

ORDINANCE NO. 2002-18

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FAIR POLITICAL
PRACTICES COMMISSION

AN ORDINANCE OF THE CITY OF GALT REPEALING AND REENACTING CHAPTER 2.54
RELATING TO CAMPAIGN CONTRIBUTION LIMITATIONS

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The People of the City of Galt do hereby ordain as follows:

SECTION 1. REPEAL. Chapter 2.54 of Title 2 of the Galt Municipal Code is hereby repealed.

SECTION 2. ADDITION. Chapter 2.54 is hereby added to Title 2 of the Galt Municipal Code to read as follows:

Chapter 2.54

CAMPAIGN CONTRIBUTION LIMITATIONS

Sections:

- 2.54.010 Intent and purpose.
- 2.54.020 Definitions.
- 2.54.030 Limitations on contributions by persons to candidates.
- 2.54.040 Limitations on contributions by persons to independent committees that support or oppose candidates.
- 2.54.050 Committee statement of organization.
- 2.54.060 Campaign statements.
- 2.54.070 Notice of independent expenditure.
- 2.54.080 Termination.
- 2.54.090 Requirements for mass mailing.
- 2.54.100 Education.
- 2.54.110 Violations; criminal.
- 2.54.120 Late filing of campaign statement.
- 2.54.130 Non filing of campaign statement.

Section 2.54.010 Intent and purpose.

A. The intent and purpose of the People of the City of Galt in enacting this chapter is to:

1. Place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections;
2. Supplement the requirements of state law with regard to the reporting of campaign contributions and expenditures in municipal elections;
3. Prevent the exercise of undue or improper influence, or its appearance, over elected officials by contributors to or independent supporters of political campaigns in municipal elections;
4. Inform the public of the sources and objects of campaign contributions and expenditures in municipal elections;
5. Encourage wide citizen participation in municipal elections; and
6. Limit the ever-increasing cost of municipal election campaigns.
7. Limit the applicability of this chapter to City of Galt municipal elections.

B. In view of these purposes, the People of the City of Galt find:

1. That municipal elections are municipal affairs and the regulation of campaign expenditures and contributions in municipal elections is not preempted by general state law and is a proper subject of municipal regulation under the authority granted to cities by Article XI, section 7 of the California Constitution and Elections Code section 22808;

2. That the prohibition of large contributions serves to help minimize the overall cost of municipal election campaigns; and

3. That a contribution limit of one hundred dollars (\$100) per individual contributor per candidate or measure will advance the goals of preserving citizen confidence and participation in the municipal election process and minimize increases in the overall costs of municipal elections, while preserving the First Amendment rights of citizens to express support for particular candidates and points of view.

Section 2.54.020 Definitions.

For the purposes of this chapter, the definitions set forth in the Political Reform Act (Gov. Code 81000 et seq.) shall govern, except as otherwise specified herein, as follows:

A. **Campaign statement** means an itemized report, prepared on a form provided by the city clerk, and containing the information required by this chapter.

B. **Candidacy period** means the period running from the day after an election until the day of the next election for the same.

C. **Candidate** means:

1. A person whose name is listed on a ballot for nomination for or election to any elective city office;

or

2. A person who is qualified to have write-in votes on his or her behalf counted by election officials;

or

3. A person who receives a contribution or makes an expenditure with the intent of bringing about his or her nomination or election; or

4. A person who gives his or her consent to another person to receive a contribution or make an expenditure with the intent of bringing about his or her nomination or election; or

5. Any city office holder who is the subject of a recall election;

6. Subsections C. 3 and C. 4 of this section apply whether or not the specific elective office for which the person will seek nomination or election is known at the time the contribution is received or the expenditure is made, and whether or not the person has announced his or her candidacy or filed a declaration of candidacy at the time the contribution is received or the expenditure is made.

D. **Clerk** means the city clerk.

E. **Closing date** means the date through which any report or statement filed under this chapter is required to be complete.

F. **Committee** means any person or combination of persons who directly or indirectly:

1. Receives contributions totaling one hundred dollars (\$100) or more in a calendar year; or

2. Makes independent expenditures of one hundred dollars (\$100) or more in a calendar year; or

3. Makes contributions of one hundred dollars (\$100) or more in a calendar year to or at the behest of a candidate, a committee, or a measure.

