

ORDINANCE NO. 1156

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY AMENDING PROVISIONS OF CHAPTER 5, TITLE 2 OF THE SIMI VALLEY MUNICIPAL CODE RELATING TO CITY ELECTION CAMPAIGN FINANCES

THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5 of Title 2 of the Simi Valley Municipal Code is hereby amended as set forth in the attached Exhibit A, incorporated herein by reference.

SECTION 2. If any section, subsection, sentence, clause, or phrase in this chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares it would have passed this chapter, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is declared invalid or unconstitutional.

SECTION 3. This ordinance shall take effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

SECTION 4. The City Clerk shall cause this ordinance or a summary hereof to be published in a newspaper of general circulation, published in the County of Ventura and circulated in the City, and if applicable, to be posted in accordance with Government Code Section 36933; shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

PASSED and ADOPTED this 26th day of April 2010.

Attest:

/s/
Wendy K. Green
Assistant City Clerk

/s/
Paul Miller,
Mayor of the City of Simi Valley

Approved as to Form:

Approved as to Content:

/s/
Tracy M. Noonan, City Attorney

/s/
Mike Sedell, City Manager

Chapter 5 CITY ELECTION CAMPAIGN FINANCES

2-5.01 Purpose and intent.

The purpose of this chapter is to eliminate the possibility of corruption or the appearance of corruption in local elections by establishing rules for the conduct of political campaigns for City offices by limiting the amount of campaign contributions and to further the City's goal of an informed electorate by supplementing the campaign disclosure requirements and related regulations set forth in the Political Reform Act of 1974.

2-5.02 Statutory authority in relation to Political Reform Act of 1974.

California Government Code Section 81013 authorizes the City to adopt additional requirements relating to campaign finances so long as those requirements do not prevent compliance with the Political Reform Act of 1974 (Government Code Sections 81000, et seq.). In addition, Elections Code Section 10202 authorizes the imposition of contribution limitations in municipal elections. This chapter is intended to be a supplement to and in no way conflict with the requirements of those statutes or its implementing regulations.

2-5.03 Definitions.

The definitions set forth in Chapter 2 of the Political Reform Act of 1974 (Government Code Sections 82000, et seq.) shall govern the interpretation of this chapter, except as follows:

- (a) "Advertisement" means any published, copied, printed, or written literature, or the paid dissemination of information by means of radio or television media, including, but not limited to fliers, pamphlets, handbills, newspaper advertisements, and television or radio advertisements. It does not include campaign buttons, bumper stickers, signs or T-shirts.
- (b) "Independent Expenditure Committee" means a committee which is not controlled either directly or indirectly by a candidate or controlled committee in connection with the receipt or solicitation of contributions or the making of expenditures.
- (c) "Election cycle" means the two (2) year period commencing with January 1st of each odd numbered year, and ending on December 31st of the following year.
- (d) "Election" means any City general, special, or recall election.
- (e) "Late contribution" means any contribution of Two Hundred Fifty and no/100th (\$250.00) Dollars or more received during the last thirty (30) days prior to an election and received after the closing date of the last campaign statement required to be filed by the candidate.
- (f) "Late expenditure" means any expenditure which totals in the aggregate One Thousand and no/100ths (\$1,000.00) Dollars or more and is made by a candidate or his or her controlled committee before the date of the election, but after the closing date of the last campaign statement required to be filed prior to the election by the candidate or committee.

(g) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, committee, company, corporation, LLC, association, or any organization or group of persons acting in concert.

2-5.04 Contribution limits.

(a) No person shall make any contribution to a candidate and/or the candidate's controlled committee, with respect to any single election, which would cause the total aggregate amount contributed by such person to the candidate and the candidate's controlled committee to exceed One Thousand and no/100ths (\$1,000.00) Dollars.

(b) 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 to exceed the sum of One Thousand and no/100ths (\$1,000.00) Dollars.

