

ORDINANCE NO. 1499

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE TO MAKE CONSUMER PRICE INDEX ADJUSTMENTS TO CAMPAIGN CONTRIBUTION LIMITATIONS

The City Council of the City of Arcata does ordain as follows:

Section 1: Title II (*Administration*) Chapter 10 (*Contribution Limitations*) Sections 3012(A)(1) and 3012(D) of the Arcata Municipal Code, are hereby amended by the following strike through and bold double underscore to read as follows:

SEC. 3011. DEFINITIONS.

The definitions and procedural requirements set forth in California Government Code Sections 81000, *et seq.* shall govern the interpretation of this Chapter unless otherwise defined as follows:

A. "Agency" means an agency as defined in California Governmental Code Section 82003 but also including all officials who are directly elected by the voters with the exception of the Courts or an Agency of the judicial branch.

B. "Election Cycle" means for each candidate or any controlled committee the four-year period immediately preceding the city election in which the candidate stands for election.

SEC. 3012. CONTRIBUTION LIMITATIONS.

A. Limitations on Contributions from Persons:

1. No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person during an election cycle in support or opposition to such candidate for city office including contributions to all committees supporting or opposing such candidate, to become an amount exceeding the base amount of \$100 (one hundred dollars) for the election cycle, adjusted every two years pursuant to Section 3015, to \$190 \$200 (one hundred ninety two hundred dollars) in 2014 **2018**.

B. Family Contributions.

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

2. Contributions by children under the age of eighteen (18) 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).

C. Loans.

1. Every loan to a candidate or the candidate's controlled committee shall be by written agreement, a copy of which shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

2. 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 chapter.

3. Extensions of credit (other than loans pursuant to subsection (C)(2) of this section) for a period of more than thirty (30) days are subject to the contribution limitations of this chapter.

D. Notice of Independent Expenditures:

Any person who makes independent expenditures of more than \$190 \$200 (~~one hundred ninety~~ two hundred dollars), in support of or in opposition to any candidate shall notify the local filing officer and all candidates running for the same seat by telegram within five days each time the \$190 \$200 (~~one hundred ninety~~ two hundred dollars) threshold is exceeded.

E. Organizational Contributions.

1. No officer, employee, agent or attorney or other representative of a person covered by this chapter shall aid, abet, advise or participate in a violation of this sub-section.

2. No person shall knowingly accept a payment or contribution made in violation of this sub-section.

3. This chapter shall not prohibit a controlled committee of a candidate from conveying to that candidate any monies received by said committee as contributions within the limitations of this chapter.

F. Duties of Campaign Treasurer.

If a campaign treasurer is offered a contribution which would be in excess of the contribution limitations of this chapter, the treasurer must refuse the contribution. If, however, a contribution is deposited in the campaign committee's account which is in violation of this section, he or she shall report in writing within five (5) days to the City Clerk the facts surrounding such payment or contribution. Any such contribution so deposited shall be paid promptly, from available campaign funds, if any, to the City Treasurer for deposit in the General Fund of the City.

SEC. 3013. ENFORCEMENT.

A. Violations and Penalties, Generally

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

2. If, after election, a candidate is convicted of a violation of any provision of this Chapter, the election of office of such candidate shall be void and such office shall immediately become vacant. In such event the vacancy shall be filled in accordance with the procedures set forth in the California Government Code. If a candidate is convicted of a violation of this Chapter prior to election, his or her candidacy shall be terminated immediately and he or she shall no longer be eligible for election.

3. No person convicted of a misdemeanor under this Chapter shall be qualified or be a candidate for a period of four years following the date of conviction unless the court at the time of sentencing specifically determines that in the interest of justice this provision shall not be applicable.

4. A plea of nolo contendre shall be deemed a conviction for purposes of this section.

5. If any candidate is found guilty of violating the terms of this Chapter, an amount equal to or less than three times the amount of the unlawful contribution or expenditure shall be paid by the candidate or committee treasurer who received such funds to the City Treasurer for deposit in the General Fund of the City.

B. Civil Actions

1. Any person who intentionally or negligently violates any provision of this Chapter shall be liable in a civil action brought by the City Attorney or by a person residing within the City of Arcata for an amount not more than three times the amount of the unlawful contribution or expenditure.

2. Any person, before filing a civil action pursuant to this sub-section, shall first file with the City Attorney a written request for the City Attorney to commence action. The request shall contain a statement of the grounds for believing a cause of action exists. The City Attorney shall respond within forty (40) days after receipt of the request indicating whether he or she intends to file a civil action. If the City Attorney indicates in the affirmative and files a suit within forty (40) calendar days thereafter, no action may be brought unless the action brought by the City Attorney is dismissed without prejudice.

3. 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 and the remaining fifty percent shall be deposited in the City's general fund. In an action brought by the City Attorney the entire amount shall be paid to the general fund of the City.

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

C. Injunctive Relief

1. Any person residing in the City of Arcata may sue to enjoin violations or to compel compliance with the provisions of this Chapter.

SEC. 3014. RULES OF CONSTRUCTION.

This Chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the City to control campaign contributions and expenditures shall void the effect of this Chapter.

SEC. 3015. RECODIFICATION OR AMENDMENT.

A. Nothing shall prevent the City Council of the City of Arcata from recodifying the substantive provisions of this Chapter from time to time to incorporate the provisions of this Chapter into the City Code in the most appropriate locations.

B. The City Council shall, by Chapter, adjust the contribution limitations specified in this Chapter in January of every even numbered year to reflect any changes in the Consumer Price Index. Such adjustments shall be rounded off to the nearest ten dollars.

SEC. 3016. SEVERABILITY.

If any provision of this Chapter, or the application thereof, to any person or circumstance is found to be invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 3017. OTHER REMEDIES UNIMPAIRED.

Remedies under this Chapter shall be cumulative and shall be in addition to any and all other remedies, civil or criminal, provided for under any other provision of federal, state or local law.

SEC. 3018. PRESERVATION OF EXISTING RIGHTS, OBLIGATIONS AND PENALTIES.

Nothing in this Chapter shall alter or diminish any legal obligation otherwise required in common law or by statute or regulation, and nothing in this Chapter shall create or enlarge any defense in any action to enforce such legal obligation. Penalties and sanctions imposed under this Chapter shall be in addition to any penalties or sanctions otherwise prescribed by law.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 4: This ordinance will take effect immediately upon adoption pursuant to Government Code section 36937(a).

Dated: February 7, 2018

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Sofia Pereira
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1499, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, on the 7th day of February, 2018, by the following vote:

AYES: **PEREIRA, WATSON, ORNELAS**

NOES: **NONE**

ABSENT: **PITINO, WINKLER**

ABSTENTIONS: **NONE**

/s/ Bridget Dory
City Clerk, City of Arcata