

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 12.06.210, 12.06.310 AND 12.06.540 OF THE SAN JOSE MUNICIPAL CODE TO INCREASE CONTRIBUTION LIMITS, IMPOSE AN ANNUAL INCREASE ON CONTRIBUTION LIMITS BASED ON THE CONSUMER PRICE INDEX AND CLARIFY THE CONTRIBUTIONS REGULATED BY SECTION 12.06.310; AMENDING SECTIONS 12.06.230, 12.06.320 AND 12.06.560 TO CLARIFY THE CONTRIBUTIONS REGULATED; AND REPEALING SECTIONS 12.06.270 AND 12.06.280 TO ELIMINATE REDUNDENCY

WHEREAS, since the 1980s, the City of San José has imposed limitations on campaign contributions to candidates, candidate-controlled committees and independent committees; and

WHEREAS, the intent of the City Council is and has been to place realistic and enforceable limits on the amount individuals and independent committees may contribute to political campaigns in municipal office elections for the purpose of preventing the perception by the public that campaign contributors exercise undue or improper influence over elected officials; and

WHEREAS, the intent of the City Council is and has been to prevent the circumvention of contribution limits to candidates for City Council and Mayor and their controlled committees by large individual contributions to independent committees engaged in activity to influence City Council and Mayoral elections; and

WHEREAS, the National Institute on Money in State Politics concluded in a report dated August 1, 2007 that independent expenditures are the largest loophole contributors use to circumvent limits on direct campaign contributions; and

WHEREAS, the California Fair Political Practices Commission concluded in a report dated June 2008 that independent expenditures have thwarted the will of the people

and dramatically undermined California's campaign finance laws and that there is no question that the influence of independent expenditures is at the highest point ever in California's history; and

WHEREAS, the City's longstanding contribution limits have been effective in preventing corruption and the appearance of corruption and in maintaining the integrity of the electoral process; and

WHEREAS, the current contribution limits should be increased now and be subject to increase in advance of each election cycle based on the Consumer Price Index; and

WHEREAS, the City will continue to limit contributions to independent committees in furtherance of its and its residents' significant interests in preventing circumvention of the contribution limits applicable to candidates and their controlled committees and maintaining the integrity of the electoral process; and

WHEREAS, it is in the public interest to ensure that donors do not make large contributions and independent committees do not receive or solicit unlimited campaign contributions to be used to influence the election of the offices of Mayor and City Council; and

WHEREAS, it is the intent of the City Council to limit only contributions to independent committees and not expenditures by independent committees;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

[THE FOLLOWING SECTION IS PROPOSED ONLY TO BE CONSISTENT WITH SECTION 12.06.310.]

SECTION 1. Section 12.06.210 of Part 2 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.210 Campaign contribution limitations

- A. The total campaign contribution made by any person to any councilmember, council candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
1. ~~One hundred~~ _____ dollars for the primary election;
 2. ~~One hundred~~ _____ dollars for the general election, if any;
 3. ~~One hundred~~ _____ dollars for any special election.
- B. The total campaign contribution made by any person to any mayor, mayoral candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
1. ~~Two hundred fifty~~ _____ dollars for the primary election;
 2. ~~Two hundred fifty~~ _____ dollars for the general election, if any;
 3. ~~Two hundred fifty~~ _____ dollars for any special election.
- C. Beginning September 1, 2011, and thereafter on September 1st in advance of each Regular Municipal Election, the City Clerk must increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts must not exceed the CPI increase, using 2011 as the index year. The adjustment will be rounded to the nearest one hundred (100) dollars. The City Council will adopt a resolution specifying the contribution limits and the City Clerk

will publish the contribution limits no later than December 1st in advance of each Regular Municipal Election, beginning on December 1, 2011.

- GD. If the candidate voluntarily elects to participate in the voluntary campaign expenditure limitation program, the alternative campaign contribution limitations set forth in Part 5 ~~shall~~will apply in lieu of subsections A and B.

SECTION 2. Section 12.06.230 of Part 2 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.230 Anonymous contributions

- A. No person ~~shall may~~ make nor ~~shall may~~ any person solicit or accept any anonymous contribution, gift, subscription, loan, advance, deposit, pledge or promise of money or anything of value ~~in aid of or opposition to a candidaey~~for a clearly identified candidate for San Jose city council or mayor.
- B. All anonymous contributions ~~shall~~must be surrendered to the director of finance for deposit in the general fund of the city, earmarked to defray the costs of municipal elections.

SECTION 3. Section 12.06.270 of Part 2 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby repealed:

~~12.06.270 Contribution limitations to city council candidates~~

~~No person, other than the candidate in aid of himself or herself, shall make nor shall any person solicit or accept any contribution in aid of and/or opposition to the nomination or election of a candidate for city council which will cause the total amount contributed by such person to the candidate and any controlled committee of such candidate to exceed one hundred dollars per election, except as provided in Part 5 of this chapter.~~

SECTION 4. Section 12.06.280 of Part 2 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby repealed:

~~12.06.280~~ Contribution limitations to mayoral candidates

~~No person, other than the candidate in aid of himself or herself, shall make nor shall any person solicit or accept any contribution in aid of and/or opposition to the nomination or election of a candidate for mayor which will cause the total amount contributed by such person to the candidate or any controlled committee of such candidate to exceed two hundred fifty dollars per election, except as provided in Part 5 of this chapter.~~

