

ARTICLE VIII. - CAMPAIGN CONTRIBUTIONS

Footnotes:

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Editor's note— Ord. No. 2272, § 1, adopted Feb. 17, 2015, repealed former Art. VIII, §§ 2-400—2-405, and enacted a new Art. VIII as set out herein. Former Art. VIII pertained to similar subject matter and derived from Ord. No. 1669, § 1, 4-22-85; Ord. No. 2081, § 2, 4-2-02.

Sec. 2-400. - Findings, declarations, and purpose.

In enacting this article, the city council finds and declares as follows:

(1) *Findings and declarations.*

- a. Monetary contributions to political campaigns are a legitimate form of participation in the political process; however, the financial strength of certain persons, as defined herein, should not permit the exercise of a disproportionate, controlling, or corrupting influence in a local election of candidates.
- b. The increasing costs of political campaigns have compelled candidates to take larger amounts of money from persons with specific financial stake in matters before the city council. This has caused a public perception that votes may be improperly influenced by monetary contributions.
- c. The tendency for campaign contributions to be dominated by a small number of very large contributors undermines the integrity of the governmental process, the competitiveness of campaigns, and the public confidence in local officials and local agencies.
- e. High campaign costs are also forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

(2) *Purpose.* The city council enacts this article to accomplish the following purposes:

- a. To improve methods of financing campaigns in order to ensure the public's right-to-know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and promote citizen participation in the political process.
- b. To prevent parties with a specific financial interest in the city's decisions from exerting undue influence over those decisions by means of large campaign contributions.
- c. To allow candidates and officeholders to spend a lesser proportion of their time on fundraising and greater proportion of their time dealing with issues of importance to the city and its residents.

- d. To improve the disclosure of contribution sources in reasonable and effective ways.
- e. To restore public trust in governmental electoral institutions.

(Ord. No. 2272, § 1, 2-17-15)

Sec. 2-401. - Campaign contribution reporting requirements.

Candidates running for and officeholders in positions of elective office in the city shall adhere to the following campaign contribution reporting requirements:

- (1) Provide full disclosure of any donation in the amount of one hundred dollars (\$100.00) or more given to his or her campaign.
- (2) Provide the names and addresses of all individuals who give money to his/her campaign in the amount of one hundred dollars (\$100.00) or more.
- (3) Require that all money donations in the amount of one hundred dollars (\$100.00) or more be made in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code section 84302. "Written instrument" includes, but is not limited to, check and credit card donations, but excludes money orders, traveler's checks and cashier's checks.

(Ord. No. 2272, § 1, 2-17-15)

Sec. 2-402. - Contributions by persons.

No person shall make, and no candidate shall receive from any person, any contribution to the campaign of any individual candidate for any City of West Covina elective public office in excess of five hundred dollars (\$500.00) in any calendar year. This amount shall automatically be adjusted on January 1 of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index for the prior year utilizing the standard as established by the Bureau of Labor Statistics of the U.S. Department of Labor for all urban consumers in the Los Angeles, Riverside and Orange County areas. This adjustment shall be rounded to the nearest one dollar (\$1.00). This adjustment shall also be published on the city's website, if it exists, and posted at three (3) public places for at least ninety (90) days from its effective date.

(Ord. No. 2272, § 1, 2-17-15)

Sec. 2-402.5. - Independent expenditures.

- (a) *Purpose.* The purpose of this section is to ensure transparency of independent expenditures so that voters in city elections are provided information on contributors, contributions and expenditures in a timely manner.
- (b) *Definitions.* For purposes of this section, the following definitions shall apply:

