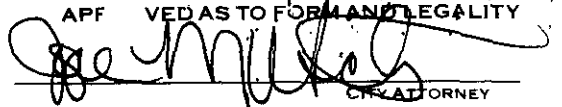


INTRODUCED BY COUNCIL MEMBER _____


CITY ATTORNEYORDINANCE NO. 11612 C. M. S.

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

The Oakland City Council does ordain as follows:

Article 1

FINDINGS AND PURPOSE100. Title

This ordinance shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act".

101. Findings and Declarations

The Oakland City Council finds and declares each of the following:

(a) Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

(b) The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

(c) Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

(d) High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

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(e) Officeholders are responding to high campaign costs by raising large amounts of money. This fundraising distracts them from important public matters, encourages contributions which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

(f) The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

102. Purpose of This Act

The purpose of this Act is to accomplish the following:

(a) To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

(b) To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

(c) To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

(d) To reduce the advantage of incumbents and thus encourage competition for elective office.

(e) To allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

(f) To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.

(g) To help restore public trust in governmental and electoral institutions.

Article 2

DEFINITIONS

200. Interpretation of This Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code sections 81000 et seq. as they appear in 1993 shall govern the interpretation of this Act.

201. City Offices

For the purposes of this Act, City Offices include: Mayor, City Auditor, City Councilmembers and School Board members.

202. Election

"Election" means any primary or general election held in the City of Oakland for city office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1 of the first year of an election cycle up to and including June 30 of the fourth year of the election cycle, and the general election period shall extend from July 1 of the fourth year of the election cycle up to and including December 31 of the fourth year of the election cycle.

203. Election Cycle

An "election cycle" is a four year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1, and ending on December 31 of the fourth year thereafter.

204. Person

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

205. Broad Based Political Committee

"Broad Based Political Committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

206. Qualified Campaign Expenditure

(a) "Qualified campaign expenditure" for candidates includes all of the following:

- (1) Any expenditure made by a candidate, officeholder or committee controlled by the candidate or officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for City Office.
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.
- (3) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the cost actually paid or incurred by the committee or controlled committee of the candidate.

(b) "Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

Article 3

CONTRIBUTION LIMITATIONS

300. Limitations on Contributions From Persons

(a) No person shall make to any candidate for city office and the controlled committee of such a candidate, and no such candidate for city office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than \$100.00 for each election except as stated in (c) below.

(b) No person shall make to any committee which supports or opposes any candidate for city office and no such committee shall accept from any person a contribution or contributions totaling more than \$100.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

301. Limitations on Contributions From Broad Based Political Committees

(a) No broad based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

(b) No broad based political committee shall make to any committee supporting or opposing a candidate for city office and no such committee shall accept from a broad based political committee a contribution or contributions totaling more than \$250.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no broad based political committee shall make to any candidate for city office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$1,000.00 for each election.

302. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt. In the case of a late contribution as defined in Government Code section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

303. Aggregation of Payments

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

(a) All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee and no broad based political committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

304. Loans

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

(d) Other than loans pursuant to subdivision (c), extensions of credit in excess of \$1,500.00 for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

305. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

306. One Campaign Committee and One Checking Account Per Candidate for City Office.

A candidate for city office shall have no more than one campaign committee and one checking account for the city office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

307. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts

Any funds received by any elected city official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code sections 87100 et. seq.

308. Identification of Contributor Required

No contribution of \$25.00 or more shall be deposited into a campaign checking account of a candidate for City office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

309. Contractors Doing Business With the City of Oakland Prohibited From Making Contributions

(a) No person who contracts with the City of Oakland, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, shall make any contribution to an elected official, candidate, or committee controlled by such official or candidate at any time between commencement of negotiations and either the completion of, or the termination of, negotiations for such contract.

(b) A person who contracts with the City of Oakland for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, and who violates subsection (a) above, shall be subject to the enforcement provisions of article 7 of this Act.

