Chapter 2.35
ELECTIONS

Sections:

Article I. In General

Article I. In General

2.35.010 Municipal election dates.

The date on which the city's municipal election occurs shall be the same as, and consolidated with, the date of election for the statewide general election. The first consolidated election shall occur no sooner than the first Tuesday after the first Monday of November, 2000, and each succeeding election shall occur on the first Tuesday after the first Monday of November of each succeeding even-numbered year.

(Code 1965, § 2103; Code 2002, § 26-1. Ord. No. 1236; Ord. No. 90-29; Ord. No. 96-9; Ord. No. 98-4)

Article II. Campaign Contributions and Expenditures; Fair Campaign Practices

2.35.020 Definitions.

Ballot measure relating to city law. A ballot measure relating to city law includes initiatives, referendums, resolutions, advisory measures, and measures which are required by law to be submitted to a vote by the electorate.

City election. A city election includes any municipal election to fill public offices in the city, to hold recall elections, and to vote on ballot measures relating to city law.

Election cycle. For each elective city office, the term "election cycle" means a two-year period of time commencing January 1st after an election and ending at midnight on December 31st for the same office. The offices of City Council and City Treasurer shall be subject to the election cycle as stated herein.

Person. Person means an 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.

Political Reform Act. The Political Reform Act of 1974 and as it may be amended from time to time.

Special election cycle. Special election cycle means the day on which the office becomes vacant until the day of the special election.

All other words and terms shall have the meanings ascribed to them by the definitions set forth in the Political Reform Act.

(Code 1965, § 4910; Code 2002, § 26-31. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 92-21; Ord. No. 97-5; Ord. No. 02-1; Ord. No. 09-1)

Cross references: Definitions generally, § 1.05.100.

2.35.030 Contribution limitations.

(a) *Purpose.* The purpose of this section is to prevent improper influence over elected officials and to prevent the

appearance of such improper influence.

(b) *Monetary contributions by persons.* In any election cycle or special election cycle, no person shall make and no candidate for elective city office or campaign treasurer shall accept any monetary contribution which would cause the total amount of monetary contributions contributed by such person to that candidate for elective city office or any committees controlled by that candidate to exceed $1,000.00.

(c) *Monetary contributions by political committees.* In any election cycle or special election cycle, no political committee shall make and no candidate for elective city office or campaign treasurer shall accept any monetary contribution which would cause the total amount of monetary contributions contributed by such political committee to that candidate for elective city office or any committees controlled by a candidate to exceed $1,500.00.

(d) *In-kind contributions.* In any election cycle or special election cycle, no candidate for elective city office or campaign treasurer shall accept any in-kind goods or services (non-monetary contributions) which would cause the total amount contributed, (monetary and non-monetary) to that candidate, including contributions to all committees controlled by that candidate, to exceed the following amounts: By a person, $2,000.00; by a political committee, $5,000.00. In no event shall the aggregate of in-kind contributions exceed the sum of $6,000.00 from all sources.

(e) *Limitations applicable to ballot measure committees controlled by a candidate.* In the event a candidate for elective city office forms or controls a committee which supports or opposes a ballot measure relating to city law, the candidate and the committee shall cumulatively be subject to the contribution limitations set forth in this chapter. Ballot measure committees organized to support or oppose a matter related to city law which are not controlled by a candidate for elective city office shall not be subject to the contribution limitations set forth in this chapter.

(f) *Exclusions from contribution limitations.* Payments for communications to members, employees or shareholders or families of members, employees or shareholders of an organization for the purpose of supporting or opposing a candidate or ballot measure, shall not be considered contributions or independent expenditures, if the requirements of Government Code Section 85312 are satisfied.

(g) *Return of excess contributions.* Contributions, which either in the aggregate or on their face exceed the contribution limits of this chapter, shall be deemed not to have been accepted, if returned prior to deposit or negotiations, within the earliest of the following deadlines:

   (1) Within ten working days of receipt; or

   (2) By the reporting deadline for the reporting period in which the contribution is received; or

   (3) In the case of a late contribution, within 24 hours of receipt.

(4) A non-monetary contribution shall be returned by returning to the contributor either the non-monetary contribution or its monetary equivalent. It is permissible to return only the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of this chapter.

(h) *Return of unrecorded contributions.* The candidate or committee shall return within 60 days any contribution (monetary or non-monetary) of $50.00 or more of which the candidate or committee does not have on file the records of the candidate or committee, the name, address, occupation, and employer of the contributor.

