

ORDINANCE NO. 11-1291

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY AMENDING ARTICLE II (“ADMINISTRATION”) OF THE DOWNEY MUNICIPAL CODE BY ADDING CHAPTER 11 ADOPTING LOCAL CAMPAIGN FINANCE REFORM REGULATIONS.

THE CITY COUNCIL OF THE CITY OF DOWNEY DOES ORDAIN AS FOLLOWS:

SECTION 1. Article II of the Downey Municipal Code is amended by adding Chapter 11 to read as follows:

CAMPAIGN FINANCE REFORM REGULATIONS

SECTION 2940. PURPOSE.

The purpose of this chapter is to promote public trust in governmental institutions and the electoral process, reduce the appearance of corruption and to prevent individuals or organizations from using their financial strength to unduly influence Downey city government. Large campaign contributions associated with campaigns for local elective office can undermine the public's trust and confidence in the electoral process and lead to a public perception of abuse and corruption in the electoral process. It is the intent of this chapter to lower campaign costs and slow the increase in campaign spending by implementing comprehensive campaign finance reforms including a voluntary expenditure ceiling, mandatory contribution limits and an effective enforcement mechanism.

In furtherance of those goals, a reasonable campaign contribution limitation and a voluntary campaign expenditure limitation are hereby enacted that are similar to those enacted by other communities. In those communities, such limitations have not inhibited city council candidates' ability to conduct meaningful and effective campaigns, but they have limited the appearance and incidents of corruption and instilled greater public confidence in the electoral process.

The council finds that the city may enact an ordinance limiting campaign contributions in municipal elections as provided by Section 10202 of the Elections Code of the state. Further, pursuant to Section 81013 of the California Government Code, it is determined that the additional requirements imposed by this chapter do not preclude any person from complying with the Political Reform Act of 1974, being California Government Code Sections 81000 - 81016.

SECTION 2941. RELATIONSHIP TO THE POLITICAL REFORM ACT OF 1974.

This chapter is intended to supplement the Political Reform Act of 1974 as amended. 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 shall have the same meaning as when they are used in Title 9 of the California Government Code, in which the Political Reform Act is codified and as supplemented by Regulations of the Fair Political Practices Commission as set forth in Title 2, Division 6 of the California Code of

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Regulations, as well as any amendments to the Act or to the Regulations of the Fair Political Practices Commission.

SECTION 2942. DEFINITIONS.

As used in this chapter:

"Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to the Downey city council, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to the Downey city council, whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any city council member who is the subject of a recall election. An individual who becomes a candidate for the Downey city council shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214 of the Government Code.

"Contribution" means any payment made for political purposes for which full and adequate consideration is not made to the donor.

1. A **"contribution"** includes:
 - a. Any goods or services received by or requested by a city council candidate at no charge or at a discount from the fair market value, unless the discount is given in the regular course of business to members of the public;
 - b. Cash;
 - c. An extension of credit for more than thirty (30) days, other than loans from financial institutions given in the normal course of business.
2. A **"payment made for political purposes"** is a payment made:
 - a. For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a city council candidate or the recall of a city council member; or
 - b. Received by or made at the request of a candidate.

"Controlled Committee" means a committee which is controlled directly or indirectly by a candidate or which acts jointly with or in coordination with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if such candidate or the candidate's agent, or any other committee such candidate controls has a significant influence on the actions or decision of the committee or if such committee coordinates its expenditures with the expenditures of a candidate or

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a committee controlled by a candidate, whether or not such candidate is personally aware of such coordination.

“**Person**” means any 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.

SECTION 2943. CAMPAIGN CONTRIBUTION LIMITATIONS.

A. Declaration of Candidacy. No person may make, and no candidate or the controlled committee of that candidate may solicit, accept or receive, any campaign contribution until an FPPC Form 501, Candidate Intention Statement, has been filed. However, Form 501 is not required if no contributions are received and the only expenditure is from personal funds.

B. Contribution Limits.

1. Contribution Limits for Districts 1 Through 4.

a. For city council elections in Districts 1 through 4, candidates or their controlled committees who agree to limit their campaign expenditures pursuant to Section 2945 may accept contributions of up to one thousand five hundred dollars (\$1,500.00) from any single person in any single election. This contribution will be adjusted annually following the November, 2012 election in accordance with subsection (B)(3) below.

b. For city council elections in Districts 1 through 4, candidates or their controlled committees who do not agree to limit their campaign expenditures pursuant to Section 2945 may accept contributions of up to one thousand dollars (\$1,000.00) from any single person in any single election. This contribution will be adjusted annually following the November, 2012 election in accordance with subsection (B)(3) below.

2. Contribution Limits for District 5.

a. For city council elections in District 5, candidates or their controlled committees who agree to limit their campaign expenditures pursuant to Section 2945 may accept contributions of up to two thousand dollars (\$2,000.00) from any single person in any single election. This contribution will be adjusted annually following the November, 2012 election in accordance with subsection (B)(3) below.

b. For city council elections in District 5, candidates or their controlled committees who do not agree to limit their campaign expenditures pursuant to Section 2945 may accept contributions of up to one thousand five hundred dollars (\$1,500.00) from any single person in any single election. This contribution will be adjusted annually following the November, 2012 election in accordance with subsection (B)(3) below.

3. The contribution limits established in this Section shall be automatically adjusted annually, following the November, 2012 election, based on the increase in the

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Los Angeles-Long Beach-Anaheim, All Urban Consumers, Consumer Price Index for the prior twelve (12) month period ending on August 31 or \$500, whichever is less. Such adjustments shall be rounded to the nearest thousand dollars. The city clerk shall publish the contribution limitation amounts no later than February 1 of each year.

4. The contribution limits set forth in this Section do not apply to any contribution received by a candidate or his or her controlled committee if such contribution shall be used solely to retire campaign debt existing on or before the effective date of this chapter. If the contributions received are used, in whole or in part, to seek nomination for or election to the Downey city council, the contribution limits established in this Section shall apply.

C. Return of Contributions. Any amount in excess of the applicable contribution limit received from any single person shall be returned to the person making the contribution within fifteen (15) business days of the candidate or candidate's controlled committee's receipt of the excess contribution. The excess contribution and the date of its return shall be reported on a form provided by the city clerk.

D. Family Contributions. Contributions by a husband and wife shall be treated as contributions by separate persons and shall not be aggregated. Contributions by children under eighteen (18) years of age are presumed to be a contribution from the parent or guardian of the child.

E. Personal Funds. The limitations of this subsection shall not apply to contributions of a candidate's personal and community property funds to his or her controlled campaign committee on behalf of his or her own candidacy, but shall apply to contributions from the candidate's spouse or registered domestic partner.

SECTION 2944. LOANS.

A. Loans to a candidate or the candidate's controlled committee, whether made by a commercial lending institution in the regular course of business on the same terms available to members of the public or personal loans, shall not exceed fifteen thousand dollars (\$15,000) in any single election.

B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and such written agreement shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

C. Extensions of credit (other than loans pursuant to subsections (A) and (B)) for a period of more than thirty days (30) are subject to contribution limitations of this chapter.

SECTION 2945. VOLUNTARY EXPENDITURE LIMIT.

A. Voluntary Expenditure Limits by Districts.

1. Districts 1 through 4. For city council elections in Districts 1 through 4, no candidate or the candidate's controlled committee who voluntarily accepts the expenditure limit shall make campaign expenditures, including the

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expenditure of loan proceeds, in excess of an amount equal to thirty thousand dollars (\$30,000). This expenditure limit will be adjusted annually following the November, 2012 election in accordance with subsection (D) below.

2. District 5. For city council elections in District 5, no candidate or the candidate's controlled committee who voluntarily accepts the expenditure limit shall make campaign expenditures, including the expenditure of loan proceeds, in excess of an amount equal to fifty thousand dollars (\$50,000). This expenditure limit will be adjusted annually following the November, 2012 election in accordance with subsection (D) below.

B. Statement of Acceptance or Rejection. Each candidate must file with the city clerk a statement of acceptance or rejection of the voluntary expenditure limit prior to accepting any contributions.

C. Relationship to Contribution Limits. Any candidate who accepts the voluntary expenditure limit or any controlled committee of that candidate may not make campaign expenditures cumulatively in excess of the voluntary expenditure limit.

1. If a candidate voluntarily accepts such campaign expenditure limits, the candidate shall be subject to the campaign contribution limit set forth in Section 2943(B)(1)(a) or Section 2943(B)(2)(a).

2. If a candidate rejects such campaign expenditure limits, the candidate shall be subject to the campaign contribution limit set forth in Section 2943(B)(1)(b) or Section 2943(B)(2)(b).

D. Increase to Expenditure Limits. The voluntary expenditure limits established in subsection (A) shall be automatically adjusted annually, following the November, 2012 election, based on the increase in the Los Angeles-Long Beach-Anaheim, All Urban Consumers, Consumer Price Index for the prior twelve (12) month period ending on August 31 or \$500, whichever is less. Such adjustments shall be rounded to the nearest thousand dollars. The city clerk shall publish the voluntary expenditure limit no later than February 1 of each year.

E. Committee Expenditures. Expenditures by a candidate's controlled committee shall be deemed expenditures by the candidate for the purposes of this chapter.

F. Notification to voters. The ballot, ballot pamphlet and sample ballot shall prominently designate those candidates who voluntarily accept the expenditure limit.

SECTION 2946. VIOLATION AND PENALTY.

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A. Misdemeanor Actions. Any person who violates any provision of this chapter is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be guilty of a misdemeanor. Prosecution for violation of any provision of this chapter shall be commenced within four (4) years after the date on which the violation occurred.

B. Civil Actions. Any person who intentionally or negligently violates the contribution provisions of this chapter shall be liable in a civil action brought by the City Attorney or by a person residing within the jurisdiction for an amount not more than three (3) times the amount of the unlawful contribution.

C. Injunctive Relief. Any person residing in the jurisdiction, including the City Attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter.

SECTION 2. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid provisions or applications and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 3. The Interim City Clerk shall certify to the adoption of this Ordinance and cause the same to be published and posted in the manner required by law.

APPROVED AND ADOPTED this 13th day of September, 2011.

LUIS H. MARQUEZ
LUIS H. MARQUEZ, Mayor

ATTEST:

JOYCE E. DOYLE
JOYCE DOYLE, Interim City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF DOWNEY)

I HEREBY CERTIFY that the foregoing Ordinance No. 11–1291 was introduced at a regular meeting of the City Council of the City of Downey held on the 23rd day of _August, 2011, and adopted at a regular meeting of the City Council of the City of Downey held on the 13th day of September, 2011, by the following vote, to wit:

AYES:	Council Members:	Brossmer, Gafin, Guerra, Vasquez, Mayor Marquez
NOES:	Council Member:	None
ABSENT:	Council Member:	None
ABSTAIN:	Council Member:	None

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I FURTHER CERTIFY that a Summary of the foregoing Ordinance No. 11–1291 was published in a newspaper of general circulation in the City of Downey, on August 25, 2011 (after introduction), and on September 15, 2011 (after adoption, including the vote thereon). It was also posted in the regular posting places in the City of Downey on the same dates.

JOYCE E. DOYLE
JOYCE DOYLE, Interim City Clerk