(c) Any amount in excess of One Thousand and no/100ths (\$1,000.00) Dollars received from any single contributor shall be returned to the contributor within fifteen (15) business days of the candidate or controlled committee's receipt of the excess contribution. The excess contribution and the date of its return shall be reported on forms prepared and supplied by the City Clerk.

(d) Contributions to a candidate and contributions to a candidate's controlled committee shall be cumulated for purposes of the mandatory contribution limits of this chapter.

2-5.05 Contribution limitations for independent expenditure committees.

Any person or committee who makes independent expenditures, as described by Government Code Section 82031, supporting or opposing a candidate shall not accept contribution from another person in excess of One Thousand and no/100th (\$1,000.00) Dollars in cumulative contributions for each election. Nothing herein shall be construed to restrict a person's right to make independent expenditures of their own funds in support or opposition to a City Council candidate.

2-5.06 Prohibition on multiple campaign committees.

A candidate shall have no more than one campaign committee which will have only one bank account from which all qualified campaign and office holder expenses related to elective City offices shall be made. This section shall not prevent a candidate from establishing another campaign committee solely for the purpose of running for a state, federal, local or other elective City office.

2-5.07 Loans.

(a) 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 chapter.

(b) Every loan to a candidate or controlled committee shall be by written instrument, which shall be filed with the 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, shall not be subject to the contribution limitations of this chapter if the loan is made

directly to the candidate. The guarantors of such a loan shall remain subject to the contribution limits of this chapter.

(d) Extensions of credit (other than loans pursuant to subsection (c) of this section) for a period of more than thirty (30) days are subject to the contribution limitations of this chapter.

(e) This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

2-5.08 Aggregation of Contributions.

(a) Contributions by a husband and wife shall be treated as contributions by separate persons and shall not be aggregated.

(b) Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

(c) Two (2) or more entities shall be treated as one person and aggregated for contribution limits, when any of the following circumstances apply:

1. The entities share the majority of members of their board 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.

(d) Nothing herein shall prohibit a person who directs or controls contributions of any entity from making a separate contribution from his or her own personal funds, and such contribution shall not be aggregated for purposes of the contribution limits of this chapter.

2-5.09 Miscellaneous regulations relating to contributions.

(a) No contributions shall be accepted by any candidate or controlled committee except during an election cycle. For offices with a four (4) year term, contributions shall only be accepted during the election cycle commencing January 1st of the year prior to the regularly scheduled election for that office to be held the following even numbered year.

(b) The limitations of this chapter shall not apply to contributions of a candidate's personal funds to his or her campaign on behalf of his or her own candidacy, but shall apply to the separate property contributions from the candidate's spouse.

(c) Any funds received by an elected official or candidate running in the City or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this chapter unless such campaign contributions are used exclusively for elections held outside the City. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act of 1974.

2-5.10 Reporting Requirements.

(a) In addition to the requirements of Government Code Section 84203 relating to late contributions of One Thousand and no/100ths (\$1,000.00) Dollars or more, all candidates and committees, including independent expenditure committees, shall report all late contributions of Two Hundred Fifty and no/100ths (\$250.00) Dollars or more, but less than One Thousand and no/100ths (\$1,000.00) Dollars that are made or received before the date of the election at which the candidate is to be voted on but after the closing date of the last campaign statement required to be filed before the election. Such late contributions shall be reported identifying the full name, street address, occupation, and the name of the employer, if any, the principal place of business if self-employed, of the contributor, and shall be reported to the City Clerk within twenty-four (24) hours of receipt. Such reports may be by any written means of communication, and do not require an original signature. A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within twenty-four (24) hours of its receipt. A report filed pursuant to this section shall be in addition to any other campaign statements required to be filed by state law.

(b) Late independent expenditures, as defined by Government Code Section 82036.5, shall be reported in accordance with requirements of Government Code Section 84204.