(i) *Majority membership on certain related committees prohibited.* To prevent circumvention of the contribution limitations of this chapter, no primarily formed committee which supports or opposes a candidate or candidates for elective city office shall have as a majority of its officers individuals who serve as the majority of officers on any other committee which supports or opposes the same candidate or candidates. This subsection shall not apply to treasurers of primarily formed committees if these treasurers do not participate in any way in a decision on whether the candidate or candidates supported by the primarily formed committee accepts particular contributions.

(j) *Other committees.* Primarily formed committees or similarly organized committees formed or existing primarily to support or oppose a single candidate or a group of specific candidates for elective city office being voted upon in the same city election shall be subject to the campaign contribution limits and disclosure requirements of this chapter. Committees organized solely to support or oppose ballot measure(s) relating to city law shall not be subject to the campaign contribution limit provisions of this chapter, but shall be subject to the disclosure provisions of this chapter and the Political Reform Act.

(Code 1965, § 4911; Code 2002, § 26-32. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 02-1; Ord. No. 92-21; Ord. No. 97-5)

2.35.040 Applicability of campaign disclosure requirements to committee or individual filing recall petition, initiative petition or referendum petition.
In the event a recall petition, initiative petition, or referendum petition relating to city law is filed, the committee or individual filing the petition shall be subject to the same campaign disclosure provisions as are applicable to candidates for elective city office.

(Code 1965, § 4912; Code 2002, § 26-33. Ord. No. 92-21)

2.35.050 Contributions for legal defense.
A candidate for elective city office may receive contributions subject to the limitations contained herein if all the requirements of Government Code Section 85304 are satisfied.

(Code 1965, § 4912; Code 2002, § 26-34. Ord. No. 97-5; Ord. No. 02-1)

2.35.060 Additional campaign statements required.

(a) *Purpose.* The purpose of this section is to further the city's goal of an informed electorate.

(b) *Campaign statements.* In addition to the campaign statements which every candidate, elected officer, and committee involved in a city election is required to file under Government Code § 84200 et seq., the following campaign statement shall be filed with the City Clerk no later than 3:00 p.m. on the last Friday before a city election:

> (1) A campaign statement covering the period between the closing date of the last campaign statement filed under the Political Reform Act and the last Tuesday before the city election. This statement shall include the same information required by the Political Reform Act and section 2.35.070 of this Code.

(c) *Late contribution reports.*

> (1) A late contribution report which reports all contributions of $250.00 or more received from any source from the end of the reporting period identified in subsection (b)(1) above and the date of the city election.

> (2) The late contribution report filings required by this section shall be made within 24 hours of receipt and in the manner provided for in Government Code § 84203(b).

(Code 1965, § 4912; Code 2002, § 26-35. Ord. No. 85-15; Ord. No. 88-2; Ord. No. 89-10; Ord. No. 92-21; Ord. No. 02-1)

2.35.070 Required disclosure of contributions and expenditures.

(a) Each campaign statement required by the Political Reform Act or by section 2.35.040 of this Code shall contain the same information as required in Government Code § 84211, however:

> (1) If the cumulative amount of contributions (including loans) received from a person is $50.00 or more, and a contribution or loan had been received from that person during the period covered by the campaign statement, the campaign statement shall be itemized as required by Government Code § 84211(f) (Contributions).

> (2) For each person to whom an expenditure of $50.00 or more has been made during the period covered by the campaign statement, the campaign statement shall be itemized as required by Government Code § 84211(k) (Expenditures).

(b) In addition to the information required in subsection (a) above, the campaign statement must contain the following information:

> (1) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of $50.00 or more.

(2) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than $50.00.

(3) The total amount of expenditures made during the period covered by the campaign statement to persons who have received $50.00 or more.

(4) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than $50.00.

(Code 1965, § 4914; Code 2002, § 26-36. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 92-21; Ord. No. 02-1)

2.35.080 Review of campaign statements by City Clerk and City Attorney.

(a) In addition to other duties required by law, the City Clerk shall monitor all campaign statements filed with the city. The City Clerk shall:

(1) Determine whether the campaign statement required by this article has been timely filed with the City Clerk; and

(2) Determine if any reported contributions on any campaign statement exceed the allowable maximums established by this article.