- (1) *Campaign communication* means any of the following campaign related items:
 - a. More than two hundred (200) substantially similar pieces of campaign literature distributed within a calendar month, including, but not limited to, mailers, flyers, facsimiles, pamphlets, door hangers, e-mails, campaign buttons ten (10) inches in diameter or larger, and bumper stickers sixty (60) square inches or larger;
 - b. Posters, yard or street signs, billboards, super-graphic signs and similar items;
 - c. Television, cable, satellite, internet and radio broadcasts;
 - d. Newspaper, magazine, internet website banners and similar advertisements; or
 - e. More than two hundred (200) substantially similar live or recorded telephone calls made within a calendar month.
 - (2) *City candidate* means any person who is a candidate for a city office.
 - (3) *City measure* means any local measure placed on the ballot by the City of West Covina, including voter sponsored initiatives, recall and referendum measures, in an election which is governed by the California Elections Code.
 - (4) *City office* means any office of the City of West Covina that is filled by way of a vote of the people of the City of West Covina.
 - (5) *Elective city officer* means any member of the West Covina City Council, or any other city office that is filled by way of a vote of the people of the City of West Covina.
 - (6) *Individual* means a living person contributing funds.
 - (7) *Independent expenditure* means an expenditure made by any person or committee in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.
- (c) *Reporting of independent expenditures.* Disclosure of payments for independent expenditures shall be as follows:
- (1) At any time, any person, including any committee, that makes or incurs independent expenditures that combine to one thousand dollars (\$1,000.00) or more in support of or in opposition to any candidate for elective city office or any city measure shall report to the West Covina City Clerk's office within twenty-four (24) hours by certified mail, fax or e-mail each time this threshold is reached. The form of notification is described in subsections (c)(2) and (c)(3) of this section, and the city clerk shall post this notification on the city's website immediately upon receipt, but no later than the next business day.
 - (2) The notification shall consist of a declaration made under penalty of perjury and signed by the person or officer and the treasurer of the group making the expenditure, specifying the

following: (i) if applicable, each candidate who was supported or opposed by the expenditure; (ii) the amount spent to support or oppose each candidate or measure; (iii) if applicable, whether the measure was supported or opposed; and, (iv) that the expenditure was not behested by the candidate or candidates who benefited from the expenditure.

- (3) In addition, the notification shall include the date and amount of the payment, a description of the type of communication for which the payment was made or incurred, the name and address of the person making the payment, the name and address of the payee or committee, and a copy of the mailing or advertisement, or a copy of the script or recording of the call, transmission, or advertisement. The West Covina City Clerk shall determine the reporting form to fulfill the notification requirement.

(d) *Additional requirements for campaign communications funded by independent expenditures.*

- (1) Campaign communications funded by an independent expenditure supporting or opposing city candidates or city measures shall include the following disclosures: "This communication was not authorized by candidate (name) for (office)" or "(name) initiative proponent/opponent."
- (2) Campaign communications funded by an independent expenditure supporting or opposing city candidates or city measures shall include the names of the two (2) largest contributors within the preceding one hundred eighty (180) days from the date the communication is sent, along with the donors' city and state of residence. The disclosure required by this subsection shall be presented in a clear and conspicuous manner so as to give the reader, observer or listener adequate notice as follows:
- a. For printed campaign communications that measure no more than twenty-four (24) inches by thirty-six (36) inches, all disclosure statements required by this subsection shall be printed using a typeface that is easily legible to an average reader or viewer, but is not less than ten-point type in contrasting color to the background on which it appears. For oversize printed campaign communications, all disclosure statements shall constitute at least five (5) percent of the height of the material and be printed in contrasting color.
 - b. For video broadcasts including television, satellite, internet, telephone and cable campaign communications, the information shall be both written and spoken either at the beginning or at the end of the communication, except that if the disclosure statement is written for at least five (5) seconds of a broadcast of thirty (30) seconds or less or ten (10) seconds of a sixty-second broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be of sufficient size to be readily legible to an average viewer and air for not less than five (5) seconds.
 - c. For audio, telephone call or radio advertisement campaign communications, the disclosures shall be spoken in a clearly audible manner at the same speed and volume as

the rest of the telephone call or radio advertisement at the beginning or end of the communication and shall last at least three (3) seconds. The requirement shall be satisfied by using the words "on behalf of" immediately followed by the name of the candidate or committee that pays for the communication.

