

Chapter 10 CAMPAIGN REFORM* (Sections 21000-21012)

21000. - Short title.

This chapter of the Agoura Hills Municipal Code may be referred to as the "Campaign Reform Ordinance" of the City of Agoura Hills.
(Ord. No. 163 & 163U, § 1, 7-12-89)

21001. - Purpose.

The purpose of this chapter is:

- (a) To require full disclosure of the identity of all contributors to campaigns in support of or in opposition to candidates for the city council and city ballot measures;
- (b) To eliminate the possibility of corruption or any appearance of corruption in local elections by limiting the amounts of money any person may contribute, or otherwise cause to be available, to candidates for the city council, and by prohibiting cash contributions as a means of avoiding disclosure;
- (c) Pursuant to California Government Code Section 85706, to impose contribution limitations, disclosure requirements, and prohibitions that are as or more stringent than those imposed by state law; and
- (d) To fully implement the provisions of the Political Reform Act of 1996, passed by the voters as Proposition 208 at the November 5, 1996 statewide election.
(Ord. No. 163 & 163U, § 1, 7-12-89; Ord. No. 97-273U, § 2, 4-16-97)

21002. - 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, except that:

- (a) "City ballot measure" shall mean any initiative, referendum or city council-sponsored measure that is to be submitted solely to the voters of the City of Agoura Hills; and
- (b) "Committee" shall mean any person or combination of persons who directly or indirectly does any of the following:
 - (1) Receives contributions totaling two hundred fifty dollars (\$250.00) or more in a calendar year; or
 - (2) Makes independent expenditures totaling two hundred fifty dollars (\$250.00) or more in a calendar year; or
 - (3) Makes contributions totaling more than ten thousand dollars (\$10,000.00) in a calendar year to or at the behest of any candidate or candidates for city council, any controlled committee or committees of such candidate or candidates, and any committee which supports or opposes such candidate or candidates.
A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214 of the California Government Code.

The provisions of this subsection (b) shall apply only to committees which receive contributions or make independent expenditures to support or oppose a city ballot measure or a candidate for city council. The definition of committee contained in the

Political Reform Act (California Government Code Section 82013) shall apply to all other committees that are engaged in activities not in support of or in opposition to a city ballot measure or a candidate for city council.

(c) "Candidate" shall mean an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials for nomination or election to the city council, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to the city council, whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any member of the city council who is the subject of a recall effort. For the purpose of this chapter, a member of the city council becomes the subject of a recall effort, and therefore becomes a candidate, at such time as the notice of intention to circulate petitions is served on that member. Thereafter, any action taken by a person to advocate the recall of the candidate shall be deemed to be opposing the candidate, and any action taken by a person to oppose the recall of the candidate shall be deemed to be supporting the candidate. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214 of the California Government Code. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971. (Ord. No. 163 and 163U, § 1, 7-12-89; Ord. No. 179, § 1, 1-9-91; Ord. No. 97-273U, § 3, 4-16-97; Ord. No. 99-294, §§ 2—4, 2-10-99)

21003. Campaign contribution limitations.

(a) No person or committee shall make to any candidate, including the controlled committee of such candidate, and no such candidate or such candidate's controlled committee shall solicit or accept any contribution that will cause the amount contributed by the contributor to the candidate or the candidate's controlled committee to exceed two hundred and fifty dollars (\$250.00) for any single election. In the event that any California statute applicable to general law cities imposes any contribution limit, the lower dollar amount limit of the two shall control.

(b) No person shall make to any committee which supports or opposes any candidate or candidates for city council and no such committee shall accept from any such person a contribution or contributions totaling more than two hundred and fifty dollars (\$250.00) for any single election. In the event that any California statute applicable to general law cities imposes any contribution limit, the lower dollar amount limit of the two shall control.

(c) No person shall make to any candidate for city council or such candidate's controlled committee, or to any committee primarily formed to support or oppose any such candidate or candidates, and no such candidate or committee shall solicit or accept a cash contribution in any amount.

