

CITY OF OAKLAND



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January 14, 1999
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Councilmember Dick Spees, Chairperson and members of the Oakland City Council Rules Committee
Oakland, California

Re: Proposed Amended Oakland Campaign Reform Act

Attached you will find a copy of a proposed amended Oakland Campaign Reform Act which is the product of several meetings and a public hearing of the Oakland Campaign Reform Act Task Force. The Oakland Campaign Reform Act Task Force began meeting on September 1, 1998. It has held several subsequent meetings, which culminated in a public hearing on November 23, 1998. At the November 23, 1998, public hearing, the task force requested the City Attorney to prepare a proposed amended Oakland Campaign Reform Act.

The proposed amended Act would make the following changes to Oakland's current Campaign Reform Act, Oakland Municipal Code Chapter 3.12:

1. Add City Attorney to City Offices. (OMC §3.12.040.)
2. Amend "Aggregation of Payments" regarding partnerships and individuals and controlling interests in corporations to require a 50% or greater interest before aggregation occurs. (OMC §3.12.080 C.)
3. Amend "Contractors Doing Business Prohibited from Making Contributions" provision to include the School Board, elaborate on transactional limits, require contractor certification, notice on campaign materials and, in addition to existing contractor liability, impose liability for intentional, knowing or willful candidate violations. (OMC §3.12.140.)
4. Amend "Officeholder Fund" provision to require contributions on a separate check or written instrument, provide City Auditor and School Board Directors with the same fund amount as District City Councilmembers, allow the City

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~~RULES AND LEGISLATION CMTE~~

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Oakland Campaign Reform Act Task Force
January 14, 1999
Page Two

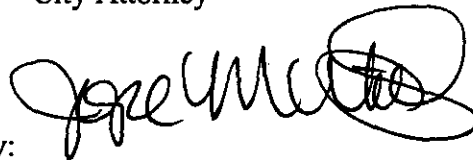
- Attorney the same fund amount as Councilmember-at-Large, and elaborate on allowable and disallowed uses of Officeholder Fund. (OMC §3.12.150.)
5. Add the City Attorney to "Allowance for Donation of Office Space". (OMC §3.12.160.)
 6. Provide the same expenditure ceilings for the City Attorney as the City Auditor, Councilmember-at-Large and the Mayor. (OMC §3.12.200.)
 7. Increase criminal misdemeanor statute of limitations from two years to four years. (OMC §3.12.280.)
 8. Clarify mediation provisions. (OMC §3.12.290 subds. C and D.)
 9. Increase civil statute of limitations from two years to three years. (OMC §3.12.290 subd. E.)

The proposed amended Act is provided in redlined and clean copy for your consideration.

Very truly yours,

Jayne W. Williams
City Attorney

By:



Joyce M. Hicks
Assistant City Attorney

Enclosures

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INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY _____

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING THE CITY OF OAKLAND CAMPAIGN
REFORM ACT, ORDINANCE NUMBER 11612 C.M.S., OAKLAND
MUNICIPAL CODE CHAPTER 3.12

Whereas, the *Oakland Campaign Reform Act*, (the "Act"), Ordinance number 11612 C.M.S. was adopted on July 20, 1993, effective January 1, 1994, and recodified as Oakland Municipal Code Chapter 3.12; and

Whereas, the Act was most recently amended on July 28, 1998, to provide for enforcement by the Public Ethics Commission instead of independent counsel and to reduce the statute of limitations from four years to two years; and

Whereas, upon amendment of the Act, the City Council determined that it would be in the best interests of the City of Oakland for the Mayor to appoint a Campaign Reform Act Task Force to further study the Act and recommend further amendments to the Act; and

Whereas, the Campaign Reform Act Task Force was appointed by the Mayor, has met and recommends that the Act be amended to add the Office of City Attorney, to clarify the aggregation provisions, clarify the prohibition against contractors making contributions while negotiating contracts, require separate checks for contributions to the officeholder fund, further clarify the uses for the officeholder fund, increase the statute of limitations, and clarify the enforcement provisions, now therefore be it

Ordained:

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Oakland Municipal Code Chapter 3.12 is amended to read:

Chapter 3.12

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

Article I. Findings and Purpose

3.12.010. Title

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

3.12.020. 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

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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.

