

CITY OF WALNUT CREEK
ORDINANCE NO. 2053

AN ORDINANCE OF THE CITY OF WALNUT CREEK
AMENDING TITLE 12 OF THE WALNUT CREEK MUNICIPAL CODE
RELATING TO ELECTIONS

The City Council of the City of Walnut Creek does ordain as follows:

Section 1.

Walnut Creek Municipal Code section 12-1.109 is hereby amended to read as follows:

Sec. 12-1.109 Enforcement.

a. In addition to other duties required by law, the City Clerk shall monitor all statements, filed pursuant to this title. The City Clerk shall:

1. Determine whether the required statements have been filed with the City Clerk;

2. Determine the timeliness of filing;

3. Determine whether the statements conform on their face with the requirements of this title; and

4. Determine if any reported contributions exceed the allowable maximums established by this title.

b. If the City Clerk, in the course of reviewing statements as required by subsection a, finds an apparent violation, the City Clerk shall notify the Candidate or Committee in writing.

c. 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.

d. The City Clerk shall report to the City Attorney any apparent violations of this ordinance which have not been corrected or cannot be corrected by the Candidate or Committee.

e. The City Clerk shall compile and maintain for five years a list of statements or portions of statements which the City Clerk is required to review. Each list shall be indexed by the Candidate's or Committee's name.

Section 2.

This ordinance shall take effect on the 31st day following its adoption.

PASSED AND ADOPTED by the City Council of the City of Walnut Creek at a regular meeting thereof held on the 18th day of July 2006, by the following called vote:

AYES: Councilmembers: Regalia, Abrams, Skrel, Rainey, Mayor Hicks

NOES: Councilmembers: None

ABSENT: Councilmembers: None

/s/ Kathy Hicks
Mayor of the City of Walnut Creek

Attest:

/s/ Patrice M. Olds
City Clerk of the City of Walnut Creek

I HEREBY CERTIFY the foregoing to be a true and correct copy of Ordinance No. 2053, duly passed and adopted by the City Council of the City of Walnut Creek on the date and by the vote therein recited and that the same has been duly published according to law.

Patrice M. Olds
City Clerk of the City of Walnut Creek

TITLE 12.*

ELECTION AND CONFLICT OF INTEREST REGULATIONS

*(REPEALED)**

TITLE 12. ELECTIONS.

CHAPTER 1 CAMPAIGN DISCLOSURE AND CONTRIBUTION LIMITS

- 12-1.101 Purpose
- 12-1.102 Definitions
- 12-1.103 Contribution Limitations
- 12-1.104 Cash Expenditures
- 12-1.105 Supplemental Disclosure Requirements for Independent Expenditures
- 12-1.106 Supplemental Disclosure Requirements for Campaign Statements
- 12-1.107 Campaign Statement Filing Dates
- 12-1.108 Informational Meeting
- 12-1.109 Enforcement
- 12-1.110 Penalties
- 12-1.111 Regulations
- 12-1.112 Severance Clause
- 12-1.113 Amendments

CHAPTER 2 CANDIDATE=S FAIR CAMPAIGN PLEDGE

- 12-2.101 Purpose
- 12-2.102 Pledge
- 12-2.103 Voluntary Pledge
- 12-2.104 Filing
- 12-2.105 Public Record

**Secs. 12-1.01 through 12-1.15, codified from Ords. 1198, 1199, 1239, 1257 and 1258, repealed by \approx 1, Ord. 1295, eff. January 14, 1977*

This page intentionally left blank.

TITLE 12.

ELECTION AND CONFLICT OF INTEREST REGULATIONS

*(Repealed)**

TITLE 12. ELECTIONS

CHAPTER 1. CAMPAIGN DISCLOSURE AND CONTRIBUTION LIMITS

Sec. 12-1.101. Purpose.

The purpose of this chapter is to reduce the actual and perceived influence of contributions on elected officials 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. (*§1, Ord. 1625, eff. July 18, 1985; and by §1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.102. Definitions.

