



OFFICE OF THE
CITY ATTORNEY

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

April 12, 1989

812 TENTH STREET
SACRAMENTO, CA
95814-2694

916-449-5346

DEPUTY CITY ATTORNEYS
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
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SABRINA M. THOMPSON

Law and Legislation Committee
City Hall
Sacramento, California 95814

Honorable Members in Session:

SUBJECT: An Ordinance Adding Articles IV and V to
Chapter 62 of the Sacramento City Code,
Relating to Contribution Limitations and
Public Campaign Financing

SUMMARY

Pursuant to the request of the Law and Legislation Committee, this office has prepared a draft of a public campaign financing ordinance. The proposed ordinance includes a section that would re-establish contribution limitations similar to those set forth in former Article II of Chapter 62.

The ordinance is being presented to the Committee at this time to allow it to decide whether it wishes to recommend that the concept of public campaign financing be presented on the fall ballot for voter consideration, and also for further direction by the Committee as well as public input. It is anticipated that certain amendments and revisions will be required.

DISCUSSION

This matter was last before the Law and Legislation Committee on January 19, 1989. At that time, this office advised that, while Proposition 73 does contain a general prohibition on the expenditure of public funds for political campaigns (see Government Code §85300), a strong argument can be made that the financing of local municipal elections is a municipal affair. Pursuant to applicable principles, if campaign financing is determined to be a municipal affair, then a charter city such as the City of Sacramento has the authority to enact legislation concerning that subject, regardless

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of the existence of conflicting state law otherwise prohibiting such legislation. The issue of whether a subject is a municipal affair is ultimately a matter for the courts to resolve.

The Committee requested that this office prepare a draft public campaign financing ordinance modeled after the ordinance of the County of Sacramento. This office has now had the opportunity to prepare a draft ordinance, although it should be noted that the ordinance will likely need amendment and modification. It is presented at this time primarily to obtain Committee direction and public input on the ordinance, and also to allow the Committee to decide whether to place this matter on the ballot for voter consideration.

A. BALLOT PROPOSAL

The deadlines for placing a measure on either the September or November ballot for voter consideration are as follows: for the September 1989 ballot, June 27, 1989 is the last date upon which the Council may approve a matter for placement on the ballot; for the November 1989 ballot, August 8, 1989 is the last date upon which the Council may approve a matter for placement on the ballot. As you may recall, the issue of public campaign financing was presented to the County voters in 1986. However, this was necessary because a charter amendment was determined to be required to allow for an enactment by the County of a public campaign financing ordinance. In the case of the City, no charter amendment is required. If the issue of public campaign financing is a municipal affair, then the City of Sacramento has the authority to enact a campaign financing ordinance, given the broad powers the City has under its charter.

Because of the length of the campaign financing ordinance, as well as the likelihood that the ordinance will not be finalized by the aforementioned dates, it is recommended that if the Committee is inclined to recommend that the matter be presented for voter consideration, it do so by a measure requesting an advisory vote only.

B. PROPOSED ORDINANCE - CONTRIBUTION LIMITATIONS

At the December 15, 1988 meeting of the Law and Legislation Committee, the Committee recommended that the contribution limitations previously contained in Chapter 62 of the City Code be repealed. The motion recommending repeal of the contribution limitations included a request that "new" contribution limitations, consistent with the limitations of the Political Reform Act as amended by Proposition 73, be presented for consideration at the

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same time as the public campaign financing ordinance. Section 1 of the proposed ordinance would re-establish contribution limitations similar to those previously set forth in Chapter 62.

As indicated above, Proposition 73 established contribution limitations for state and local elections. However, Proposition 73 expressly allows local governments to enact more restrictive contribution limitations. Thus, Government Code §85101(b) provides as follows:

(b) Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction.

The Political Reform Act, as amended by Proposition 73, divides contributors into four categories, and establishes the following limitations for each:

i. Persons (defined to mean "an individual, proprietorship, firm, partnership, joint venture, business trust, company, corporation, association, committee, and labor organization"), who may contribute not more than \$1,000 in any fiscal year to a candidate or to a candidate's controlled committee;

ii. Political committees, which may contribute not more than \$2,500 in any fiscal year to a candidate or to a candidate's controlled committee;

iii. Broad-based political committees, which may contribute not more than \$5,000 in any fiscal year to a candidate or to a candidate's controlled committee;

iv. Political parties, which may contribute not more than \$5,000 in any fiscal year to a candidate or to a candidate's controlled committee.

The Political Reform Act, as amended by Proposition 73, also contains limitations on the amounts that persons may contribute to political committees, broad-based political committees or political parties in any fiscal year.

The contributions limitations in the proposed ordinance are similar to those contained in former Article II of Chapter 62, and are far

more restrictive than the limitations of Proposition 73. For consistency's sake, the nomenclature of Proposition 73 is used, and limitations are therefore established upon contributions by persons, political committees, broad-based political committees, and political parties. The general limitations established in the proposed ordinance are as follows:

i. Persons (defined to mean "an individual, proprietorship, firm, partnership, joint venture, business trust, company, corporation, association, committee, and labor organization"), who may contribute \$500 per election to candidates for City Council member, or \$1000 per election to candidates for the mayoral position;

ii. Political committees, which may contribute \$1500 per election to candidates for City Council member, or \$3,000 per election to candidates for the mayoral position;

iii. Broad-based committees, which may contribute \$1500 per election to candidates for City Council member, or \$3,000 per election to candidates for the mayoral position; and

iv. Political parties, which may contribute \$1500 per election to candidates for City Council member, or \$3,000 per election to candidates for the mayoral position.

The proposed ordinance contains most of the same exceptions that were set forth in former Article II of Chapter 62, including: (a) the \$10,000 threshold in contributions that a candidate may collect before the limitations apply; (b) the additional amount that may be contributed to candidates involved in run-off elections; and (c) the exception allowing a candidate to collect contributions exceeding the aforementioned limitations if an opponent or the opponent's spouse has contributed large amounts to the opponent's campaign. It should be noted that while these exceptions allow a candidate to receive contributions in amounts exceeding the general limitations established by the proposed ordinance, they do not allow contributions exceeding the limits established by the Political Reform Act, and the proposed ordinance so provides.

The ordinance would apply to contributions made after January 1, 1990 to candidates seeking election to a City office in 1990 or thereafter.

C. PROPOSED ORDINANCE -- PUBLIC CAMPAIGN FINANCING

Section 1 of the proposed ordinance sets forth the contribution limitations; Section 2 of the proposed ordinance sets forth the public campaign financing program. Following is a summary of the significant features of the proposed public campaign financing system, modeled after the County's system.