(d) No person shall make to any candidate for city council or the candidate's controlled committee, or to any committee primarily formed to support or oppose any such candidate or candidates, and no such candidate or committee shall solicit or accept any anonymous contribution in excess of five dollars (\$5.00).

(e) No contribution which causes the total amount contributed to a candidate for city council or the candidate's controlled committee, or to any committee primarily formed to

support or oppose any such candidate or candidates, by the person making the contribution to exceed five dollars (\$5.00) for a single election for member of the city council shall be deposited into a campaign checking account unless the name, address, occupation, and employer of the contributor are on file with the committee receiving the contribution.

(f) No person shall make to any candidate for city council or such candidate's controlled committee, or to any committee primarily formed to support or oppose any such candidate or candidates, and no such candidate or committee shall solicit or accept any contribution during the period between seven (7) calendar days before the date of the election and the closing of the polls on election day.

(g) No person shall contribute more than the local aggregate contribution limit to all candidates for the city council, their controlled committees, and committees which support or oppose such a candidate or candidates in connection with any election for member or members of the city council. For the purpose of this subsection (g), the local aggregate contribution limit shall be calculated by multiplying two hundred fifty dollars (\$250.00) by the number of members of the city council to be elected at that election, and adding two hundred fifty dollars (\$250.00) to that resulting amount. The limitation of this subsection (g) shall not apply to contributions to any officeholder account.

(h) No candidate and no committee controlled by a candidate shall make any contribution to any other candidate, any committee that supports or opposes candidates, or any committee that supports or opposes one or more city ballot measures. This section shall not prohibit a candidate from making a contribution from his or her own personal funds to his or her own candidacy, or to another candidate or committee subject to the limits, disclosure and record-keeping requirements imposed by this chapter.

(i) Contributions shall be aggregated and, hence, treated as though made by the same person, when made by:

(1) Entities which share a majority of members on their boards of directors, unless such entities in fact act independently in their decisions to make contributions;

(2) Entities which share two or more officers, unless such entities in fact act independently in their decisions to make contributions;

(3) Entities which are in a parent-subsidiary relationship, or where one entity is a branch, division, affiliate, department or local unit of the other;

(4) An individual or group of individuals and any legal entity or entities in which the individual or group of individuals own greater than fifty (50) percent of the voting or other class of stock of the entity, or who receive or are entitled to receive greater than fifty (50) percent of the profits of the entity; or

(5) An individual and any other legal entity or entities for which the individual is in fact solely responsible for decisions regarding the making of contributions.

(6) Employees, agents or representatives of an individual or entity including, without limitation, a committee, together with that individual or entity, when the contribution is directed by, reimbursed by, or made at the request or behest of that individual or entity.

(j) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign committee, but shall apply to contributions from a spouse.

(k) No committee shall make a contribution or independent expenditure to support or oppose a candidate if that committee has received a contribution from any person that

exceeded, or caused the cumulative amount the committee received from that person to exceed, two hundred fifty dollars (\$250.00) in the twelve (12) calendar months immediately prior to the date the committee's contribution or independent expenditure is made. This section shall not prohibit a committee that otherwise receives contributions in excess of two hundred fifty dollars (\$250.00) from making such contributions or independent expenditures if the funds are expended from a separate account funded entirely by contributions of two hundred fifty dollars (\$250.00) or less.

(Ord. No. 163 & 163U, § 1, 7-12-89; Ord. No. 97-273U, § 4, 4-16-97; Ord. No. 99-294, §§ 5--9, 2-10-99; Ord. No. 03-316, §§ 3--5, 2-26-2003)

21004. Restrictions on when contributions may be received.

(a) No candidate, including the candidate's controlled committee, and no committee primarily formed to support or oppose any such candidate or candidates, shall accept any contributions more than six (6) calendar months prior to any election in which the candidate is attempting, or has qualified, to be on the ballot or is a write-in candidate. In the case of a recall effort, the pre-election fund raising period set forth in this paragraph shall commence on the date a notice of intent to circulate a recall petition is served on the officer.