3.12.030. 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.

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G. To help restore public trust in governmental and electoral institutions.

Article II. Definitions

3.12.040. 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 1998 shall govern the interpretation of this Act.

"City Offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"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.

An "Election Cycle" means 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.

"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.

"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.

"Qualified Campaign Expenditure".

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1. "Qualified Campaign Expenditure" for candidates means and includes all of the following:
 - a. 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.
 - b. 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.
2. "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 III. Contribution Limitations

3.12.050. 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 \$100.00 for each election.
- C. For candidates who adopt the expenditure ceilings as defined in section Article IV 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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3.12.060. 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 Article IV 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.

3.12.070. Return of Contributions

A contribution shall not be considered 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.

3.12.080. 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

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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 or limited partnership in which the individual ~~is a partner~~ has a 50% or more share, or an individual and any corporation in which the individual owns a controlling interest (50% or more), 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.

3.12.090. 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

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and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

D. Other than loans pursuant to subsection C of this section, 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.

3.12.100 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).

3.12.110. 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.

3.12.120. 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.

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3.12.130. 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.

3.12.140. Contractors Doing Business With The City of Oakland or the Oakland Unified School District Prohibited from Making Contributions

A. A. No person who contracts with or who proposes to amend such a contract with the City or the School District, for the rendition of personal services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District or for selling any land or building to the City or the School District whenever the value of such transaction would require approval by the City Council or the School Board, shall make any contribution to an elected official City Officeholder, candidate, or committee controlled by such official City Officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

B. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

C. For contributions to City Officers other than School Board Directors, transactions that require approval by the City Council include but are not limited to:

1. Contracts for the procurement of services that are professional or consulting services exceeding \$15,000.
2. Contracts for the procurement of services exceeding \$50,000, other than contracts for professional or consulting services.
3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding \$50,000.
4. Contracts for the sale of any building or land to the City.
5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

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D. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1. Professional services and consulting contracts exceeding \$25,000, including personal service agreements.
2. Contracts requiring School Board approval under Public Contract Code section 20111.
3. Construction contracts exceeding \$25,000 whether or not they are subject to the provisions of the Public Contract Code.
4. Contracts for the sale of any building or land to the School District.
5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

E. "Commencement of Negotiations" occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed City officer or employee or elected or appointed School District officer or employee about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed City officer or employee or elected or appointed School District officer or employee communicates with a potential contractor or existing contractor.

F. "Commencement of Negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

G. "Completion of Negotiations" occurs when the City or the School District executes the contract or amendment.

H. "Termination of Negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by an appointed or elected City officer or employee or an appointed or elected School District officer or employee.

I. A contractor must sign the following certification at the time the contractor executes a contract subject to City Council or School Board approval, or amendment

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thereto: "_____ has not made a campaign contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. _____ will not make campaign contributions to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

B.J. A person who contracts with the City or the School District for the rendition of personal services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the city City or the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

K. Elected City Officeholders, candidates for City Office and their controlled committees shall include a notice on all campaign materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

"The Oakland Campaign Reform Act. OMC Chapter 3.12 limits campaign contributions by all persons and specifically prohibits contributions during specified time periods from existing and prospective contractors."

L. The Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official who intentionally, knowingly or willfully receives a campaign contribution from a person in violation of this section shall be subject to the enforcement provisions of Article VII of this Act.

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3.12.150. 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. ~~Contributions to the officeholder fund must be earmarked by the contributor for contribution to the officeholder fund at the time the contribution is made.~~ The contributor for contribution to the Officeholder fund at the time the contribution is made must earmark contributions to the Officeholder fund on a separate check or other separate written instrument. 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, City Auditor and School Board Directors, total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-At-Large and City Attorney, 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~~ for any of the purposes prohibited in paragraph C sections 1 through 5. Such allowable expenditures shall include, but are not limited to the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.
2. Expenditures for office equipment, furnishings and office supplies.
3. Expenditures for office rent.
4. Expenditures for salaries of part-time or full-time staff employed by the Officeholder for Officeholder activities.
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office.
6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the Officeholder;

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- (2) a member of the Officeholder's staff; or (3) such other person designated by the Officeholder who is authorized to perform such government duties.
7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the Officeholder, (2) a member of the Officeholder's staff, (3) such other person designated by the Officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel.
8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity.
9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will personally benefit the elected officer, any member of his or her immediate family, or his or her committee treasurer.
10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose.
11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the Officeholder or a member of the Officeholder's staff in the performance of his or her governmental responsibilities.
12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for City, county, regional, state or federal elective Office.
13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, School District-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board.
14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the Officeholder communicates in his or her official capacity.
15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.
16. Expenditures for accounting, professional and administrative services

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provided to the officeholder fund.