(b) The candidate or committee may correct any mistake made in the preparation of any statement within five days after receipt of the notice from the City Clerk or City Attorney.

(c) The City Clerk shall report, to the City Attorney, any apparent violations of this article which have not been corrected or cannot be corrected by the candidate or committee.

(d) The City Clerk and City Attorney shall each compile and maintain, for five years, a list of statements, or portions of statements, which the City Clerk or City Attorney is required to review. Each list shall be indexed by the candidate's or committee's name.

(Code 1965, § 4915; Code 2002, § 26-37. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 92-21; Ord. No. 09-1)

2.35.090 Informational meeting.

The City Clerk and City Attorney shall invite all qualified candidates for city office to a meeting, in the week following the close of the nomination period for city office, to inform candidates of the provisions of this article.

(Code 1965, § 4916; Code 2002, § 26-38. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 92-21)

2.35.100 Candidates' voluntary fair campaign pledge.

(a) *Purpose.* The purposes of this section are to emphasize the need for fair campaigns, to make all candidates

for city offices aware of the city's commitment to fair campaigns, to specify the characteristics of a fair campaign, and to give every candidate for city office the opportunity to commit himself or herself to fair campaign practices.

(b) *Pledge.* With the declaration of candidacy, the City Clerk shall issue, to each candidate for city office, a form for a voluntary campaign pledge, which shall read as follows:

FAIR CAMPAIGN PLEDGE

1. I shall conduct my campaign for city office openly and fairly.

2. I shall discuss the issues and participate in fair debate with respect to my views and qualifications.

3. I shall not engage in, or permit, defamatory attacks on the character of my opponents; nor shall I engage in unwarranted invasions of personal privacy unrelated to campaign issues.

4. I shall not, at any time, use or permit the use of any campaign material or advertisement which misrepresents, distorts, or otherwise falsifies the facts regarding any candidate or the candidate's position on issues.

5. I shall clearly identify myself, or my campaign committee(s), as the sender of all of my campaign mailings.

6. I shall personally approve, in writing, all of my campaign materials, advertisements, or mailings prior to their use.

7. I shall publicly repudiate support derived from any individual or group whose activities would violate this Fair Campaign Pledge.

8. I shall file all campaign statements as required by the California Political Reform Act and city ordinance on time, with full disclosure of campaign contributions and expenditures.

9. I, the undersigned candidate for election to a city office in the City of Concord, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Date:

Signature:

Please print name, office sought, and date of election.

(c) *Voluntary nature.* Each candidate may choose to sign or not sign the fair campaign pledge.

(d) *Filing.* The fair campaign pledge may be filed with the declaration of candidacy.

(e) *Public record.* Every fair campaign pledge is a public record which shall be open to inspection at all times during city business hours.

(f) *Press release.* At the close of the nomination period for city office, the City Clerk shall issue a general press release stating the name of each candidate for city office who has, and who has not, subscribed to the fair campaign pledge.

(Code 1965, § 4917; Code 2002, § 26-39. Ord. No. 85-15; Ord. No. 89-10; Ord. No. 92-21; Ord. No. 02-1 § 6)

2.35.110 Criminal enforcement; civil action; injunctive relief; payment of cost of litigation.
(a) *Criminal enforcement.*

> (1) Any person who violates any provision of this article is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this article or who aids or abets any other person in the violation of any provision of this article shall be liable under the provisions of this section.

> (2) Prosecution of a violation of any provision of this article shall be commenced within two years after the date of the violation.

> (3) No person convicted of a misdemeanor or infraction under this article shall act as a city contractor or consultant for a period of four years following the date of conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable.

> (4) For the purposes of this section, a plea of nolo contendere shall be deemed a conviction.

(b) *Civil action.*

> (1) Any person who intentionally or negligently violates any provisions of this article shall be liable in a civil action brought by the City Attorney or by any person residing within the city for not more than three times the amount the person failed to report properly, unlawfully contributed, expended, gave, or received; but in no event shall the person be liable for more than $5,000.00 per violation.

> (2) If two or more persons are responsible for any violation, they shall be jointly and severally liable.

> (3) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited into the city's general fund. In an action brought by the City Attorney, the entire award shall be paid to the general fund.

(4) No civil action alleging a violation of this article may be filed more than two years from the date the violation occurred.

(c) *Injunctive relief.* Any person residing within the city, or the City Attorney, may seek injunctive relief to enjoin violations or to compel compliance with the provisions of this article.