(b) **No candidate or the controlled committee of such candidate, and no committee primarily formed to support or oppose any candidate or candidates, shall accept any contributions after the earlier of: (i) ninety (90) days after the date of the candidate's withdrawal as a candidate, defeat or election to office; or (ii) the date on which outstanding bills or debts owed by the candidate or committee are paid in full.** Contributions received during such ninety (90) day period shall be used only to pay outstanding bills or debts owed by the candidate or committee for that election. The limitations of this paragraph shall not apply to funds raised by a candidate or the candidate's controlled committee to retire outstanding debts from any election for city elective office held prior to the effective date of this section, provided that such funds are collected pursuant to the contribution limits established in this chapter. Such funds raised to retire debts remaining from elections held prior to the effective date of this section shall not count against the single election contribution limits established in this chapter.

(c) If, at the end of the period specified in subsection (b) above, there remains any unexpended balance in the campaign bank account of any candidate or committee, such unexpended funds remaining in the account shall be immediately disposed of in the following manner:

(1) Subject to the limitations in section 21005, funds may be transferred from the candidate's campaign account to the candidate's officeholder account, if such an account is permitted to be established by this chapter.

(2) Any remaining unexpended funds shall be returned to contributors pro rata, turned over to the General Fund of the City of Agoura Hills, or donated to any bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization, where no substantial part of the donation will have a material financial effect on the former candidate, any member of his or her immediate family, or his or her campaign treasurer.

(d) Under no circumstances shall funds raised for a campaign for city elective office be redesignated, transferred, or used for any future election other than the single election for which the funds were contributed.

(Ord. No. 99-294, § 11, 2-10-99)

Editor's note: Ord. No. 99-294, § 10, adopted Feb. 10, 1999, renumbered the former §§ 21004--21008 as §§ 21006--21010, respectively. Sections 11 and 12 then added new §§ 21004 and 21005 as set out herein.

21005. Officeholder accounts.

(a) Each member of the city council may establish one segregated officeholder account for expenses directly related to assisting, serving, or communicating with constituents, or to carrying out the official duties of the elected officer, provided aggregate contributions to such an account do not exceed one thousand dollars (\$1,000.00) in any calendar year, and provided further that the balance of funds in such an account that are accrued from contributions does not exceed one thousand dollars (\$1,000.00) at anytime. Expenditures from an officeholder account shall not be made in connection with any campaign for elective office in any jurisdiction or any ballot measure.

(b) No person shall make, and no member of the city council or his or her officeholder account shall solicit or accept, a contribution or contributions to the member's officeholder account totalling more than two hundred fifty dollars (\$250.00) in any calendar year.

(c) Contributions to an officeholder account shall not be considered to be campaign contributions for the purpose of this chapter.

(d) Officeholder accounts are subject to the campaign disclosure, reporting, and record-keeping requirements of the political reform act and this chapter. Any funds remaining in an officeholder account when the officeholder leaves office shall be turned over to the General Fund of the City of Agoura Hills within ten (10) calendar days of the date the officeholder leaves office.

(Ord. No. 99-294, § 12, 2-10-99)

Editor's note: See editors note attached to § 21004.

21006. - Campaign contribution disclosure.

(a) In addition to any other report required by law to be filed, each candidate for city council shall, at the time he or she files nomination papers for such office, file with the city clerk a statement, in letter form or on a form prescribed by the city clerk for such purpose, which contains the following information (copies of previous campaign statements may be appended to the statement for the purpose of supplying the required information):

(1) The name and address of the candidate's controlled committee;

(2) The treasurer of such controlled committee;

(3) The total amount of cash on hand in such committee's account as of the date of filing the statement; and

(4) The information specified for disclosure of contributions and expenditures in subsection (c) of this section.

(b) If the candidate filing nomination papers has not yet organized a controlled committee at the time of filing, he or she shall file the statement required by subsection (a), above, within seventy-two (72) hours of filing a statement of organization with the secretary of state's office.