As used in this Chapter:

a. ***Campaign statement*** means an itemized statement prepared in duplicate by a Candidate and by the treasurer of each committee, showing, in addition to matters required by law, the following information: the name, complete mailing address, occupation and place of employment, and business address if self-employed, of any person who paid, loaned, contributed or otherwise furnished twenty-five dollars or more, or its equivalent, to the Candidate or treasurer for the Candidate, or to each Committee as defined in (d) below, for the use of such Candidate or such treasurer, directly or indirectly in aid of the Candidate's election, or for qualification, passage or defeat of any measure, and the amount, in detail, of such money or its equivalent each such person paid, loaned, contributed or otherwise furnished. This definition also modifies "Contents of a Campaign Statement," codified at Government Code §84211, with regard to additional City requirements.

b. ***Candidate*** means a candidate for an elected City office.

c. ***City election*** means any municipal election in the City of Walnut Creek, including elections to fill public offices, elections on measures, and initiative, referendum and recall elections.

* *Secs. 12-1.01 through 12-1.15, codified from Ords. 1198, 1199, 1239, 1257 and 1258, repealed by §1, Ord. 1295, eff. January 14, 1977*

d. **Committee** means any committee, entity, person or group of persons aiding or opposing, directly or indirectly, any Candidate, City measure or committee, for election purposes, whether or not originally organized for election purposes. Notwithstanding the foregoing, for the purposes of all filing requirements pursuant to Sections 12-1.105 - 12-1.107, Committee shall only mean a Candidate's controlled committee or a committee formed or existing primarily to support or oppose a Candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in the City, or a City general purpose committee active only in the City.

e. **Election period** means as follows:

1. The Election Period for a Candidate shall be that period of time commencing on the fifty-eighth day following the date that the office seat sought by that Candidate was filled by election and extending to the close of the fifth day before the next election date for that office seat.

2. The Election Period for a Controlled Committee which is controlled by a single Candidate shall be the same as the Election Period for that Candidate.

3. The Election Period for a Controlled Committee which is controlled by more than one Candidate shall be, for each election, that period of time commencing three years and ten months prior to the election at which any one of such candidates is seeking office and extending to the close of the fifth day before that election. The Election Period in this situation may overlap other election periods.

f. **Political Reform Act** means the Political Reform Act of 1974 and all amendments to it.

g. All other words and terms shall have the meanings ascribed to them by the definitions set forth in the Political Reform Act. (1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)

Sec. 12-1.103. Contribution Limitations.

a. No contribution shall be accepted by any Candidate or Controlled Committee except during an election period.

b. No person or Committee shall, during an election period, make any contribution or cumulative contributions which exceed the maximum amount of one hundred dollars (\$100) to, nor shall any such contribution be accepted by, any Candidate or Controlled Committee.

c. The prohibitions stated in subsections (a) and (b) above shall not apply to contributions made or received by a Committee which has never made a contribution to any Candidate and which does not exist in part to make contributions to one or more Candidates.

d. The one hundred dollar (\$100) limit specified in subsection (b) above shall be adjusted in February of each year commencing in 1996 for changes in the consumer price index for the San Francisco Bay Area, CPI-U rounded to the nearest \$5.

e. The prohibitions stated in subsections (a) and (b) above shall apply to expenditures made by a Committee (other than a Controlled Committee) at the behest of a Candidate as well as to any other type of contribution.

f. No contribution of twenty-five dollars (\$25.00) or more shall be made or received in cash. The foregoing provision shall be interpreted according to the standards set forth in Government Code Section 84300.

g. No contribution of twenty-five dollars (\$25.00) or more other than an in-kind contribution shall be made unless by written instrument containing the name of the donor and the name of the payee.

h. The value of all in-kind contributions of twenty-five dollars (\$25.00) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

i. No person shall make an anonymous contribution or contributions to a Candidate, Committee or any other person totaling twenty-five dollars (\$25.00) or more in a calendar year. An anonymous contribution of twenty-five dollars (\$25.00) or more shall not be kept by the intended recipient but instead shall be paid to the City's Administrative Services Director for deposit in the general fund of the City except as otherwise provided at §84304 of the Act. No Candidate shall accept more than a total of fifty dollars (\$50.00) in anonymous contributions. Any excess amount shall be paid to the City's Administrative Services Director for deposit in the general fund of the City.

j. Any Candidate or Committee who accepts contributions in excess of the limitations set forth in this section may, within 30 days after receipt of such excess contribution, return the excess amount to the contributor without penalty.

k. The contribution limitations of this section shall apply to the aggregate contributions made by related entities to related committees. As used in this section, the term related entities includes: (i) Individuals who make contributions from personal funds and who also direct and control contributions made from other funds; (ii) Business entities in a parent-subsidiary relationship and business entities with the same controlling owner (more than 50%), unless the entities act completely independently in their decisions to make contributions; and (iii) Entities where the same person or a majority of the same persons in fact directs and controls the contributions each entity makes. As used in this section, the term related committees means a candidate and any committee(s) controlled by that candidate. (*§1, Ord. 1625, eff. July 18, 1985; and by §1, Ord. 1667, eff. July 2, 1986; and by §1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.104. Cash Expenditures.