1. Summary of Provisions of Proposed Ordinance

(a) General Comments

The proposed ordinance provides matching City funds to a candidate who agrees voluntarily to participate in the public campaign financing program and thereby agrees to limit overall campaign expenditures. The proposed ordinance would establish a threshold amount that a candidate must collect in contributions before he or she is entitled to receive matching funds, and further, would require that the candidate be opposed by a candidate for the same seat who had reached the same threshold. The ordinance would apply to elections for City office commencing in 1992.

(b) Expenditure Limitations

The ordinance provides the following expenditure limitations for those candidates who agree to participate in the public campaign financing program:

(1) City Council: Candidates for the office of City Council member are limited to spending \$30,000 in a primary or special election, and \$30,000 in a general or special run-off election;

(2) Mayor: Candidates for the mayoral position are limited to spending \$75,000 in a primary or special election, and \$75,000 in a general or special run-off-election.

The proposed ordinance, like the County ordinance, provides that a candidate who elects to participate in the campaign financing program may exceed the foregoing expenditures if an opponent exceeds the foregoing limitations. The proposed ordinance requires a candidate who exceeds the limitations specified above to provide notice to the City Clerk and to his or her opponents. See §62.406.

The expenditure limitations are set forth for illustrative purposes only. The specific amounts included in the draft ordinance

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are the amounts recommended in a recent report from the California Commission on Campaign Financing. Copies of this report, which is quite lengthy, will be made available upon request.

Campaign expenditures in the most recent City election exceeded the amounts set forth in the proposed ordinance. In the 1987 election, the two mayoral candidates spending the most funds spent approximately \$275,000.00 and \$466,000.00. The three other candidates for the mayoral position who participated in the primary election spent approximately \$217,000.00, \$141,000.00 and \$37,000.00. In the two contested races for Council seats, the two candidates spending the most funds in one race spent approximately \$69,600.00 and \$58,300.00, while those in the other race spent approximately \$77,500.00 and \$20,200.00.

The proposed ordinance provides that a candidate agreeing to participate in the program may spend no more than one-half the expenditure limitation in the primary or special election period, and a similar amount in the general or special run-off election. An alternative to consider is the approach taken by the Seattle ordinance, which provides that not more than seventy-five percent (75%) of the maximum expenditure limitation may be spent in any primary or special election, with the remainder to be spent in a general or special run-off election. This alternative provides the candidate with greater flexibility and discretion in his or her campaigning.

(c) Eligibility for Receiving Public Funds

To be eligible to receive matching public funds, a candidate must first file a statement of acceptance of public financing at the time of filing his or her declaration of candidacy. All candidates must file either a statement of acceptance or a statement of rejection of public financing at the time they file their declaration of candidacy for a City office.

In addition to filing a statement of acceptance of public financing, to be eligible for public financing a candidate must meet the following requirements:

1. The candidate must have raised, after January 1st of the election year or during the special election period, at least \$10,000, consisting of contributions totalling \$250 or less per source from sources other than the candidate, the candidate's spouse or the candidate's dependent children. (The first \$250 of contributions exceeding \$250 is considered for eligibility purposes); and

2. The candidate must be opposed by at least one candidate who has qualified for matching public funds, or a candidate who has raised, spent or has cash on hand of \$10,000 or more.

The proposed ordinance would require that all candidates, regardless of whether or not they are participating in the public financing program, provide notice when they have received \$10,000 or more in campaign contributions.

(d) Disbursement of Matching Public Funds

No matching public funds are disbursed prior to January 1st of the year in which the election is to be held.

(e) Maximum Public Funding

The proposed ordinance provides different levels of public funding for the offices of Mayor and City Council member. Under the proposed ordinance, the candidates for a City Council seat would be entitled to receive a maximum of \$15,000 for a primary election, and an additional \$15,000 for a general election, if one is required. A candidate for the office of Mayor is entitled to receive a maximum of \$37,500 per election period (a total of \$75,000 if involved in a run-off election). The ordinance would provide a candidate with matching public funds for each dollar of contributions received by a candidate, up to a maximum of \$250 per contribution. Matching public funds would be provided in the amount of \$250 for contributions that exceeded that amount.

As indicated above, one alternative to the proposed provision that only fifty percent (50%) of the maximum public funding will be provided in a primary or general election period is to specify that not more than particular percentage (e.g., the City of Seattle provides a maximum of seventy-five percent (75%) of the public funding may be furnished in a primary period) may be furnished to a participating candidate in a primary election, with the remainder available during a general or run-off election. Again, this alternative would appear to provide participating candidates with greater flexibility and discretion.

(f) Administration

The proposed ordinance places primary responsibility on the City Clerk and the Director of the Finance Department for administration of the public campaign financing program. Generally, the Clerk is responsible for receiving the various statements, including

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accounting documents, from the candidates, and for determining when to review the statements to ensure they are in conformance with the requirements of the ordinance. The Director of the Finance Department is responsible for disbursement of matching public funds, as well as auditing of the statements. Only those candidates who receive money from the Campaign Reform Fund are subject to auditing, with there being a fifty percent (50%) chance of being audited.

(g) Reporting and Auditing

The proposed ordinance imposes both reporting obligations and notification requirements upon all candidates, including those who elect not to participate in the public financing program. These obligations and requirements are in addition to those required by the Political Reform Act (Government Code §81000 et seq.). The City Clerk is required to review all statements and reports filed to ensure they generally comply with the requirements of the ordinance. The Director of Finance has the authority to undertake further audits. Candidates receiving matching public funds are subject to audits on a random basis, and there is a fifty percent (50%) chance of being audited.

(h) Enforcement

A knowing or willful violation of a provision of the ordinance constitutes a misdemeanor. Additionally, the proposed ordinance, as currently drafted, tracks the County ordinance and provides that a candidate or City resident may bring an action in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain judicial declarations regarding, the provisions of the ordinance. As discussed below, the issue of enforcement of the ordinance is a difficult one, and this office has questions as to the adequacy and effectiveness of the enforcement scheme adopted by the County. There is also concern as to whether the enforcement scheme envisioned by the County is lawful.

