

ORDINANCE NO. 2008- 06

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINOLE
ADDING CHAPTER 1.16 "LOCAL CAMPAIGN CONTRIBUTION LIMITS" TO
THE PINOLE MUNICIPAL CODE**

The City Council of the City of Pinole does ordain as follows:

Section 1. Pinole Municipal Code Amendment. Chapter 1.16 the City of Pinole Municipal Code entitled "Local Campaign Contribution Limits" is hereby added as follows:

- 1.16.010 FINDINGS
- 1.16.020 PURPOSE
- 1.16.030 DEFINITIONS
- 1.16.040 CONTRIBUTION LIMITATIONS
- 1.16.050 REQUIRED DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES
- 1.16.060 CLERK AND CITY ATTORNEY REVIEW
- 1.16.070 INFORMATIONAL MEETING
- 1.16.080 PENALTIES
- 1.16.090 AMENDMENTS

1.16.010 FINDINGS

(A) Monetary contributions to political campaigns are a legitimate form of participation in the American political process; however, the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence upon the election of candidates in Pinole.

(B) The increasing costs of political campaigns compel many candidates to raise larger percentages of money from interested groups with a specific financial stake in matters which may come before the Pinole 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.

1.16.020 PURPOSE

The City Council enacts this chapter 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, and promote citizen participation in the political process.

(B) To prevent parties with a specific financial interest in the City's decision 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 fund raising 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.

(F) To ensure that independent expenditures were not used to evade contribution limits.

(G) To prevent large contributors to independent expenditure committees from influencing candidates in the same way that candidates are influenced by large contributors who give to them directly.

(H) To prevent the corruption or appearance of corruption of candidates who have been given large contributions by independent expenditure committees and thus who may be influenced by those large contributions.

(I) To reduce the political *quid pro quo* by candidates who might be more inclined to provide favors and attention to those entities that, without this chapter, would have contributed large sums to the candidate's campaign through the independent expenditure intermediary.

1.16.030 DEFINITIONS

As used in this chapter, the following words shall have the following meanings, and all other words and terms shall have the meanings ascribed to them by the definitions set forth in the Political Reform Act:

(A) **BALLOT MEASURE** means and includes initiatives, referenda, resolutions, advisory measures, and measures which are required by law to be submitted to a vote by the electorate.

(B) **BROAD-BASED POLITICAL COMMITTEE** means a committee of persons that has been in existence for more than six (6) months, receives contributions from one hundred (100) or more persons, and whose members act in concert to make contributions to five (5) or more candidates.

(C) **CANDIDATE** means a person who seeks election to an elective City office, including an office holder and all individuals specified in Government Code section 82007.

(D) **CITY ELECTION** means any municipal election to fill public offices in the City of Pinole, to hold recall elections, and to vote on ballot measures relating to City law.

(E) **ELECTION CYCLE** means -- for each elective City office, including the office of the City Treasurer -- a two (2) year period of time commencing on January 1st and ending at midnight on December 31st following the next election for the same office.

(F) **PERSON** means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, or labor organization.

(G) **POLITICAL COMMITTEE** means a committee of persons which receives contributions from two (2) or more persons and whose members act in concert to make contributions to candidates.

(H) **POLITICAL REFORM ACT** means the Political Reform Act of 1974 (Government Code Section 81000 *et seq.*) as it has been and may be amended from time to time.

(I) **PRIMARILY FORMED COMMITTEE** means a committee pursuant to Government Code Section 82013(a) which is formed or exists primarily to support or oppose a single candidate or a single measure, or a group of specific candidates being voted upon in the same City election.

(J) **SPECIAL ELECTION CYCLE** means that period of time which begins the day on which the elective office becomes vacant and ends the day of the special election.

1.16.040 CONTRIBUTION LIMITATIONS

(A) Monetary contributions by persons. In any election cycle or special election cycle, no person shall make, and no candidate for elective City office, or campaign treasurer, shall solicit or accept, any monetary contribution, including loans, which would cause the total amount of monetary contributions made by that person to that candidate for elective City office or to any committees controlled by that candidate, including monetary contributions to all committees controlled by the candidate, to exceed five hundred dollars (\$500.00).

(B) Monetary contributions by political committees and broad-based political committees. In any election cycle or special election cycle, no political committee or broad-based political committee shall make, and no candidate for elective City office, or campaign treasurer, shall solicit or accept, any monetary contribution, including loans, which would cause the total amount of monetary contributions made by a political committee or broad-based political committee to that candidate for elective City office or to any committees controlled by that candidate to exceed one thousand dollars (\$1,000).

(C) In-kind contributions. In any election cycle or special election cycle, no candidate for elective City office, or campaign treasurer, shall solicit or accept any in-kind goods and services (nonmonetary) which would cause the total amount contributed (monetary and nonmonetary) to that candidate, including contributions to all committees controlled by the candidate, to exceed the following amounts:

1. One thousand dollars (\$1,000) by a person;
2. Two thousand dollars (\$2,000) by a political committee or broad-based political committee.

(D) Limitations applicable to specified committees. Primarily formed committees or similarly organized committees formed or existing primarily to support or oppose a single candidate or a group of specific candidates for elective City office being voted upon in the same election shall be subject to the campaign contribution limitations set forth in this chapter. Committees organized solely to support or oppose ballot measure(s) relating to City law shall not be subject to said campaign contribution limits.

(E) Return of excess contributions. Contributions, including loans, which either in the aggregate or on their face exceed the contribution limits of this chapter shall be deemed not to have been accepted if returned by the effective date of this chapter, or returned prior to deposit or negotiation, within twenty (20) business days of receipt.

1. A late nonmonetary contribution shall be returned by returning to the contributor either the nonmonetary contribution or its monetary equivalent. It

is permissible to return only the monetary amount by which the value of the nonmonetary contribution exceeds the contribution limits of this chapter, in an instance where the reason for the return is to avoid exceeding monetary limits.

2. This section shall not be construed to authorize the making or solicitation of any contribution in excess of the contribution limits of this chapter, or in violation of any of its other provisions.

(F) Loans and Discharge of Loans. A candidate for elective City office may forgive loans made by the candidate to his or her campaign upon leaving office and by filing the relevant termination statements required by the Fair Political Practices Commission.

1.16.050 REQUIRED DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES

Each campaign statement required by the Political Reform Act shall contain the same information required thereby, including the information required by Government Code Section 84211.

1.16.060 CITY CLERK AND CITY ATTORNEY REVIEW

(A) In addition to other duties required by law, the City Clerk shall monitor all campaign statements filed with the City. The City Clerk shall:

1. Determine whether the campaign statement required by this chapter has been timely filed with the City Clerk;
2. Determine if any reported contributions on any campaign statement exceed the allowable limits established by this chapter; and
3. Notify candidate(s) or groups of any errors in their campaign statements.

(B) The candidate or group may correct any mistake made in the preparation of any statement within five (5) days after receipt of the notice from the City Clerk or City Attorney. The correction(s) must be accompanied by an explanation of how the error occurred.

(C) The City Clerk shall report to the City Attorney any apparent violations of this chapter which have not been corrected or cannot be corrected by the candidate or group.

(D) The City Attorney may prosecute the violations of this chapter or refer violations to the District Attorney for enforcement.

1.16.070 NOTICE TO CANDIDATES

The City Clerk shall provide a copy of this Chapter to all qualified candidates for City office during the nomination period for City office, to inform candidates of the provisions of this chapter.

1.16.080 PENALTIES

(A) Criminal penalties.

1. A violation of this chapter is a misdemeanor.
2. A person who violates a provision of this chapter, or causes any other person to violate a provision of this chapter, or who aids or abets any other person in the violation of any provision of this chapter is subject to criminal penalties as set forth in Chapter 1.12 of the Pinole Municipal Code.
3. Prosecution of a violation of any provision of this chapter shall be commenced within two (2) years after the date of the violation.
4. No person convicted of a misdemeanor under this chapter shall act as a City contractor or consultant for a period of four (4) years following the date of conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable.

(B) Civil penalties.

1. Any person who intentionally or negligently violates any provisions of this chapter may also 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.
2. No civil penalty may be imposed more than two (2) years after the date the violation occurred.

(C) Cumulative remedies. The foregoing remedies are nonexclusive, cumulative and in addition to any other remedy the City may have at law or in equity.

1.16.090 AMENDMENTS

This chapter may be amended by a majority vote of the entire City council to ensure consistency with state or federal law, including but not limited to the state Political Reform Act.

Section 2. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 3. Effective Date.

In accordance with California Government Code Section 36937, this ordinance shall take effect and be in force on the thirty-first (31st) day after adoption.

Section 4. Publication.

Within fifteen (15) days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published or to be posted in at least three (3) public places in the City of Pinole in accordance with the requirements of California Government Code Section 36933.

INTRODUCED this 1st day of July, 2008 by the following vote:

AYES: Fujita, Long, Murray, Swearingen

NOES: None

ABSENT: Horton

ABSTAIN: None

PASSED AND ADOPTED this 15th day of July, 2008 by the following vote:

AYES: Fujita, Horton, Long, Murray, Swearingen

NOES: None

ABSENT: None

ABSTAIN: None

(d)(5)
By: Peter Murray
Its: Mayor

ATTEST:
(d)(5)
By: Patricia Athenour
Its: City Clerk

APPROVED AS TO FORM:
(d)(5)
By: [Redacted]
Its: City Attorney

Pursuant to G.C. Code Section 40806 (c), I certify the following:

Published: West County Times, July 26, 2008

Posted: (d)(5)
By: (d)(5), City Clerk