RESOLUTION NO. 11-070

A RESOLUTION OF THE CUPERTINO CITY COUNCIL ADOPTING A VOLUNTARY EXPENDITURE LIMIT FOR THE NOVEMBER 8, 2011 ELECTION

WHEREAS, the City Council adopted Resolution No. 09-036 which established a voluntary expenditure limit of $28,000 for the November 2011 election.

WHEREAS, on November 8, 2011, a General Municipal Election will be held to fill vacant seats, and the City Council also wishes to apply an expenditure limit of $28,000 to that election.

NOW, THEREFORE, BE IT RESOLVED:

1) Candidates for City Council are requested to limit their campaign expenditures to $28,000 for the City Council election of 2011.

2) Any non-monetary contribution is deemed to be a campaign expenditure made by the receiving committee on the date of receipt, and it counts against the voluntary expenditure limits established by this resolution if an expenditure for equivalent goods or services would have been a campaign expenditure described in Attachment A. The amount of the expenditure shall be the fair market value of the contribution on the date of receipt.

3) The voluntary expenditure limit does not establish a recommended voluntary campaign expenditure ceiling within the meaning of Government Code section 85400 et seq. It is the intent of the City Council, in adopting this resolution, not to trigger the enhanced campaign contribution limits contained in Government Code section 85402(a) et seq.

4) In the event that any candidate wishes to abide by the campaign contribution limit requested by the City Council, he or she may file with the City Clerk a written notice of his or her intent to limit his or her campaign expenditures to $28,000 for the 2011 election, and such intent will be indicated in the official voter's pamphlet.

5. The cost of printing and translating Candidate Statements shall not be counted against the voluntary expenditure cap of $28,000.

6. The provisions of this resolution have no force of law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 3rd day of May, 2011, by the following vote:

Vote	Members of the City Council
AYES:	Wong, Santoro, Chang, Mahoney, Wang
NOES:	None
ABSENT:	None
ABSTAIN:	None

ATTEST:

/s/Kimberly Smith

City Clerk

APPROVED:

/s/Gilbert Wong

Mayor, City of Cupertino

1. Expenditures related to mailing or distribution of campaign literature, signs, buttons, bumper stickers and similar items, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

2. Expenditures related to publications in broadcast, print or electronic media shall be allocated to the next election following the date(s) specified in the contract for broadcast, publication, or dissemination or, if the election is held on the date specified for publication, broadcast, or dissemination, to the election held on that date.

3. Expenditures related to telephone banks, including costs of design and operation, costs of installing or renting telephone lines and equipment, toll charges, personnel costs, rental of office space, and associated consultants' fees, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

4. Expenditures on professional services, including fees and costs of campaign consultants and pollsters, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. In the event that a contract for professional services allocates specific fees and costs to particular elections, the terms of the contract will govern allocation of expenditures to each election. If a contract provides for a bonus payment should the candidate win a particular election, the bonus payment is an expense of the election whose result triggers the payment obligation.

5. Overhead expenditures, including expenditures related to the lease of office space, payments for utilities, rental or purchase of office equipment and furnishings, miscellaneous supplies, costs of internal copying and printing, monthly telephone charges, personnel costs, and candidate or staff travel expenses, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

6. Expenditures related to campaign fundraising shall be allocated to the election for which the funds were raised. If fundraising expenditures cannot be assigned in this manner to a particular election, fundraising expenditures shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expense was incurred, to the election held on that date.

7. Unless there is a clear indication to the contrary, campaign expenditures not described in subdivisions (a)(1) through (a)(6) shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. Refunds of any expenditure on goods or services not provided to or used by the campaign shall be credited to the election for which the expenditure would otherwise have been allocated.

8. The candidate shall maintain records establishing that his or her allocation of campaign expenditures was consistent with this resolution.

Folsom Municipal Code
Chapter 2.48
CAMPAIGN CONTRIBUTION LIMITS

Sections:

2.48.010 Purpose and intent.
2.48.020 Definitions.
2.48.030 Campaign contribution limitation.
2.48.040 Organizational contributions.
2.48.050 Duties of the city clerk.
2.48.060 Violation--Penalties.
2.48.070 Effect of violation on outcome of election.

2.48.010 Purpose and intent.
Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributions over elected officials. It is the purpose and intent of the people of the city in enacting the ordinance codified in this chapter to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal elections; to limit contributions by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal election campaigns; and to provide full and fair enforcement of all the provisions of this chapter. (Initiative measure passed by vote of the people 6/7/94)

2.48.020 Definitions.
Except as otherwise provided in this chapter, the words and phrases used in this chapter shall be interpreted as defined in Title 9, Chapter 2, of the California Government Code. (Initiative measure passed by vote of the people 6/7/94)

2.48.030 Campaign contribution limitation.
A. No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support or opposition to such candidate, including contributions to all committees supporting or opposing such candidate, to exceed $150.
B. Extension of credit for a period of more than 90 days is prohibited. Extension of credit for more than $1,000 is prohibited; provided, however, a candidate may personally borrow any amount and such funds shall be considered as a contribution by the candidate personally; provided, further, that such transaction is fully disclosed and documented in accordance with applicable law.
C. The terms of this section are applicable to any contributions made to a candidate or committee hereunder, whether used by such candidate or committee to finance a current campaign, to pay deficits incurred in a prior campaign, or otherwise.

D. If any person is found guilty of violating the terms of this section, the amount of funds received constituting such violation shall be paid by the candidate or committee treasurer who received such funds to the city finance director for deposit in the general fund of the city.
E. As used in this section, "extension of credit" means any loan, gift, forbearance or forgiveness of debt without adequate compensation. (Initiative measure passed by vote of the people 6/7/94)

2.48.040 Organizational contributions.
A. In any municipal election, no person shall make a contribution to any candidate or committee in excess of the limit in Section 2.48.030; provided, however, that this section shall not apply to contributions made to a committee which is organized solely for the purpose of supporting or opposing the qualification for the ballot or adoption of one or more city measures.
B. No person covered by this chapter shall knowingly aid, abet, recommend or participate in a violation of this section.
C. No person shall knowingly accept a payment or contribution made in violation of this section.
D. If a committee treasurer is offered a contribution which would be in excess of the limitation, the treasurer must refuse the contribution.
E. This section shall not prohibit a committee from delivering to a candidate any moneys legally received by said committee as contributions. (Initiative measure passed by vote of the people 6/7/94)

2.48.050 Duties of the city clerk.
In addition to other duties required under the law, the city clerk shall:
A. Supply every candidate for city election a copy of the ordinance codified in this chapter at the time of filing qualification documents for the election;
B. Report any violations of this chapter to appropriate law enforcement authorities. (Initiative measure passed by vote of the people 6/7/94)

2.48.060 Violation--Penalties.
Any person who knowingly or wilfully violates any provision of this chapter is guilty of a misdemeanor. In addition to any other penalty provided by law, any wilful or knowing failure to report contributions, done with intent to mislead or deceive, shall be punishable by a fine of not less than $500. (Initiative measure passed by vote of the people 6/7/94)

2.48.070 Effect of violation on outcome of election.
If after an election a candidate is convicted of a violation of any provision of this chapter, 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 she or he is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled as otherwise required by law. If a candidate is convicted of a violation of this chapter at any time prior to an election, her or his candidacy shall be terminated immediately and the person shall be no longer eligible for election. Any person convicted of a violation of this chapter shall be ineligible to hold city elective

office for a period of 5 years from and after the date of her or his conviction. (Initiative measure passed by vote of the people 6/7/94)