2. Further Analysis

The proposed City public campaign financing ordinance differs from the County ordinance in several respects. First, the City ordinance does not include the off-election-year contribution limitations contained in the County ordinance. The County ordinance provides that no candidate for a County office, whether participating in the public financing program or not, may collect more than a specified amount in contributions (\$10,000) in any single off-election year. As indicated in a previous memorandum from this office, this provision presents serious constitutional problems which this office does not believe

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would withstand judicial review. As a general rule, the amount that one is able to spend depends upon the amount that he or she collects in contributions; thus, the County ordinance establishes an indirect limitation on the amount of, or, at the very least, the timing of, campaign expenditures. While the courts have recognized that a community may agree voluntarily to limit his or her campaign expenditures (generally in return for a promise of matching public funds), the courts have rejected attempts to establish mandatory limits on campaign expenditures. The County ordinance establishes a de facto limitation on campaign expenditures during off-election years. Given the judicial response to mandatory expenditure limitations, this office advises against including such a provision in the ordinance.

A second difference between the proposed City ordinance and the County ordinance is the deletion from the City ordinance of the requirement that the public funds be deposited in a separate account and that such funds be expended only on direct campaign expenditures. Proposition 73 amended the Political Reform Act to provide that all campaign contributions are to be deposited into a single account, and all campaign expenditures are to be made out of that account. It is the opinion of this office that the statutory requirement that a single account be established for deposit of all contributions to, and all expenditures by, a candidate is a matter of statewide concern, and that the City would not have the authority to require a second separate account into which public matching funds must be deposited. The ordinance could provide that public matching funds may be spent on direct campaign expenditures only, although this would likely present an accounting nightmare. Another alternative would be to prohibit candidates participating in the campaign financing program from spending any campaign funds, whether or not matching public funds, on indirect campaign expenses. The Seattle public financing ordinance includes such a limitation. Of course, the establishment of such a restriction raises the issue of what constitutes a "direct" expenditure. In Seattle, the issue of whether or not a campaign expenditure is direct or indirect is resolved by the "Office of Elections Administration."

As discussed above, the issue of enforcement of the public financing program is a difficult one. In the case of the federal election system and the state system that was proposed in Proposition 68, enforcement is, or would have been, primarily the responsibility of a federal or state commission. Decisions of these commissions concerning any public campaign financing issues are, or would have been, subject to judicial review pursuant to the standard procedures for reviewing administrative decisions. Additionally, the commissions have, or would have had, the statutory authority to institute civil lawsuits to enforce the public financing programs.

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While the County could have established a commission to resolve disputes under its campaign financing ordinance, it chose not to do so. It is the understanding of this office that one reason for attempting to impose upon the court the obligation and duty of resolving disputes under the County's ordinance was to eliminate potential conflicts of interest that might arise if incumbent supervisors became embroiled in disputes under the campaign financing ordinance. While this concern is understandable, this office has doubt as to whether the City has the authority to require the courts to resolve disputes concerning compliance with local public financing ordinances. Furthermore, as a practical matter, referring disputes concerning the campaign financing program to the courts is not likely to be an efficient and effective means of resolving disputes, at least those that arise during campaigns. Issues concerning the public financing program (e.g., whether a person has exceeded the expenditure limitations, etc.) need to be resolved promptly; the use of declaratory relief or other similar judicial proceedings does not meet this criteria. Such legal actions ordinarily take months, if not years, to resolve, and an appeal of a trial court decision would add additional years. Given that the disputes that will likely arise under the public campaign financing program must be resolved in a matter of weeks, if not days, utilization of the courts does not appear to be a practical solution to the dispute resolution and enforcement issue. Further, litigation is an expensive proposition, and could result in substantial campaign funds being spent on attorneys' fees rather than on campaigning. This office would request additional time and the opportunity to speak with other authorities to develop an effective enforcement mechanism.

FINANCIAL DATA

The proposed ordinance, if adopted, would impose substantial burdens upon both the City Clerk and the Finance Department, and would likely entail the need for additional staff. In addition to the staffing needs, the proposed ordinance would also have direct costs attributable to the furnishing of matching public funds. Both the City Clerk and the Director of Finance are analyzing the impact, fiscal and otherwise, that this proposed ordinance would have upon their respective offices, and a report will be forthcoming. It is not known whether these reports will be available at the April 20, 1989 Law and Legislation Committee meeting. The proposed ordinance should also be presented to the Budget and Finance Committee of the City Council.

POLICY MATTERS

The proposed ordinance, if adopted, would establish a public campaign financing program for the City of Sacramento for the first time.

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Other than the County of Sacramento, this office is not aware of any other governmental entity in California that has established a similar campaign financing program.

MBE/WBE

No impact.

RECOMMENDATION

The Committee should first determine whether it wishes to place a measure on the September ballot to determine voter support for the public campaign financing program. Because of the length of the proposed ordinance, it is the recommendation of this office that if a measure is to be placed on the ballot, an advisory vote, rather than the actual ordinance, be placed on the ballot.

In addition the foregoing, the Law and Legislation Committee should determine whether it wishes to proceed with further work on a public campaign financing ordinance. Certain additions and amendments to the ordinance will be required, depending on the Committee's interest. Of particular importance is the enforcement aspect of any campaign financing program that the City adopts. This office is advised that there is interest among various community groups in the concept of public campaign financing, and it may be appropriate to obtain community input on this issue. This office will need additional time to formulate and propose an effective enforcement mechanism.

Respectfully submitted,

JAMES P. JACKSON, City Attorney

By:

Richard E. Archibald
RICHARD E. ARCHIBALD
Deputy City Attorney

Contact Person to
Answer Questions:

RICHARD E. ARCHIBALD
Deputy City Attorney
449-5346

April 20, 1989
All Districts

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE ADDING ARTICLES IV AND V TO CHAPTER 62 OF THE SACRAMENTO CITY CODE, RELATING TO CONTRIBUTION LIMITATIONS AND PUBLIC CAMPAIGN FINANCING

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article IV of Chapter 62 of the Sacramento City Code is hereby added to read as follows:

Article IV: Campaign Contribution Limitations

§ 62.300 Declaration of Purpose and Intent.

It is the purpose and intent of the City Council of the City of Sacramento to regulate the contributions to candidates for municipal office to amounts deemed to be in the public interest and to prohibit contributions that may improperly influence a candidate in the conduct of the office the individual seeks.

The primary interest served by the provisions of this article is the prevention of corruption and appearance of corruption spawned by the real or imagined influence of large contributions on candidates' positions and on their actions if elected to office.

The overall effect of the contribution ceilings imposed by this article is merely to require candidates and political committees to raise funds from a greater number of persons and to compel persons who would otherwise contribute amounts greater than the statutory limits to expend such funds on direct political expression, rather than to reduce the total amount of money potentially available to promote political expression.

