

ORDINANCE NO. 3602 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

ADDING CHAPTER 2, ARTICLE 1, SECTION 2-1.05 RELATING TO CAMPAIGN FINANCE REFORM

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, the City of Monterey although having a relatively small population, has an active, engaged citizenry and wishes to preserve its vibrant local democracy;

WHEREAS, California Political Reform Act includes contribution limits for candidates to statewide office, but does not include a limit on campaign contributions to candidates for local office. However, the Act allows local agencies, including cities, to adopt their own contribution limits;

WHEREAS, in past elections powerful special interests have sought to use their wealth to dominate election results in the City;

WHEREAS, the City of Monterey desires to limit the amount of campaign contributions to candidates in order to preserve the integrity of representative democracy, prevent corruption, and minimize the appearance of corruption, while preserving the First Amendment rights of citizens to express support for particular candidates;

WHEREAS, the City Clerk's Office reviewed campaign contribution data from the previous four City elections and determined that the average itemized contribution – those contributions over \$100 – was \$339.32. Therefore, a contribution limit at or above this amount will still allow candidates to mount effective campaigns and engage with the electorate; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) CCR, Title 14, Chapter 3 ("CEQA Guidelines"), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 2, Article 1, Section 2-1.05 is hereby added and shall read as follows:

Section 2-1.05 Campaign Finance Reform

(a) Purpose.

The purpose of this Article is to:

- (1) Eliminate the possibility of corruption or the appearance of corruption in local elections by adopting limits on the amounts of money any person may contribute or otherwise cause to be available to candidates for the City Council; and
- (2) Promote informed actions by the electors of the City by requiring the full and truthful disclosure of contributions and expenditures in election campaigns; and
- (3) Inhibit improper or illegal campaign activity, and to provide for enforcement of this Article.

(b) Definitions.

The definitions in the Political Reform Act, Government Code section 81000 *et seq.*, as amended, shall govern this Article in addition to the following:

- (1) *Candidate* means a person who (1) is listed on the ballot for City Council or Mayor; (2) has qualified to have write-in votes counted by election officials for nomination or election to the City Council or the office of Mayor; or (3) receives a contribution or makes an expenditure or gives consent for any other person to receive a contribution or make an expenditure with a view to bringing about a nomination or election to the City Council or to the office of Mayor, whether or not the specific office sought for nomination or election is known at the time the contribution is received or the expenditure is made, and whether or not the candidacy has been announced or a declaration of candidacy has been filed at such time. Candidate also includes any member of the City Council who is the subject of a recall effort. For the purpose of this section, a member of the City Council becomes the subject of a recall effort, and therefore becomes a candidate, at such time as the notice of intention to circulate petitions is served on that member. An individual who becomes a candidate shall retain that status as a candidate until such time as that status is terminated pursuant to Section 84214 of the California Government Code, as amended.
- (2) *City office* means the offices of mayor and city councilmember.
- (3) *Election* means a primary, general, special, or recall election. Each of these is a separate election for purposes of this Article.
- (4) *Election cycle* means the two-year period of time beginning on January 1st in the year in which a general election for a city office is held, and ending at midnight on December 31st of the following non-election year. *Election cycle* includes the period of time for gathering signatures for a recall election.
- (5) *Entity* means any person, other than individual.
- (6) *Person* means an individual or any proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, labor organization and any other organization or group of persons acting in concert.

(c) Contribution Limitations.

- (1) No person or committee shall make to any candidate, including the controlled committee of such candidate, and no such candidate or such candidate's controlled committee, shall solicit or accept any contribution that will cause the amount contributed by the contributor to the candidate or the candidate's controlled committee to exceed Five Hundred (\$500.00) Dollars for any single election cycle.
- (2) The provisions of this section shall not apply to a candidate's contribution of personal funds to the candidate's own campaign.
- (3) Contributions to a candidate by the candidate's registered domestic partner or spouse of separate property, and contributions by a candidate's children or any other family members, shall be subject to the contribution limits of this section.
- (4) Contributions by dependent children shall be treated as contributions by their parent or parents. If there is joint custody of the child, one-half of the contribution shall be attributed to each parent, and if there is a single custodial parent, the contribution shall be attributed to that parent.
- (5) Anonymous contributions. No person shall make an anonymous contribution or contributions to a candidate or committee or any other person exceeding twenty-five and no/100ths (\$25.00) dollars for any election cycle. An anonymous contribution of more than twenty-five (\$25.00) dollars shall not be kept by the intended recipient but instead shall, within fourteen days of receipt, be returned to the contributor if known by the candidate or otherwise shall be paid to the City Clerk for deposit in the general fund of the City.
- (6) The contribution limits established in this section shall be adjusted annually in July of every odd numbered year for Consumer Price Index (CPI) based on the published CPI for the San Francisco Area (San Francisco -- Oakland -- San Jose) April Edition to reflect any increase or decrease in the Consumer Price Index since the last such adjustment of the contribution limit. Such adjustments shall be rounded to the nearest Ten and no/100ths (\$10.00) Dollar amount. In addition to, or in lieu of, the cost of living adjustments provided for in this section, the City Council may adjust the contribution limits set forth in this section at any time and in the amounts that it determines to be appropriate by adoption of an ordinance amending this Article.

(d) Aggregation of Contributions.

- (1) For the purposes of the contribution limitations contained in this section, contributions of two or more persons or entities shall be aggregated as follows:
 - (A) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual;
 - (B) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated; or
 - (C) Contributions made by entities that are majority owned (which means ownership of more than fifty percent) by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decision to make contributions.
- (2) Contributions by spouses shall be treated as separate contributions and shall not be aggregated.
- (3) A candidate shall not be deemed to be in violation of this section if the candidate

accepts a contribution from a person or persons that exceeds the contribution limits set forth in Section 2-1.05(c)(1) because of the aggregation of contributions pursuant to subsection (1)(A), above. It is the intent of this subsection to make contributors, and not candidates, liable for violations of this subsection occurring as a result of the applicability of the aggregation rules set forth herein, except where there is proof that the candidate had knowledge that the contributions must be aggregated.

(e) Return of Contributions in Excess of Limits.

- (1) Contributions which either in the aggregate or on their face exceed the contribution limits of this section shall be deemed to not have been accepted within the meaning of that provision if returned prior to deposit or negotiation within the earliest of the following:
 1. Within 14 days of receipt; or
 2. If the contribution is received within three days prior to the election, within 24 hours of receipt.
- (2) A non-monetary contribution shall qualify as returned if, within the deadlines listed in subsection (e)(1), the candidate returns to the contributor any of the following: the non-monetary contribution, its monetary equivalent, or the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of this section.

(f) Additional Campaign Statements

- (1) In addition to the campaign statements required to be filed pursuant to the Political Reform Act, candidates and their controlled committees shall file a pre-election statement with the City Clerk as follows: No later than five days before the election for the period beginning sixteen days and ending six days before the election.
- (2) A candidate or committee may use the forms for campaign statements required to be filed pursuant to the state Political Reform Act (Government Code Section 81000 et seq.) in order to comply with the reporting requirements of this section; provided, however, that such campaign statements shall contain the additional information required by this section.

(g) Enforcement

- (1) Any person who willfully and knowingly violates this section, or causes any other person to violate this section, or who aids and abets any other person in the violation of this Article, is guilty of a misdemeanor.
- (2) In addition to the penalties provided in subsection (a), if after election a candidate is convicted of a violation of any of the provisions of this Article, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon or on the date upon which the candidate, if the candidate is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant city offices. If a candidate is convicted of a violation of this section at any time prior to election, his or her candidacy shall be terminated immediately and the candidate shall no longer be eligible for election. Any person convicted of a violation of this Article shall be ineligible to hold city office for a period of five years from and after the date of conviction.
- (3) A plea of nolo contendere shall be deemed a conviction for purposes of this Section.
- (4) The City Attorney may also sue in Monterey County Superior Court to enjoin violations of, or to compel compliance with, the provisions of this section. Any person who is found by a court of competent jurisdiction in such an action to have intentionally or

negligently violated this section may be subject to a civil penalty of no more than \$1,000 or the amount of the unlawful contribution, if any, or the amount which was not properly disclosed, if any, whichever is greater. The prevailing party in any such action shall be entitled to seek and be awarded its attorney's fees and court costs. Any action for civil injunctive relief and/or civil penalty must be filed within one year of the date of the alleged violation.

- (5) The City Council may authorize a contract between the City and the California Fair Political Practices Commission for the Fair Political Practices Commission to enforce this section.

SECTION 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 15th day of October, 2019, by the following roll call vote:

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| AYES: | 4 | COUNCILMEMBERS: | Albert, Haffa, Williamson, Roberson |
| NOES: | 1 | COUNCILMEMBERS: | Smith |
| ABSENT: | 0 | COUNCILMEMBERS: | None |
| ABSTAIN: | 0 | COUNCILMEMBERS: | None |

APPROVED:

ATTEST:



Mayor of said City



City Clerk thereof

