of this ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this ordinance are severable.

SECTION II: This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented and Approved as to form by



Thomas J. Harron, City Attorney

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FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, HELD February 14, 19 89, AND FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD February 21, 19 89, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : McCandliss, Nader, Cox, Moore
NAYES: Councilmen : Malcolm
ABSTAIN: Councilmen : None
ABSENT: Councilmen : None

Gregory R. Cox
Mayor of the City of Chula Vista

ATTEST Jennie M. Fulasz
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. 2298, and that the same has not been amended or repealed.

DATED _____



City Clerk