310. Officeholder Fund

(a) Every elected City officeholder shall be permitted to establish one officeholder fund and account. For City Auditor and School Board members, total contributions to an officeholder account shall not exceed \$10,000 per year in office. For District Councilmembers, total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-at-large, total contributions to an office holder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

(b) Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used in connection with any election for City office.

(c) No funds may be transferred from the officeholder account of an elected City officeholder to any other committee.

(d) If an elected City officeholder has more than one committee which makes expenditures not related to an election at the time of the effective date of this section, the funds from all such committees shall be transferred into one officeholder account within 30 working days of the effective date of this section, to the extent otherwise allowed by law.

(e) Contributions received by or made to the officeholder fund shall be subject to the contribution limitations of article 3 of this Act.

(f) Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

311. Allowance for Donation of Office Space

(a) Donation of office space for use by city officeholders in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

- (1) the donation is made to the City and accepted pursuant to Oakland City Charter section 1203 for use by the Mayor, City Councilmembers or City Auditor or in the case of School Board members, the donation is made to the Oakland Unified School District;
- (2) the name, address, employer, and occupation of the donor, and the current market value of the donated office space, is provided to the City Clerk.

(b) Use of office space donated pursuant to this section by a city officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 206 of this Act.

312. Legal Expense Funds

(a) An elected City officeholder or candidate for city office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or officer's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or officeholder's governmental activities and duties.

(b) Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of article 3 of this Act.

(c) Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

313. Volunteer Services Exemption

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

Article 4

EXPENDITURE CEILINGS

400. Expenditure Ceilings

All candidates for city office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in sections 300 (c) and 301 (c) of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

401. Amount of Expenditure Ceilings

(a) In primary elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(b) In primary elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 500% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 400% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(c) In primary elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for the office of the Mayor on the last date for filing for candidacy. In general elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for the office of the Mayor on the last date for filing for candidacy.

(d) For the purposes of this section, annual salary for a member of the City Council and the office of the Mayor shall also include the salary received as a member of the Redevelopment Agency.

402. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

403. Expenditure Ceilings Lifted

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to 50% or more of the applicable expenditure ceiling, or if an independent expenditure committee or committees in the aggregate spend in support of or in opposition to a candidate more than \$20,000 in the case of a District City Council or School Board election, or \$40,000 in the case of an at-large City Council or City Auditor election, or \$50,000 in the case of a Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amount set for such candidates in Sections 300(c) and 301(c) of this Act.

Article 5

INDEPENDENT EXPENDITURES

500. Contribution Limitations

(a) Any person who makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in sections 300(a) and (b).

(b) Any broad based political committee that makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in sections 301(a) and (b).

501. Independent Expenditures for Mass Mailings, Slate Mailings or Other Campaign Materials.

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for city office shall place the following statement on the mailing in typeface of no smaller than 14 points:

**Notice to Voters
(Required by the City of Oakland)**

This mailing is not authorized or approved by any City candidate or election official.

It is paid for
by__ (name) _____
_____ (address, city, state)

Total cost of this mailing is: (amount)

Article 6

AGENCY RESPONSIBILITY

600. Duties of the City Clerk

The City Clerk shall:

(a) Prescribe the necessary forms for filing the appropriate statements.

(b) Propose necessary regulations in furtherance of this Act subject to City Council approval.

Article 7

ENFORCEMENT

700. Criminal Misdemeanor Actions

Any person who knowingly or willfully violates articles 3, 4, or 5 of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within (4) years after the date on which the violation occurred.

701. Civil Actions

(a) Any person who intentionally or negligently violates articles 3, 4, or 5 of this Act shall be liable in a civil action brought by independent counsel appointed by the City Attorney for such purpose or any resident of Oakland for an amount not more than three times the amount of the unlawful contribution or expenditure.

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

(c) Any person before filing a civil action pursuant to this subdivision, shall first file with the City Attorney a written request for independent counsel appointed by the City Attorney for such purpose to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. Independent counsel appointed by the City Attorney for such purpose shall respond within sixty (60) days after receipt of the request indicating whether a civil action will be filed. If independent counsel indicates in the affirmative and files a suit within sixty (60) days thereafter, no other action may be brought unless the action brought by independent counsel is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the City's general fund.