(c) All candidates or controlled committees that make late expenditures, as defined in Section 2-5.03(e) shall report the late expenditure to the City Clerk by facsimile transmission, telegram, guaranteed overnight mail, or night mail through the United States Postal Service for personal delivery within twenty-four (24) hours of the time it is made. The report shall contain the information required by paragraphs no. (1) through no. (5) of subdivision (k) of Government Code Section 84211. Reports filed pursuant to this section shall be in addition to any other campaign statement required to be filed by state law.

(d) Committees and candidates shall file all required statements and reports in compliance with the Political Reform Act and this chapter.

- (1) If any person files an original statement or report after any deadline imposed by the Political Reform Act or this chapter, he or she shall, in addition to any other penalties or remedies established by the Political Reform Act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the City Clerk.
- (2) If any person files a copy of a statement or report after any deadline imposed by the Political Reform Act or this chapter, he or she shall, in addition to any other penalties or remedies established by the Political Reform Act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the City Clerk.
- (3) The City Clerk may waive enforcement of this subsection until 5 days after any such statement or report is due if, on an impartial basis, he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Political Reform Act.
- (4) The City Clerk shall deposit any funds received under this subsection into the general fund of the City.

- (5) No liability under this subsection shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

2-5.11 Advertisements.

Any advertisement supporting or opposing a candidate, City measure, or initiative or referendum effort that is paid for by an independent expenditure committee shall provide a disclosure statement that identifies the following:

- (a) The name of the independent expenditure committee or person making the independent expenditure.
- (b) For independent expenditure committees, the names of the persons from whom the committee making the independent expenditure has received loans or cumulative contributions totaling One Thousand Dollars (\$1,000) or more during the previous twelve (12) month period prior to the advertisement.
- (c) For printed advertisements, any disclosure statement required by this section shall be printed clearly and legibly in no less than ten (10) point type and in a conspicuous manner.
- (d) For advertisements that are broadcast on radio or television media, the information required to be disclosed shall be spoken or otherwise appropriately conveyed for the hearing impaired.

2-5.12 Violations.

- (a) No criminal penalties. Notwithstanding any other provision of this Code, any violation of any provision of this chapter shall be enforced solely as provided in this section.
- (b) Any person who intentionally or negligently violates any of the provisions of this chapter relating to contributions or expenditures shall be liable in a civil action brought by the City Attorney or his authorized designee, in an amount of not more than three (3) times the amount of the unlawful contribution or expenditure, or the sum of One Thousand and no/100ths (\$1,000.00) Dollars, whichever is greater, for each violation. The City Attorney may refer allegations of violations of this chapter to an independent person or entity when the City Attorney has a potential conflict of interest.
- (c) For any other violation of this chapter, the penalty shall be the sum of Five Hundred and no/100ths (\$500.00) Dollars or each violation.
- (d) Any amount due from any person pursuant to subsections (b) and (c) above, shall be a debt due and owing upon demand to the general fund of the City.
- (e) If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
- (f) No civil action alleging a violation of any provision of this chapter shall be filed more than two (2) years after the date that the violation occurred.
- (g) The City Attorney may sue for injunctive relief to enjoined threatened violations of or to compel compliance of the provisions of this chapter.
- (h) Unless a matter is referred to an independent person or entity due to a potential conflict of interest of the City Attorney, the Citizens' Election Advisory Commission may review any alleged violation of this chapter and make nonbinding, advisory

recommendations to the City Attorney, at the request of the City Manager or the City Attorney.

2-5.13 Regulations and forms.

The City Clerk is authorized to adopt regulations and forms necessary or desirable to interpret and carry out the provisions of this chapter.

2-5.14 Rules of construction.

This chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this chapter which does not directly affect the jurisdiction of the City Council or the City to control campaign contributions, disclosures and expenditures shall avoid the effect of this chapter.

2-5.15 Severability.

If any section, subsection, subdivision, sentence, sum, clause or phrase of this chapter is for any reason held to be unconstitutional, invalid or void, such decisions shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed this chapter, and every section, subsection, subdivision, sentence, sum, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, sums, clauses or phrases thereof is declared unconstitutional, invalid or void.