(c) Any committee not controlled by a candidate for city council that makes a contribution or independent expenditure to support or oppose a candidate or a city ballot

measure shall, within seventy-two (72) hours of making such contribution or independent expenditure, file in the office of the city clerk a letter containing the name and address of the committee, the full street address of the committee, the FPPC/Secretary of State identification number of the committee, the treasurer of the committee, and the candidate(s) and/or city ballot measure(s) supported or opposed by the committee. Upon receipt of such a filing, the city clerk shall distribute copies of the letter to the affected candidates and/or committees. It shall be unlawful for any person or committee to knowingly file or publish any name or street address for a committee that is not the complete and accurate name and/or street address of the committee.

(d) Thereafter, each candidate, controlled committee, or committee which supports or opposes a candidate or candidates for the city council shall, for each person from whom the committee has received cumulative contributions in excess of five dollars (\$5.00) in connection with a single election for member of the city council, report on the committee's campaign statement the information specified for disclosure in California Government Code Section 84211(f) or any successor statute, in addition to any other information required by law to be disclosed. Such reports shall be filed pursuant to the time schedule established by the Political Reform Act and this chapter.

(e) Any candidate or committee which is required to file preelection statements pursuant to California Government Code Section 84200.8 in connection with an election for member of the city council shall, in addition to the statements required to be filed by that section, file a preelection statement not later than twenty-six (26) days before the election which covers the period beginning forty-four (44) days before the election and ending thirty-one (31) days before the election.

(Ord. No. 163 & 163U, § 1, 7-12-89; Ord. No. 179, § 2, 1-9-91; Ord. No. 97-273U, § 5, 4-16-97; Ord. No. 03-316, § 6, 2-26-2003)

Editor's note— See editors note attached to § 21004.

21007. - Late campaign contribution disclosure.

Any contribution, including a loan, which totals in the aggregate five dollars (\$5.00) or more in support of or opposition to a city ballot measure or candidate for city council, which is received after the closing date for the committee's or candidate's final preelection statement, shall be reported in the manner required by section 21006 to the city clerk by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within:

(a) Forty-eight (48) hours of the time it is received by the candidate or committee if the contribution is received eight (8) or more days prior to the date of the election; A late campaign 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 seven (7) days of its receipt. Late campaign contributions shall be reported on the form required by the city clerk.

(Ord. No. 163 & 163U, § 1, 7-12-89; Ord. No. 97-275-U, § 1, 6-4-97; Ord. No. 99-294, § 13, 2-10-99)

Editor's note— See editors note attached to § 21004.

21008. - Filing of campaign statements and reports.

In addition to committees that are already required to file campaign reports and statements with the city clerk pursuant to the Political Reform Act, any other committees within the definition of "committee" contained in section 21002, including but not limited to committees that receive contributions or make independent expenditures totaling the threshold amounts specified in section 21002 to support or oppose a city ballot measure or candidate for city council, shall file pre-election statements for late contribution reports with the city clerk in accordance with the filing schedule specified by the provisions of the Political Reform Act and this ordinance.

(Ord. No. 179, § 3, 1-9-91)

21009. - Reserved.

Editor's note— Ord. No. 01-301, § 3, adopted May 9, 2001 repealed § 21009 which pertained to voluntary expenditure ceiling and derived from Ord. No. 97-273U, § 9, adopted Apr. 16, 1997.

21010. - Printed campaign communications.

(a) For the purposes of this section, a printed campaign communication shall include any printed or copied flier, advertisement, brochure, letter, mailer or other substantially similar communication, which directly or indirectly attempts to influence the action of the voters for or against the election of any candidate or candidates or the qualification, passage or defeat of any city ballot measure.

(b) Any person, candidate or committee who mails or delivers to voters by any means, or causes to be mailed or delivered to voters by any means, one hundred (100) or more substantially similar printed campaign communications within any calendar month shall comply with the following requirements:

(1) The printed campaign communication shall comply with the requirements of California Government Code Section 84305 and any successor statute, notwithstanding the two hundred (200) piece threshold set forth in that statute. If the sender is in fact an individual, a candidate or a committee controlled by a candidate, the printed campaign communication shall also contain the name of such individual or candidate; and

(2) A true and correct copy of the entire printed campaign communication shall be filed with the city clerk not more than twenty-four (24) hours after the printed campaign communication is mailed or delivered.

(c) No person, candidate or committee shall mail or deliver to voters any printed campaign communication that expresses or implies the endorsement of a named candidate or candidates by another named candidate or candidates, unless the sender first secures the written consent of the candidates named. The original of such written consent shall be filed with the city clerk at the same time a copy of the printed campaign communication is filed pursuant to subsection (b).

(d) The requirements of this section shall not apply to the original publication in a regularly published newspaper, magazine or other periodical of general circulation of a news story, editorial, commentary, or photograph; or to the publication of a communication printed by an organization in the regularly published newsletter or periodical of the organization which is circulated to the organization's members and/or employees.

(Ord. No. 99-294, § 14, 2-10-99)

Editor's note— Ord. No. 99-294, § 10, adopted Feb. 10, 1999, repealed the former § 21010 and set out a new section as set out herein. The former section pertained to penalties for violations and derived from Ord. No. 163 and 163U, § 1, 7-12-89; Ord. No. 179, § 3, 1-9-91; and Ord. No. 97-273U, § 8, 4-16-97.

21011. Record-keeping and audits

(a) It shall be the duty of each candidate, treasurer, and principal officer of any committee to maintain such detailed accounts, records, bills, copies of checks, and receipts that are necessary to prepare the campaign statements required by this chapter and the Political Reform Act. Such records shall be maintained and retained by the filer pursuant to the provisions of the Political Reform Act and regulations promulgated by the Fair Political Practices Commission. Persons maintaining such records shall, upon not less than seven (7) days written notice, make such records available for review and/or audit by a designated representative of the City of Agoura Hills or the Los Angeles County District Attorney.

(b) For the specific purpose of enforcing the provisions of this chapter only, the city clerk or the city prosecutor, or their designated representatives, may investigate and audit the records and reports of any candidate, candidate's controlled committee, and any other committee that supports or opposes any candidate or candidates or any city ballot measure.

(Ord. No. 99-294, § 15, 2-10-99)

21012. - Remedies.

(a) In the case of any violation of this chapter by a committee, the treasurer and any principal officers or, in the case of a controlled committee, the treasurer and the candidate, may be liable for violations as provided herein. If two (2) or more persons are liable for any violation, they shall be jointly and severally liable.

(b) Any person or candidate who knowingly or wilfully violates any provision of section 21002(a) through (g), inclusive, sections 21004 through 21008, inclusive. Section (a) and (b), or section 21011 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Allegations that such violations have occurred may be prosecuted by the city prosecutor or, in the discretion of the city prosecutor, may be referred to the Los Angeles County District Attorney for investigation and prosecution.

(c) Any person residing in the city may sue in Los Angeles County Superior Court to enjoin violations of, or to compel compliance with, the provisions of this chapter. Any person who is found by a court of competent jurisdiction in such an action to have intentionally or negligently violated any provision of this chapter may be held liable for a civil penalty not to exceed three (3) times the amount in controversy. In determining the amount of a civil penalty, if any, the court shall take into consideration the seriousness of the violation, and the degree of culpability of the defendant. In lieu of, or in addition to, a civil penalty, the court may order compliance with the provisions of this chapter. Civil penalties, if any, shall be paid to the person or persons filing the action. The prevailing party in any such action shall be entitled to seek and be awarded its attorneys fees and court costs. Any action for civil injunctive relief and/or civil penalty

must be filed within one (1) year of the date of the alleged violation. No civil action may be brought if a criminal action is pending for the same or related violations, unless such criminal action is dismissed by the prosecuting attorney.

(Ord. No. 99-294, § 16, 2-10-99)