This article is enacted pursuant to Sections 5 and 7 of Article XI of the Constitution of the State of California, Section 10 of the Charter of the City of Sacramento, and, to the extent applicable, Section 22808 of the California Elections Code and Section 85101 of the California Government Code.

§ 62.301 Title.

This article may be cited as the "Campaign Contribution Limitations Code" of the City of Sacramento.

§62.302 Definitions.

Unless a particular word or phrase is otherwise specifically defined in this article, the definitions and provisions contained in this article shall govern the construction, meaning, and application of words and phrases used in this article.

- (a) "Broad-based political committee" means broad-based political committee as defined in California Government Code Section 85102(d).
- (b) "Campaign contribution account" means an account established pursuant to California Government Code Section 85201.
- (c) "Candidate" means an individual who has filed a statement pursuant to California Government Code Section 85200 indicating an intent to run for City office.
- (d) "City office" shall mean the offices of Mayor and City Council member.
- (e) "Contribution" shall mean contribution as defined in California Government Code Section 82015, and shall include loans to the extent that loans are considered contributions pursuant to California Government Code Section 84216.
- (f) "Controlled committee" shall mean controlled committee as defined in California Government Code Section 82016.
- (g) "Person" means person as defined in California Government Code Section 85102(b)
- (h) "Political committee" means political committee as defined in California Government Code Section 85102(c).
- (i) "Political party" shall mean political party as that term is used in California Government Code Section 85303(b).

§ 62.303 Contribution Limitations.

- (a) **Council Members.** Contributions or loans to candidates for the office of City Council member shall be subject to the following limitations:
 - (1) **Contributions or Loans by Persons:** No person shall make, and no candidate for the office of City Council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall solicit or deposit into the candidate's campaign contribution account, any contribution or loan which would cause the total amount contributed or loaned by that person to the candidate, or to the candidate's controlled committee, to exceed five hundred dollars (\$500.00) with respect to any single election.

(2) **Contributions or Loans by Political Committees, Broad-Based Committees or Political Parties:** No political committee, broad-based committee or political party shall make, and no candidate for the office of City Council member, or a controlled committee of said candidate's controlled committee, shall solicit, or deposit into the candidate's campaign contribution account, any contribution or loan which would cause the total amount contributed or loaned by that political committee, broad-based committee or political party, to the candidate, or to the candidate's controlled committee, to exceed one thousand five hundred dollars (\$1,500.00) with respect to any single election.

(b) **Mayor.** Contributions or loans to candidates for the mayoral position shall be subject to the following limitations:

(1) **Contributions or Loans by Persons.** No person shall make, and no candidate for the office of Mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall solicit or deposit into the candidate's campaign contribution account, any contribution or loan which would cause the total amount contributed or loaned by that person to the candidate, or to the candidate's controlled committee, to exceed one thousand dollars (\$1,000.00) with respect to any single election.

(2) **Contributions or Loans by Political Committees, Broad-Based Committees or Political Parties:** No political committee broad-based committee or political party shall make, and no candidate for the office of Mayor, or a controlled committee of said candidate, or a person acting on behalf of said candidate or said candidate's controlled committee, shall solicit or deposit into the candidate's campaign contribution account any contribution or loan which would cause the total amount contributed or loaned by that political committee, broad-based committee or political party to the candidate, or to the candidate's controlled committee, to exceed three thousand dollars (\$3,000.00) with respect to any single election.

(c) **Threshold Amount.** The contribution limitations contained in subparagraphs (a) and (b) above shall not apply until the candidate or the candidate's controlled committee has received and deposited into the candidate's campaign contribution account the following amounts in contributions from all sources, including the contributions from the candidate's own funds or resources, and campaign contributions carried over from a previous election:

(1) Candidate for City Council, ten thousand dollars (\$10,000);

(2) Candidate for Mayor, ten thousand dollars (\$10,000).

Nothing in this subsection is intended to exempt any candidate or contributor from the contribution limitations established by the California Political Reform Act (Government Code Section 81000 et seq.).

- (d) **Run-Off Elections:** With respect to any candidate in a run-off election, no person, other than a candidate or the candidate's spouse (with respect to such candidate's own campaign), and no broad-based committee, political committee, or political party shall make, and no candidate, controlled committee, or agent of a candidate or controlled committee shall solicit or deposit into the candidate's campaign contribution account, any contribution before, during, or after the run-off election which will cause the total amount contributed by such person, broad-based political committee, or political party with respect to the primary election and run-off election in support of a candidate to exceed, in addition to the contribution limit contained in subparagraphs (a) and (b) of this section, two hundred fifty dollars (\$250) for the office of City Council member and five hundred dollars (\$500) for the office of Mayor.
- (e) **Exception.** If a candidate or his or her spouse contributes to his or her own candidacy more than the amounts in subsections (a), (b) or (d) of this section, then any opponent for that election shall be entitled to receive from one or more persons additional contributions, irrespective of the limitations contained in subsections (a), (b), or (d), which in total do not exceed the amount by which such candidate's contributions exceeds the amounts in subsections (a), (b), and (d). Written notice of any such contribution by the candidate or his or her spouse shall be given to each opponent and to the City Clerk within forty-eight (48) hours of the making of such contribution. Such notice shall state the amount by which the contribution exceeds the amounts in subsections (a), (b), or (d) and shall be given to each opponent at the address given for such purpose to the City Clerk by all candidates.
- (1) Nothing in this subsection is intended to exempt any candidate or contributor from the contribution limitations of the California Political Reform Act.

§ 62.304 Contributions by Spouses and Children.

- (a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.
- (b) Except as provided in Section 62.305(b) below, contributions by dependent children shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

§ 62.305 Contributions by Spouse or Children of Candidate.

- (a) Contributions to a candidate by his or her spouse shall not be subject to the contribution limits of this article.
- (b) Contributions to a candidate by his or her children, or any other family members, shall be subject to the contribution limits of this article.

§ 62.306 Enforcement.

- (a) Any person who wilfully or knowingly violates any provision of this article is guilty of a misdemeanor.
- (b) In addition to the penalties provided in subparagraph (a), if after his election a candidate is convicted of a violation of any provisions of this article, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon or on the date upon which the candidate, if he is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City offices. If a candidate is convicted of a violation of this division at any time prior to his election, his candidacy shall be terminated immediately and he shall no longer be eligible for election. Any person convicted of a violation of this article shall be ineligible to hold City office for a period of five (5) years from and after the date of his conviction.

§62.307 Effective Date.

