

ORDINANCE NO. 1468

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BALDWIN PARK, CALIFORNIA, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS AND PENALTIES

WHEREAS, the City of Baldwin Park (“City”) does not currently have campaign contribution limits or regulations; and

WHEREAS, Assembly Bill No. 571 (“AB 571”) imposes a default campaign contribution limit upon cities and counties without campaign contribution limits; and

WHEREAS, the default contribution limit amount is set at the same amount as the limit for State elected officials, subject to adjustment by the Fair Political Practices Commission (“FPPC”) pursuant to Government Code Section 85301 and 83124; and

WHEREAS, Government Code Section 85702.5 permits the City to establish its own campaign contribution limits that are different from what is established by Government Code Sections 85301 and 83124 by resolution or ordinance; and

WHEREAS, the FPPC has currently imposed a campaign contribution limit for State elected officials of \$4,900 per election; and

WHEREAS, based upon the forgoing, the City Council desires to establish a campaign contribution limit which recognizes the unique aspects of the City; and

WHEREAS, it is the purpose and the intent of the City Council in enacting this Ordinance to establish an orderly political forum in which individuals and groups may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns for City offices; and to provide for the full and fair enforcement of all the provisions of this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BALDWIN PARK, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 40.01. Campaign Finance Reform. Chapter 40 of the Baldwin Park Municipal Code shall be interpreted in a manner which is consistent with the Political Reform Act of 1974 and the amendments pursuant thereto. Specifically, California Government Code section 85702.5 adopted pursuant to A.B. No. 571 effective January 1, 2020 and thereafter operative on January 1, 2021.

SECTION 40.02. Definitions.

The following words or phrases as used in this Ordinance shall have the following meanings:

Except as herein provided, the definitions set forth in the Political Reform Act of 1974 (Government Code Section 81001 et seq.) shall govern the interpretation of this act.

- (a) As used in this Ordinance, "person" shall carry the same meaning as Government Code Section 82047. Government Code Section 82047 defines "person" as "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."
- (b) "Candidate" or "Office Holder" means anyone who is qualified to be listed on a ballot or is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office in the City of Baldwin Park, including anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about the person's nomination or election to an elective office in the City of Baldwin Park. "Candidate" does not include any person seeking nomination or election for elective office outside of the offices of the City of Baldwin Park listed in section "(h)" below.
- (c) "Committee" means any person or combination of persons formed for the purpose of promoting or opposing the election or reelection of a person to City elected office who directly or indirectly, (i) receives contributions, or (ii) makes independent expenditures or (iii) makes contributions at the behest of any City candidate within the meaning of California Government Code 82013. A campaign committee includes any "Controlled Committee" within the meaning of California Government Code section 82016, any "General Purpose Committee" within the meaning of California Government Code section 82027.5, any "Primarily Formed Committee" within the meaning of California Government Code section 82047.5, any "Sponsored Committee" within the meaning of California Government Code section 82048.7, or political action committee.
- (d) "Contract" means a covenant or agreement, a promise or set of promises, for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. This definition does not include any "Contract" that does not go before the City Council and is not approved by the City Council.
- (e) "Contractor" shall mean any person or entity that has an existing contract, agreement, or other arrangement to provide the City with goods, services, or other items, or who has an interest in or expectation of obtaining such a contractual arrangement in the future. The term shall include any agent or representative of the Contractor and where the Contractor is a business entity shall include all owners, shareholders, principals, partners, members, officers, directors, and managers.
- (f) "Contribution" or "Contribute" means a payment, gifts as defined by the Political Reform Act, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, for any elective office in the City of Baldwin Park, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes. "Contribution" shall include the transfer of anything of value by a committee from another committee, unless full and adequate consideration is received. Notwithstanding anything in this Ordinance, a Candidate may transfer up to Five Thousand Dollars (\$5,000) of post-election funds to their new campaign for elective office, or new campaign for the same elective office, if applicable.

