

**Chapter 8B
ELECTIONS CAMPAIGN FINANCE**

Sections:

[8B.1](#) Short title.

[8B.2](#) Purpose—Policy declaration.

[8B.3](#) Definitions.

[8B.4](#) Voluntary campaign expenditure ceiling and campaign contribution limits.

[8B.5](#) Campaign contribution prohibitions.

[8B.6](#) Campaign filing or reporting requirements.

[8B.7](#) Enforcement.

8B.1 Short title.

This chapter shall be cited and referred to as the “elections campaign finance” law of the city. (Ord. No. 2012-05, § 1, 3-19-12)

8B.2 Purpose—Policy declaration.

The city council hereby finds that the campaign financing regulations set forth in this chapter are in addition to, and not inconsistent with, any and all laws governing municipal elections enacted in the Political Reform Act of 1974 (“Act”), and that these regulations herein enacted are not intended to interfere with a person’s compliance with that Act. (Ord. No. 2012-05, § 1, 3-19-12)

8B.3 Definitions.

Because of the thoroughness of the Act's statutory scheme, unless a term is specifically defined in this chapter, or the contrary is stated (or clearly appears from the context), the definitions set forth in Chapter 2 ("Definitions," Section 82000 et seq. of the Government Code) of the Act shall govern the interpretation of the provisions of this chapter.

"Campaign statement" shall have the same meaning as defined in California Government Code Section 82006 and is an itemized report prepared on a form prescribed by the Fair Political Practices Commission.

"Committee" and "controlled committee" shall have the same meaning as defined in California Government Code Sections 82013 and 82016, respectively, as such sections may be amended from time to time.

"Contribution" shall have the same meaning as defined in California Government Code Section 82015, except that, as set forth in Section 85312, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate are not contributions or independent expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, or newspaper advertisement.

(a) For purposes of the contribution limits of this chapter the following terms have the following meanings:

(1) "Entity" means any person, other than an individual.

(2) "Majority owned" means an ownership of more than fifty percent (50%).

(b) For purposes of the campaign contribution limits of this chapter the following restrictions apply:

(1) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(2) If two (2) or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(3) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

"Person" shall mean 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. (Ord. No. 2012-05, § 1, 3-19-12; Ord. No. 2015-07, § 1, 7-1-15)

8B.4 Voluntary campaign expenditure ceiling and campaign contribution limits.

(a) The city council does hereby establish a voluntary campaign expenditure ceiling as follows: For a candidate for municipal office and for any and all controlled committees of such candidate, in the aggregate not to exceed one dollar (\$1.00) per resident for each municipal election. Should a candidate who has elected to comply with the voluntary campaign expenditure ceiling exceed that ceiling, he/she shall immediately notify all opponents and the city clerk by telephone and confirm the same in writing the day that such expenditure ceiling is exceeded.

(b) The city council does hereby establish the following campaign contribution limit: seven hundred fifty dollars (\$750.00) per election to a candidate for municipal office, which limit shall apply to the total of all contributions to the candidate from any person and to any controlled committee of such candidate, other than a candidate in aid of himself or herself. (Ord. No. 2015-07, §§ 2, 3, 7-1-15)

8B.5 Campaign contribution prohibitions.

(a) It shall be prohibited for any person, other than a candidate in aid of himself or herself, to make any campaign contribution to a candidate for municipal office, or to any controlled committee of such candidate, which will cause the total amount contributed by such person to a candidate and all controlled committees of such candidate, with respect to a single election in support of such candidate, to exceed seven hundred fifty dollars (\$750.00).

(b) It shall be prohibited for any candidate for municipal office, or any controlled committee of such candidate, to solicit or accept any campaign contribution which will cause the total amount contributed by any person to a candidate and all controlled committees of such candidate, other than a candidate in support of himself or herself, with respect to a single election in support of such candidate, to exceed seven hundred fifty dollars (\$750.00).

(c) Extinguishing Expenditure Ceiling. Any candidate for elective office who has filed a statement accepting the voluntary expenditure ceiling is not bound by the ceiling if an opposing candidate who has accepted the voluntary expenditure ceiling exceeds the ceiling set forth in section 8B.4(a).

(d) It shall be prohibited to receive contributions from any person who does not disclose their identity, and all contributions of any amount (monetary or nonmonetary) shall be fully itemized and reported on a recipient committee pre-election campaign statement. (Ord. No. 2012-05, § 1, 3-19-12; Ord. No. 2015-07, §§ 4, 5, 7-1-15)

8B.6 Campaign filing or reporting requirements.

- (a) The city clerk shall prescribe the necessary forms for filing the appropriate statements.
- (b) Each candidate must file a voluntary campaign expenditure ceiling statement with the city clerk indicating whether or not he or she will participate in the voluntary campaign expenditure ceiling program before accepting or receiving any campaign contributions. The city clerk shall ask the registrar of voters to prominently designate those candidates who participate in the program on the ballot, in the ballot pamphlet and in the sample ballot.
- (c) In addition to the state law required filing of campaign statements, each recipient committee formed in conjunction with an election to a municipal office must file one additional recipient committee pre-election campaign statement with the city clerk four (4) calendar days before the election. This statement will cover the period from the last date of the most recent pre-election statement to seven (7) calendar days before the election. (Ord. No. 2012-05, § 1, 3-19-12)

8B.7 Enforcement.

Enforcement of this chapter shall not be governed by Chapter 6A unless such violation constitutes a separate violation of another section or provision of the Gilroy Municipal Code or another applicable provision of law.

(a) Civil Enforcement.

(1) Pursuant to California Government Code Section 91001(b), the civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of the Act. The civil prosecutor is the Santa Clara County District Attorney, and is responsible for enforcing the provisions of this chapter. If determined to be necessary, the City Attorney may retain special counsel for enforcement of its provisions.

(2) Any person who makes or receives or solicits or accepts a contribution or makes an expenditure in violation of the provisions of sections [8B.4](#) and [8B.5](#) shall be liable in a civil action which may be brought by the civil prosecutor or a person residing within the city for an amount up to one thousand dollars (\$1,000) or for an amount up to three (3) times the amount of the unlawful contribution or expenditure, whichever amount is greater, for each violation.

(3) Any person who intentionally or negligently violates any of the filing or reporting requirements of section [8B.6](#) is liable in a civil action which may be brought by the civil prosecutor or a person residing within the jurisdiction for an amount not more than the amount or value not properly reported or disclosed.

(4) Any person, before filing a civil action for a violation of section [8B.4](#), [8B.5](#) or [8B.6](#), must first file with the Santa Clara County District Attorney a written request for him or her to commence the action. The time periods and procedures set forth in California Government Code Section 91007 shall apply.

(5) In addition to other remedies provided by law, any person residing in the city may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

(b) Criminal Enforcement. The enforcement of violations of the provisions of this chapter may be prosecuted as an infraction and/or misdemeanor. The district attorney shall prosecute violations as a misdemeanor except where he/she has determined that, in the best interest of justice, a violation should be prosecuted as an infraction. Penalties for misdemeanor violations are established in California Penal Code Section 19, and penalties for infractions are established in California Government Code Section 6900. (Ord. No. 2012-05, § 1, 3-19-12)