



CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
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City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 28861**", the original copy of which is attached hereto, was passed for publication of title on the **7th day of December, 2010**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **14th day of December, 2010**, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **14th day of January, 2011**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **16th day of December, 2010**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 28861

AN ORDINANCE OF THE CITY OF SAN JOSE (1) AMENDING SECTIONS 12.06.210 AND 12.06.540 OF THE SAN JOSE MUNICIPAL CODE TO CLARIFY HOW TO CALCULATE INCREASES BASED ON THE CONSUMER PRICE INDEX; (2) ELIMINATING CONTRIBUTION LIMITATIONS TO INDEPENDENT COMMITTEES BY REPEALING PART 3 OF CHAPTER 12.06; (3) AMENDING SECTION 12.06.910 TO CLARIFY THE REPORTING REQUIREMENTS FOR INDEPENDENT COMMITTEES; (4) AMENDING SECTION 12.06.920 TO CLARIFY THE TYPE OF INFORMATION TO BE PROVIDED IN THE CITY CLERK'S REPORT; AND (5) AMENDING SECTION 12.06.1010 TO CLARIFY THE NOTICES AND REPORTS REQUIRED

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

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. Until December 31, 2010, the total campaign contribution made by any person to any 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 (\$100) for the primary election;
 2. One hundred dollars (\$100) for the general election, if any;
 3. One hundred dollars (\$100) for any special election.

- B. Beginning January 1, 2011, the total campaign contribution made by any person to any council candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
1. Two hundred dollars (\$200) for the primary election;
 2. Two hundred dollars (\$200) for the general election, if any;
 3. Two hundred dollars (\$200) for any special election.
- C. Until December 31, 2010, the total campaign contribution made by any person to any 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 (\$250) for the primary election;
 2. Two hundred fifty dollars (\$250) for the general election, if any;
 3. Two hundred fifty dollars (\$250) for any special election.
- D. Beginning January 1, 2011, the total campaign contribution made by any person to any mayoral candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
1. Five hundred dollars (\$500) for the primary election;
 2. Five hundred dollars (\$500) for the general election, if any;
 3. Five hundred dollars (\$500) for any special election.
- E. Beginning September 1, 2013, and thereafter on September 1st of each odd-numbered year, the City Clerk must determine whether the cost of living, as shown on the Consumer Price Index (CPI) for all items (with a base period of 1982 - 1984 = 100) for all urban consumers in the San Francisco-Oakland-San José area as published by the U.S. Department of Labor, Bureau of Statistics, has increased during the "base period" as defined in this Section. The base

period for the first adjustment (September 1, 2013) will be the CPI reported for the months of December 2010 and June 2013. For the second adjustment (September 1, 2015), the base period will be the CPI reported for the months of December 2010 and June 2015. The base period for subsequent adjustments will be December 2010 to June for odd-numbered years. If the CPI has increased for the applicable base period, the City Clerk must multiply the contribution limits established in subsections B. and D. by the percentage increase for the base period. If the calculation results in an amount that is higher than the previously established contribution limit(s) when rounded to the nearest one hundred (100) dollars, the City Clerk will then increase the corresponding contribution limit(s) established in subsections B. and/or D. by the percentage increase rounded to the nearest one hundred (100) dollars and recommend that the City Council adopt a resolution specifying the adjusted contribution limit(s). In the event the City Council adopts a resolution specifying the contribution limits, the City Clerk will publish the contribution limits no later than December 1st of each odd-numbered year, beginning on December 1, 2013. In the event the CPI is no longer published, the Clerk shall use as a reference another index published by either the state of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

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

SECTION 2. Part 3, which includes Sections 12.06.310, 12.06.320 and 12.06.330, of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby repealed.