- (a) The provisions of this article shall apply to contributions made on or after January 1, 1990 to a candidate for City office seeking election in 1990 or thereafter.
- (b) No candidate or other person shall be deemed to have violated any provisions of this article solely because contributions in excess of the limitations contained in subparagraphs (a) and (b) were accepted or made before the effective date of this ordinance. Nothing in this subparagraph shall be deemed to require the return of any contribution received prior to the effective date of this ordinance.

§ 62.308 Application of State Laws.

Nothing in this article shall be deemed to exempt any person from complying with applicable provisions of any other laws of this state, including the contribution limitations contained within the California Political Reform Act.

§ 62.309 Severability.

If any provision of this ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the

remainder of this ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this ordinance are severable.

SECTION 2.

Article V of Chapter 62 of the Sacramento City Code is hereby added to read as follows:

ARTICLE V. Campaign Financing

§ 62.400 Declaration and Intent.

It is the purpose and intent of the City Council of the City of Sacramento to encourage the voluntary limitation of expenditures by candidates for municipal office to an amount deemed to be reasonable and in the public interest, and to discourage the escalation of campaign expenditures for municipal offices.

Monetary contributions to political campaigns are a legitimate form of participation in the political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates for City office. Candidates for City office are frequently dependent on large contributions from wealthy individuals and interest groups for campaign finances. Large contributions impede the solicitation for making of small contributions.

Individuals have a right to spend their own personal resources without limitation to advance their own candidacy, pursuant to the guarantee of freedom of speech encompassed in the First Amendment of the United States Constitution, and the public has the right to ensure the fullest and most thorough discussion and debate of public issues during an election campaign by expending public funds to secure the widest possible dissemination of information from diverse and antagonistic sources to assure an interchange of ideas. The overall effect of the campaign financing system established by this article is to encourage candidates to limit their campaign expenditures to a reasonable amount by agreeing to match campaign contributions with public funds up to a specified level, provided certain conditions and prerequisites are first met by those candidates electing to participate in the system.

This article is enacted pursuant to Sections 5 and 7 of Article 11 of the Constitution of the State of California and Section 10 of the Charter of the City of Sacramento.

§ 62.401 Title.

This article may be cited as the "Campaign Financing Code" of the City of Sacramento.

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§ 62.402 Definitions.

Unless a particular word or phrase is otherwise specifically defined in this article, the definitions and provisions contained in Article 2 of this chapter shall govern the construction, meaning and application of words and phrases used in this article.

- (a) "Campaign expenditure" means an expenditure as defined in Government Code Section 82025.
- (b) "Campaign reform fund" means those funds in the Campaign Reform Budget Unit established pursuant to Section 62.420.
- (c) "Candidate" means an individual who has filed a statement pursuant to California government Code Section 85200 indicating an intent to run for City office.
- (d) "City campaign statement" means the statement which must be filed with the City Clerk by candidates for City office pursuant to this chapter.
- (e) "City office" means the offices of Mayor and City Council member.
- (f) "General election period" means from July 1 through December 31 of the year in which the election for a City office is held.
- (g) "Primary election period" means from January 1 through June 30 of the year in which the election for a City office is held.
- (h) "Special election period" means from the time a City office has become vacant through the date of the special election for that City office.
- (i) "Special runoff election period" means from the day after a special election for a City office through fifty-eight (58) days after the special runoff election for that office.
- (j) "State campaign statement" means an itemized report which is prepared on a form prescribed by the Fair Political Practices Commission and which provides the information required by Chapter 4 of Title 9 of the Government Code.

§ 62.403 Expenditure Limitations.

- (a) No candidate for the office of City Council member who files a statement of acceptance of financing from the Campaign Reform Fund pursuant to Section 62.410(a), and whose statement is not rescinded pursuant to Section 62.410(c), shall make campaign expenditures in an election for the office of City Council member in excess of the following amounts:
 - (1) \$30,000 in a primary or special election period; and
 - (2) \$30,000 in a general or special runoff election period.

(b) No candidate for the office of Mayor who files a statement of acceptance of financing from the Campaign Reform Fund, and whose statement is not rescinded pursuant to Section 62.410(c), shall make campaign expenditures in excess of the following amounts:

- (1) \$75,000 in a primary or special election period; and
- (2) \$75,000 in a general or special runoff election period.

(c) Although only candidates for City office who have filed a statement of acceptance of financing are subject to the expenditure limitations set forth in subsections (a) and (b), it is the intent of this section that such expenditure limitations apply to all candidates for the following purposes:

- (1) for purposes of determining when otherwise applicable expenditure limitations no longer apply to candidates who have filed a statement of acceptance; and
- (2) for purposes of determining when a candidate must provide the notification required by Section 62.405.

§ 62.404 Payments Made Prior to Use of Goods or Services.

In the event campaign expenditures are made but the goods or services are not used during an election period in which they were purchased, the campaign expenditures shall be considered campaign expenditures for the election period when they are used. Campaign expenditures for goods or services used in more than one election period shall be prorated based on the number of days in each period that they were used.

§ 62.405 Expenditures in Excess of Limitations.

If a candidate who has filed a statement of rejection makes campaign expenditures in excess of the expenditure limitations set forth in Section 62.403(a) and (b), such expenditure limitations shall cease to be applicable to all other candidates but only upon the occurrence of one of the following:

- (a) Receipt of notice by a candidate transmitted pursuant to Section 62.406 notifying the candidate that an opponent who has filed a statement of rejection has exceeded the expenditure limitations set forth in Section 62.403(a) and (b).
- (b) If any state or City campaign statement filed by the candidate discloses on its face that the candidate has exceeded such limitations.

§ 62.406 Notification by Telegram.

Any candidate for City office who exceeds the expenditure limitations set forth in subsection (a) or (b) of Section 62.403 shall notify all opposing candidates and the City Clerk of such over-expenditure by mailgram, telegram, guaranteed overnight mail through

the United States Postal Service or equivalent private delivery service, or personal delivery within twenty-four (24) hours of such overexpenditure.

§ 62.407 Independent Expenditures.

Any person or organization who makes independent expenditures of more than five thousand dollars (\$5,000) in support of or opposition to any candidate for City office shall notify the City Clerk and all other candidates of such expenditure or expenditures by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or equivalent private delivery service, or personal delivery within twenty-four (24) hours. Such notification shall be made each time this threshold of five thousand dollars (\$5,000) is met.

§ 62.408 Extensions of Credit.

- (a) Extensions of credit to a candidate for a period of more than sixty (60) days, or for an amount in excess of \$250, are prohibited.
- (b) Extensions of credit to a candidate shall be considered campaign expenditures for purposes of this article as of the time the extension of credit is granted.