17. Expenditures for ballot measures.

C. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office
2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to City, county, regional, state or federal elective Office.
3. Membership in any athletic, social, fraternal, veteran or religious organization.
4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City official or employee.
5. Any expenditures that would violate the provisions the California state Political Reform Act, including Government Code sections 89506 and 89512 through 89519.

GD. No funds may be transferred from the officeholder account of an elected City Officeholder to any other candidate 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. Annual ~~C~~ontributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.160. 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:

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1. The donation is made to the City and accepted pursuant to Oakland City Charter section 1203 for use by the Mayor, City Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are 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 3.12.040 of this Act.

3.12.170 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. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. 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 III of this Act.

C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.180. 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

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agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

Article IV. Expenditure Ceilings

3.12.190. Expenditure Ceilings

All candidates for City ~~office~~ Office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 3.12.050 C and 3.12.060 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 on a form approved for such purpose 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.

3.12.200. 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 Attorney, 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 ceiling 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.

3.12.210. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at

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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.

3.12.220. 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 City Attorney, 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 3.12.050 C and 3.12.060 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 3.12.180 herein.

Article V. INDEPENDENT EXPENDITURES

3.12.230. 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 3.12.050 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 3.12.060 A. and B.

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3.12.240. 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 VI. AGENCY RESPONSIBILITY

3.12.250 Duties of the Public Ethics Commission

The Public Ethics Commission shall:

A. Oversee compliance with the Act.

B. Propose necessary regulations in furtherance of this Act subject to City Council approval.

3.12.260. Duties of the City Clerk

The City Clerk shall prescribe the necessary forms for filing the appropriate statements.

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Article VII. Enforcement

3.12.270. Public Ethics Commission as Enforcing Body

The Public Ethics Commission is the sole ~~enforcing body for civil enforcement of~~ this Act. ~~In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.~~

3.12.280. Criminal Misdemeanor Actions

Any person who knowingly or willfully violates Articles III, IV, or V 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 ~~two~~ four (24) years after the date on which the violation occurred.

3.12.290. Enforcement Actions

A. Any person who intentionally or negligently violates Articles III, IV or V of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

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

C. Any person alleging a violation of Articles III, IV or V of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ~~sixty~~ ninety (90) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be ~~recommended pursuant to the mediation provisions contained in the Public Ethics Commission General Rules of Procedure~~ undertaken.

D. ~~If the Commission does not recommend mediation or if any party refuses mediation, or if mediation is unsuccessful in resolving the issues raised in the~~

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complaint, the Commission may within ~~six~~ninety (690) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed three (3) times the amount of the unlawful contribution or expenditure.

F. No complaint alleging a violation of any provision of this Act shall be filed more than ~~two~~three (23) years after the date the violation occurred.

3.12.300. Injunctive Relief

Any resident of the City of Oakland and the Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

3.12.310. Cost of Litigation

The court may award to a complainant or respondent who prevails in any action for injunctive relief, his or her costs of litigation, including reasonable attorney's fees.

3.12.320. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 3.12.050 and 3.12.060, 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 VII. MISCELLANEOUS PROVISIONS

3.12.330. Applicability of Other Laws

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

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3.12.340 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.

IN COUNCIL, OAKLAND, CALIFORNIA, 1998

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, DE LA FUENTE, MILEY, NADEL, REID, RUSSO,
AND SPEES

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

DRAFT

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY _____

ORDINANCE NO. _____ C.M.S.

