

CITY OF HEALDSBURG

ORDINANCE NO. 1009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEALDSBURG SETTING MANDATORY LIMITS ON CAMPAIGN CONTRIBUTIONS TO CITY COUNCIL CANDIDATES, ENACTING MANDATORY PUBLIC DISCLOSURE REGULATIONS, SETTING A 2-YEAR ELECTION CYCLE AND PRESCRIBING ENFORCEMENT MECHANISMS AND PENALTIES FOR VIOLATIONS

The City Council of the City of Healdsburg does hereby declare and ordain as follows:

HEALDSBURG CAMPAIGN FINANCE

Sections:

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Section 1 - Title.

This Chapter shall be entitled "Healdsburg Campaign Finance".

Section 2 - Legislative Intent.

To assure the public:

- A. That excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process;
- B. That large campaign contributions will not be used to buy political access or to influence governmental actions;
- C. That access to large amounts of money will not be a prime requirement for participation in the political process; and
- D. That the public is fully informed of the contributors to political campaigns.

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Section 3 -- Relation to Political Reform Act of 1974.

This chapter is intended to supplement the Political Reform Act of 1974 (Government Code Title 9, §§ 81000 et seq.). Unless a word or term is specifically defined in this chapter, or the contrary is stated or clearly appears from the context, words and terms used herein shall have the same meaning as defined or used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, and as supplemented by the Regulations of the Fair Political Practices Commission as set forth in Title 2, Division 6 of the California Code of Regulations, as the same may be, from time to time, amended. If a definition of any word or term defined in this chapter is preempted by the provision of the Political Reform Act or the Regulations of the Fair Political Practices Commission, then the definition in said Act and Regulations shall prevail.

Section 4 - Definitions.

- A. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.
- B. "City Election" means any general election, special election or recall election.
- C. "Election Cycle" shall mean the applicable period as set forth in Section 6.
- D. "Candidate" means any person who is a candidate for City Council for the City of Healdsburg, including an incumbent Councilmember, appointed or elected, whether or not a candidate for reelection.
- E. "Indebted Former Candidate" means a person who was a candidate for City Council at any City Election and who has campaign debt remaining from such election after expiration of the Election Cycle for the office of which he or she was a candidate.
- F. "Clerk" means the City Clerk of the City of Healdsburg.

Section 5 - Contribution Limitation.

- A. No candidate for City Council shall solicit or accept any contribution, including any "in-kind" contribution that will cause the total contributions to that candidate from any person to exceed Five Hundred Dollars (\$500.00) during any Election Cycle. The receipt of any contribution which would cause the total amount of contributions to a candidate from a single person to exceed Five Hundred Dollars (\$500.00) shall prompt return any such excess to the donor. The provisions of this section shall not apply to contributions by a candidate for City Council of his or her own funds to his or her own controlled committee. Contributions by the spouse of a candidate for City Council from such spouse's separate property shall be subject to the contribution limits.
- B. No controlled committee of a candidate, or a committee formed primarily to support or oppose a candidate being voted upon in the General Election, shall solicit or accept any contributions, including any "in-kind" contributions, that will cause the total contributions to that committee from any person to exceed Five Hundred Dollars (\$500.00) during any Election Cycle. The receipt of any contribution which would cause the total amount of contributions to such a

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committee from a single person to exceed Five Hundred Dollars (\$500.00) shall prompt the return of any such excess to the donor.

- C. Elective Councilmembers and Candidates With Outstanding Debt From Prior Election. No person shall make, and City Councilmember or Indebted Former Candidate, or treasurer of any controlled committee of any City Councilmember, or Indebted Former Candidate shall solicit or accept any contributions for the purpose of retiring outstanding debt from a prior City Election which would cause the total amount contributed by such person to such Councilmember or Indebted Former Candidate or to his or her controlled committee to exceed Five Hundred Dollars (\$500) for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received.
- D. Recall Elections. The contribution limitations set forth in subsection A above shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of a City Councilmember and to contributions received by such City Councilmember during a recall Election Cycle as defined in Section 6.

Section 6 - Election Cycles.