§ 62.409 Contingency Fee Arrangements.

Contingency fee arrangements based on the outcome of an election between candidates and individuals retained to provide goods or services during the course of a campaign shall be limited to two hundred fifty dollars (\$250). Contingency fee arrangements of more than two hundred fifty dollars (\$250) are prohibited.

§ 62.410 Statement of Acceptance or Rejection.

- (a) At the time of filing his or her declaration of candidacy, a candidate for the offices of Mayor or City Council member shall file with the City Clerk one of the following statements:
 - (1) A statement of acceptance of financing from the Campaign Reform Fund; or
 - (2) A statement of rejection of financing from the Campaign Reform Fund.
- (b) Not later than ten (10) days following the filing of a statement pursuant to subparagraph (a) above, the City Clerk shall notify other candidates for the same City office who have filed statements pursuant to subparagraph (a) above of the filing. The Clerk shall provide notice by mailing a copy of the notice via registered or certified mail to the other candidate(s) for the same City office.

(c) If a candidate files a statement of rejection of financing, any opposing candidate who has filed a statement of acceptance of financing may rescind such statement and file a statement of rejection with the City Clerk within ten (10) days of the notice given by the City Clerk.

(1) For purposes of this subparagraph, notice shall be deemed to have occurred on the date that the Clerk places the notice in the mail.

(d) Except as provided for in subsection (c), a candidate who files a statement of acceptance or rejection of financing from the Campaign Reform Fund may not change that decision.

§ 62.411 City Campaign Statement.

All candidates shall file a City Campaign Statement with the City Clerk on the same date that the candidate files his or her Declaration of Candidacy. The City Campaign Statement required by this section shall include all information required by Section 62.425(a) for the election year up through five (5) days before the date on which the candidate files his or her Declaration of Candidacy.

§ 62.412 Notification by Candidates.

Any candidate who raises, spends or has cash on hand of \$10,000 or more shall notify the City Clerk of such fact by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or equivalent private delivery service, or personal delivery within twenty-four (24) hours of reaching the \$10,000 limit. The City Clerk shall mail notification of such fact to all opposing candidates, as defined in Government Code section 82007, within two (2) working days.

§ 62.413 Qualification for Matching Funds.

(a) A candidate shall qualify to receive payments from the Campaign Reform Fund for a primary or special election only if he or she meets all of the following requirements:

(1) The candidate has filed a statement of acceptance of financing and has not rescinded such statement;

(2) The candidate has raised, after January 1 of the election year, or during a special election period, at least \$10,000 consisting of contributions totaling \$250 or less per source from sources other than themselves, their spouses or their dependent children; and

(3) The candidate is opposed by a candidate who has qualified for payments from the Campaign Reform Fund or who has raised, spent or has cash on hand of \$10,000 or more.

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- (b) All candidates in a general or special runoff election who have filed a statement of acceptance of financing, and have not rescinded such statement, shall qualify to receive payments from the Campaign Reform Fund.
 - (c) For purposes of determining whether a candidate has raised at least \$10,000 as required by subsection (a)(2) of this section, it is the intent of this section to consider the first \$250 of any contribution that exceeds \$250.
 - (d) For purposes of determining whether a candidate has raised at least \$10,000 as required by subsection (a)(2) of this section, a loan, pledge or a non-monetary contribution shall not be considered a contribution.

§ 62.414 Formula for Payment of City Funds.

A candidate who is eligible to receive payments from the Campaign Reform Fund shall receive payments on the basis of the following formula: For a contribution or contributions totaling \$250 or less from a single source that is received after January 1 of an election year, or during a special election or special runoff election period, a matching ratio of one dollar (\$1.00) from the Campaign Reform Fund for each dollar received up to a maximum City match of (1) \$15,000 per election period per candidate for the office of City Council member, and (2) \$37,500 per election period per candidate for the office of Mayor. It is the intent of this section to provide a City match of \$250 even though the total contribution or contributions from a single source exceeds \$250.

§ 62.415 Recordkeeping and Reporting Requirements for Contributions of Less than \$100.

- (a) In order for a contribution of less than \$100 but more than \$50 to be eligible for a match from the Campaign Reform Fund, a candidate must provide the following information on the City campaign statement filed in support of the request to match such contribution: the name and address of the donor or intermediary, the amount, and the date of each such contribution. This reporting requirement shall also apply to any contribution of \$50 or less for which matching funds are requested where the cumulative contributions from the donor or intermediary total more than \$50 in any election period.
- (b) With respect to any contribution of \$50 or less for which a candidate requests matching funds from the Campaign Reform Fund, the candidate shall maintain, and shall make available to the City Clerk or City Treasurer, upon request, a record of the name and address of the donor or intermediary, the amount, and the date of each such contribution.

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§ 62.416 Contributions by Candidate, Spouse or Dependent Children.

Contributions by a candidate, a candidate's spouse, or a candidate's dependent children shall not be considered a contribution for purposes of receiving payments from the Campaign Reform Fund pursuant to Section 62.413.

§ 62.417 Loans, Pledges and Non-Monetary Contributions.

A loan, a pledge or a non-monetary contribution shall not be considered a contribution for purposes of receiving payments from the Campaign Reform Fund.

§ 62.418 Procedure for Payment of City Funds.

- (a) Except as provided in subparagraph (b) below, payments from the Campaign Reform Fund shall be made by the Director of the Finance Department on the 15th and 30th of each month, following the last day for filing Declarations of Candidacy if no candidate files a statement of rejection of financing pursuant to Section 62.314. If a candidate files a statement of rejection, payments from the Campaign Reform Fund shall be made by the Director of the Finance Department on the 15th and 30th of each month following the last day for rescinding a statement of acceptance pursuant to subsection (b) of Section 62.314.
- (b) After the 25th of the last month before an election, through the day of an election, each candidate shall be limited to one (1) request for payment from the Campaign Reform Fund, which payment shall be made by the Director of the Finance Department within five (5) working days of receipt of the request by the City Clerk. Such request shall be submitted on or before the date of the election. After the date of an election, each candidate shall be limited to one (1) final request for payment from the Campaign Reform Fund. Such request shall be submitted within thirty (30) days after the date of the election and payment shall be made by the Director of the Finance Department within five (5) working days. Requests for payment received by the City Clerk more than thirty (30) days after the date of the election shall not be eligible for payment from the Campaign Reform Fund.
- (c) In order to receive a payment from the Campaign Reform Fund on the 15th or 30th of a month, a candidate shall file a City Campaign Statement with the City Clerk on the 10th or 25th, respectively, of each month. In order to qualify for payment after the 25th of the last month before an election, or within thirty (30) days after the date of the election, the candidate must file a City Campaign Statement at the same time he or she files a request for payment.
- (d) The City Campaign Statements required by this section shall be current through two (2) calendar days before they are filed.

- (e) If the Director of the Finance Department is required to make a payment to a candidate on a day on which City offices are closed, payment shall be made on the next working day.

§ 62.419 Withholding City Funds.

- (a) If a candidate is eligible to receive funds from the Campaign Reform Fund pursuant to the foregoing provisions of this chapter, the fact that the candidate is, or is alleged to be, in violation of another provision of this chapter shall not constitute grounds for withholding or denying such funds to the candidate except as provided in subsection (b) of this section.
- (b) Candidates who are eligible to receive funds from the Campaign Reform Fund, and whose state or City Campaign Statement discloses on its face that such candidate has exceeded the expenditure limitations set forth in Section 62.307, shall not be eligible for any further funds from the Campaign Reform Fund unless such expenditure took place after otherwise applicable expenditure limitations were waived for the candidate pursuant to Section 62.405.

§ 62.420 Campaign Reform Fund.

There is hereby established in the annual City budget a Campaign Reform Budget Unit to be administered by the City Clerk pursuant to the provisions of this chapter.

§ 62.421 Appropriation.

- (a) During any fiscal year which contains either a general election period or primary election period, the City Council shall, in its final budget, appropriate from the General Fund the sum of one dollar (\$1.00) for each one dollar (\$1.00) estimated by the City Manager to be paid to candidates and the sum estimated by the City Manager necessary to make all other payments authorized by the provisions of this chapter. In the event that insufficient funds were appropriated in the final budget to pay said sums, the City Council shall, upon the request of the City Clerk, transfer sufficient moneys from the General Fund Administrative Contingencies to the Campaign Reform Budget Unit to make all payments authorized by the provisions of this chapter.
- (b) In the event that a special election or special runoff election is held for a City office and there are not sufficient funds in the Campaign Reform Budget Unit to pay the sum of one dollar (\$1.00) for each one dollar (\$1.00) paid to a candidate from the Campaign Reform Budget Unit, and all other expenses authorized for payment from the Campaign Reform Budget Unit pursuant to the provisions of this chapter, the City Council shall, upon the request of the City Clerk, transfer sufficient moneys from the General Fund Administrative Contingencies to the Campaign Reform Budget Unit to make all payments authorized by the provisions of this chapter.

§ 62.422 Administrative Expenses.

All administrative expenses incurred by the City Clerk and the Finance Department including, but not limited to, salaries, benefits, supplies and overhead, shall be charged to, and paid from, the Campaign Reform Budget Unit.

§ 62.423 Report by City Clerk.

- (a) During an election year, the City Clerk shall advise the City Council and each candidate on the fifth (5th) of each month following a month in which payments were made from the Campaign Reform Fund of the following:
- (1) the candidates who received funds from the Campaign Reform Fund;
 - (2) the amount received by each candidate from the Campaign Reform Fund; and
 - (3) the cumulative amounts received by each candidate from the Campaign Reform Fund.
- (b) Within four (4) months following each final election in which funds are provided from the Campaign Reform Fund, the City Clerk shall submit a final report to the City Council reporting the amount of funds paid to each candidate from the Campaign Reform Fund.

§ 62.424 Surplus Funds.

All surplus funds remaining after all obligations are met by a candidate shall be returned to the Campaign Reform Fund, not to exceed the amount paid to the candidate from the Campaign Reform Fund, as follows:

- (a) In the case of a primary or special election where one candidate does not receive a majority of the votes cast, all candidates, except those two candidates who will appear on the ballot in a run-off election, must return surplus funds within ninety (90) days after the primary or special election.
- (b) In the case of a primary or special election where one candidate does receive a majority of the votes cast, and in general and special runoff elections, all candidates must return surplus funds within ninety (90) days after the election.

§ 62.425 Contents of City Campaign Statements.

- (a) All City Campaign Statements required to be filed with the City Clerk pursuant to this chapter shall contain the following information:
- (1) The information required by Government Code Section 84211 and any administrative regulations adopted pursuant thereto; and

- (2) Any information required by the City Clerk.
- (b) All City Campaign statements required to be filed with the City Clerk pursuant to this chapter shall be on a form prescribed by the City Clerk.

§ 62.426 Final Campaign Statement.

Within ninety (90) days after an election for City elective office, each candidate shall file a City Campaign Statement with the City Clerk itemizing all campaign contributions to the candidate, all campaign expenditures by the candidate, and any surplus funds. The City Campaign Statement required by this section shall include all required information current up through five (5) calendar days before the date of filing.

§ 62.427 Duties of Treasurers and Candidates.

- (a) All City Campaign Statements filed under this chapter shall be signed and certified by both the candidate and the campaign treasurer. The certification shall state that the candidate and the campaign treasurer have used all reasonable diligence in its preparation, and that to the best of their knowledge it is true and complete.
- (b) A campaign treasurer to comply with his or her duties with respect to the preparation of City Campaign Statements shall:
- (1) Establish a system of recordkeeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately;
 - (2) Either maintain the records personally or monitor such recordkeeping by others;
 - (3) Take steps to ensure that all requirements of this chapter concerning the receipt and expenditure of funds and the reporting of such funds are complied with;
 - (4) Either prepare City Campaign Statements personally or review with care the City Campaign Statements and underlying records prepared by others;
 - (5) Correct any inaccuracies or omissions in City Campaign Statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, any information in City Campaign Statements which a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this chapter.
- (c) A candidate to comply with his or her duties with respect to the preparation of City Campaign Statements shall:

- (1) Ascertain whether the treasurer is exercising all reasonable diligence in the performance of his or her duties, including those duties specified under subsection (b);
- (2) Take whatever steps are necessary to replace the treasurer, or raise the treasurer's performance to required standards, if the candidate knows or has reason to know that the treasurer is not exercising all reasonable diligence in the performance of his or her duties;
- (3) Review with care the City Campaign Statements prepared for filing by the treasurer;
- (4) Correct any inaccuracies and omissions in City Campaign Statements of which the candidate knows, and cause to be checked, and, if necessary, corrected, any information in City Campaign Statements which a person of reasonable prudence would question based on all the surrounding circumstances of which the candidate is aware or should be aware by reason of his or her duties under this chapter; and
- (5) Perform with due care any other tasks assumed in connection with the raising, spending or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on City Campaign Statements.