**AN ORDINANCE AMENDING THE CITY OF OAKLAND CAMPAIGN
REFORM ACT, ORDINANCE NUMBER 11612 C.M.S., OAKLAND
MUNICIPAL CODE CHAPTER 3.12**

Whereas, the Oakland Campaign Reform Act, (the "Act"), Ordinance number 11612 C.M.S. was adopted on July 20, 1993, effective January 1, 1994, and recodified as Oakland Municipal Code Chapter 3.12; and

Whereas, the Act was most recently amended on July 28, 1998, to provide for enforcement by the Public Ethics Commission instead of independent counsel and to reduce the statute of limitations from four years to two years; and

Whereas, upon amendment of the Act, the City Council determined that it would be in the best interests of the City of Oakland for the Mayor to appoint a Campaign Reform Act Task Force to further study the Act and recommend further amendments to the Act; and

Whereas, the Campaign Reform Act Task Force was appointed by the Mayor, has met and recommends that the Act be amended to add the Office of City Attorney, to clarify the aggregation provisions, clarify the prohibition against contractors making contributions while negotiating contracts, require separate checks for contributions to the officeholder fund, further clarify the uses for the officeholder fund, increase the statute of limitations, and clarify the enforcement provisions, now therefore be it

Ordained:

Oakland Municipal Code Chapter 3.12 is amended to read:

Chapter 3.12

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

Article I. Findings and Purpose

3.12.010. Title

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

3.12.020. 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.

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.

3.12.030. 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 II. Definitions

3.12.040. 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 1998 shall govern the interpretation of this Act.

"City Offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"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.

An "Election Cycle" means 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.

"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.

"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.

"Qualified Campaign Expenditure".

1. "Qualified Campaign Expenditure" for candidates means and includes all of the following:

- a. 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.

- b. 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.

2. "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 III. Contribution Limitations

3.12.050. 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 \$100.00 for each election.

C. For candidates who adopt the expenditure ceilings as defined in section Article IV 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.

3.12.060. 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 Article IV 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.

3.12.070. Return of Contributions

A contribution shall not be considered 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.

3.12.080. 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-subsidiary relationship.

C. An individual and any general or limited partnership in which the individual has a 50% or more share, or an individual and any corporation in which the individual owns a controlling interest (50% or more), 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.

3.12.090. 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 subsection C of this section, 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.

3.12.100 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).

3.12.110. 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.

3.12.120. 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.

3.12.130. 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.

3.12.140. Contractors Doing Business With The City of Oakland or the Oakland Unified School District Prohibited from Making Contributions

A. No person who contracts with or who proposes to amend such a contract with the City or the School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District or for selling any land or building to the City or the School District whenever the value of such transaction would require approval by the City Council or the School Board, shall make any

contribution to an elected City Officeholder, candidate, or committee controlled by such City Officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

B. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

C. For contributions to City Officers other than School Board Directors, transactions that require approval by the City Council include but are not limited to:

1. Contracts for the procurement of services that are professional or consulting services exceeding \$15,000.
2. Contracts for the procurement of services exceeding \$50,000, other than contracts for professional or consulting services.
3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding \$50,000.
4. Contracts for the sale of any building or land to the City.
5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

D. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1. Professional services and consulting contracts exceeding \$25,000, including personal service agreements.
2. Contracts requiring School Board approval under Public Contract Code section 20111.
3. Construction contracts exceeding \$25,000 whether or not they are subject to the provisions of the Public Contract Code.
4. Contracts for the sale of any building or land to the School District.
5. Amendments to contracts described in subdivisions 1,2,3, and 4.

E. "Commencement of Negotiations" occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed City officer or employee or elected or appointed School District officer or employee about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed City officer or employee or

elected or appointed School District officer or employee communicates with a potential contractor or existing contractor.

F. "Commencement of Negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

G. "Completion of Negotiations" occurs when the City or the School District executes the contract or amendment.

H. "Termination of Negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by an appointed or elected City officer or employee or an appointed or elected School District officer or employee.

I. A contractor must sign the following certification at the time the contractor executes a contract subject to City Council or School Board approval, or amendment thereto: "_____ has not made a campaign contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. _____ will not make campaign contributions to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

J. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

K. Elected City Officeholders, candidates for City Office and their controlled committees shall include a notice on all campaign materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

"The Oakland Campaign Reform Act, OMC Chapter 3.12 limits campaign contributions by all persons and specifically prohibits contributions during specified time periods from existing and prospective contractors."