- A. General Elections. For purposes of any election for City Council, the term Election Cycle as used in this chapter shall mean the period commencing on January 1 of the year following a year in which a City Council election is held and ending on December 31 of the year in which the next succeeding election is held.
- B. Special Elections. For purposes of any special election for City Council, the term Election Cycle as used in this chapter shall mean the period commencing on the date a special election is called by the City Council and ending on the thirtieth (30th) day following said special election.
- C. Recall Elections. For purposes of any recall election for City Council, the term Election Cycle as used in this chapter shall mean the period commencing on either the date a committee is formed pursuant to the Political Reform Act in support of a recall election or the date the Clerk approves a recall petition for circulation and gathering of signatures, whichever occurs earlier, and ending on the thirtieth (30th) day following the first to occur of any of the following:
- (1) The time provided by law for the gathering of signatures on recall petitions expires without sufficient recall petition signatures having been filed with the Clerk to require a recall election;
 - (2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act;
 - (3) The date the recall election is held.
- D. Campaign Debt. Nothing in this chapter shall prohibit indebted Candidates and/or their controlled campaign committee from soliciting and receiving funds to pay off their campaign debt in accordance with the provisions of Section 5, after the end of the Election Cycles defined above.

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Section 7 - Disclosure Requirement.

A. All Candidates being voted upon in the General Municipal Election, their controlled committees and committees formed primarily to support or oppose a Candidate or measure being voted upon in the General Municipal Election, shall file with the Clerk a Campaign Disclosure Statement (Form 460 or any successor form thereto), as provided by the California Fair Political Practices Commission (hereinafter, referred to as "the Disclosure Statement"):

- (1) For the period ending September 30, the Disclosure Statement is to be filed with the Clerk no later than October 5. The method of delivery shall be by personal delivery or first class mail. The Disclosure Statement shall be posted to the City's website within 48 hours of receipt by the Clerk.
- (2). For the period starting on October 1 and ending 17 days before the election, the Disclosure Statement is to be filed with the Clerk no later than 12 days before the election. The method of delivery shall be by personal delivery or guaranteed overnight service. The Disclosure Statement is to be posted to the City's website within 24 hours of receipt by the Clerk.
- (3). For the period starting 16 days before the election and ending 6 days before the election, the Disclosure Statement shall be filed with the Clerk no later than 5 days before the election. The method of delivery shall be by personal delivery. The Disclosure Statement is to be posted to the City's website by noon on the 4th day before the election.
- (4) The period for the Second Semi-annual Campaign Statement shall commence on the 5th day before the election and end December 31st. The Semi-Annual Campaign Statement shall be filed with the Clerk no later than January 31st by personal delivery or first class mail.

B. All Candidates being voted upon in a Special Election or Recall Election, their controlled committees and committees formed primarily to support or oppose a Candidate or measure being voted upon in such Election, shall file with the Clerk the Disclosure Statement within timeframes established by the City Attorney. In establishing Disclosure Statement filing deadlines for Special Elections or Recall Elections, the City Attorney shall provide filing deadlines that are computed from the actual date of such Election and shall comply substantially with timeframes described for General Municipal Elections in the preceding section.

C. The failure to post Disclosure Statements to the City website shall in no way excuse or act as a defense to the disclosure and filing requirements established by this ordinance, the California Political Reform Act, the California Government Code or any other laws, rules, or regulations of this City, State, or Nation.

During the election campaign, the Clerk merely serves as a repository for such literature and shall not judge or comment on the contents of such literature.

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Section 8 - Aggregation of Contributions.

The contributions of any person whose contributions are directed and controlled by another person shall be aggregated with those of the controlling person for purposes of the contribution limits. Contributions by a married person shall be treated as the separate contributions of such person and shall not be aggregated with any contributions of the spouse of such person. Contributions by children under the age of eighteen (18) years shall be treated as contributions by their parent(s) or legal guardian(s), one-half of such contribution shall be attributed to each parent or guardian unless only one parent or legal guardian has sole custody of such child in which case any such contributions shall be attributed solely to the custodial parent or guardian.

Section 9 - Loan to City Candidates and Their Controlled Committees.

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.
- B. The proceeds of a loan made to a Candidate for City Council by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this chapter if the loan is made directly to the Candidate. The guarantors of such a loan shall remain subject to the contribution limits of this chapter.
- C. Extensions of credit (other than loans pursuant to subsection B) for a period of more than thirty (30) days are subject to the contribution limitations of this chapter.
 - (1) An "extension of credit" means the provision of goods or services for which payment in full is not received. An extension of credit is deemed to begin by the earlier of two dates:
 - (a) 15 days after the date specified on the invoice for payment; or
 - (b) 45 days from the date the goods or services were delivered.
 - (2) "Payment in full" means payment of not less than fair market value for the goods or services provided.
 - (3) An extension of credit for a period of more than 30 days is a contribution subject to the contribution limitations of the ordinance, except as provided in subsections 5(d) through 5(g) of this section.
 - (4) If a Candidate or a Candidate's controlled committee has an extension of credit for more than 30 days outstanding with a provider or vendor of goods or services, any additional credit extended to the Candidate or the Candidate's controlled committee by the same provider or vendor of goods or services shall be a contribution to the Candidate or the Candidate's controlled committee from the person subject to all of the contribution limitations of the Act.
 - (5) If all of the following criteria are satisfied by a provider or vendor of goods or services, it shall (i) be a complete defense for the provider or vendor of the goods or services in any enforcement action initiated by the City, and (ii) relieve the provider or vendor of the goods or services of any reporting requirements of this title:

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- (a) The credit arrangement was recorded in a written instrument;
 - (b) It is a primary business of the provider or vendor of goods or services to provide similar goods or services;
 - (c) The provider or vendor of goods or services provided the goods or services in the ordinary course of business and on the same terms and conditions offered to customers generally;
 - (d) The provider or vendor of goods or services did not have actual knowledge that the Candidate or committee would not be able to pay within the time limit specified;
 - (e) The provider or vendor of goods or services made reasonable efforts to collect the full amount of the payment owed within one hundred twenty (120) days of the date specified;
 - (f) The provider or vendor of goods or services entered into the agreement with the intent that the Candidate or committee would be required to pay within the time limit specified; and,
 - (g) The provider or vendor of goods or services did not extend any additional credit to the Candidate or the Candidate's controlled committee when the Candidate or the Candidate's controlled committee already had an extension of credit for more than 30 days outstanding with the same provider or vendor of goods or services as provided in subsection (d).
- D. This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

Section 10 – Outstanding Debt Retirement and Reporting.

- A. Any City Councilmember or Indebted Former Candidate, or any controlled committee of any such officer or Candidate, accepting any contribution(s) for the purpose of retiring outstanding debt from a prior City Election and required by state law to report such contributions on Schedule A of Fair Political Practices Commission Form 460, or any successor form thereto, shall, at the time required for the reporting of such contributions on Schedule A and in addition to any other reporting requirements under state law, clearly designate on said Schedule A (i) which contributions were received for the purpose of retiring outstanding debt and (ii) for which prior City Election such contributions were received.
- B. Any contribution accepted for the purpose of retiring outstanding debt from a prior City Election shall be applied to reduce or retire said outstanding debt in the same reporting period in which such contribution was accepted. The application of any contribution to retire outstanding debt from a prior City Election (i.e., repayment of outstanding loans and payment of accrued expenses) shall be itemized and identified on the appropriate schedules and on the Summary Page of Form 460, or any successor form thereto, provided by the Fair Political Practices Commission.

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- C. If a City Councilmember or Indebted Former Candidate, or a controlled committee of any such officer or Candidate, receives contributions for the purpose of retiring outstanding debt from a prior City Election and the amount of the contributions exceeds the amount of the debt, the excess funds may be used for any other campaign or officeholder expense and shall not be subject to the aggregation requirements set forth in Section 8 in the Election Cycle in which the excess funds are expended.

Section 11 - Multiple Campaign Committees.

- A. A Candidate for City Council shall have no more than one controlled committee and such controlled committee shall have only one bank account out of which all qualified campaign and officeholder expenses related to that office shall be made.
- B. This section does not prevent a Candidate for City Council or a City Councilmember from establishing another controlled committee solely for the purpose of running for a state, federal, county or other elective office, or for opposing his or her recall.

Section 12 - Independent Expenditures.

- A. Any person or entity making independent expenditures which aggregate in excess of Five Hundred Dollars (\$500.00) during any Election Cycle shall deliver to the Clerk, on a form prepared by the Clerk for such purpose, notice of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the Candidate(s) to whom the independent expenditure is intended to support or oppose and shall also include the information required to be provided in the Campaign Disclosure Statement (form 460 or any successor form thereto) as provided by the Fair Political Practices Commission. Each independent expenditure shall require delivery of a new notice. Such notice shall be filed for the same reporting periods and be the same deadlines as are required for expenditures by Candidates pursuant to the Fair Political Practices Act and by Section 7(B) of this Ordinance.
- B. Persons or organizations who make independent expenditures for or against a Candidate or committee shall indicate clearly on any material published, displayed or broadcast that it was not authorized by a Candidate or committee controlled by a Candidate. Such disclosure shall be printed in 12-point type or larger in any printed materials and prominently displayed in any non-printed materials or message.

Section 13 - Enforcement.

- A. No Criminal Penalties. Notwithstanding any provision of the Healdsburg City Code or any other Ordinance adopted by the City of Healdsburg, any violation of any provision of this chapter shall be enforceable solely as provided in this section.

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- B. Civil Liability. Any person who fails to comply with any provision or requirement of this chapter shall be strictly liable to the City of Healdsburg in a sum not to exceed the following amount for each such violation:
- (1) For the making or accepting of any contribution in excess of the applicable contribution limits specified in this chapter, a sum equal to three (3) times the amount by which the contribution exceeds the applicable contribution limit, or the sum of Five Hundred Dollars (\$500), whichever is greater, for each violation.
 - (2) For any other violation of this chapter, the sum of Five Hundred Dollars (\$500) for each violation.
- C. Right to Cure Unknowing Violation. In the event a Candidate accepts a contribution and then becomes aware it is in violation of the contribution limit, that violation by the Candidate may be excused if the Candidate returns the contribution or contributes it to the City General Fund within 14 days of becoming aware of the violation.
- D. Debt Owing to City. Any amount due from any person pursuant to subsection (B) above shall be a debt due and owing upon demand to the General Fund of the City of Healdsburg.
- E. Civil Action to Collect Debt and Obtain Other Relief. Except as provided in subsection G of this section, the Sonoma County District Attorney shall file and prosecute a civil action in superior court to recover any amount(s) due and owing to the City of Healdsburg by any person pursuant to this section or to enjoin any violation or otherwise compel compliance with the requirements of this chapter.
- F. Limitations of Actions. No civil action shall be brought under the provisions of this section unless said action is filed within one (1) year following the date of such violation.
- G. Remedial Measures. If the District Attorney determines or believes that any person (Councilmember or Candidate) has violated any provision of this chapter, the District Attorney may, at his or her sole discretion, advise the Councilmember or Candidate of remedial measures which may be taken by the Councilmember or Candidate to avoid possible civil action (the "Remedial Measures"). Such Remedial Measures may, but need not necessarily, include the payment of a civil fine to the City. Nothing contained herein shall be deemed to require the District Attorney to offer Remedial Measures to any Councilmember or Candidate. In the event the Councilmember or Candidate is offered and timely performs such Remedial Measures to the Satisfaction of the District Attorney, the District Attorney shall advise the Councilmember or Candidate (and any person who, in writing, informed or complained to the District Attorney concerning any such violation), in writing, that the alleged violation has been resolved (the "Letter of Resolution") and, in such event, no civil action shall thereafter be filed or maintained relating to such alleged violation of this chapter.

Section 14 – Reimbursement of District Attorney.

The City shall reimburse the Office of the District Attorney for all expenses incurred in enforcing this ordinance.

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Section 15 – Severance Clause.

If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Healdsburg hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 16 – Effective Date.

This ordinance shall become effective thirty (30) days after the date of its adoption by the Healdsburg City Council.

Section 17 - Publication:

This ordinance of the City of Healdsburg shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance or a summary thereof as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Healdsburg, along with the names of the members of the City Council voting for and against its passage.

This ordinance was introduced before the City of Healdsburg at a regular meeting thereof on the 1st day of December, 2003, and passed and adopted by the following roll call vote on December 15, 2003.

AYES: Councilmembers: (5) Gleason, Liles, Mitchell, Schaffner and Mayor Gold

NOES: Councilmembers: (0) None

ABSENT: Councilmembers: (0) None

ABSTAINING: Councilmembers: (0) None

SO ORDERED

ATTEST

Leah Gold Mayor

Maria Curiel, City Clerk