

**ORDINANCE NO. 2009-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING CHAPTER 1.25 TO NEWPORT BEACH MUNICIPAL CODE PERTAINING TO MUNICIPAL ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE CONTROL**

NOW THEREFORE, the City Council of the City of Newport Beach, California, HEREBY ORDAINS as follows:

**SECTION 1:** Chapter 1.25 of Newport Beach Municipal Code is hereby amended to read as follows:

**Sections:**

- 1.25.010 Purpose and Findings.
- 1.25.015 Intent.
- 1.25.020 Definitions.
- 1.25.030 Campaign Contributions--Limitations.
- 1.25.040 Penalties.
- 1.25.050 Severability.
- 1.25.010 Purpose and Findings.

The City Council of the City of Newport Beach finds and declares as follows:

- A. The primary purpose of the ordinance codified in this chapter is to prevent corruption, or the appearance of corruption, which results from the real or imagined influence of large contributions on the conduct or actions of candidates elected to office.
- B. The limits on contributions to candidates and controlled committees imposed by this chapter will encourage candidates and their supporters to raise funds from a greater number of persons than would otherwise involve themselves in the political process.
- C. Contribution limits encourage persons to expend funds that would otherwise be contributed to candidates on direct political expression which will broaden the discussion and debate on issues of importance to the electorate.
- D. These contribution limits will not reduce the total amount of money potentially available, or used, to promote expression in the context of a political campaign, but will increase the amount of independent expenditures and encourage the dissemination of political expression through a wider variety of media sources.

- E. Local campaign contribution limits are municipal affairs and this chapter is authorized pursuant to the laws and Constitution of the State of California, as well as the Charter of the City of Newport Beach.
- F. The contribution limitations imposed by this chapter are consistent with the spirit, intent and letter of the Political Reform Act of 1974.

**1.25.015 Intent.**

The intent of this chapter is to impose limits on the amount of money that may be contributed to a candidate or controlled committee to achieve the purposes specified in Section 1.25.010. This chapter is not intended, and shall not be construed, to establish any reporting, filing, or procedural requirement in addition to, or different from, the Political Reform Act or the regulations adopted by the Fair Political Practices Commission (FPPC).

**1.25.020 Definitions.**

The terms used in this chapter shall have the same definitions as specified in the Political Reform Act, and FPPC regulations. In those cases where definitions in the Political Reform Act or FPPC regulations contain a specific reference to any State election, candidate, or electoral criteria, the definition shall be modified to reflect the municipal equivalent, or in the absence of a municipal equivalent, to delete the specific reference.

**1.25.030 Campaign Contributions--Limitations.**

- A. Contributions by Persons to Candidates or Controlled Committee(s). No person shall make any contribution to a candidate and/or the candidate's controlled committee(s), with respect to any single election, which would cause the total amount contributed by such person to the candidate and the candidate's controlled committee(s), when combined, to exceed one thousand dollars (\$1,000.00).
- B. Acceptance or Solicitation by Candidates or Controlled Committee(s). No candidate or controlled committee shall solicit or accept any contribution from any person which would cause the total amount contributed by such person, with respect to any single election, to the candidate and the candidate's controlled committee(s), when combined, to exceed the sum of one thousand dollars (\$1,000.00).
- C. Contributions by Candidates. The provisions of subsections (A) and (B) shall not apply to contributions from a candidate to his or her controlled committee(s) nor to the expenditure, by the candidate, of his or her personal funds.
- D. Contributions to Committees. Contributions made to any person or a committee, and not to a candidate or controlled committee, shall not be considered as contributions to the candidate or controlled committee notwithstanding the fact that such person or committee supports the candidate or uses the contribution with a view to bringing about the nomination or election of the candidate.

- E. **Anonymous Contributions.** No candidate or controlled committee shall accept anonymous contributions, with respect to any single election, which would cause the total amount of anonymous contributions received by the candidate and the candidate's controlled committee(s), when combined, to exceed two hundred dollars (\$200.00). Subject to the provisions of State law, in the event any candidate or controlled committee(s) receive(s) an anonymous contribution that would, if accepted in whole or in part, result in a violation of this subsection, the candidate or controlled committee(s) shall promptly pay that sum to the City for deposit into the general fund to be used to defray the costs of municipal elections.
- F. **Adjustment for Cost of Living Changes.** The campaign contribution limits and contribution acceptance and solicitation limits set forth in Subsections 1.25.030(A) and (B) shall be adjusted in February at two (2) year intervals beginning in 2011 by the City Clerk to reflect annual changes in the Consumer Price Index (CPI) over the previous two (2) year period. The City Clerk shall use the annual percent change in the Consumer Price Index for All Urban Consumers (CPI-U) in the selected local area of Los Angeles – Riverside – Orange County, California to determine the appropriate rate of increase or decrease. Adjustments made pursuant to this subsection shall be rounded to the nearest one hundred dollars (\$100.)

1.25.040 Penalties.

- A. Any person who knowingly and willfully violates the provisions of Section 1.25.030 is guilty of a misdemeanor.
- B. In addition to any criminal penalty, if, after a candidate is elected, the candidate is convicted of a violation of the provisions of Section 1.25.030, the election to office of such candidate shall be void and the office shall become vacant as of the date of conviction or on the date upon which the candidate would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the provisions of 403 of the City Charter. If a candidate is convicted of a violation of Section 1.25.030 at any time prior to the election of the candidate, the candidacy shall be terminated immediately and the candidate shall no longer be eligible for election.
- C. The City Attorney shall have the power to enforce this chapter only to the extent that office has authority to enforce provisions of the Political Reform Act. In the event that the City Attorney is not authorized to enforce the provisions of this chapter, the District Attorney shall generally function as criminal prosecutor and the City Council shall have the authority to appoint a special counsel to enforce civil penalties as provided in subsection (B), or to function as the criminal prosecutor in the event that the District Attorney is unable or unwilling to do so.

1.25.050 Severability.

If any provision of the ordinance codified in this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the ordinance codified in this chapter to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of the ordinance codified in this chapter are severable.

**SECTION 2:** That if any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one to more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 3:** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption.

This Ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 23<sup>rd</sup> day of June, 2009, and adopted on the 14<sup>th</sup> day of July, 2009, by the following vote, to-wit:

AYES, COUNCILMEMBERS Henn, Rosansky,

Curry, Webb, Daigle, Mayor Selich

NOES, COUNCILMEMBERS Gardner

ABSENT, COUNCILMEMBERS None

MAYOR

(d)(5)

Edward Selich

ATTEST:

By

(d)(5)

Lailani Brown, City Clerk



APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

(d)(5)

By

David R. Hunt, City Attorney

*Amending Chapter 1.25 - Final Post 1st Reading*

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.  
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2009-14 was duly and regularly introduced on the 23rd day of June, 2009, and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 14th day of July, 2009, and that the same was so passed and adopted by the following vote, to wit:

- Ayes: Henn, Rosansky, Curry, Webb, Daigle, Mayor Selich
- Noes: Gardner
- Absent: None
- Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of July, 2009.

(d)(5)

\_\_\_\_\_  
City Clerk  
City of Newport Beach, California



(Seal)

**CERTIFICATE OF PUBLICATION**

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.  
CITY OF NEWPORT BEACH }

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2009-14 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a daily newspaper of general circulation on the following date, to wit: July 18, 2009.

In witness whereof, I have hereunto subscribed my name this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
City Clerk  
City of Newport Beach, California