L. The Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official who intentionally, knowingly or willfully receives a campaign contribution from a person in violation of this section shall be subject to the enforcement provisions of Article VII of this Act.

3.12.150. 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 contributor for contribution to the Officeholder fund at the time the contribution is made must earmark contributions to the Officeholder fund on a separate check or other separate written instrument. 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 District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-At-Large and City Attorney, 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 for any of the purposes prohibited in paragraph C sections 1 through 5. Such allowable expenditures shall include, but are not limited to the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.
2. Expenditures for office equipment, furnishings and office supplies.
3. Expenditures for office rent.
4. Expenditures for salaries of part-time or full-time staff employed by the Officeholder for Officeholder activities.
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office.
6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the Officeholder(2) a member of the Officeholder's staff; or (3) such other person designated by the Officeholder who is authorized to perform such government duties.
7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the Officeholder, (2) a member of the Officeholder's staff, (3) such other person designated by the Officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel.
8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity.
9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will personally benefit the elected officer, any member of his or her immediate family, or his or her committee treasurer.
10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose.
11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the Officeholder or a member of the Officeholder's staff in the performance of his or her governmental responsibilities.
12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for City, county, regional, state or federal elective Office.
13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, School District-sponsored

events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board.

14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the Officeholder communicates in his or her official capacity.

15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.

16. Expenditures for accounting, professional and administrative services provided to the officeholder fund.

17. Expenditures for ballot measures.

C. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to City, county, regional, state or federal elective Office.

3. Membership in any athletic, social, fraternal, veteran or religious organization.

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City official or employee.

5. Any expenditures that would violate the provisions the California state Political Reform Act, including Government Code sections 89506 and 89512 through 89519.

D. No funds may be transferred from the officeholder account of an elected City Officeholder to any other candidate committee.

E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.160. 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, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are 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 3.12.040 of this Act.

3.12.170 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. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. 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 III of this Act.

C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.180. 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 IV. Expenditure Ceilings

3.12.190. 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 3.12.050 C and 3.12.060 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 on a form approved for such purpose 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.

3.12.200. 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 Attorney, 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 ceiling 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.

3.12.210. 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.

3.12.220. 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 a City Attorney, 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 3.12.050 C and 3.12.060 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 3.12.180 herein.

Article V. INDEPENDENT EXPENDITURES

3.12.230. 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 3.12.050 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 3.12.060 A. and B.

3.12.240. 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 VI. AGENCY RESPONSIBILITY

3.12.250 Duties of the Public Ethics Commission

The Public Ethics Commission shall:

A. Oversee compliance with the Act.

B. Propose necessary regulations in furtherance of this Act subject to City Council approval.

3.12.260. Duties of the City Clerk

The City Clerk shall prescribe the necessary forms for filing the appropriate statements.

Article VII. Enforcement

3.12.270. Public Ethics Commission as Enforcing Body

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

3.12.280. Criminal Misdemeanor Actions

Any person who knowingly or willfully violates Articles III, IV, or V 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.

3.12.290. Enforcement Actions

A. Any person who intentionally or negligently violates Articles III, IV or V of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

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

C. Any person alleging a violation of Articles III, IV or V of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ninety (90) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be undertaken.

D. If any party refuses mediation, or if mediation is unsuccessful in resolving the issues raised in the complaint, the Commission may within ninety (90) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is

hereby authorized to administer appropriate penalties and fines not to exceed three (3) times the amount of the unlawful contribution or expenditure.

F. No complaint alleging a violation of any provision of this Act shall be filed more than three (3) years after the date the violation occurred.

3.12.300. Injunctive Relief

Any resident of the City of Oakland and the Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

3.12.310. Cost of Litigation

The court may award to a complainant or respondent who prevails in any action for injunctive relief, his or her costs of litigation, including reasonable attorney's fees.

3.12.320. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 3.12.050 and 3.12.060, 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 VII. MISCELLANEOUS PROVISIONS

3.12.330. Applicability of Other Laws

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

3.12.340 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

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provisions of this Act are severable.

IN COUNCIL, OAKLAND, CALIFORNIA, 1998

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, DE LA FUENTE, MILEY, NADEL, REID, RUSSO,
AND SPEES

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

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RULES AND LEGISLATION CMTE

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