

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW
AMENDING CHAPTER 2, ARTICLE XII, OF THE MOUNTAIN VIEW CITY CODE
RELATING TO CAMPAIGN FINANCE AND
REPEALING ARTICLE III OF CHAPTER 3 OF THE MOUNTAIN VIEW CITY CODE
RELATING TO POLITICAL SIGNS

WHEREAS, the City of Mountain View ("City") currently does not have campaign contribution limits or regulations; and

WHEREAS, Assembly Bill 571 ("AB 571") imposes a default campaign contribution limit upon cities and counties without campaign contribution limits beginning January 1, 2021; and

WHEREAS, AB 571 permits the City, and the City so desires, to establish its own campaign contribution limits that are different than the default campaign contribution limits imposed by AB 571; and

WHEREAS, the City desires to enhance transparency in local elections and the information required to be disclosed to supplement what is required under existing State law and the Fair Political Practices Commission; and

WHEREAS, the City desires to repeal regulations of political signs;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 2, Article XII, of the Mountain View City Code is hereby amended to add Section 2.101.5 to read as follows:

"SEC. 2.101.5 - Coordination with the Fair Political Practices Commission.

The city clerk shall promulgate written guidelines and regulations for the receipt and review of alleged violations of the Political Reform Act and coordination of reporting suspected violations, when appropriate, to the Fair Political Practices Commission."

Section 2. Chapter 2, Article XII, Division 2, Section 2.106, of the Mountain View City Code is hereby amended to read as follows:

“SEC. 2.106. - Disclosure on advertisements, generally.

a. In addition to required disclosures under the Political Reform Act, an advertisement paid for by a committee must disclose the top contributors. Any advertisement paid for by a committee, following the identification of the committee as required under the Political Reform Act, shall disclose the names of the top contributors to the committee paying for the advertisement. If fewer than five (5) contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this Section. If no contributors qualify as top contributors, this disclosure is not required. The disclosure shall read: “Major funding by (name and occupation or business interest)” identifying the top contributors to the committee paying for the advertisement.

b. Notwithstanding Government Code Section 84505, if a top contributor is a committee, the top three (3) contributors to that contributing committee must also be disclosed. If any disclosed contributor is a committee, the top three (3) contributors who contributed two thousand five hundred dollars (\$2,500) to that contributing committee must also be disclosed.

c. **Documentation.** The following items shall be submitted to the city clerk the same day the required Fair Political Practices Commission (FPPC) forms in support of the expenditures for the advertisement are filed:

1. A copy of the advertisement subject to this Section.
2. If the FPPC forms in support of the disclosures listed on the advertisement are not FPPC forms filed with the city, identification of those jurisdictions with which the forms are filed and a list of forms filed in support of the disclosures.
3. A rebuttable presumption that the advertisement was sent to the printer on the same date as the expenditure listed on the FPPC form filed for the advertisement shall be applied. This presumption may be overcome by documentation submitted to the city clerk that the advertisement was sent to the printer on a different date.

d. **Exceptions.**

1. This Division does not apply when top contributors are required to be disclosed in advertisements under state law. Only the state law disclosure requirements shall apply.

2. Disclosure of a top contributor is not required if the city is presented with reasonable evidence that there is a probability that disclosure of a top contributor would subject the individual to threats, harassment and reprisals.”

Section 3. Chapter 2, Article XII, Division 2, Section 2.107, of the Mountain View City Code is hereby amended to read as follows:

“SEC. 2.107. - Disclosures on print advertisements.

a. For the purposes of this Section, print advertisement shall mean print and written advertisements, which includes electronic media. A print advertisement shall include the disclosures required in this Division, displayed as follows:

1. The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one (1) page that is set apart from any other printed matter. All text in the disclosure area shall be in a contrasting color.

2. The text shall be in an Arial equivalent type that is easily legible to an average reader or viewer, with a type size of at least ten (10) point for print advertisements designed to be individually distributed, including, but not limited to, mailers, flyers and door hangers.

3. The top contributors, if any, shall each be disclosed on a separate horizontal line, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area.

b. Notwithstanding paragraph 2. of subsection a., a print advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall include disclosures in Arial equivalent type with a type size of at least five (5) percent of the height of the advertisement and be printed on a solid background with sufficient contrast that is easily readable by the average person. Each top contributor shall be disclosed either on a separate horizontal line as set forth in subsection a.3. above or by use of a comma.

c. Notwithstanding the definition of “top contributors,” print advertisements in newspapers, magazines and other similar publications that are twenty (20) square inches or less shall be required to disclose only the top three (3) contributors of two thousand five hundred dollars (\$2,500) or more. This does not apply to electronic media.”

Section 4. Chapter 2, Article XII, Division 2, Section 2.109, of the Mountain View City Code is hereby amended to read as follows:

“SEC. 2.109 - Criminal enforcement.

Any person who knowingly, willfully or negligently violates any provisions of this Division is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this Division, or who aids and abets any other person in the violation of any provision of this Division, shall be liable under the provisions of this Division. Any monetary penalty for such a violation shall be the maximum amount permitted by law.”

Section 5. Chapter 2, Article XII, Division 2, of the Mountain View City Code is hereby amended to add Section 2.111 to read as follows:

“SEC. 2.111. - Recordkeeping and inspection.

a. Committees shall keep complete and accurate records or documents evidencing compliance with this Division.

b. The city may request and inspect, at no cost to the city, any records or documents for enforcement of and compliance with this Division.”

Section 6. Chapter 2, Article XII, of the Mountain View City Code is hereby amended to add Division 5 to read as follows:

“DIVISION 5. – CAMPAIGN CONTRIBUTION LIMITS

SEC. 2.170. - Purpose.