G. **Contribution** means:

1. A payment, a gift, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that the contribution is not made for political purposes;

2. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee, measure or elected officer unless full consideration is received for making the expenditure;

3. The term contribution includes:

a. The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events,

b. The candidate's own money or property used on behalf of his or her candidacy,

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c. The granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television or radio stations and newspapers not extended on an equal basis to all candidates for the same office,

d. The payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred at the behest of a candidate or committee without payment of full consideration,

e. The transfer of anything of value received by a committee from another committee, unless full consideration is received;

4. The term contribution does not include:

a. Amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution and are limited in accordance with the terms of this chapter; however, the fact that such amounts have been received shall be indicated in the campaign statement,

b. Payments made by an occupant of a home for costs related to any meeting or fundraising event held in the occupant's home if such costs are two hundred dollars (\$200) or less,

c. Payments made by an owner of a business for costs related to any meeting or fundraising event held on the business premises if such costs are two hundred dollars (\$200) or less,

d. Volunteer personal services or payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her,

e. Use of a candidate's own home in furtherance of his or her own candidacy.

H. **Controlled committee** means a committee which is controlled directly or indirectly by a candidate, or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, his or her agent, or any other committee controlled by the candidate has a significant influence on the actions or decisions of the committee.

I. **Elected officer** means any person who holds an elective office or has been elected to an elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer.

J. **Election** means any city, general, special or recall election held in the city.

K. **Expenditure** means:

1. A payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes;

2. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

L. **Fundraising event** means any political event organized for the purpose of raising funds to be used in support of or opposition to any candidate or measure.

M. **Gift** means:

1. Any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status;

2. Goods or services received by or behested by a candidate or committee 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;

3. Notwithstanding subsections M.1 and M.2 of this section, the term gift does not include:

a. Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed informational material,

b. Gifts which are not used and which, within thirty days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes,

c. Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; however, a gift from any such person is a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph and must be reported under section 2.54.060, under this chapter, or if, considering all the surrounding circumstances, it is clear that the gift is made for political purposes,

d. Campaign contributions required to be reported under this chapter,

e. Any devise or inheritance,

f. Personalized plaques, trophies and awards with an individual value of less than two hundred fifty dollars (\$250),

g. Gifts from foreign governments,

h. Meals or incidental gifts from the same person not exceeding a total of ten dollars (\$10) in a calendar month.

N. **Independent expenditure** means an expenditure made by any person in connection with a communication which is not made to or at the behest of the affected candidate or committee and which:

1. Expressly advocates the election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure; or

2. Taken as a whole and in context, unambiguously urges a particular result in an election.

O. **Mass mailing** means two hundred or more identical or nearly identical pieces of mail. Mass mailing does not include a form letter or other mail sent in response to a request, letter or other inquiry.

P. **Measure** means any proposition submitted to a popular vote at any election by action of the city council, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall procedure, whether or not it qualifies for the ballot.

Q. **Person** shall be as defined in Government Code section 82047.

R. **Slate mailer** means any mass mailing for or against one or more candidates or ballot measures.

Section 2.54.030 Limitations on contributions by persons to candidates.

A. No person shall make and no candidate or committee shall solicit or accept any contribution which would cause the total amount contributed by that person to that candidate, committee, or measure, including contributions to all committees controlled by the candidate to exceed one hundred dollars (\$100) for any single candidacy period.

B. The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign. Any such contributions shall be disclosed in accordance with section 2.54.060.

C. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated. Contributions by children under eighteen shall be treated as contributions by their parents and attributed either one-half to each parent or entirely to a single custodial parent.

D. No person shall make an anonymous contribution or contributions to a candidate or committee or any other person exceeding ten dollars (\$10) for any single candidacy period. An anonymous contribution of more than ten dollars (\$10) shall not be kept by the intended recipient but instead shall, within fourteen days of receipt, be paid to the city clerk for deposit in the general fund of the city.

E. Contributions in excess of the maximum amount provided in the first paragraph of this section shall, within fourteen days of receipt, either be (1) returned to the donor, or (2) paid to the city clerk for deposit in the general fund of the city.

F. A contribution shall not be considered received if it is not negotiated, deposited or utilized, and, in addition, either returned to the donor or paid to the city clerk for deposit in the general fund of the city within fourteen days of receipt.

Section 2.54.040 Limitations on contributions by persons to independent committees that support or oppose candidates.

A. No person shall make, and no person or committee shall solicit or accept, contributions in excess of one hundred dollars (\$100) from any person in any single candidacy period for or to a committee which makes independent expenditures of one hundred dollars (\$100) or more in support of or in opposition to any candidate or measure.

B. No committee which makes independent expenditures of one hundred dollars (\$100) or more in support of or in opposition to any candidate or measure shall accept any contribution in excess of one hundred dollars (\$100) from any person in any single candidacy period.

Section 2.54.050 Committee statement of organization.

A. Every committee which is a committee by virtue of subsection F. 1 of section 2.54.020 shall file with the city clerk a statement of organization within ten days after it has qualified as a committee.

B. The statement of organization shall include:

1. The name, street address and telephone number, if any, of the committee;
2. The full name, street address and telephone number, if any, of the treasurer and other principal officers;
3. The full name and office sought by any candidate and the title and ballot letter or number, if any, of any measure which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation;
4. The disposition of surplus funds which will be made in the event of dissolution.

C. Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed with the city clerk within ten days to reflect the change.

Section 2.54.060 Campaign statements.

A. Each candidate and committee shall file with the city clerk within the times specified in this section an original and one copy of campaign statements. When the city's technology allows, each candidate and committee shall have the option to file electronically. When electronic filing is available, the city clerk shall notify each candidate and committee with current filing obligations. Each campaign statement shall contain the following information:

1. The total amount of the contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received;
2. The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made;
3. The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of more than twenty-five dollars (\$25);
4. The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of twenty-five dollars (\$25) or less;
5. The balance of cash and cash equivalents on hand at the beginning and end of the period covered by the campaign statement;
6. If the cumulative amount of contributions (including loans) received from a person is more than twenty-five dollars (\$25) for that candidacy period and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:
 - a. His or her full name,
 - b. His or her street address,

- c. His or her occupation,
 - d. The name of his or her employer or, if self-employed, the name of the business,
 - e. The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan, and
 - f. The cumulative amount of contributions;
7. For each person, other than the filer, who is directly, indirectly or contingently liable for repayment of a loan received during the period covered by the campaign statement, all of the following:
- a. His or her full name,
 - b. His or her street address,
 - c. His or her occupation,
 - d. The name of his or her employer or if self-employed, the name of the business, and
 - e. The amount of his or her maximum liability;
8. The total amount of expenditures made during the period covered by the campaign statement to persons who have received twenty-five dollars (\$25) or more;
9. The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than twenty-five dollars (\$25);
10. For each person to whom an expenditure of twenty-five dollars (\$25) or more has been made during the period covered by the statement, all of the following:
- a. His or her full name,
 - b. His or her street address,
 - c. The amount of each expenditure,
 - d. A brief description of the consideration for which each expenditure was made,
 - e. In the case of an expenditure which is a contribution, the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer or committee; the full name of the candidate; and the office for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure to be voted upon, and
 - f. The information required in subsection 10. a. B e. of this section, for each person, if different from the payee, who has provided consideration for an expenditure or twenty-five dollars (\$25) or more during the period covered by the campaign statement.
11. For purposes of subsections 8., 9., and 10. only, in this section the term "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product;
12. The full name, residential or business address of the filer, or in the case of a committee, the name, street address and telephone number of the committee and of the committee treasurer.
- B. In addition to the other information to be included on the campaign statements set forth in this section, the pre-election campaign statement required to be filed pursuant to this section shall include an estimate of additional expenditures the candidate or committee reasonably expects be made on or before the date of the election. This section shall not be considered to be violated if the estimate is unintentionally at variance with the amount actually expended.
- C. Campaign statements shall be filed at the following times:
1. Semi-annual statements: Each year no later than July 31st for the period beginning January 1st and ending June 30th, and no later than January 31st for the period beginning July 1st and ending December 31st.
 2. Pre-election statements and special campaign statements and reports: In accordance with the times set forth in Sections 84200.5, 84200.6, 84200.7, 84200.8, 84202.5 and 84203 of the Government Code and the Friday immediately preceding the election.
 3. At such additional times as may be determined, by the city clerk: If the clerk receives a statement of organization by a committee and there is at least forty-five (45) days between the date of the statement and

when the next filing by the committee would be due, the clerk shall notify the committee in writing of the filing dates. Such dates, when set by the clerk, shall be consistent with the intent of this chapter and shall be at intervals of no more than one month.

D. A candidate or committee may use the forms for campaign statements required to be filed pursuant to the state Political Reform Act (Government Code ' 81000 *et seq.*) in order to comply with the reporting requirements of this section; provided, however, that such campaign statements shall contain the additional information required by this section.

Section 2.54.070 Notice of independent expenditures.

Any committee that makes independent expenditures of one hundred dollars (\$100) or more in support or in opposition to any candidate or measure shall notify the city clerk and all candidates running for the same seat within twenty-four hours by facsimile transmission, overnight delivery, or personal delivery each time this one hundred dollars (\$100) threshold is met. This notice shall include a copy of any mailing or advertisement produced, if applicable.

Section 2.54.080 Termination.

Candidates and committees qualifying under subsection F. 1 of section 2.54.020 shall file statements of termination with the city clerk in order to terminate their filing obligations under this chapter. Such statements of termination shall contain information sufficient to ensure that the candidate or committee will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. A candidate or committee may use the form statement of termination required to be filed pursuant to the state Political Reform Act (Government Code ' 81000 *et seq.*) in order to comply with this section.

Section 2.54.090 Requirements for mass mailing and distribution of written materials.

Requirements for mass mailing and distribution of written materials relating to a candidate or measure are as follows:

A. Except as provided in subsection B. of this section, if a candidate or committee sends a mass mailing or distributes written materials, the name of the candidate and/or committee sending the mass mailing or distributing the written materials, committee number (if applicable), address, and city of that candidate or committee must be shown on the outside of each piece of mail in the mass mailing and on the written materials and on at least one of the inserts included within each piece of mail.

B. If the sender of the mass mailing or distributor of the written materials is a single candidate or committee, the name of the candidate and/or committee sending the mass mailing or distributing the written materials, committee number (if applicable), address, and city of that candidate or committee need only be shown on the outside of each piece of mail and on the written materials.

C. If the sender of a mass mailing or distributor of the written materials is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subsection A. of this section.

D. The information required by this section must appear on the envelope and insert and on the written materials in at least six-point type, and in a printed or drawn box set apart from any other printed matter.

E. If a candidate or committee sends a slate mailer, it must comply with the notice requirements set out in Government Code Section 84305.5 and/or city Code section 2.54.070.

F. Written materials, as used herein, shall include 200 or more similar or substantially similar writings, documents, flyers, or pieces of paper distributed within a single candidacy period.

Section 2.54.100 Education.

The city clerk shall sponsor at least one training class for all candidates and committees whenever a municipal candidate or municipal measure is on a ballot. Each candidate shall be notified of the date, time and location of the class.

Section 2.54.110 Violations; criminal.

Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or six months imprisonment; or both. Prosecution for violation of this chapter must be commenced within four years after the date on which the violation occurred or four years from discovery of the violation.

If a person is convicted of a violation of this chapter after election, and is thereby made ineligible to hold public office under the laws of this state, the vacancy thus created will be filled in accordance with the procedures provided in the state Government Code. The district attorney of Sacramento County and the Galt city attorney are responsible for enforcing the criminal provisions of this chapter.

Section 2.54.120 Late filing of campaign statement.

If any person files a campaign statement after any deadline imposed by this chapter, he or she may, in addition to any other penalties or remedies established by this chapter, be liable to the city clerk in the amount of ten dollars (\$10) per day after the deadline until the statement is filed. Liability need not be enforced by the city clerk if, on an impartial basis, the clerk determines that the late filing was not willful and that enforcement of the liability will not further the purposes of this chapter, except that no liability shall be waived if a statement is not filed within three days for a pre-election campaign statement, and ten days for semi-annual campaign statements after the city clerk has sent specific written notice of the filing requirement. The city clerk shall deposit any funds received under this section into the general fund of the city. No liability under this section shall exceed the cumulative total amount of contributions stated in the late campaign statement or fifty dollars (\$50), whichever is greater.

Section 2.54.130 Non-filing of campaign statement.

If any person files a campaign statement after any deadline imposed by this chapter, he or she may, in addition to any other penalties or remedies established by this chapter, be liable to the city clerk in the amount of ten dollars (\$10) per day or two thousand dollars (\$2000) whichever is greater, for non-filing of a statement after the deadline until the statement is filed. Liability need not be enforced by the city clerk if, on an impartial basis, the clerk determines that the non-filing was not willful and that enforcement of the liability will not further the purposes of this chapter, except that no liability shall be waived if a statement is not filed within three days for a pre-election campaign statement, and ten days for semi-annual campaign statement after the city clerk has sent specific written notice of the filing requirement. The city clerk shall deposit any funds received under this section into the general fund of the city.

SECTION 3. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People hereby declares that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. NO MANDATORY DUTY OF CARE. This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a

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mandatory duty of care towards persons and property within or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect ten days after the date that the vote is declared by the City Council, in accordance with Section 9217 of the California Elections Code.

This ordinance was established by initiative and approved by the voters of the City of Galt on November 5, 2002 and was commonly known as Measure Q.