

Lemon Grove Municipal Code

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Title 9 PUBLIC WELFARE AND ELECTIONS

Chapter 9.08 ELECTION CAMPAIGN FINANCE AND CONTROL

9.08.010 Purpose of provisions.

A. Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have the potential to force candidates to raise larger percentages of money from interest groups with a specific financial stake in matters before city governmental bodies. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

C. Officeholders are responding to high campaign costs by raising ever-increasing amounts of money. This fundraising distracts public officeholders from important public matters and encourages contributions which may have the appearance of a corrupting influence.

D. High campaign costs discourage community members from running for public office because newcomers to the political process may lack access to the financial resources necessary to wage effective campaigns.

E. Limiting campaign contributions helps ensure equal opportunities for all candidates, promotes diversity among candidates, and strengthens the community's trust that their government is representative.

F. Limiting contributions to candidates and committees, to the full extent allowed by law, helps promote participation in government and foster trust that the democratic process is not subverted by affluent special interest groups.

G. Lemon Grove can best preserve its sense of community, safeguard its local democracy, and effectuate its commitment to fair public process by limiting all campaign contributions.

H. By enacting this chapter, the city council seeks: (1) to ensure that individuals in our society have a fair and equal opportunity to participate in the elective and governmental processes; (2) to reduce the influence of large contributors with a specific financial stake in matters before city governmental bodies; (3) to curtail overall expenditures in campaigns; (4) to reduce potential for the fundraising advantage of incumbents and thus encourage competition for elective office; (5) to improve the disclosure of contribution sources in reasonable and effective ways; and (6) to help maintain public trust in governmental and electoral institutions. (Ord. 406 § 3, 2011)

9.08.020 Definitions.

When used in this chapter, the following words and terms, unless the text indicates a different meaning, shall be interpreted as follows:

A. "Candidate" means an individual who has qualified to be listed on a ballot or who has solicited write-in votes on his or her behalf for election to the Lemon Grove city council or who receives a contribution or makes an expenditure or gives consent for any other person to receive a contribution or to make an expenditure with a view to bringing about such person's election to such office, whether or not the specific elective office for which such person will seek election is known at the time the contribution is received or the expenditure is made, and whether or not such person has announced candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any office holder who is subject of a recall petition. "Candidate," as referred to in this chapter, only applies to persons seeking the offices of mayor or city council member for the city of Lemon Grove.

B. "Committee" means any person or combination of persons who directly or indirectly receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, as defined in this chapter, including any committee or subcommittee of a political party, whether national, state or local, if:

1. Contributions received total one thousand dollars or more annually for a candidate committee or candidate controlled committee; or

2. Expenditures and contributions made in support or opposition to a Lemon Grove candidate, as defined in this Chapter, total one thousand dollars or more annually.

Notwithstanding the foregoing, for the purposes of all filing requirements in this chapter, "committee" shall only mean a candidate's controlled committee or a committee formed or primarily to support or oppose a candidate, or a city general purpose committee active only in the city.

C. "Contribution" means a contribution or any payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is:

1. For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates; or

2. Received by or made at the behest of the following or any agent thereof:

a. A candidate,

b. A controlled committee,

c. An official committee of a political party, including a state central committee, county central committee, assembly district committee or any subcommittee of such committee, or

d. An organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union or corporation;

3. The term "contribution" includes:

a. Any payment made to a person or organization other than a candidate or committee, when, at the time of making the payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions or expenditures. If the donor knows or has reason to know that only part of the payment will be used to make contributions or expenditures, the payment shall be apportioned on a reasonable basis in order to determine the amount of the contribution. There shall be a presumption

that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the person or organization has made expenditures or contributions of at least one thousand dollars in the aggregate on an annual basis,

- b. A candidate's own money or property used on behalf of his or her candidacy,
 - c. Any goods or services received by or behested to 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;
4. Notwithstanding any other provision of this section, the term "contribution" does not include:
- a. An expenditure made at the behest of a candidate in connection with a communication directed to voters or potential voters as part of voter registration activities or activities encouraging or assisting persons to vote, if the expenditure does not constitute express advocacy,
 - b. Volunteer personal services or payments made by a person for his or her own travel expenses, if such payments are made voluntarily without any understanding or agreement that he or she will be repaid,
 - c. A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office, if the total cost of the meeting or fundraising event is five hundred dollars or less, exclusive of the fair rental value of the premises,
 - d. A payment made at the behest of a candidate, which is for a communication by the candidate or any other person, that meets all of the following:
 - i. Does not contain express advocacy,
 - ii. Does not make reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for office, and
 - iii. Does not solicit contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate's opponent;
5. A payment made by a candidate or committee for another candidate to attend the paying candidate's or committee's fundraiser;
6. A payment made by a candidate for a communication publicizing his or her endorsement by another candidate, provided that the communication does not expressly advocate the nomination or election of the endorsing candidate or the defeat of an opponent of the endorsing candidate;
7. A payment made by any broadcasting station (including a cable television operator, programmer or producer), website, or a regularly published newspaper, magazine or other periodical of general circulation, including any Internet or electronic publication, that routinely carries news and commentary of general interest, for the cost of covering or carrying a news story, commentary or editorial;
8. A payment made by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This exception applies only to the costs regularly incurred in publication and distribution. Any additional costs incurred are contributions, including, but not limited to, expanded circulation; substantial alterations in size, style, or format; or a change in publication schedule, such as a special edition;

9. A payment for a debate or other forum sponsored by a nonpartisan organization in which at least two candidates appearing on the ballot for the same elective office were invited to participate;