(e) No civil action alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

702. Injunctive Relief

Any resident of the City of Oakland and independent counsel appointed by the City Attorney may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

703. Cost of Litigation

The court may award to a plaintiff or defendant who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

704. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of sections 300 and 301, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code sections 87100 et. seq. and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

Article 8

MISCELLANEOUS PROVISIONS

800. Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this state or jurisdiction.

801. Severability

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

802. Transitional Provision

Contribution limitations provided for in article 3 and expenditure ceilings provided for in article 4 shall not apply to campaign contributions received and expenditures made prior to the effective date of this Act.

803. Effective Date

This Act shall take effect January 1, 1994.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 1993, 19 _____

PASSED BY THE FOLLOWING VOTE:

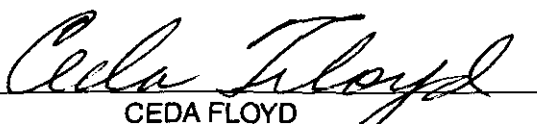
AYES— BAYTON, DE LA FUENTE, JORDAN, MILEY, MOORE, OGAWA, SPEES, WOODS-JONES, and PRESIDENT, - 9
HARRIS

NOES— NONE

ABSENT— NONE

ABSTENTION— NONE

ATTEST:


CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

The Oakland Tribune.

66 Jack London Square, Oakland, CA 94607
(510) 208-6300

LEGAL NO. 4912

NOTICE AND DIGEST

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

This Ordinance establishes local campaign contribution limitations and voluntary campaign expenditure ceilings for candidates seeking elected city office.

This Ordinance was introduced at the regular Council Meeting, Tuesday evening, July 6, 1993, and passed to print 9 Ayes, 0 Noes. Hearing on final adoption is set for regular Council Meeting at the Lakeside Park Garden Center, 666 Bellevue Avenue, Oakland, California, Tuesday July 20, 1993 at 7:30 p.m.

Three full copies are available for use and examination by the public in the Office of the City Clerk at 505 14th Street, Suite 609, Oakland, California.

CEDA FLOYD, City Clerk
No. 4912 July 16, 1993 (11)

PROOF OF PUBLICATION

Case No.

In the matter of

.....
City of Oakland City Clerk

.....
campaign reform act
.....
.....

Alicia Blake deposes and
says that he/she was the Public Notice Advertising Clerk of THE
OAKLAND TRIBUNE a newspaper of general circulation as
defined by Government Code Section 6000, adjudicated as such
by the Superior Court of the State of California, County of Alameda
(Order No. 237798, December 4, 1951) which is published and
circulated in Oakland Township in said county and state seven
days a week.

That the
Notice and Digest
.....

.....
of which the annexed is a printed copy, was published in every
issue of THE OAKLAND TRIBUNE on the following dates:

.....
July 16, 1993
.....

I certify (or declare) under penalty of perjury that the foregoing
is true and correct.

Date, July 19, 1993
at Oakland, California.

Alicia Blake

Public Notice Advertising Clerk



ORDINANCE NO. 11612 C.M.S

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

Article 1

FINDINGS AND PURPOSE

100. Title

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(a) Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

(b) The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

(c) Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

(d) High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

(e) Officeholders are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

(f) The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

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The purpose of this Act is to accomplish the following:

- (a) To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- (b) To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- (c) To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- (d) To reduce the advantage of incumbents and thus encourage competition for elective office.
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- (f) To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- (g) To help restore public trust in governmental and electoral institutions.

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- (1) Any expenditure made by a candidate, officeholder or committee controlled by the candidate or officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for City Office.
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.

(b) **"Qualified Campaign Expenditure"** does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

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(b) No person shall make to any committee which supports or opposes any candidate for city office and no such committee shall accept from any person a contribution or contributions totaling \$100.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in Section 401 of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

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(a) No broad based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

(b) No broad based political committee shall make to any committee supporting or opposing a candidate for city office and no such committee shall accept from a broad based political committee a contribution or contributions totaling more than \$250.00 for each election.

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302. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt, or before the closing date of the campaign statement on which the contribution would otherwise be reported if the closing date occurs less than 72 hours after receipt. In the case of a late contribution as defined in Government Code section 82036, it shall not be deemed received if it is returned to the contributor within 24 hours of receipt.

303. Aggregation of Payments

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

(a) All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party *or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.*

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

- (1) The entities share the majority of members of their boards of directors.
- (2) The entities share two or more officers.
- (3) The entities are owned or controlled by the same majority shareholder or shareholders.
- (4) The entities are in a parent-subsidary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee and no broad based political committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

304. Loans

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

(d) Other than loans pursuant to subdivision (c), extensions of credit in excess of \$1,500.00 for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through *repayment of the extension of credit on a regular basis.*

305. Family Contributions

- (a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.
- (b) Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

306. One Campaign Committee and One Checking Account Per Candidate for City Office

A candidate for city office shall have no more than one campaign committee and one checking account for the city office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

307. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts

Any funds received by any elected city official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Sections 87100 et. seq.

308. Identification of Contributor Required

No contribution of \$100.00 or more shall be deposited into a campaign checking account of a candidate for City office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution, and has been reported on a Candidate, Officeholder, and Controlled Committee Campaign Statement pursuant to state Political Reform Act requirements.

309. Contractors Doing Business With The City of Oakland Prohibited from Making Contributions

(a) No person who contracts with the City of Oakland, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, shall make any contribution to an elected official, candidate, or committee controlled by such official or candidate at any time between commencement of negotiations and either the completion of, or the termination of, negotiations for such contract.

(b) A person who contracts with the City of Oakland for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, and who violates subsection (a) above, shall be subject to the enforcement provisions of Article 7 of this Act.

310. Officeholder Fund

(a) Every elected City officeholder shall be permitted to establish one officeholder fund and account. All funds contributed to an officeholder for the officeholder's fund must be deposited into the officeholder's appropriate campaign bank account prior to being deposited into the officeholder account. The officeholder account may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account which shall be established only for the officeholder fund. For City Auditor and School Board Members total contributions to an officeholder account shall not exceed \$10,000 per year in office. For District Councilmembers, total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-At-Large, total contributions to an officeholder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

(b) Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used in connection with any election for City office.

(c) No funds may be transferred from the officeholder account of an elected City officeholder to any other committee.

(d) If an elected City officeholder has more than one committee which makes expenditures not related to an election at the time of the effective date of this section, the funds from all such committees shall be transferred into one officeholder account within 30 working days of the effective date of this section, to the extent otherwise allowed by law.

(e) Contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article 3 of this Act.

(f) Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article 4 of this Act.

311. Allowance for Donation of Office Space

(a) Donation of office space for use by city officeholders in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

- (1) The donation is made to the City and accepted pursuant to Oakland City Charter section 1203 for use by the Mayor, City Councilmembers or City Auditor or in the case of School Board Members, the donation is made to the Oakland Unified School District;
- (2) The name, address, employer, and occupation of the donor, and the current market value of the donated office space, is provided to the City Clerk.

(b) Use of office space donated pursuant to this section by a city officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 206 of this Act.

312. Legal Expense Funds

(a) An elected City officeholder or candidate for city office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or officeholder's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or officeholder's governmental activities and duties. All funds contributed to an officeholder or candidate for legal expense fund must be deposited into the officeholder's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.

(b) Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article 3 of this Act.

(c) Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article 4 of this Act.

313. Volunteer Services Exemption

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

Article 4

EXPENDITURE CEILINGS

400. Expenditure Ceilings

All candidates for city office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 300 (c) and 301 (c) of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

401. Amount of Expenditure Ceilings

A candidate for District Councilmember or School Board Director who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.50 per resident for each election in the electoral district in which the candidate is seeking elective office. A candidate for City Auditor, Councilmember-at-Large or Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.00 per resident for each election in the electoral district in which the candidate is seeking elective office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district. Beginning in 1999, the City Clerk shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceilings amounts shall not exceed the CPI increase, using 1998 as the index year. The City Clerk shall publish the expenditure ceiling amounts no later than February 1 of each year.

402. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

403. Expenditure Ceilings Lifted

If a candidate declines to accept expenditure ceilings and receives contributions or make qualified campaign expenditures equal to 50% or more of the expenditure ceiling, or if an independent expenditure committee in the aggregate spends more than \$15,000

on a District City Council or School Board election or \$70,000 in an Auditor, Councilmember -at Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in sections 300 (c) and 301(c) of this Act. The independent expenditure committee amounts of \$15,000 and \$70,000, respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by section 401 herein.

Article 5

INDEPENDENT EXPENDITURES

500. Contribution Limitations

(a) Any person who makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in Sections 300(a) and (b).

(b) Any broad based political committee that makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in Sections 301(a) and (b).

501. Independent Expenditures for Mass Mailings, Slate Mailings or Other Campaign Materials

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for city office shall place the following statement on the mailing in typeface of no smaller than 14 points:

Notice to Voters

(Required by the City of Oakland)

This mailing is not authorized or approved by any City candidate or election official.

It is paid for

by (name) _____
_____ (address, city, state)

Total cost of this mailing is: (amount)

Article 6

AGENCY RESPONSIBILITY

600. Duties of the City Clerk

The City Clerk shall:

- (a) Prescribe the necessary forms for filing the appropriate statements.
- (b) Propose necessary regulations in furtherance of this Act subject to City Council approval.

Article 7

ENFORCEMENT

700. Criminal Misdemeanor Actions

Any person who knowingly or willfully violates Articles 3, 4, or 5 of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of the Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within four (4) years after the date on which the violation occurred.

701. Civil Actions

(a) Any person who intentionally or negligently violates Articles 3, 4, or 5 of this Act shall be liable in a civil action brought by independent counsel appointed by the City Attorney for such purpose or any resident of Oakland for an amount not more than three times the amount of the unlawful contribution or expenditure.

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

(c) Any person before filing a civil action pursuant to this subdivision, shall first file with the City Attorney a written request for independent counsel appointed by the City Attorney for such purpose to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. Independent counsel appointed by the City Attorney for such purpose shall respond within sixty (60) days after the receipt of the request indicating whether a civil action will be filed. If independent counsel indicates in the affirmative and files a suit within sixty (60) days thereafter, no other action may be brought unless the action brought by independent counsel is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the City's general fund.

(e) No civil action alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

702. Injunctive Relief

Any resident of the City of Oakland and independent counsel appointed by the City Attorney may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

703. Cost of Litigation

The court may award to a plaintiff or defendant who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorney's fees.

704. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 300 and 301, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et. seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

Article 8

MISCELLANEOUS PROVISIONS

800. Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this state or jurisdiction.

801. Severability

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

801. Transitional Provision

Contribution limitations provided for in Article 3 and expenditure ceilings provided for in Article 4 shall not apply to campaign contributions received and expenditures made prior to the effective date of this Act.

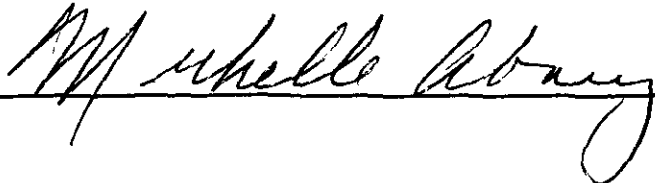
803. Effective Date

This Act shall take effect January 1, 1994.

I certify that the forgoing is a full, true and correct copy of an Ordinance passed by the City Council of the City of Oakland, California on July 20, 1993, amended by Ordinance No. 11679 C.M.S., passed on January 4, 1994, Ordinance No. 11874 C.M.S., passed on March 12, 1996 and Ordinance No. 12043 C.M.S., passed on March 10, 1998.

**CEDA FLOYD
City Clerk and Clerk of the Council**

Per



Deputy

Campaign Disk2-3/98