



# COUNCIL REPORT

**DATE:** June 14, 2022

**CATEGORY:** New Business

**DEPT.:** City Attorney's Office,  
City Clerk's Office

**TITLE:** **Introduction of an Ordinance to Amend  
Campaign Finance Regulations**

## **RECOMMENDATION**

Introduce an Ordinance of the City of Mountain View Amending Chapter 2, Article XII, of the Mountain View City Code Relating to Campaign Finance, to be read in title only, further reading waived, and set a second reading for June 28, 2022 (Attachment 1 to the Council report).

## **BACKGROUND**

On [April 12, 2022](#), the City Council introduced an ordinance that imposed campaign contribution limits on Council candidates. In addition, the ordinance also amended the Disclosure in Advertisements Ordinance to clarify and assist with implementation and impose additional disclosure and reporting requirements to further enhance transparency in local elections. Finally, the ordinance repealed the City Code provisions relating to political signs. During that meeting, Council introduced the ordinance as presented and provided staff direction to return to Council with a separate ordinance to impose an additional penalty on violators of the newly enacted campaign contribution limit and additional disclosure requirements in the Disclosure in Advertisements Ordinance when at least one top contributor qualifies as a top contributor under State law. The April 12, 2022 ordinance was adopted on [April 26, 2022](#) (hereinafter referred to as the "April Ordinance").

The proposed ordinance before Council tonight incorporates Council's direction as further discussed below.

## **ANALYSIS**

### **Contribution Limit Penalties**

The April Ordinance established candidate campaign contribution limits of \$1,000 for candidates that accept and adhere to the voluntary expenditure limit and \$500 for candidates that do not accept or adhere to the voluntary expenditure limit. Candidates who accept contributions in

excess of the applicable contribution limit must return the excess amount within 30 days of receipt. If the excess amount is not returned within 30 days of receipt, the penalties for violations of the campaign contribution limit currently are consistent with those for violations of the voluntary expenditure limit, namely publication of the violation in a newspaper of general circulation, on the City's website, and posted in City Hall.

Council directed staff to include an additional penalty for violators of the contribution limits that would require violators to pay a monetary penalty in an amount equal to the amount accepted in excess of the contribution limit. This new monetary penalty constitutes an administrative penalty subject to Section 1.19 of the Mountain View City Code, which requires any penalties to be no less than \$50. Accordingly, candidates that violate campaign contribution limits and fail to correct the violation by return of the excess amount within 30 days will be subject to a monetary penalty in the amount of \$50 or the amount accepted in excess of the campaign contribution limit, whichever is greater. This monetary penalty will be in addition to the other penalty imposed for violation of the contribution limit described above.

### **Disclosure in Advertisements Ordinance Amendments**

The April Ordinance amended the Disclosure in Advertisements Ordinance for purposes of clarification and to enhance reporting and disclosure requirements. During the introduction of the April Ordinance, Council directed staff to return with a separate ordinance to address disclosures for committees that have contributors who meet the State's threshold for disclosures and contributors who fall between the City's threshold for disclosures (\$2,500 or more) and the State's threshold for disclosures (\$50,000 or more). The existing ordinance does not apply when top contributors, under State law, are required to be disclosed in advertisements.

Staff recommends an approach as outlined in the proposed ordinance before Council, which specifies that if a committee has at least one top contributor that meets the State's \$50,000 threshold for disclosure, that top contributor along with any top contributors that meet or exceed the City's \$2,500 threshold for disclosure, up to a total of five top contributors, must be disclosed as required by State law. This approach will capture those top contributors that meet the City's thresholds but are not subject to disclosure under State law.

Staff recommends that the manner of display of these disclosures comply with State law to prevent any conflict with State law, which is prohibited under the Political Reform Act, and for purposes of uniformity and practical application. Aligning the City and State requirements for the manner of display of the disclosures may require enforcement by the Fair Political Practices Commission (FPPC), which can be a prolonged process. Compliance questions that require interpretation of State law as applied to those top contributors that meet only the City threshold amount would be dependent upon the FPPC's decision as it relates to the top contributors meeting the State's threshold. Nonetheless, due to the aforementioned concerns, along with limited staff resources, this approach is still recommended by staff.

The nomination period for the November 8, 2022 General Municipal Election begins on July 18, 2022. If the proposed ordinance is introduced tonight, it will return to Council for adoption on June 28 and will be effective 30 days later (July 28).

**FISCAL IMPACT**

The imposition of the additional monetary penalty for violation of contribution limits will trigger the noticing, hearing, and judicial review provisions set forth in Article II of the Mountain View City Code. As such, additional legal and financial resources may be required to impose, enforce, and defend any monetary penalty imposed for violation the contribution limits.

**ALTERNATIVES**

1. Do not introduce the ordinance.
2. Provide other direction.

**PUBLIC NOTICING**—Agenda posting.

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Attachment: 1. Ordinance