

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING NEW SECTIONS, DELETING SECTIONS AND AMENDING VARIOUS SECTIONS OF CHAPTER 1.09 OF TITLE 1 OF THE ANAHEIM MUNICIPAL CODE RELATING TO CAMPAIGN AND ETHICS REFORM

THE CITY COUNCIL OF THE CITY OF ANAHEIM HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

That new Section 1.09.051 be, and the same hereby added to Chapter 1.09 of Title 1 of the Anaheim Municipal Code to read in full as follows:

1.09.051        RECUSAL FOR CONFLICT OF INTEREST

.010 For purposes of this section, the following terms shall be deemed to have the following meanings:

“Contribution” means contributions to candidates and candidate-controlled committees or independent committees in federal, state, or local elections.

“Independent committee” means any committee, not controlled by a candidate, which expressly advocates the election of a clearly identified candidate in federal, state, or local elections.

“License, permit, or other entitlement for use” means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than low bid, labor, or personal employment contracts), and all franchises.

“Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

“Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7 of the California Government Code. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the City, testifies in person before the City, or otherwise acts to influence officers of the City.

.020 No Elective City Officer shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for twelve months following the date a final decision is rendered in the proceeding if the Elective City Officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with [Section 87100](#)) of Chapter 7 of the California Government Code. This prohibition shall apply regardless of whether the Elective City Officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other Elective City Officer, or on behalf of any candidate for office or on behalf of any committee.

.030 Prior to rendering any decision in a proceeding involving a license, permit, or other entitlement for use pending before the City, each Elective City Officer who received a contribution, or has actual knowledge of a contribution to an independent committee supporting the election of the Elective City Officer, made within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No Elective City Officer shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the City if the Elective City Officer has willfully or knowingly received a contribution, or has actual knowledge of a contribution to an independent committee supporting the Elective City Officer, in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the Elective City Officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with [Section 87100](#)) of Chapter 7 of the Government Code.

.040 If an Elective City Officer receives a contribution which would otherwise require recusal under this section, returns the contribution or that portion of the contribution over \$250 within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

.050 Any interested person claiming that an Elective City Officer did not comply with the recusal requirements of this Section shall make a demand of the City Council to cure or correct the action alleged to have been taken in violation of this section. The demand shall be in writing and clearly describe the challenged action of the Council and the nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken, and the timelines and procedures for the Council to cure the action and for the interested person to challenge the action shall be in accordance with those timelines and procedures set forth in California Government Code Section 54960.1.

.060 If an Elective City Officer receives a contribution from a party or participant to a low bid, labor, or personal employment contract within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250), the Elective City Officer may vote on the item as long as the Elective City Officer first discloses that fact on the record of the proceeding.

.070 A party to a proceeding before the City involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any Elective City Officer or independent committee supporting the Elective City Officer. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before the City and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any Elective City Officer or independent committee supporting the Elective City Officer during the proceeding and for twelve months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before the City, the majority shareholder is subject to the disclosure and prohibition requirements herein.

.080 Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

## SECTION 2.

That Section 1.09.050 of Chapter 1.09 of Title 1 of the Anaheim Municipal Code be and the same is hereby amended to read as follows:

### 1.09.050 CONTRIBUTION LIMITATIONS.

.010 City Candidates. Except as provided in subsection .020 of this section, no person shall make, and no city candidate, or treasurer of any controlled committee of any City candidate, shall solicit or accept, any contributions which would cause the total amount contributed by such person to such candidate or his or her controlled committee to exceed the contribution limit set forth in subsection .050 of this section during any election cycle for any City office.

.020 Candidates with Outstanding Debt From Prior Election. No person shall make, and no indebted former candidate, or treasurer of any controlled committee of any indebted former candidate shall solicit or accept, any contributions for the purpose of retiring outstanding debt from a prior City election, which would cause the total amount contributed by such person to such indebted former candidate, or to his or her controlled committee, to exceed the contribution limit set forth in subsection .050 of this section for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received.

.030 Recall Elections. The contribution limit set forth in subsection .050 of this section shall not apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of an Elective City Officer, but shall apply to contributions received by such Elective City Officer and to candidates running to replace the Elective City Officer, during a recall election cycle as defined in Section 1.09.060 of this chapter.

.0301 In the event any recall effort fails, any funds remaining in the Elective City Officer's recall account after all expenses associated with the proposed recall are discharged shall be disposed of by either of the following two methods:

.01 Repayment of the contributions on a "last in - first out" basis, or

.02 Donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt nonprofit organization, where no substantial part of the proceeds will have material financial effect on the Elective City Officer, or any member of his or her immediate family, or his or her campaign treasure or campaign consultant.

.0302 In the event any recall effort fails, the recall account and committee shall be terminated within ninety (90) days of paying all expenses associated with the recall.

.040 Candidate's Personal Funds. The provisions of this section shall not apply to a City candidate's contribution of his or her personal funds to his or her own controlled committee. Contributions from community property owned jointly by a City candidate and his or her spouse shall be deemed contributions by the City candidate. Contributions by the spouse of a City candidate from such spouse's separate property shall be subject to the contribution limitations set forth in subsection .050 of this section.

.050 Contribution Limit. The term 'Contribution Limit' as used in this chapter shall mean as follows:

.0501 The Contribution Limit in effect for the period commencing on the effective date of this subsection through December 31, 2006, shall be one thousand five hundred dollars (\$1,500).

.0502 The City Council shall, by ordinance, adjust the contribution limitations in January of odd-numbered years to reflect any cumulative increase or decrease in the Consumer Price Index for all urban consumers for the Los Angeles-Riverside-Orange Counties Urban Area as announced by the United States Department of Labor since the last adjustment. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.

.060 Restrictions on Time Period of Contributions. No City candidate or controlled committee shall solicit or accept contributions prior to one year immediately preceding the

general municipal election for the office sought and more than one hundred and eighty (180) days after the date of the election.

.0601 No City candidate or controlled committee shall solicit or accept, after the date of an election, a contribution that exceeds the net debts outstanding from the election. As used in this subsection, the term “net debts outstanding” has the same meaning as that set forth in title 2, section 18531.61 of the California Code of Regulations. Contributions received after the date of an election shall reduce the total amount of net debts outstanding.

### SECTION 3.

That Section 1.09.058 of Chapter 1.09 of Title 1 of the Anaheim Municipal Code be and the same is hereby amended to read as follows:

#### 1.09.058 OUTSTANDING DEBT RETIREMENT AND REPORTING.

.010 Contributions to a City candidate, or to any controlled committee of any such candidate, for the purpose of retiring outstanding debt from a City election, may be solicited and accepted only during the campaign contribution period, as defined in Section 1.09.050.060.

.020 A candidate must retire all campaign-related debts, including loans, within one hundred and eighty (180) days after the date of the election for the office sought. With respect to any indebted former candidate or controlled committee of such candidate which, as of the effective date of this section, has outstanding debt from a prior City election and, as to a controlled committee, has been in existence for four years or more following the prior City election in which that committee’s outstanding debt was incurred, such outstanding debt must be paid or forgiven and the associated controlled committee terminated no later than December 18, 2022.

.030 Any indebted former candidate, or any controlled committee of any such officer or candidate, accepting any contribution(s) for the purpose of retiring outstanding debt from a prior City election and required by state law to report such contributions on Schedule A of Fair Political Practices Commission Form 460, or any successor provision thereto, shall, at the time required for the reporting of such contributions on Schedule A and in addition to any other reporting requirements under state law, clearly designate on that Schedule A which contributions were received for the purpose of retiring outstanding debt and for which prior City election such contributions were received.

.040 Any contribution accepted for the purpose of retiring outstanding debt from a prior City election shall be applied to reduce or retire the outstanding debt in the same reporting period in which such contribution was accepted.

.050 Except as provided in subsection .060 below, no indebted former candidate, or any controlled committee of any such officer or candidate, shall use any contributions received for

the purpose of retiring outstanding debt from a prior City election for any purpose other than for the retirement of outstanding debt remaining from the prior City election for which such contribution was received.

.060 Following the retirement of all outstanding debt from the election for which such contributions were collected, any remaining funds which were collected for the purpose of retiring outstanding debt shall either be (i) used for purposes of defraying the expenses of holding City office in accordance with the provisions of Section 1.09.055, (ii) returned to the contributors, (iii) deposited in the City's General Fund, or (iv) donated to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or officeholder, any member of his or her immediate family, or his or her campaign treasurer.

#### SECTION 4. SEVERABILITY.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or 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 Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

#### SECTION 5. CERTIFICATION

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

#### SECTION 6. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the \_\_\_ day of \_\_\_\_\_, 20\_, and thereafter passed and adopted at a regular meeting of said City Council held on the \_\_\_ day of \_\_\_\_\_, 20\_, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
MAYOR PRO TEM OF THE CITY OF  
ANAHEIM

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF ANAHEIM