No expenditure of twenty-five dollars (\$25.00) or more shall be made in cash. (*§1, Ord. 1625, eff. July 18, 1985; §1, Ord. 1667, eff. July 2, 1986; and by §1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.105. Supplemental Disclosure Requirements for Independent Expenditures.

Every independent expenditure report filed in connection with a City Election shall contain the following information, in addition to the information required by Government Code §84203.5.

a. The total amount of expenditures related to the Candidate or measure during the period covered by the report made to persons who have received less than twenty-five dollars (\$25.00);

b. The total amount of expenditures related to the Candidate or measure during the period covered by the report made to persons who have received twenty-five dollars (\$25.00) or more;

c. For each person to whom an expenditure of twenty-five dollars (\$25.00) or more related to the Candidate or measure has been made during the period covered by the report and for each person who has provided consideration for an expenditure of twenty-five dollars (\$25.00) or more during the period covered by the report:

1. His or her full name;

2. His or her street address;

3. If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee.

4. The amount of the expenditure;

5. A brief description of the consideration for which each such expenditure was made and the value of the consideration if less than the total amount of the expenditure; and

6. The cumulative amount of expenditures to such person. (§1, Ord. 1625, eff. July 18, 1985; §1, Ord. 1667, eff. July 2, 1986; and by §1, Ord. 1851-A, eff. 12/15/94)

Sec. 12-1.106. Supplemental Disclosure Requirements for Campaign Statements.

Every campaign statement filed in connection with a City election shall contain the following information, in addition to the information required by Government Code Sec. 84211:

a. The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of twenty-five dollars (\$25.00) or more.

b. 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 twenty-five dollars (\$25.00).

c. If the cumulative amount of contributions (including loans) received from a person is twenty-five dollars (\$25.00) or more and a contribution or loan (even if less than \$25.00) has been received from that person during the period covered by the campaign statement:

1. His or her full name;

2. His or her street address;

3. His or her occupation;

4. The name of his or her employer or if self-employed, name of business and business address;

5. The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and

6. The cumulative amount of contributions.

d. The total amount of expenditures made during the period covered by the campaign statement to persons who have received twenty-five dollars (\$25.00) or more.

e. The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than twenty-five dollars (\$25.00).

f. For each person to whom an expenditure of twenty-five dollars (\$25.00) or more has been made during the period covered by the campaign statement:

1. His or her full name;
2. His or her street address;
3. The amount of each expenditure;
4. A brief description of the consideration for which each expenditure was made;

5. In case of an expenditure which is a contribution, the date of the contribution, the cumulative amount of contributions made to a Candidate, elected officer or Committee, the full name of the Candidate and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or Candidate is voted upon; and

6. The information required in paragraphs (1) through (4) above, for each person, if different from the payee, who has provided consideration for an expenditure of twenty-five dollars (\$25.00) or more during the period covered by the campaign statement.

g. For purposes of subdivisions d, e, and f, only, the terms "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

h. In a campaign statement filed by a committee supporting or opposing more than one Candidate or measure, the amount of expenditures of twenty-five dollars (\$25.00) or more for or against each Candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of twenty-five dollars (\$25.00) or more for or against each such Candidate or measure.

i. If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (f) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling twenty-five dollars (\$25.00) or more for circulation of petitions to qualify a measure for the ballot. (*§1, Ord. 1625, eff. July 18, 1985; and by §1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.107. Campaign Statement Filing Dates.

a. All Candidates and Committees shall file Campaign Statements no later than the dates, and covering the periods, prescribed by the State Political Reform Act for pre-election statements.

b. In addition to the Campaign Statements described in subsection (a), all Candidates and Committees shall file a final pre-election Campaign Statement no later than four days prior to the election. This statement shall be for the period closing five days prior to the election. This statement shall be filed with the City Clerk only by personal delivery during regular business hours on the fourth day prior to the election or by guaranteed overnight delivery deposited no later than the fifth day prior to the election. This statement may not be filed by first-class mail or any other method not specified above.

c. In addition to the Campaign Statements described in subsections (a) and (b), all Candidates and Committees shall file a post-election Campaign Statement sixty-five (65) days after the election, or in the case of a successful Candidate, not later than the day preceding the day on which he or she takes office. The statement shall close seven days prior to the filing deadline. (*1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.108. Informational Meeting.