The purpose of this Division 5 is to encourage public confidence in the political process and to prevent corruption and the appearance of corruption by limiting the source and amount of campaign contributions that may be made to candidates and committees controlled by candidates (“candidate-controlled committees”).

SEC. 2.171. - Campaign contribution limit—Voluntary expenditure limit accepted.

When the voluntary expenditure limit established in Division 3, Article XII, Chapter 2, has been accepted by a candidate, no person shall make to any candidate for city council or any candidate-controlled committee, and no such candidate or candidate-controlled committee shall accept from any person, a contribution or contributions that would cause the total amount contributed by such person to the candidate or the candidate-controlled committee to exceed one thousand dollars (\$1,000) for each single election for city council office. If contributions in excess of one thousand dollars (\$1,000) are accepted, the candidate or the candidate-controlled

committee must return any excess amount to the person who made the contribution within thirty (30) days of receipt.

SEC. 2.172. - Campaign contribution limit—Voluntary expenditure limit not accepted.

When the voluntary expenditure limit established in Division 3, Article XII, Chapter 2, has not been accepted by a candidate, no person shall make to any candidate for city council or candidate-controlled committee, and no such candidate or candidate-controlled committee shall accept from any person, a contribution or contributions that would cause the total amount contributed by such person to the candidate or the candidate-controlled committee to exceed five hundred dollars (\$500) for each single election for city council office. If contributions in excess of five hundred dollars (\$500) are accepted, the candidate or the candidate-controlled committee must return the excess amount to the person who made the contribution within thirty (30) days of receipt.

SEC. 2.173. - Violations.

Any violation of these contribution limits that is not rectified within thirty (30) days will be:

- a. Forwarded to a newspaper of general circulation for publication;
- b. Posted on the city's website; and
- c. Posted at a reasonably accessible location at city hall.

SEC. 2.174. - Nonapplicability.

The limitations of this Division shall not apply to expenditures of a candidate's personal funds on behalf of their own candidacy."

Section 7. Chapter 2, Article XII, of the Mountain View City Code is hereby amended to add Division 6 to read as follows:

"DIVISION 6 – REPORTING AND DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 2.180 - Definitions.

The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Section 82000, *et seq.*) shall govern the interpretation of this Division, unless otherwise specified herein.

"Local election" means any election for an elective city office or city measure, including any primary, general, runoff, special or recall election.

“Person” means the same as set forth in Government Code 82047 and (1) is active only in the local election; or (2) is formed or existing primarily to support or oppose a local candidate or measure as defined in 2 C.C.R. 18247.5.

SEC. 2.181 - Reporting of independent expenditures.

a. Any person making independent expenditure(s) in a local election of a cumulative amount of five hundred dollars (\$500) or more within the ninety (90) day period preceding a local election shall report all independent expenditures to the city clerk on Fair Political Practices Commission (FPPC) Form 496, or a similar form as designated by the FPPC to report independent expenditures during an election, and which shall be filed with the city clerk in a manner as described in the FPP 496 form instructions.

b. An independent expenditure subject to reporting as set forth in subsection a. shall be filed with the city clerk no later than twenty-four (24) hours after the expenditure is made.

SEC. 2.182 - Independent expenditure disclosures in advertisements.

a. Any person filing independent expenditure reports with the city clerk as required under Sec. 2.181 shall include in their advertisements the disclosures set forth in and in a form and format consistent with California Government Code Sections 84501, *et seq.* Where the state law requirements impose a disclosure requirement on a committee, excluding a candidate-controlled committee, those same requirements shall apply to any person subject to disclosures pursuant to this subsection.

b. Nothing stated herein is intended to conflict with the requirements under the Political Reform Act of 1974 as amended and is enacted to supplement state law requirements. In the event the provisions of the Political Reform Act apply, those provisions supersede the requirements stated herein to the extent they conflict with the Political Reform Act. Similarly, nothing stated herein is intended to preclude compliance, as required, with Division 2, Disclosure in Advertisements, of this Article.

SEC. 2.183 - Penalties.

a. **Criminal enforcement.** Any person who knowingly, willfully or negligently violates any provisions of this Division is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this Division, or who aids and abets any other person in the violation of any provision of this Division, shall be liable under the provisions of this Division. Any monetary penalty for such a violation shall be the maximum amount permitted by law.

b. **Civil enforcement.**

1. Any person who intentionally or negligently violates any provision of this Division shall be liable in a civil action brought by the city attorney. Where no specific civil

penalty is provided, a person may be liable for an amount up to ten thousand dollars (\$10,000) for each violation. Upon collection, said sum shall be deposited into the general fund of the city.

2. **Injunctive relief.** The city attorney, or a person residing within the city, may bring an action for injunction relief to enjoin violations or to compel compliance with the provision of this Division if the city attorney declines to file such an action.

3. A person other than the city attorney may bring a civil action for violations under this Division if the city attorney declines to file a civil action. If a judgment is entered against the defendant(s) in an action, a private plaintiff shall receive fifty (50) percent of the amount recovered. The remaining fifty (50) percent shall be deposited into the city's general fund.

4. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

5. In determining the amount of liability under this subsection, the court may take into account any mitigating factors and any aggravating factors.

6. No civil action alleging a violation of this Division shall commence more than two (2) years after the date of the election for which the funds at issue were contributed or expended."

Section 8. Article III of Chapter 3 of the Mountain View City Code related to Political Signs is hereby repealed in its entirety.

Section 9. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 10. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 11. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 12. This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

KB/6/ORD
015-04-12-22o