(Ord. No. 2440, § 1, 7-3-18)

Sec. 2-403. - Definitions.

- (a) The definitions set forth in California Government Code section 82000 et seq. shall be applicable to the provisions and terms of this article.
- (b) For purposes of sections 2-405.50 and 2-405.60 of this article, the following words and phrases shall mean:

Affected party means a party to a city contract, a subcontractor under a city contract, an applicant seeking entitlement, a contractor of applicant seeking entitlement, or a subcontractor of applicant seeking entitlement.

Applicant seeking entitlement means any person who has filed an application or letter seeking approval of an entitlement with the city, successor agency, or housing authority, or any person who is an owner or lessee of property on whose behalf an application or letter seeking approval of an entitlement is filed.

Application is pending means an application or letter which is subject to review, hearing or consideration by the council, successor agency, CDC, and/or housing authority and the application or letter seeking an entitlement has been filed and, either will be set for review, hearing or other consideration by the council, successor agency, or housing authority as a matter of right, or has been formally appealed to the council, successor agency, CDC or housing authority. The three examples set forth below are intended to provide interpretive guidance:

- (1) An application for a zone change is filed. Since a zone change can only be effectuated by the council, upon filing the application it would be deemed pending before the council;
- (2) An application for a conditional use permit is filed. Only at such time as the grant or denial of a conditional use permit is appealed to the council would it be pending before the council;
- (3) Any application for which the council is either the sole determining body or as to which a final decision must be made by the council.

CDC means the West Covina Community Development Commission.

City contract means any agreement or contract, including any amendment or modification to an agreement or contract, with the city, successor agency, CDC or housing authority, where such contract or agreement is subject to approval by the council, successor agency, CDC, or housing authority for (a) the rendition of personal services; (b) construction and/or the furnishing of any material, supplies or equipment;

(c) the sale, lease, exchange, or transfer of any land or building to or from the city, successor agency, CDC, or housing authority; or (d) a grant, loan, loan guaranty, land write down, or other similar form of financial assistance. "Contract" does not include a contract awarded pursuant to a competitive bidding process under the Public Contracts Code, a transfer or exchange of land to or from one public agency to another public agency, or the transfer of an easement, license, or right-of-way in the ordinary course of a development project.

Contractor of applicant seeking entitlement means a person who is, or has been promised to be, a party to a contract as an architect, design professional, engineer, or general or prime contractor with an applicant seeking entitlement, as defined herein, which contract has, or would have a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more.

Council means the city council of the City of West Covina.

Design professional means a person who performs services in the nature of designing structures, buildings, interiors, landscape and/or hardscape but does not have any particular license.

Entitlement means permit, license, conditional use permit, variance, site plan, architectural or design review (at any stage), franchise, administrative exception, parking reduction, review of plans, development agreement, disposition and development agreement, exclusive negotiation agreement, owner participation agreement, affordable housing agreement, financial assistance for a proposed project, or any other land use entitlement which is discretionary and not ministerial in nature; provided, however, that entitlements for residential developments of five (5) units or less or additions to a single-family home, duplex, tri-plex or four-plex shall be expressly excluded.

Housing authority means the housing authority of the City of West Covina.

Related persons includes any of the following persons with respect to a party with a city contract, a subcontractor under a city contract, applicant seeking entitlement, contractor of applicant seeking entitlement, and subcontractor of applicant seeking entitlement: a member of its board of directors, its chairperson, its chief executive officer/president, its chief financial officer, its chief operating officer, any person with ownership interest of more than ten (10) percent in such person, and/or any committee, as defined in this chapter, that is owned or controlled by such person.

Subcontract means a contract subordinate to another contract made between the contracting parties which includes an agreement for a subcontractor to perform all or part of certain work to be performed by an architect, design professional, engineer, general or prime contractor.

Subcontractor means a person who has entered into a contract for the performance of all or a portion of the work undertaken under an agreement with an architect, design professional, engineer, or general or prime contract, usually by a general or prime contractor.