- (g) "Developer" shall mean any person or entity who is currently seeking, or who has an interest in or expectation of seeking from the City a specific plan, zone change, development agreement, density bonus, subdivision tract map, conditional use permit, or an industrial or commercial use having a building area of 20,000 square feet or more. The term shall include any agent or representative of the Developer and where the Developer is a business entity shall include all owners, shareholders, principals, partners, members, officers, directors, and managers.
- (h) "Election" means any election for a City Councilmember for Baldwin Park, any election for Mayor of the City of Baldwin Park, and election for City Clerk of the City of Baldwin Park, and any election for Treasurer of the City of Baldwin Park, including a recall election for any of the above in the City of Baldwin Park. This definition does not include Water Board elections, School Board elections or any other elections not expressly stated herein.
- (i) "Independent Expenditure" shall have the same meaning as set forth under California Government Code section 82031.
- (j) "Political Action Committee" refers to any committee or organization as defined in California Government Code Section 82048.7 or Section 84222.
- (k) "Project" means any activity for which a permit from the City is required, including but not limited to, construction, deconstruction, demolition, conversion, and renovation. This definition shall not include permits pulled by the homeowner of a single family home related to home improvement and home repairs. This definition shall also not include "Exempt Projects" as set forth in section 53.14(B) of the Baldwin Park Municipal Code.
- (l) "Vendor" means any person or entity that has an existing contract, agreement, or other arrangement to provide the City with goods, services, or other items, or who has an interest in or expectation of obtaining such a contractual arrangement in the future. The term shall include any agent or representative of the Vendor and where the Vendor is a business entity shall include all owners, shareholders, principals, partners, members, officers, directors, and managers.
- (m) The purpose of this Ordinance is to encourage broader participation in the political process and to avoid corruption, or the appearance of corruption, in decision making and to protect the integrity of the City of Baldwin Park's procurement and contract processes, by placing limits on the amount that any person may contribute or otherwise cause to be available to candidates for the office of mayor, city council, city clerk, and treasurer.

SECTION 40.03. Campaign Contribution Limit. A person shall not make to a candidate for elective city office for the City of Baldwin Park, and a candidate for elective city office for the City of Baldwin Park shall not accept from a person, a contribution, totaling more than Seven Hundred and Fifty Dollars (\$750) per election cycle where the Candidate or Officer Holder who is the beneficiary of the Contribution or Independent Expenditure is on the ballot or is a write-in Candidate or seeking nomination/appointment for the officer. In other words, this Contribution limit does not reset after each City election, it only resets after the Office Holder's election.

Campaign Contributions may only be solicited from October the year before an Election through February of the year following an Election.

In addition, any primarily formed Committee that makes contributions or Independent Expenditures supporting or opposing a candidate or candidates in Baldwin Park Elections shall not accept from any person a contribution or contributions totaling more than seven hundred fifty dollars (\$750.00) for each election in which the Candidate or Candidates are on the ballot or are write-in candidates.

Any and all contributions solicited or accepted pursuant to this Ordinance shall be expended only in connection with the candidacy for the office specified in the candidate's declaration of intent to solicit and receive contributions or for any valid purpose as defined in Political Reform Act of 1974, as amended, or the fair political practices commission regulations interpreting the act, unless otherwise expressly noted in this article.

A Committee may not change its status from the type of Committee that is reported on its statement of organization to any other type of Committee between the period that is eighteen (18) months prior to an election and December 31 immediately following an election.

SECTION 40.04. Contributions by Developers. A Developer shall not contribute to a Candidate for elective city office for the City of Baldwin Park (40.02(h)), and a Candidate for elective city office for the City of Baldwin Park shall not accept from a Developer, a Contribution, while the Developer has a Project pending approval by the City Council for the City of Baldwin Park or is presently in negotiations with the City for entitlements for a Project within the City of Baldwin Park and for six (6) months after the Project or entitlements are approved. If no project is pending before the City Council and no entitlement request is pending before the City Council, Developers are also limited to a Contribution totaling no more than Seven Hundred and Fifty Dollars (\$750) per election (40.02(h)).

SECTION 40.05. Contributions by Vendors. A Vendor shall not Contribute to a Candidate for elective city office for the City of Baldwin Park (40.02(h)), and a Candidate for elective city office for the City of Baldwin Park shall not accept from a Vendor, a Contribution, while the Vendor has a Contract pending approval, either through an RFP process, RFQ process or otherwise, by the City Council for the City of Baldwin Park or is presently doing business with the City of Baldwin Park. If a Vendor has no Contract pending before the City Council and is not currently doing business for the City, Vendors are also limited to a Contribution totaling no more than Seven Hundred and Fifty Dollars (\$750) per election.

SECTION 40.06. Contributions from Personal Funds. The provision of Sections 40.03, 40.04, and 40.05 do not apply to a candidate's contributions from the candidate's personal funds to the candidate's own campaign. Notwithstanding the foregoing, a candidate may not make loans to the candidate's self or to the candidate's campaign or any committee in support thereof in excess of ten thousand dollars (\$10,000) per election. Nothing in this Section shall prohibit a Candidate from making unlimited contributions from his or personal funds to the Candidate's campaign as long as it is not a loan and will not be repaid from the Candidate's campaign fund or account.

SECTION 40.07. [This Section has been intentionally left blank.]

SECTION 40.08. Adjustment to Contribution Limit. The contribution limit set forth in Section 40.03 shall be automatically adjusted every two years by the City Council, City Clerk, City Manager, or other authority to reflect the percentage changes in the California Consumer Price Index ("CPI") beginning January 1, 2023. Any increase or decrease in contribution limit based on the CPI shall be rounded to the nearest ten (\$10.00) and no hundredths of a dollar.

SECTION 40.09. Enforcement for Violations. Any person who knowingly or willing violates this Ordinance shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provision of this Ordinance shall be punished by a fine of not more than three times the amount of the Contribution or by imprisonment in the county jail for a period not less than one (1) day and not to exceed six months, or by both such fine and imprisonment. Any person convicted under this section must serve at least one day In County jail as a minimum sentence in addition to any fine imposed as described herein.

SECTION 40.09.01 Cure Period for Violations. There will be a fourteen (14) day cure period, from the time a Candidate is notified of the violation, for a Candidate to address the complaint (either by returning excess funds or contesting the complaint) before a determination of guilt is established, sentence imposed and a fine is issued.

SECTION 40.09.02 Enforcement by the FPPC. The City will contract with the FPPC to receive complaints and enforce violations of this Ordinance. If for any reason there is no contract in place with the FPPC to receive complaints and enforce violations, complaints will be received by the City Clerk and enforced by the CEO of the City pursuant to due process procedures identified in the Baldwin Park Municipal Code including, but not limited to, Chapter 15; Administrative Enforcement of Code Violations.

SECTION 40.09.03 Liberal Construction Section. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out.

SECTION 40.10. Applicability of AB 571. By this Resolution, the City is adopting a campaign contribution limit in accordance Government Code Section 85702.5. By operation of law, the provisions of the Government Code Sections 85305; 85306; 85307; 85315; 85316; 85317; and 85318 no longer apply within the jurisdiction of the City to candidates for elective office.

SECTION 40.11. Loans:

- A. Except as provided in subsections C and D of this section, a loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Ordinance.
- B. Every loan to a Candidate or the Candidate's controlled Committee shall be by written agreement and such written agreement shall be filed with the Candidate's or committee's campaign statement on which the loan is first reported.
- C. The proceeds of a loan made to a Candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this article.
- D. During the election cycle, no candidate shall personally make loans to the candidate's campaign or the candidate's committee which total more than ten thousand dollars (\$10,000.00).

- E. Extensions of credit (other than loans pursuant to subsections C and D of this section) for a period of more than thirty (30) days are subject to the contribution limitations of this article.
- F. Nothing in this section shall prohibit a Candidate from making unlimited contributions to the candidate's campaign from his or her personal funds.

SECTION 40.12. Aggregation of Payments. For purposes of the contribution limitations in this article the following shall apply:

- A. All payments made by a Person, as defined in this Ordinance and/or the Political Reform Act of 1974, as amended, whose Contribution or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person or committee.
- B. Two (2) or more entities shall be treated as one person when any of the following circumstances apply: 1. The entities share the majority of members of their boards of directors. 2. The entities share two (2) or more officers. 3. The entities are owned or controlled by the same majority shareholder or shareholders. 4. The entities are in a parent-subsidiary relationship.
- C. An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

SECTION 40.13. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 40.14. Political Action Committee and or Independent Expenditure Identification.

Any Political Action Committee as defined herein must file documents with the City Clerk identifying the Political Action Committee and identifying the FPPC number of the PAC before any monies may be expended by the PAC in any City of Baldwin Park election as defined in 40.02(h).

Any Person who makes an Independent Expenditure in any City of Baldwin Park Election as defined herein must file documents with the City Clerk identifying the Committee or Person who will make the Independent Expenditure and identifying the FPPC number of the Person or Committee before any monies may be expended by in any City of Baldwin Park election as defined in 40.02(h).

SECTION 40.15. Statute of Limitations.

Prosecution for violations of any provision of this Ordinance shall be commenced within four (4) years after the date on which the violation occurred.

SECTION 40.16. Amendments.

Any amendments to this Ordinance shall not act to weaken the Ordinance or act in a manner that is counter to the spirit, purpose, or intent of the Ordinance. Amendment or repeal of any portion of this Ordinance, except mandated by a court of law, shall require a four-fifths vote of the City Council, except for amendments that are clerical or act to further clarify clauses in the Ordinance.

First read and adopted at a regular meeting of the City Council of the City of Baldwin Park held on the 16th day of February 2022.

PASSED, APPROVED, and ADOPTED this 2nd day of March 2022.



EMMANUEL J. ESTRADA
MAYOR

ATTEST:

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF BALDWIN PARK } **SS:**

I, MARLEN GARCIA, City Clerk of the City of Baldwin Park, do hereby certify that **Ordinance No. 1468** was introduced, placed upon its first reading, and duly adopted on March 2, 2022 by the following vote to wit:

AYES: COUNCIL MEMBERS: Avila, Damian, Garcia, Estrada, and Hernandez

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None



MARLEN GARCIA
CITY CLERK