

ORDINANCE NO. 780

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD AMENDING CHAPTER 2.10, GENERAL MUNICIPAL ELECTIONS, OF BRENTWOOD MUNICIPAL CODE TO ADD VARIOUS SECTIONS TO REGULATE REPORTING OF POLITICAL CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

WHEREAS, in 1974, the voters of California approved a far-reaching initiative measure commonly known as Proposition 9. The provisions of Proposition 9 (entitled "Political Reform" - § 81000 et seq.). This enactment is commonly referred to as the "Political Reform Act of 1974," hereinafter the "Political Reform Act." Among other things, the state Political Reform Act subjected all public officials to rigorous conflicts of interest provisions and imposed explicit regulation and accountability for political campaign contributions and expenditures on elected officials.

WHEREAS, the City Council intends to supplement the provisions of the state Political Reform Act, as the state law is amended from time to time.

The City Council of the City of Brentwood does ordain as follows:

SECTION 1: The City Council finds and declarations as follows:

- 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 integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.
- c. Receipt of campaign contributions and campaign expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed about a candidate's sources of campaign contributions.
- d. This ordinance is intended to apply to contributions and expenditures for Brentwood Municipal election for November 2, 2004 and all subsequent municipal elections.

This ordinance is to be liberally construed to effectuate the following purposes:

- a. Ensure that individuals and interest groups in the City have a fair and equal opportunity to participate in the municipal elective and governmental processes.
- b. Encourage candidates to limit their overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- c. Improve the disclosure of contribution sources in reasonable and effective ways.
- d. Increase public trust in governmental electoral institutions.

(This Section 1 shall not be codified as part of the Brentwood Municipal Code.)

SECTION 2. Chapter 2.10 of the Brentwood Municipal Code is amended to add the following sections to read as follows:

"2.10.070 Definitions.

Because of the thoroughness of the state Political Reform Act statutory scheme, unless a term is specifically defined in this Chapter 2.10, or the contrary is stated (or clearly appears from the context), the definitions set forth in Chapter 2 ("Definitions" - §82000 et seq. of the Government Code) of the state Political Reform Act shall govern the interpretation of the provisions of this Chapter 2.10. For example, "Contribution" is defined by §82015 of the Government Code.

(a) "Election cycle" shall mean that period commencing on May 30th of a general election year and concluding on December 31st of that same year. If a special election is conducted, the election cycle will commence on the first day of the month at least six months before the election and shall conclude on the last day of the month following the election (i.e., assume a March date is used for a City special election for an elective office; September 1st (the first day of the month at least six months before the election date) would be the first day of the election cycle and April 30th (the 30th day of the month following the election) would be the last day of the election cycle).

(b) "Late contribution and expenditure" means any contribution or expenditure including a loan, which totals in the aggregate of two hundred fifty dollars (\$250) or more but less than one thousand dollars (\$1,000) that is made to, expended, or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election.

2.10.080 Additional Pre-Election Campaign Statement.

The Political Reform Act provides for various campaign statements to be filed on dates determined by the Fair Political Practices Commission. Any candidate for a municipal office and any controlled committee of such a candidate shall file a verified campaign statement on the due dates and contribution periods as provided by article 2, chapter 4, title 9 of the Government Code, beginning with section 84200. In addition a campaign statement shall be filed four (4) days prior to the election and shall report all contributions received and expenditures made seven (7) days prior to the election. The additional pre-election campaign statement shall be filed with the City Clerk on the due date by four thirty (4:30) p.m.

2.10.090 Reporting of Late Contributions and Expenditures

Late contributions and expenditures of two hundred fifty dollars (\$250) or more but less than one thousand dollars, shall be reported within 24 hours. Late contributions and expenditures shall be reported on subsequent campaign statements in addition to this section's requirements.

2.10.100 Enforcement

Any person who intentionally or negligently violates section 2.10.070 through 2.10.100, inclusive, of this Chapter 2.10 shall be liable in a civil action brought by a person residing within the City for an amount not more than three (3) times the amount of the unlawful contribution or expenditure.

If two or more persons are responsible for any violation, they shall be jointly and severally liable

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(s). If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited into the general fund of City. In an action brought by the District Attorney, the judgment shall be paid to the general fund of the County of Contra Costa.

No civil action alleging a violation of any provision of this Act shall be filed more than one hundred eighty (180) days after the date the violation occurred.

The court may award to a plaintiff or defendant who prevails in any action authorized by this Chapter 2.10, costs of litigation, including reasonable attorneys' fees.

2.10.110 Applicability of Other Laws.

Nothing in this Chapter 2.10 shall exempt any person from applicable provisions of any other laws of this state or the City."

SECTION 3: Constitutionality or Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s) or word(s) be declared invalid.

SECTION 4: Savings Clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance.

SECTION 5: Effective Date.

This Ordinance shall be published in accordance with Government Code Section 36933 by either posting or publishing the ordinance in accordance with that law.

THE FOREGOING ORDINANCE was introduced with first reading waived at a regular meeting of the City Council of the City of Brentwood on the 25th day of May 2004, and introduced with the second reading waived at a regular meeting of the Brentwood City Council on June 8, 2004 by the following vote:

AYES: Councilmembers Beckstrand, Gutierrez, Hill, Mayor Swisher
NOES: Councilmember Petrovich
ABSENT: None
ABSTAIN: None

(d)(5)



Brian Swisher
Mayor

ATTEST:

(d)(5)



for Karen Diaz, CMC
City Clerk/Director of Administrative Services