SECTION 5. Section 12.06.310 of Part 3 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.310 Contribution limitations to independent committees

- A. No person ~~shall~~ may make nor ~~shall~~ may any person accept any contribution to or on behalf of an independent committee ~~expending funds or making (1) a contribution to a clearly identified candidate for San Jose city council or mayor; or (2) an expenditure in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or, taken as a whole and in context, unambiguously urges a particular result in an election~~ contributions in aid of and/or opposition to the nomination or election of for a candidate for San Jose city council or mayor which will cause the total amount contributed by such the person to such the independent committee to exceed two hundred fifty _____ dollars per election.
- B. If an independent independent committees committee will be contributing to or making expenditures in election campaigns in addition to city of San Jose council

or mayoral campaigns, it shall segregate, from all other contributions, the contributions received and contributions which are to be used for (1) contributions to a clearly identified candidate for San Jose city council or mayor; or (2) expenditures made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or, taken as a whole and in context, unambiguously urges a particular result in an election for a candidate for the purpose of influencing such San Jose city council or mayorelections from all other contributions or expenditures. Where such an independent committee has segregated such contributions which are to be used for (1) contributions to a clearly identified candidate for San Jose city council or mayor; or (2) and expenditures made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or, taken as a whole and in context, unambiguously urges a particular result in an election for a candidate for such San Jose city council or mayoreity elections, contributors to that committee may contribute more than two hundred fifty _____ dollars so long as no portion of the contribution in excess of two hundred fifty _____ dollars is used for (1) contributions to a clearly identified candidate for San Jose city council or mayor; or (2) expenditures made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or, taken as a whole and in context, unambiguously urges a particular result in an election for a candidate to influence for San Jose city council or mayoral elections.

- C. To the extent an independent committee segregates, from all other contributions, the contributions received which are to be used for (1) contributions to a clearly identified candidate for San Jose city council or mayor; or (2) expenditures made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or, taken as a whole and in context, unambiguously urges a particular result in an election for a candidate for San Jose city council or mayor, as required by subsection B, This- this section is not intended to prohibit or regulate contributions to independent committees to the

~~extent such contributions are used on behalf of or in opposition to candidates for elections for offices other than a San Jose mayoral or council offices election of the city of San Jose.~~

D. Beginning September 1, 2011, and thereafter on September 1st in advance of each Regular Municipal Election, the City Clerk must increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts must not exceed the CPI increase, using 2011 as the index year. The adjustment will be rounded to the nearest one hundred (100) dollars. The City Council will adopt a resolution specifying the contribution limits and the City Clerk will publish the contribution limits no later than December 1st in advance of each Regular Municipal Election, beginning on December 1, 2011.

SECTION 6. Section 12.06.320 of Part 3 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.320 Contributions and expenditures by independent committees

- A. Independent committees are "persons" for purposes of the contribution limitations to city council and mayoral candidates. Any expenditure by an independent committee for a clearly identified candidate for San Jose city council or mayor ~~in aid of or in opposition to a council or mayoral candidate~~ which is not an "independent expenditure" is deemed to be a contribution to that candidate, subject to the limitations of this chapter.
- B. Each independent committee making contributions or independent expenditures in a council or mayoral election which does not participate in elections other than for city offices shall file the reporting statements required by Section 12.06.910.

For each expenditure or contribution, the committee shall report what amount or portion was of benefit to a particular candidate.

SECTION 7. Section 12.06.540 of Part 5 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.540 Campaign contribution limits.

Candidates who participate in the voluntary campaign expenditure limits program ~~shall~~ be are entitled to collect contributions in the following amounts:

- A. The total contributions per election made by any person to any council candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate ~~shall~~ must not exceed a total of more than ~~two hundred fifty~~ _____ dollars in the aggregate.
- B. The total contributions per election made by any person to any mayoral candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate ~~shall~~ must not exceed a total of more than ~~five hundred~~ _____ dollars in the aggregate.
- C. Beginning September 1, 2011, and thereafter on September 1st in advance of each Regular Municipal Election, the City Clerk must increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts must not exceed the CPI increase, using 2011 as the index year. The adjustment will be rounded to the nearest one hundred (100) dollars. The City Council will adopt a resolution specifying the contribution limits and the City Clerk

will publish the contribution limits no later than December 1st in advance of each Regular Municipal Election, beginning on December 1, 2011.

SECTION 8. Section 12.06.560 of Part 5 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.560 Expenditure limits tripled

Notwithstanding Section 12.06.530,

A. ~~If~~ if a candidate who is not participating in the voluntary campaign expenditure limits program receives contributions, has cash on hand, or makes qualified expenditures equal to seventy-five percent or more of the expenditure limits set forth in the expenditure limits resolution adopted pursuant to this part, the expenditure limit ~~shall~~ must be tripled.

B. ~~If an independent expenditure committee(s) spend in the aggregate, in support or opposition to a candidate, more than fifty percent of the expenditure limits set forth in the expenditure limits resolution adopted pursuant to this part, the expenditure limit shall be tripled.~~

RD:LH
09/15/2009

PASSED FOR PUBLICATION of title this _____ day of _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk