

ORDINANCE NO. 2005-1
ADDING CHAPTER 2.80
REGARDING CONTRIBUTIONS AND
LOANS TO CITY CANDIDATE CAMPAIGNS

The Council of the City of San Mateo, California, ordains as follows:

Section 1. Chapter 2.80 is added to the San Mateo Municipal Code to read as follows:

CHAPTER 2.80 CONTRIBUTIONS AND LOANS TO CITY CANDIDATE CAMPAIGNS

Sections:

- 2.80.010 Findings and purpose.
- 2.80.020 Definitions.
- 2.80.030 Limitations on contributions.
- 2.80.040 Candidate loans.
- 2.80.050 Candidate campaigns only.
- 2.80.060 Injunction, other Court action.
- 2.80.070 Penalties.
- 2.80.080 Post election review.
- 2.80.090 Severability.

2.80.010 FINDINGS AND PURPOSE.

(a) The City Council hereby finds that preserving integrity and openness in the political process is a matter of the highest public interest; that the people of the City of San Mateo can be better served through a more informed electorate; that the trust of the people is essential to representative government; and that regulation of certain campaign contributions and loans is necessary to promote public confidence in government and to protect the integrity of the electoral process.

(b) The City Council further finds that regulation of campaign contributions is required because the costs of running political campaigns have reached levels that lead to a public perception that special interests and wealthy individuals may have undue influence on or access to elected officials.

(c) It is the policy of the City to promote and encourage broad-based citizen involvement in the financing of election campaigns.

(d) The City Council further finds that allowing candidates to lend unlimited amounts of their personal funds to their campaigns tends to undermine public confidence in the election process, because the public may perceive that candidates with large outstanding loans will seek contributors to repay their loan after the election, and may be predisposed to favor their post-election contributors.

(e) Protecting public confidence in the political process requires adequate enforcement of the provisions of this article.

2.80.020 DEFINITIONS. As used in this ordinance, the words and phrases shall be defined in the same manner as they are defined in the Political Reform Act of 1974 (including any amendments thereto) as found in California Government Code Sections 81000 et. seq., unless defined otherwise in this section. For the purposes of this Chapter, the terms below are defined as follows:

(a) "Candidate" means any individual listed on the ballot for election to any city office, or who otherwise has taken affirmative action to seek election to city office, or who receives a contribution or makes an expenditure, or who gives his or her consent for any other person to receive a contribution or make an expenditure with the purpose of bringing about his or

her election to any city office. "Candidate" also means an officeholder in connection with a recall election relating to such officeholder.

(b) "Candidate committee" means a committee that is controlled directly or indirectly by a candidate or that acts jointly with a candidate in connection with the making of expenditures.

(c) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. Except as provided herein, "contribution" includes an expenditure made at the behest of a candidate or candidate committee unless full and adequate consideration is received for making the expenditure.

The term "contribution" does not include a payment made by the occupant of a home or business for costs related to any meeting or fund raising event held in the occupant's home or business; or volunteer personal or professional services or the donation of goods by any individual if the services or goods are donated without any understanding or agreement that they shall be directly or indirectly repaid to him or her.

(d) "Individual" means a natural person and shall not include a partnership, corporation, association, firm, business entity, committee, club, or other organization.

(e) "Organization" means a partnership, corporation, association, firm, business entity, committee, club, union, or company.

2.80.030 LIMITATIONS ON CONTRIBUTIONS.

(a) For any particular election, including a recall election, no individual shall make, and no candidate, candidate committee treasurer or other person acting on behalf of a candidate committee shall solicit or accept from any individual any contribution which will cause the total amount contributed by such individual to exceed two hundred and fifty dollars (\$250).

(b) For any particular election, including a recall election, no organization shall make, and no candidate, candidate committee treasurer or other person acting on behalf of a candidate committee shall solicit or accept from any organization any contribution which will cause the total amount contributed by such organization to exceed five hundred dollars (\$500).

(c) Any contribution or portion thereof that exceeds the limits in this section shall be returned to the contributor within 72 hours of receipt.

(d) The limitations imposed by this section shall not apply to contribution of a candidate's personal funds to the candidate's own campaign, or to any loan which is personally guaranteed by the candidate or is secured by property owned by the candidate.

2.80.040 CANDIDATE LOANS. No candidate shall personally loan their campaign an amount the outstanding balance of which exceeds fifteen thousand dollars (\$15,000) at any given point in time.

2.80.050 CANDIDATE CAMPAIGNS ONLY. The provisions of this ordinance apply to election campaigns for candidates only. The provisions of this ordinance do not apply to any referendum or initiative election.

2.80.060 INJUNCTION, OTHER COURT ACTION. In addition to all other remedies and penalties provided for violation of this ordinance, the City Attorney may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief, to halt any violation of this ordinance. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this ordinance shall be deemed to restrict a suit for damages on behalf of the City or on behalf of any other person or entity.

2.80.070 PENALTIES.

(a) Except as provided in subsection (b) below, the violation of any provision of this chapter shall constitute an infraction punishable by a fine not to exceed \$250.

(b) Any person who knowingly or willfully violates the provisions of this Chapter is guilty of a misdemeanor punishable by up to six months in jail, and/or a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person unlawfully contributed or received.

2.80.080 POST ELECTION REVIEW. No later than three months after the certification of the results of a city election at which a city council member is elected, the city clerk shall calendar for city council consideration a review of the provisions of this chapter. The purpose of such review is to allow the city council to consider the ongoing appropriateness of the provisions of this chapter, including but not limited to, the amount of the contribution and loan limits established in sections 2.80.030 and 2.80.040.

Notwithstanding any other provision of this Code, the city clerk's failure to calendar this review within the time period specified shall not subject the city clerk to any criminal or civil penalty.

2.80.090 SEVERABILITY. Each section and provision of this Chapter shall be considered severable and the invalidity of any section or provision of this Chapter shall not affect the validity or enforceability of any other section or provision.

Section 2. PUBLICATION. This Ordinance shall be published once in the San Mateo County Times and shall be effective upon publication.

I hereby certify this to be a correct copy of Ordinance No. 2005-1 of the City of San Mateo, California, introduced on November 15, 2004 and adopted on January 3, 2005, by the following vote of the Council:

AYES: Council Members EPSTEIN, LEMPert, MATTHEWS and GROOM

NOES: LEE

ABSENT: NONE

(SEAL) /s/ NORMA GOMEZ, City Clerk