(d) *Payment of cost of litigation.* The court may award to a party, other than an agency, who prevails in any civil action authorized by this article, his costs of litigation, including reasonable attorney's fees. If the costs or fees are awarded against the city, the payment of such awards shall be the responsibility of the city, subject to Council approval.

(Code 1965, § 4918; Code 2002, § 26-40. Ord. No. 92-21; Ord. No. 02-1)

Article III. District Elections

2.35.120 By-district electoral system for five Councilmembers.

(a) Pursuant to California Government Code Sections 34886 and 34871(c), Councilmembers shall be elected by districts in five single-member districts.

(b) Except as provided in subsection (c) of this section, the Councilmember elected to represent a district must live in that district and be a registered voter in that district, and any candidate for City Council must live in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code Section 34882 and Elections Code Section 10227.

(c) A Councilmember in office at the time the ordinance codified in this article takes effect shall continue in office until the expiration of the full term to which he or she was elected or appointed and until his or her successor is qualified. If vacancies in Councilmember offices elected at-large occur before expiration of the full term thereof, such vacancies may be filled according to law from the city at-large.

(d) Upon expiration of the full term of each Councilmember elected at-large, that Councilmember's successor shall be elected on a by-district basis in the districts established in Section 2.35.130 and as provided in Section 2.35.140. A vacancy in a Councilmember office elected by-district shall be filled according to law by a person qualified to hold the office, who lives in the district.

(Ord. No. 18-2, § 2)

2.35.130 Districts.

(a) Elections shall take place, and Councilmembers shall be elected, "by districts" as that term is defined in California Government Code Section 34871, meaning one member of the City Council shall be elected from each district, by the voters of that district alone.

(b) The districts are as follows:

District 1: All that portion of the City of Concord lying northerly of the following described line: Beginning at the intersection of Bailey Rd and the northerly boundary of the City of Concord, and proceeding southerly to boundary of the City of Concord, and proceeding southwesterly along the boundary of the City of Concord to Ayers Rd, and proceeding southerly along Ayers Rd to Clayton Rd, and proceeding easterly along Clayton Rd to Alberta Way, and proceeding southerly along Alberta Way to Ygnacio Valley Rd, and proceeding westerly along Ygnacio Valley Rd to 37°56'54"N and 121°58'45"W, and proceeding northerly to 37°56'55"N and 121°58'44"W, and proceeding northeasterly to 37°56'56"N and 121°58'42"W, and proceeding easterly to 37°56'56"N and 121°58'41"W, and proceeding northerly along Ayers Dr to Newhall Community Park, and proceeding northeasterly along Newhall Community Park to Treat Blvd, and proceeding northerly along Treat Blvd to Clayton Rd, and proceeding westerly along Clayton Rd to Farm Bureau Rd, and proceeding northerly along Farm Bureau Rd Willow Pass Rd, and proceeding northeasterly along Willow Pass Rd to 37°59'12"N and 122°00'37"W, and proceeding northerly to 37°59'27"N and 122°00'35"W, and proceeding northeasterly to 37°59'33"N and 122°00'22"W, and proceeding southeasterly to 37°59'29"N and 122°00'16"W, and proceeding northerly along Willow Pass Rd to the northerly boundary of the City of Concord.

District 2: All that portion of the City of Concord lying northerly and westerly of the following described line: Beginning at the intersection of Concord Ave with the westerly boundary of the City of Concord; and proceeding easterly along Concord Ave to Galindo St, and proceeding southerly along Galindo St to Monument Blvd, and proceeding southerly along Monument Blvd to Systron Drive, and proceeding easterly along Systron Dr to Trailside Cir, and proceeding southeasterly to 37°57'54"N and 122°01'39"W, and proceeding easterly to 37°57'55"N and 122°01'38"W, and proceeding southerly to 37°57'52"N and 122°01'37"W, and proceeding northerly along Contra Costa Cnl to Cowell Rd, and proceeding westerly along Cowell Rd to Coventry Rd, and proceeding northerly along Coventry Rd to Clayton Rd, and proceeding easterly along Clayton Rd to Farm Bureau Rd, and proceeding northerly along Farm Bureau Rd to Willow Pass Rd, and proceeding northeasterly along Willow Pass Rd to 37°59'12"N and 122°00'37"W, and proceeding northerly to 37°59'27"N and 122°00'35"W, and proceeding northeasterly to 37°59'33"N and 122°00'22"W, and proceeding southeasterly to 37°59'29"N and 122°00'16"W, and proceeding northerly along Willow Pass Rd to the northerly boundary of the City of Concord.

District 3: All that portion of the City of Concord lying westerly of the following described line: Beginning at the intersection of Concord Ave with the westerly boundary of the City of Concord; and proceeding easterly along Concord Ave to Galindo St, and proceeding southerly along Galindo St to Monument Blvd, and proceeding southerly along Monument Blvd to the southerly boundary of the City of Concord.

District 4: All that portion of the City of Concord lying southerly of the following described line: Beginning at the intersection of Monument Blvd and the southerly boundary of the City of Concord, and proceeding northerly to Systron Dr, and proceeding easterly along Systron Dr to Trailside Cir, and proceeding southeasterly to 37°57'54"N and 122°01'39"W, and proceeding easterly to 37°57'55"N and 122°01'38"W, and proceeding southerly to 37°57'52"N and 122°01'37"W, and proceeding northerly along Contra Costa Cnl to Cowell Rd, and proceeding westerly along Cowell Rd to Coventry Rd, and proceeding northerly along Coventry Rd to Clayton Rd, and proceeding easterly along Clayton Rd to Babel Ln, and proceeding southerly along Babel Ln to Cowell Rd, and proceeding westerly along Cowell Rd to Court Ln, and proceeding southerly along Court Ln to Hitchcock Rd, and proceeding easterly along Hitchcock Rd to Kaski Ln, and proceeding northerly along Kaski Ln to Cowell Rd, and proceeding southeasterly along Cowell Rd to Ygnacio Valley Rd, and proceeding southerly along Ygnacio Valley Rd to the southerly boundary of the City of Concord.

District 5: All that portion of the City of Concord lying southerly of the following described line: Beginning at the intersection of Bailey Rd and the northerly boundary of the City of Concord, and proceeding southerly to boundary of the City of Concord, and proceeding easterly along the boundary of the City of Concord to Ayers Rd, and proceeding southerly along Ayers Rd to Clayton Rd, and proceeding easterly along Clayton Rd to Alberta Way, and proceeding southerly along Alberta Way to Ygnacio Valley Rd, and proceeding westerly along Ygnacio Valley Rd to 37°56'54"N and 121°58'45"W, and proceeding northerly to 37°56'55"N and 121°58'44"W, and proceeding northeasterly to 37°56'56"N and 121°58'42"W, and proceeding easterly to 37°56'56"N and 121°58'41"W, and proceeding northerly along Ayers Dr to Newhall Community Park, and proceeding northeasterly along Newhall Community Park to Treat Blvd, and proceeding northerly along Treat Blvd to Clayton Rd, and proceeding westerly along Clayton Rd to Babel Ln, and proceeding southerly along Babel Ln to Cowell Rd, and proceeding westerly along Cowell Rd to Court Ln, and proceeding southerly along Court Ln to Hitchcock Rd, and proceeding easterly along Hitchcock Rd to Kaski Ln, and proceeding northerly along Kaski Ln to Cowell Rd, and proceeding southeasterly along Cowell Rd to Ygnacio Valley Rd, and proceeding southerly along Ygnacio Valley Rd to the southerly boundary of the City of Concord.

A map showing the districts described in this article is attached to the ordinance codified in this article as Attachment 1 and incorporated by this reference. To the extent there is a conflict between the descriptions contained in this article and the map incorporated herein, the map shall prevail. If necessary to facilitate the implementation of this article, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts or the eligibility of candidates. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

(c) The districts specified in subsection (b) of this section shall continue in effect until they are amended or repealed in accordance with law.

(Ord. No. 18-2, § 2)

2.35.140 Election schedule.

(a) Councilmembers from Districts 1, 3, and 5 shall be elected beginning at the general municipal election in November 2018, and every four years thereafter.

(b) Councilmembers from Districts 2 and 4 shall be elected beginning at the general municipal election in November 2020, and every four years thereafter.

(Ord. No. 18-2, § 2)

2.35.150 Severability.

If any section, subsection, sentence, clause or phrase of this article is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this article. The City Council of the City of Concord hereby declares that it would have passed the ordinance codified in this chapter and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Ord. No. 18-2, § 2)