

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

WHEREAS, the City Council adopted an ordinance enacting campaign contribution limits and amending the City's Disclosure in Advertisements regulations on April 26, 2022; and

WHEREAS, the City desires to further enhance transparency and accountability in local elections;

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

Section 1. Chapter 2, Article XII, Division 2, Section 2.105 of the Mountain View City Code is hereby amended as follows:

"SEC. 2.105. - 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.

a. "Advertisement" means any general or public communication which is authorized and paid for by a committee for the purpose of supporting or opposing a candidate(s) for municipal elective office or a municipal ballot measure(s). A communication that expressly advocates for or against a clearly identified municipal candidate(s) or measure(s), as defined in Government Code Section 82025, supports or opposes a candidate(s) for municipal elective office or a municipal ballot measure(s). Advertisement excludes communications paid for by a candidate or candidate-controlled committee established for elective office for the controlling candidate and communications from an organization to its members other than a communication from a political party to its members. Advertisement includes print and written advertisements, including mass mailings (as defined in Government Code Section 82041.5 and includes email), newspaper ads, and flyers. This Division does not apply to small promotional items such as pens, pencils, mugs, clothing, skywriting or other items where the required disclosures are impracticable or cannot be reasonably printed or displayed in an easily legible typeface. This Division does not apply to video or audio advertisements.

b. "Candidate" means a candidate for city council.

c. "Committee" means the same as set forth by California Government Code Section 82013, and as may be amended from time to time.

d. "Contribution" means the same as set forth by California Government Code Section 82015, and Title 2 of the CCR, Section 18215, and in addition includes an enforceable promise to make a payment by a donor to a committee placing an advertisement when made subject to a condition, agreement or understanding with the committee that all or a portion would be used to pay for the advertisement.

e. "Cumulative contribution" means the cumulative amount of contributions received by a committee beginning six (6) months before the date of the expenditure and ending seven (7) days before the time the advertisement is sent to the printer.

f. "Earmarked funds" means any of the following:

1. The contributor solicited and received the funds from donors for the purpose of making a contribution to the committee paying for the advertisement.

2. The funds were given to the contributor subject to a condition, agreement or understanding with the donor that all or a portion would be used to make a contribution to the committee paying for the advertisement, including the identification of the committee as a potential recipient.

3. The contributor had existing funds from a donor and a subsequent agreement or understanding was reached with the donor that all or a portion of the funds would be used to contribute to the committee paying for the advertisement, including the identification of the committee as a potential recipient.

4. The funds were promised, subject to an enforceable promise, to the contributor subject to a condition, agreement or understanding with the donor that all or a portion would be used to make a contribution to the committee paying for the advertisement, including the identification of the committee as a potential recipient.

g. "Top contributors" means the persons from whom the committee paying for an advertisement has received its five (5) highest cumulative contributions of two thousand five hundred dollars (\$2,500) or more.

1. If two (2) or more contributors of identical amounts qualify as top contributors, the most recent contributor shall be listed before any other top contributor of the same amount in any disclosure required by this Article.

2. If a contributor appears to qualify as a top contributor but received earmarked funds to make the contribution, the person, entity or committee that earmarked the funds and gave the funds to the contributor shall instead be disclosed as the top contributor. The person,

entity or committee that transferred earmarked funds shall disclose the true source of the funds to the committee receiving the earmarked funds at the time the funds are promised or transferred.”

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. **Exception.** Disclosure of a top contributor is not required pursuant to this Division 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.

b. 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.

c. Notwithstanding subsection b.2 above, 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 b.3. above or by use of a comma.

d. Notwithstanding the definition of top contributors in this Division, 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 subsection d. does not apply to electronic media.

e. **Exception.** If a committee paying for an advertisement has at least one (1) top contributor as defined by this Division that also qualifies as a top contributor as defined by California Government Code Section 84501(c), as amended, replaced or renumbered from time to time, the committee paying for the advertisement shall disclose the contributors from whom it has received its five (5) highest cumulative contributions of two thousand five hundred dollars (\$2,500) or more in the manner required for print and electronic media as set forth in California Government Code Sections 84501, *et seq.*, as amended, replaced or renumbered from time to

time. This exception shall not be construed to require disclosure of more than five (5) top contributors.”

Section 4. Chapter 2, Article XII, Division 5, Section 2.173 is hereby amended to read as follows:

“SEC. 2.173. - Violations.

a. Any violation of the contribution limits set forth in this Division that is not corrected by return of the excess contribution amount within thirty (30) days of receipt will be:

1. Forwarded to a newspaper of general circulation for publication;
2. Posted on the city’s website; and
3. Posted at a reasonably accessible location at city hall.

b. In addition to the publication penalties set forth above, any person who violates the campaign contribution limits set forth in this Division that does not correct the violation by return of the excess contribution amount within thirty (30) days of receipt shall be subject to an administrative penalty of fifty dollars (\$50) or the amount accepted in excess of the contribution limit, whichever is greater.”

Section 5. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 6. 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 7. 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 8. 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).

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