SECTION 3. 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 are entitled to collect contributions in the following amounts:

- A. Until December 31, 2010, 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 must not exceed a total of more than two hundred fifty dollars (\$250) in the aggregate.
- B. Beginning January 1, 2011, 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 must not exceed a total of more than five hundred dollars (\$500) in the aggregate.
- C. Until December 31, 2010, 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 must not exceed a total of more than five hundred dollars (\$500) in the aggregate.
- D. Beginning January 1, 2011, 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 must not exceed a total of more than one thousand dollars (\$1,000) in the aggregate.
- E. Beginning September 1, 2013, and thereafter on September 1st of each odd-numbered year, the City Clerk must determine whether the cost of living, as shown on the Consumer Price Index (CPI) for all items (with a base period of 1982 - 1984 = 100) for all urban consumers in the San Francisco-Oakland-San

José area as published by the U.S. Department of Labor, Bureau of Statistics, has increased during the "base period" as defined in this Section. The base period for the first adjustment (September 1, 2013) will be the CPI reported for the months of December 2010 and June 2013. For the second adjustment (September 1, 2015), the base period will be the CPI reported for the months of December 2010 and June 2015. The base period for subsequent adjustments will be December 2010 to June for odd-numbered years. If the CPI has increased for the applicable base period, the City Clerk must multiply the contribution limits established in subsections B. and D. by the percentage increase for the base period. If the calculation results in an amount that is higher than the previously established contribution limit(s) when rounded to the nearest one hundred (100) dollars, the City Clerk will then increase the corresponding contribution limit(s) established in subsections B. and/or D. by the percentage increase rounded to the nearest one hundred (100) dollars and recommend that the City Council adopt a resolution specifying the adjusted contribution limit(s). In the event the City Council adopts a resolution specifying the contribution limits, the City Clerk will publish the contribution limits no later than December 1st of each odd-numbered year, beginning on December 1, 2013. In the event the CPI is no longer published, the Clerk shall use as a reference another index published by either the state of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

SECTION 4. Section 12.06.910 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.910 Statements and Reporting Requirements

- A. Each candidate and candidate controlled committee receiving contributions or making expenditures in a City election must file with the City Clerk campaign

disclosure statements in the form and at the times required by Chapter 12.06 and the Political Reform Act. The campaign disclosure statements may be completed on forms required to be filed by the regulations of the Fair Political Practices Commission so long as such forms are completed in sufficient detail to comply with the requirements of this Chapter. The campaign disclosure statements must contain a declaration by the candidate or treasurer of the candidate controlled committee that the candidate or candidate controlled committee has not accepted nor solicited any campaign contribution in violation of the requirements and limitations of this Chapter.

- B. When listing contributions, each candidate and candidate controlled committee receiving contributions or making expenditures in a City election must itemize all contributions accepted during the campaign contribution collection periods specified in this Chapter including all amounts less than one hundred dollars (\$100).
- C. Each independent committee that makes independent expenditures in a City election must file with the City Clerk campaign disclosure statements in the form and at the times required by the Political Reform Act.
- D. The first and second campaign statements must be filed at the times prescribed for pre-election statements by the Political Reform Act as well as any other times prescribed in Chapter 12.06, for candidates, candidate controlled committees and independent committees for whom the City Clerk is the regular filing official.
- E. If any candidate, candidate controlled committee or independent committee for whom the City Clerk is the regular filing official files a campaign disclosure statement after any deadline imposed by this Chapter, the City Clerk must fine the delinquent filer ten dollars (\$10.00) per day, starting the day after the filing deadline, until the statement is filed; however, no liability may exceed the

cumulative amount of reported contributions or expenditures, or \$100, whichever is greater. The City Clerk may reduce or waive the fine if he or she determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter.

SECTION 5. Section 12.06.920 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.920 Duties of the City Clerk

- A. The City Clerk shall, at least five(5) days before an election for Mayor or City Council of the City of San José, prepare a report to be published in the San José Mercury News. The report must contain (1) the total amount of contributions and expenditures for (a) each of the candidates; and (b) each candidate controlled committee; and (2) the total amount of independent expenditures made by each independent committee in an election for Mayor or members of City Council of the City of San José. The Clerk shall cause the report to be published in the San José Mercury News at least two (2) days before the election.