§ 62.428 Duties of the City Clerk With Respect to Campaign Statements.

- (a) It shall be the duty of the City Clerk to determine whether required City Campaign Statements have been filed. In order to fulfill this duty, if the City Clerk is aware that a candidate has an obligation to file a City Campaign Statement and has failed to do so, the City Clerk shall notify the candidate of the obligation to file a City Campaign Statement. In determining whether required documents have been filed, the City Clerk shall not be required to conduct any investigation to determine whether or not a candidate has an obligation to file a City Campaign Statement.
- (b) It shall be the duty of the City Clerk to determine whether City Campaign Statements filed conform on their face with the requirements of this chapter.
 - (1) The City Clerk, in determining whether City Campaign Statements conform on their face with the requirements of this chapter, shall not be required to seek or obtain information to verify entries on a City Campaign Statement.
 - (2) The City Clerk, in determining whether City Campaign Statements conform on their face with the requirements of this chapter, shall review:

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- (A) All statements to insure that they contain the full name, residential and business addresses and phone number of the candidate and the campaign treasurer.
 - (B) All statements to insure that they have been signed, dated and verified by the candidate and the campaign treasurer.
 - (C) All statements to insure that they are legible, are printed in ink or typewritten, and that reasonable reproductions can be made.
 - (D) All statements to insure that beginning and closing dates for the statement which are prescribed by law are accurate.
 - (E) All statements to insure that the following information is contained in the statement:
 - 1. The total amount of contributions received during the period and the cumulative total amount of contributions;
 - 2. The total amount of campaign expenditures made during the period and the cumulative total amount of campaign expenditures;
 - 3. The total amount of contributions received from persons who have given \$100 or more;
 - 4. The total amount of contributions received from persons who have given less than \$100;
 - 5. The total amount of campaign expenditures of \$100 or more;
 - 6. The total amount of campaign expenditures under \$100;
 - 7. The total amount of accrued expenses of \$100 or more;
 - 8. The total amount of accrued expenses of less than \$100;
 - 9. The balance of cash and cash equivalents on hand at the beginning and end of the period;
 - 10. For each person listed as contributor or lender of a cumulative amount of \$100 or more, the complete name, address, occupation and employer, if any (or name of business, if described as self-employed), cumulative amount contributed, date and amount of contribution or loan.

11. For each recipient committee listed as a contributor or lender of a cumulative amount of \$100 or more, in addition to the information specified in subsection 10 above, the identification number assigned to the committee by the Secretary of State or the full name and address of the treasurer of the committee.
12. The following information must be provided for campaign expenditures of \$100 or more during the period: the complete name of the payee, the address, the amount of each expenditure, a brief description of the consideration for which the campaign expenditure was made and, if the statement indicates a person other than the payee provided the consideration, the complete name and address of the person providing the consideration;
13. The following information must be provided for accrued expenses of \$100 or more during the period: the complete name of the payee, the address, the amount of each expenditure, a brief description of the consideration for which the campaign expenditure was made and, if the statement indicates a person other than the payee provided the consideration, the complete name and address of the person providing the consideration;
14. For each committee listed as a recipient of a campaign expenditure of \$100 or more, in addition to the information specified in subsection 10 above, the identification number assigned to the committee by the Secretary of State or the full name and address of the treasurer of the committee; and
15. The information required by subsection (a) of section 62.320.

(F) All statements to ensure that there are no gross or readily apparent errors in arithmetic calculations.

(c) It shall be the duty of the City Clerk to accept for filing any City Campaign Statement which this chapter requires to be filed. In those cases where the City Clerk discovers in his or her review of City Campaign Statements that a candidate has filed an incorrect, incomplete or illegible statement, or a statement which cannot be reproduced, he or she shall promptly notify the candidate of the error or omission. However, no notification is required in those cases in which the errors or omissions are minor ones which do not recur throughout the statement. An error or omission is minor if it does not result in omission of the amount of an individual contribution or expenditure. An error or omission in connection with the iden-

tification of a donor or intermediary is minor if such person is identified by name and either street address, occupation, employer or principal place of business. An error or omission in connection with the identification of the recipient of an expenditure or person providing consideration for an expenditure is minor if such person is identified by name.

- (d) Notwithstanding the provisions relating to minor errors or omissions set forth in subsection (c), a contribution of \$100 or more shall not qualify for purposes of receiving funds from the Campaign Reform Fund pursuant to Section 62.319 unless the candidate's City Campaign Statement includes the following information with respect to each such contribution: the complete name, address, occupation, and employer, if any (or name of business, if self-employed), of the donor or intermediary.

§ 62.429 Audits.

- (a) The Director of the Finance Department may make, or have made, investigations or audits with respect to any City Campaign Statements required by this chapter, or any campaign accounts for either City or non-City elective office maintained by any candidate, at any time between the last day for filing a Declaration of Candidacy for a City office and one year following the date of the election in which a candidate is elected to that City office.
- (b) Each candidate who receives money from the Campaign Reform Fund shall be subject to audit on a random basis with these candidates having a fifty percent (50%) chance of being audited.
- (c) Any candidate whose campaign statements are subject to an investigation or audit by the Director of the Finance Department shall provide the Director of the Finance Department with all financial records, documents and any other information or material requested by the Director of the Finance Department.

§ 62.430 Criminal Sanctions.

Any person who knowingly or willfully violates any provision of this Article is guilty of a misdemeanor.

§ 62.431 Injunctive Relief.

Any candidate or other resident of the City may bring an action, at any time during an election year, an election year or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain judicial declarations regarding, the provisions of this Article.

§ 62.432 Civil Liability.

- (a) The City Council may maintain on behalf of the City, or a candidate or other resident of the City may maintain on their own behalf, a civil action to recover personally from a candidate

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any contributions received by the candidate in excess of the contribution limitations established by this Article, any campaign expenditures made in excess of the expenditure limitations established by this Article, and any funds received by the candidate from the Campaign Reform Fund in violation of any provision of this Article.

- (b) Any money recovered in any action maintained pursuant to this section shall be deposited in the Campaign Reform Fund.
- (c) The City Council may maintain an action pursuant to this section only after the election in which a candidate is elected to the City elective office for which the election is held. A candidate or other City resident may maintain an action pursuant to this section at any time during an off-election year, election year or thereafter.

§ 62.433 Operative Date.

The provisions of this article shall apply to elections for City office commencing with the elections to be held in 1992.

§ 62.434 Severability.

If any provision of this ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this ordinance are severable.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK