

**CITY OF BENICIA**

**ORDINANCE NO. 09-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING A NEW CHAPTER 1.42 (CONTRIBUTION AND VOLUNTARY SPENDING LIMITS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN** as follows:

Section 1.

Title 1 (General Provisions) of the Benicia Municipal Code is amended by adding Chapter 1.42 (Contribution and Voluntary Spending Limits) to read as follows:

Chapter 1.42

CONTRIBUTION AND VOLUNTARY SPENDING LIMITS

- 1.42.010 Purpose.
- 1.42.020 Definitions.
- 1.42.030 Campaign contribution limitations.
- 1.42.040 Loans.
- 1.42.050 Use of personal funds.
- 1.42.060 Voluntary expenditure limits.
- 1.42.070 Lifting of voluntary expenditure limits.
- 1.42.080 Notification by non-participating candidate regarding expenditure ceiling.
- 1.42.090 Candidate acceptance or rejection of the voluntary expenditure limit.
- 1.42.100 Adjustment of limits for inflation.
- 1.42.110 Candidate debate.
- 1.42.120 Enforcement.

1.42.010 Purpose. This chapter is intended to supplement the Political Reform Act of 1974.

1.42.020 Definitions. The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Sections 82000 through 82055) shall govern the interpretation of this chapter, unless otherwise specified herein.

“Debate” means a discussion between two or more candidates who have qualified to appear on a ballot for an elective city office that is moderated by an independent third party and that is attended by the public.

“Election” means any candidate election held for elective city office in the city of Benicia, including a general municipal election, a run-off election, a special election and a recall election.

“Elective city office” means the offices of mayor, city council member, city clerk and city treasurer.

“Elective city officer” means any individual who is a mayor, city council member, city clerk or city treasurer, whether appointed or elected.

“Qualified campaign expenditure” means:

(1) Any expenditure made by a candidate for city council or mayor, or by a committee controlled by such a candidate, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of a candidate for city council or mayor.

(2) A non-monetary contribution provided at the behest of or with the approval of the candidate or committee controlled by the candidate.

1.42.030      Campaign contribution limitations. No person shall contribute a total of more than \$250 to any candidate for city council, mayor, city clerk or city treasurer and to his or her controlled committee for a single election. A candidate for city council, mayor, city clerk or city treasurer, and his or her controlled committee together shall not accept any contribution or contributions totaling more than \$250 from any person for a single election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign from his or her personal funds.

1.42.040      Loans. No person shall make, and no person or candidate shall solicit or accept any loan for a period of more than 30 days in connection with an election for city council or mayor. Loans to a candidate or to a candidate’s controlled committees shall be counted against the contribution limitations applicable to the candidate. A candidate is not prohibited from obtaining a personal loan of any amount from a licensed financial lending institution in the regular course of business, unless the loan is made for political purposes. This section shall not limit the amount or duration of loans from the candidate to his or her own campaign.

1.42.050      Use of personal funds. No candidate shall expend more than \$5,000 in personal funds, whether contributed or loaned, in connection with his or her campaign for elected city office until the following conditions have been met.

A. All personal funds to be expended by the candidate shall first be deposited in the candidate’s campaign contribution checking account at least 30 days before the election.

B. The candidate shall mail or personally deliver a letter noting the depositing of personal funds exceeding \$5,000 and the amount of the deposit by guaranteed overnight mail to the city clerk within 48 hours of the deposit date. The city clerk shall notify all other candidates running for that office of the deposit and amount within 24 hours. The hour limits exclude weekends and city holidays.

1.42.060      Voluntary expenditure limits.

A. Notwithstanding any other provision of this chapter, any candidate for city council or mayor who files a statement of acceptance of the voluntary expenditure limits specified in this section, shall be allowed to collect contributions or loans in twice the amounts specified in Sections 142.030.

B. The maximum qualified campaign expenditures for a candidate for mayor or city council shall be \$28,000.

1.42.070 Lifting of voluntary expenditure limits. If a candidate for mayor or city council declines to accept the voluntary expenditure limit and makes qualified campaign expenditures in excess of the expenditure limit, or if a committee makes independent expenditures in the aggregate of more than the same limit in support of or in opposition to any such candidate, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office.