- B. In the event the City Clerk has reason to believe a late contribution has not been reported, the Clerk must notify the elections commission.

SECTION 6. Section 12.06.1010 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.06.1010 Notices and Reports

- A. Every electioneering communication in written form paid for by a candidate or candidate controlled committee must include the words "paid for by" immediately followed by the name, address and city of the candidate or candidate controlled

committee that paid for the communication in a typeface that is easily legible, contrasts with the background, and is no smaller than one-fourth (1/4) of the size of the largest font on the communication, and in no case any smaller than twelve (12) point font. If an acronym is used to specify a committee name, the full name of any sponsoring person of the committee must be included in the notice required by this Section.

- B. Every electioneering communication in written form paid for by an independent committee must place the following statement on the communication in typeface that is easily legible, contrasts with the background, and is no smaller than one-fourth (1/4) of the size of the largest font on the communication, and in no case any smaller than twelve (12) point font:

Notice to Voters

(Required by the City of San José)

This electioneering communication is not authorized or approved by any candidate for City office or by any election official. It is paid for by (name and committee identification number).

(Address, city, state).

Total cost of this electioneering communication is (amount).

If an acronym is used to specify a committee name, the full name of any sponsoring person of the committee must be included in the notice required by this Section.

- C. Every electioneering communication in spoken form must include the words "paid for by" immediately followed by the name of the candidate, controlled committee or independent committee that paid for the communication in a manner that is clearly audible and at the same general volume and speed as the rest of the communication.

- D. Any independent committee for whom the City Clerk is the regular filing official that makes a payment or payments or a promise of a payment or payments that cumulatively total one thousand dollars (\$1,000) or more for an electioneering communication must file with the City Clerk a report on a form approved by the City Clerk disclosing the independent committee's name, address, occupation, and employer, and the amount of the payment. The report must be filed within twenty-four (24) hours of making the payment or the promise to make the payment, and must be accompanied by a legible copy of the electioneering communication if in written form or a transcript of the electioneering communication if in spoken form.

- E. Except as provided in this Section, if any independent committee for whom the City Clerk is the regular filing official has received a payment or a promise of a payment from another person totaling one hundred dollars (\$100) or more specifically for the purpose of making the electioneering communication, the independent committee receiving the payment must disclose on the report the name, address, occupation, and employer of the person who made a payment or promise of a payment, the amount received and the date of the payment.

- F. A person who receives or is promised a payment that is otherwise reportable under this Section is not required to report the payment if the person provides goods or services in the normal course of business and receives or is promised the payment in exchange for providing goods or services.

G. The provisions of this Section do not apply to:

1. News stories, commentaries or editorials disseminated, broadcast or otherwise published by newspaper, radio station, television station, internet site or any other recognized news medium unless the news medium is owned or controlled by any political party, political committee or candidate;
2. Communications to members of an organization, except those made by a political party;
3. Communications paid for by a governmental entity;
4. Communications that occur during a candidate debate or forum;
5. Communications made solely to promote a candidate debate or forum made by or on behalf of the person sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a candidate;
6. Communications in which a candidate's name is required by law to appear and the candidate is not singled out in the manner of display;
7. Spoken communications between two or more individuals in direct conversation unless at least one of the individuals is compensated for the purposes of making the communication; or
8. Communications that appear on bumper stickers, pins, stickers, badges, ribbons and other similar memorabilia.

- H. Any communication, other than a communication to members of an organization, made at the behest of a candidate is a contribution to that candidate and is subject to the limits and prohibitions specified in Chapter 12.06 of the San José Municipal Code.

PASSED FOR PUBLICATION of title this 7th day of December, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, NGUYEN, OLIVERIO, PYLE; REED.

NOES: LICCARDO.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTES:



LEE PRICE, MMC
City Clerk