Subcontractor of applicant seeking entitlement means a person who is, or has been promised to be, a party to a subcontract as an architect, design professional, engineer, or to perform other work with a "contractor of applicant seeking entitlement" as defined herein, which subcontract has, or would have a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more.

Successor agency means the successor agency to the West Covina Redevelopment Agency.

(Ord. No. 2272, § 1, 2-17-15; Ord. No. 2312, § 1, 3-21-17)

Sec. 2-404. - Enforcement.

- (a) Any person who believes that a violation of this article has occurred may file a complaint with the city attorney. The city attorney shall investigate and shall have investigative powers as are necessary for the performance of his or her duties under this article.
- (b) The city attorney, or any registered voter of the city, may bring a civil action to enjoin violations of or compel compliance with the provisions of this article.

(Ord. No. 2272, § 1, 2-17-15)

Sec. 2-405. - Penalties.

- (a) Any person who knowingly or willfully violates any provision of this article shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) for each violation or by imprisonment of not more than six (6) months or both such fine and imprisonment.
- (b) Notwithstanding subsection (a), any person who intentionally or negligently violates any of the provisions of this article may be subject to a civil action brought by the city attorney acting as the civil prosecutor for an amount up to one thousand dollars (\$1,000.00) for each violation, or three (3) times the amount not reported, or the amount received in excess of the amount allowable pursuant to this article, whichever is greater.

(Ord. No. 2272, § 1, 2-17-15)

Sec. 2-405.1. - Campaign contributions from applicants and contractors.

- (a) No person who is an applicant or proposer to be a party to a city contract, or who is a party to a city contract, as defined in section 2-403, other affected party, or related persons, shall make a contribution to an individual holding city elective office where the city contract has a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more, or a combination or series of such contracts or agreements having a value of thirty thousand dollars (\$30,000.00) or more.
- (b) No member of the council, nor the city clerk or city treasurer shall receive a contribution from a

person who is a party to a city contract, or an applicant or proposer to be a party to a city contract, as defined in section 2-403, or related persons, where the city contract has a total anticipated or actual value of thirty thousand dollars (\$30,000.00) or more, or a combination or series of such contracts, having a value of thirty thousand dollars (\$30,000.00) or more.

- (c) No person acting as a subcontractor under a subcontract through a city contract, as defined in section 2-403, or related persons, shall make a contribution to a council member where an individual subcontract has a total anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, or a combination or series of such individual subcontracts with the same subcontractor, for the same or different projects with the aggregate value of fifteen thousand dollars (\$15,000.00) or more.
- (d) No member of the council shall receive a contribution from a person who is party to a subcontract under a city contract, as defined in section 2-403, or related persons, where the subcontract has a total anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, or a combination or series of such subcontracts having a value of fifteen thousand dollars (\$15,000.00) or more.
- (e) No applicant seeking entitlement, contractor of an applicant seeking entitlement or a subcontractor of an applicant seeking entitlement, or related persons, shall make a contribution to a council member while such application is pending before the council, successor agency, CDC, or housing authority and for a period of twelve (12) months after the last and final action on that entitlement by the council, successor agency, CDC or housing authority.

(Ord. No. 2312, § 2, 3-21-17)

Sec. 2-405.2. - Posting of list of contractors, subcontractors, vendors and applicants for entitlements.

City staff shall prepare a list or lists of: Applicants or proposers for city contracts in the amount of thirty thousand dollars (\$30,000.00) or more; parties to city contracts in the amount of thirty thousand dollars (\$30,000.00) or more; subcontractors under city contracts with anticipated or actual value of fifteen thousand dollars (\$15,000.00) or more, individually or in the aggregate; applicants seeking entitlements; contractors of applicants seeking entitlements; and, subcontractors of applicants seeking entitlements, while such application is pending before the council or other legislative body of the city and for twelve (12) months thereafter. Such list or lists shall be posted on the city's website and made available to all elected officials and candidates.

(Ord. No. 2312, § 3, 3-21-17)