10. A payment for a debate or other forum sponsored by a political party or affiliated committee in which a majority of the candidates for that party's nomination were invited to participate;

11. A payment made by a bona fide service, social, business, trade, union or professional organization or group for reasonable overhead expenses associated with the organization's regularly scheduled meeting at which a candidate speaks, if the organization pays no additional costs in connection with the speaker's attendance;

12. A payment received by, directed by, or made at the behest of a candidate for personal purposes;

13. A payment made by a candidate for a communication in support of or opposition to a ballot measure, if the communication features the endorsing candidate or clearly identifies him or her as the sponsor of the communication;

14. A payment by a sponsoring organization for the establishment and administration of a sponsored committee, provided such payments are reported. Any monetary payment made under this subdivision to the sponsored committee shall be made by separate instrument. A "sponsoring organization" may be any person (see California Government Code Section 82047) except a candidate or other individual (see California Government Code Section 82048.7). "Establishment and administration" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee;

15. A payment by a non-partisan organization, that is not affiliated with any candidate, political party, or committee and has not endorsed or contributed to candidates, to create and operate a website that posts political information designed to encourage individuals to vote or to register to vote and presents any candidate in a nonpartisan manner, giving reasonably equal treatment to candidates for the same office or to both sides of a measure;

16. Uncompensated Internet activity by an individual supporting or opposing a candidate as stated in California Fair Political Practices Commission Regulation 18215.2, as amended;

17. A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

D. "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 he or she, his or her agent or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

E. "City election" means any primary, general, or special election, including recall election, held within the city of Lemon Grove for elective city office. Each general or special election is a separate election for purposes of this chapter.

F. "Elective city office" means member of the city council, including the mayor.

G. "Enforcement authority" shall mean the officer, agent or organization designated by action of the city council to enforce the provisions of this article. Nothing in this article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this article under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

H. "Expenditure" means 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. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

I. "Independent expenditure" means an expenditure by a person for a communication expressly advocating the support of or opposition to a clearly identified candidate which is not made with the cooperation or with the prior consent of, a candidate or his or her agent or a controlled committee of a candidate.

J. "Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

K. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, labor union, and any other organization or group of persons acting in concert. (Ord. 406 § 3, 2011)

9.08.030 Campaign contributions.

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 annually (calendar year) in support of or opposite to such candidate, to exceed one thousand dollars.

B. Extensions of credit for a period of more than thirty days are prohibited. Extensions of credit of more than one thousand dollars annually are prohibited. Provided, however, a candidate may personally borrow an unlimited amount and such funds shall be considered a contribution by the candidate him or herself; 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 prior campaigns 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 treasurer for deposit in the general fund of the city.

E. The one thousand dollar limit specified in subsection A, shall be adjusted in February of each odd numbered year commencing in 2013 for changes in the consumer price index for the San Diego Metropolitan Area, CPI-U rounded to the nearest five dollars or other comparable cost of living index chosen by the city council. (Ord. 406 § 3, 2011)

9.08.040 Supplemental disclosure requirements for independent expenditures.

Every independent expenditure report filed in connection with a city election shall contain the following information, in addition to the information required by Government Code Section 84203.5, as amended.

A. The total amount of expenditures related to the candidate during the period covered by the report made to persons who have received less than one hundred dollars;

B. The total amount of expenditures related to the candidate during the period covered by the report made to persons who have received one hundred dollars or more;

C. For each person to whom an expenditure of one hundred dollars or more related to the Candidate has been made during the period covered by the report and for each person who has provided consideration for an expenditure of one hundred dollars or more during the period covered by the report:

1. His or her full name;
2. His or her street address;
3. If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee;
4. The amount of the expenditure;
5. A brief description of the consideration for which each such expenditure was made and the value of the consideration if less than the total amount of the expenditure; and
6. The cumulative amount of expenditures to such person. (Ord. 406 § 3, 2011)

9.08.050 Enforcement authority.

- A. The enforcement authority, appointed by the city council, shall enforce the provisions of this chapter.
- B. Any person who believes that a violation of any portion of this chapter has occurred may file a complaint with the enforcement authority by depositing such complaint in the office of the city clerk. The city clerk shall forward the complaint to the enforcement authority within three working days. If the enforcement authority determines that there is reason to believe a violation of this chapter has occurred, it shall make an investigation. Whenever the enforcement authority has reason to believe a willful violation of this chapter has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.
- C. The enforcement authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this chapter and may demand records of campaign contributions and expenses at any time.
- D. The enforcement authority shall determine whether required statements and declarations have been filed as required, and, if so, whether they conform with the requirements of this chapter.
- E. The enforcement authority may enforce this chapter using civil, administrative, or criminal remedies in its discretion. The enforcement authority may seek administrative remedies pursuant to Chapter 1.24 of the Lemon Grove Municipal Code. (Ord. 406 § 3, 2011)

9.08.060 Violation—Penalty.

Any person who violates any provision of this chapter is guilty of a misdemeanor, infraction or subject to a civil penalty dependent upon the particular circumstances of the violation. In addition to any other penalty provided by law, any willful or

knowing violation of this chapter, done with intent to mislead or deceive, shall be punishable by a fine of not less than five hundred dollars per occurrence. (Ord. 406 § 3, 2011)

9.08.070 Rules of construction.

This chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this chapter which does not directly affect the jurisdiction of the city to control campaign contributions and expenditures shall avoid the effect of this chapter. This chapter shall be interpreted in a manner consistent with the Federal Constitution, State Constitution, and the California Political Reform Act (Government Code Section 81000 et seq.) including its implementing regulations, as amended. (Ord. 406 § 3, 2011)