The City Clerk and City Attorney shall invite all qualified Candidates for City office to a meeting, in the two weeks following the close of the nomination period for City office, to inform Candidates of the provisions of this title. (*1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94*)

Sec. 12-1.109 Enforcement.

a. In addition to other duties required by law, the City Clerk shall monitor all statements, filed pursuant to this title. The City Clerk shall:

1. Determine whether the required statements have been filed with the City Clerk;
2. Determine the timeliness of filing;
3. Determine whether the statements conform on their face with the requirements of this title; and
4. Determine if any reported contributions exceed the allowable maximums established by this title.

b. If the City Clerk, in the course of reviewing statements as required by subsection a, finds an apparent violation, the City Clerk shall notify the Candidate or Committee in writing.

c. 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.

d. The City Clerk shall report to the City Attorney any apparent violations of this ordinance which have not been corrected or cannot be corrected by the Candidate or Committee.

e. The City Clerk shall compile and maintain for five years a list of statements or portions of statements which the City Clerk is required to review. Each list shall be indexed by the Candidate's or Committee's name. (31, Ord. 1851-A, eff. 12/15/94; and (31, Ord. 2053 eff. 8/18/2006)

Sec. 12-1.110. Penalties.

a. Criminal Penalties. Any person who violates any provision of this chapter shall be guilty of a misdemeanor or an infraction.

1. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in section 1-2.01 of this Code.

2. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six months, or by a fine not exceeding \$1,000, or by both such fine and imprisonment.

b. Civil Penalties. Any person who intentionally or negligently violates any provision of this chapter shall be liable to the City for 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.

c. Cumulative Remedies. The foregoing remedies shall be deemed non-exclusive, cumulative and in addition to any other remedy the City may have at law or in equity. (31, Ord. 1851-A, eff. 12/15/94)

Sec. 12-1.111 Regulations.

The City Clerk is authorized to adopt regulations and forms necessary or desirable to interpret and carry out the provisions of this title. (31, Ord. 1851-A, eff. 12/15/94)

Sec. 12-1.112. Severance Clause.

Should any part of this ordinance be held invalid, it shall be severable and shall not affect the validity of the remaining parts. (31, Ord. 1851-A, eff. 12/15/94)

Sec. 12-1.113. Amendments.

This chapter may be amended to make it consistent with the state Political Reform Act only by a 2/3 vote of the entire City Council. Notwithstanding the foregoing, the additional Campaign Statements required by Sections 12-1.107, the contribution limit established in Section 12-1.103, the \$25 reporting requirements and the prohibition against accepting contributions except during an election period, may only be amended by a vote of the electorate. (31, Ord. 1851-A, eff. 12/15/94)

CHAPTER 2. CANDIDATE=S FAIR CAMPAIGN PLEDGE

Sec. 12-2.101. Purpose.

The citizens of Walnut Creek are entitled to fair campaigns for City offices. The goal of a fully informed electorate can only be achieved if candidates discuss the issues openly and fairly; avoid defamatory attacks on their opponents; fairly represent the facts; identify themselves on campaign mailings; supervise the preparation of campaign materials; and file timely and complete disclosure statements. The purposes of this ordinance 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. (1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)

Sec. 12-2.102. 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 shall not duplicate or use any lists of contributors filed by any other candidates for the purpose of compiling my own mailing lists without the permission of the other candidate.

10. I, the undersigned candidate for election to a City office in the City of Walnut Creek, 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.

(1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)

Sec. 12-2.103. Voluntary Pledge.

Each candidate may choose to sign or not sign the campaign pledge. *(1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)*

Sec. 12-2.104. Filing.

The Fair Campaign Pledge may be filed with the Declaration of Candidacy. *(1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)*

Sec. 12-2.105. Public Record.

Every Fair Campaign Pledge is a public record which shall be open to inspection at all times during City business hours. *(1, Ord. 1625, eff. July 18, 1985; 1, Ord. 1667, eff. July 2, 1986; and by 1, Ord. 1851-A, eff. 12/15/94)*