

## REPORT TO CITY COUNCIL

**DATE:** FEBRUARY 12, 2020

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER

**BY:** CRAIG STEELE, SENIOR COUNSEL  
KIMBERLY M. RODRIGUES, CITY CLERK

**SUBJECT:** ADOPTION OF ORDINANCE NO. 20-447, RELATING TO ELECTION CAMPAIGNS

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At the January 22, 2020, City Council meeting, on a 5-0 vote, the City Council introduced, read by title only, and waived further reading of Ordinance No. 20-447, as amended.

The Ordinance amends Chapter 10 (Campaign Reform) of Article II (Administration) of the Agoura Hills Municipal Code Relating to Election Campaigns.

In addition to the approval of the proposed amendments, as submitted by the Campaign Reform Ordinance Ad Hoc Subcommittee, the City Council requested further amendments to Sections 21003(h), 21004(a) and 21010(a).

There is a difference between a candidate contributing his or her own personal funds to another candidate or campaign, and a candidate contributing committee funds. The former is a constitutional right; the latter creates a situation where contributions could be laundered. Existing Section 21003(h) prohibits a candidate and his or her controlled committee from contributing to other candidates, committees and ballot measure campaigns using committee funds. However, the language added to this section provides that a candidate may contribute personal funds to another candidate or committee, subject to applicable limits and reporting requirements. This is intended to clarify that the City does not prohibit individual candidates from contributing their personal funds to another candidate. The subsection has been amended as follows:

*“(h) No candidate and no committee controlled by a that candidate shall make any contribution of committee funds to any other candidate, any committee that supports or opposes candidates, or any committee that supports or opposes one or more city ballot measure. This section shall not prohibit or limit a candidate from making a contribution from his or her own personal funds only to his or her own candidacy. A candidate’s contributions of personal funds to any another candidate or committee shall be subject to the limits, disclosure and record keeping requirements imposed by this chapter and other applicable law.”*

Section 21004(a) was amended as follows to update the calendar months:

*“(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)~~ **eight (8)** 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.”*

Section 21010(a) was amended as follows to clarify the timeline for filing invitations to a fundraising event:

*“(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. ~~An invitation to a specified fundraising event shall not be considered a printed campaign communication for the purpose of this section.”~~ **An invitation to a specified fundraising event shall not be required to be filed until twenty-four (24) hours following the event, and the private address of the event may be redacted.**”*

Attached for reference is a copy of the final version of Ordinance No. 20-447.

## **RECOMMENDATION**

Staff respectfully recommends the City Council adopt Ordinance No. 20-447.

Attachment: Ordinance No. 20-447

**ORDINANCE NO. 20-447**

**AN ORDINANCE OF THE CITY OF AGOURA HILLS,  
CALIFORNIA, AMENDING CHAPTER 10 (CAMPAIGN REFORM)  
OF ARTICLE II (ADMINISTRATION) OF THE AGOURA HILLS  
MUNICIPAL CODE RELATING TO ELECTION CAMPAIGNS**

WHEREAS, from time to time, the City Council reviews and revises the City's local campaign finance regulations to ensure consistency with State law, and to ensure that the City's local requirements are up-to-date and narrowly-tailored to continue to protect the integrity of the local election process. The City Council finds that the amendments set forth below, as well as the remainder of the City's existing campaign finance laws, are necessary to protect against corruption and the appearance of corruption in local elections, and to provide the voters of the City with complete and accurate information regarding the sources and uses of campaign funds, while still affording candidates, contributors and other participants in the political process the means to mount viable campaigns.

WHEREAS, on January 22, 2020, the City Council of the City of Agoura Hills conducted a duly noticed public hearing concerning this Ordinance.

WHEREAS, at the public hearing the City Council received and considered testimony from City staff and all interested parties regarding the proposed amendments.

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the recitals of this Ordinance are true and correct.

**Section 2.** Section 21001 of the Agoura Hills Municipal Code is hereby amended to read as follows (all text to be added in this Ordinance is underlined; all text to be deleted is ~~struck through~~):

"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 Sections 81009.5 and 81013, 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.~~

**Section 3.** Subsection (h) of 21003 of the Agoura Hills Municipal Code is hereby amended to read as follows:

“(h) No candidate and no committee controlled by a ~~that~~ candidate shall make any contribution ~~of committee funds~~ to any other candidate, any committee that supports or opposes candidates, or any committee that supports or opposes one or more city ballot measure. This section shall not prohibit ~~or limit~~ a candidate from making a contribution from his or her own personal funds ~~only~~ to his or her own candidacy. ~~A candidate’s contributions of personal funds to any another candidate or committee shall be subject to the limits, disclosure and record- keeping requirements imposed by this chapter and other applicable law.~~”

**Section 4.** Subsection (a) of Section 21004 of the Agoura Hills Municipal Code is hereby amended to read as follows:

“(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) eight (8)~~ 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.

(1) Any person who solicits or accepts contributions, or who expends his or her personal funds, to support his or her candidacy for city council shall file a Candidate Intention Statement (Form 501) with the City Clerk within 24 hours of such contribution or expenditure, in addition to any other filing required by applicable law.

(2) All contributions received and expenditures made by any candidate or that candidate’s controlled committee prior to June 30 of the election year shall be reported on the applicable semi-annual Recipient Committee Campaign Statement (Form 460) and timely filed with the City Clerk.”

**Section 5.** Section 21010 of the Agoura Hills Municipal Code is re-titled to read “Printed Campaign Communications, Mass Electronic Mailings, and Electronic Campaign Advertisements.”

**Section 6.** Subsection (a) of Section 21010 of the Agoura Hills Municipal Code is hereby amended to read as follows:

“(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. An invitation to a specified fundraising event shall not be required to be filed until twenty-four (24) hours following the event, and the private address of the event may be redacted.”

**Section 7.** Existing Subsection (d) is hereby re-lettered to be Subsection (e), and new Subsection (d) is hereby added to Section 21010 of the Agoura Hills Municipal Code to read as follows:

“(d) All candidates, candidate-controlled committees, and committees established to support or oppose a candidate for city elective office, or to support or oppose a city ballot measure, shall comply with the requirements of Government Code Sections 84501 through 84511, inclusive, as the same may be amended from time to time. (e) The advertising disclosure requirements of Government Code Sections 84501 through 84511, inclusive, as the same may be amended from time to time, except that the threshold of 200 substantially similar pieces distributed in any calendar month shall be 100 for the purposes of this chapter.”

**Section 8.** Subsection (c) of Section 21012 of the Agoura Hills Municipal Code is hereby amended to read as follows:

“(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 after providing at least five (5) business days’ advance written notice to the City Clerk of the intent to file such suit. 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 or administrative proceeding is pending for the same or related violations, unless such proceeding ~~criminal action~~ is dismissed by the prosecuting attorney.”

**Section 9.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 10.** The City Council hereby finds that this ordinance relates to an election and, as such, that it shall take effect immediately upon adoption. The City Clerk shall certify the adoption of this ordinance and shall publish the same in the form and content required by law.

**PASSED, APPROVED, AND ADOPTED** this 12<sup>th</sup> day of February, 2020, by the following vote to wit:

AYES:        ()

NOES:        ()

ABSENT:     ()

ABSTAIN:    ()

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Illece Buckley Weber, Mayor

ATTEST:

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Kimberly M. Rodrigues, City Clerk, MMC

APPROVED AS TO FORM:

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Candice K. Lee, City Attorney