1.42.080 Notification by non-participating candidate regarding expenditure ceiling. A candidate for mayor or city council who decides not to accept the voluntary expenditure limits shall notify the city clerk by telephone and by confirming telegram, fax or e-mail on the day the candidate raises more than 100% of the applicable expenditure ceiling and again on the day the candidate spends more than 100% of the applicable expenditure limit. The city clerk shall notify all other candidates for the same office by telephone, fax or e-mail within one business day.

1.42.090 Candidate acceptance or rejection of the voluntary expenditure limit. At the time of filing his or her declaration of intention, each candidate for city council or mayor shall also file a letter with the city clerk indicating acceptance or rejection of the applicable voluntary expenditure limit.

1.42.100 Adjustment of limits for inflation. Beginning January 1, 2011, the contribution and voluntary expenditure limits established by this chapter shall be adjusted biennially by a percentage equal to the change in the San Francisco Bay Area All Urban Consumer Price Index (CPI) for the previous two years. The amounts shall be rounded to the nearest ten dollars. The city clerk shall calculate such increase and post the new limits in a conspicuous place in the city clerk's office.

1.42.110 Candidate debate.  
The open government commission shall sponsor a debate on the Saturday before the general election for all candidates for city council or mayor who meet the criteria of this section. The chair of the commission shall moderate the debate or shall select another member of the commission to serve as moderator. The questions shall be selected from among questions submitted by residents of, or nonprofit organizations located in, the city of Benicia.

1.42.120 Enforcement.  
A. Criminal enforcement. Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be liable under the provisions of this section. Prosecution for violation of any provision of this chapter must be commenced within two years after the date on which the violation occurred.

B. Civil enforcement.



**LETTER OF REJECTION OF  
THE APPLICABLE EXPENDITURE LIMIT**

At the time of filing his or her declaration of intention, each candidate for city council or mayor shall also file a letter with the city clerk indicating acceptance or rejection of the applicable voluntary expenditure limit. By initialing and signing this page, you indicate that you reject the voluntary expenditure limit.

**Notification.**

\_\_\_\_\_ I understand that if I raise more than \$29,890 or spend more than \$29,890, I will notify the city clerk either by telephone, fax or email on the same day.

**Lifting of Limits.**

\_\_\_\_\_ I understand that by my spending in excess of the expenditure limit, the expenditure ceiling will no longer be binding on any candidate running for the same office.

**Campaign contribution limits.**

\_\_\_\_\_ I understand that I may accept a contribution of no more than \$270 from any one person.

**Use of personal funds.**

\_\_\_\_\_ I understand that I may use no more than \$5,000 of my personal funds in connection with my campaign until the monies are deposited in my campaign contribution account and the city clerk has been notified. I will notify the city clerk by mail, and I will include the amount of the deposit as well the date of the deposit.

By signing below, I indicate that I have read this form as well as Benicia Municipal Code Chapter 1.42 (Contribution and Voluntary Spending Limits) (Ordinance 09-12).

Name \_\_\_\_\_ Phone: Home \_\_\_\_\_

Signature \_\_\_\_\_ Work \_\_\_\_\_

Date \_\_\_\_\_ Cell \_\_\_\_\_

Office Use Only

Date excess of expenditure raised: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Date excess of expenditure spent: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

1. Any person who intentionally or negligently violates any provision of this chapter shall be liable in a civil action brought by the city attorney. Where no specific civil penalty is provided, a person may be liable for an amount up to \$2,000 for each violation.

2. Any person who intentionally or negligently makes or receives a contribution, or makes an expenditure, in violation of any provision of this chapter shall be liable in a civil action brought by the city attorney for an amount up to three times the amount of the unlawful contribution or expenditure.

3. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

4. In determining the amount of liability under this subsection, the court may take into account any mitigating factors and any aggravating factors.

5. No civil action alleging a violation of this chapter shall commence more than two years after the date of the election for which the funds at issue were contributed or expended.

## Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

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On motion of Council Member **Campbell**, seconded by Council Member **Schwartzman**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 2<sup>nd</sup> day of June, 2009, and adopted at a regular meeting of the Council held on the 16<sup>th</sup> day of June, 2009 by the following vote:

**Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson**

**Noes: None**

**Absent: None**

  
Elizabeth Patterson, Mayor

ATTEST:

  
Lisa Wolfe, City Clerk