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Councilmember Dan Kalb

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

Agenda Memorandum

To: City Council

From: Councilmember Dan Kalb

Date: September 29, 2016

Subject: Campaign Reform Ordinance Amendment

Colleagues on the City Council and Members of the Public,

We are putting this forward in cooperation with the Public Ethics Commission to align the Oakland Campaign Reform Act (OCRA) with the 2014 Amendment to Oakland City Charter Section 603, align OCRA's enforcement provisions with the City's Government Ethics Act and the State's Political Reform Act, and clarify and expand definitions and substantive provisions to ensure OCRA uses clear and enforceable language. In addition to the amendments described in the staff report from the Public Ethics Commission's Director, we are putting forth a handful of other modifications, the only significant one is the disclosure of the top donors for Independent Expenditure mailers and television ads.

Respectfully submitted,

A handwritten signature in black ink that reads "Dan Kalb". The signature is fluid and cursive, with the first name "Dan" being larger and more prominent than the last name "Kalb".

Dan Kalb, Councilmember



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OFFICE OF THE CITY CLERK
OAKLAND

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AGENDA REPORT

TO: CITY COUNCIL MEMBERS,
CITY ADMINISTRATOR

FROM: Whitney Barazoto, Director
Public Ethics Commission

RE: Oakland Campaign Reform Act (OCRA)

DATE: September 19, 2016

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Adopt Amendments to the Oakland Campaign Reform Act (OCRA) (A) Aligning OCRA with the 2014 amendment to City Charter Section 603, (B) Strengthening the Commission's enforcement authority to match the Government Ethics Act and the California Political Reform Act, and (C) Clarifying and expanding definitions and substantive provisions to ensure the Act uses clear and enforceable language; to become effective January 1, 2017.

EXECUTIVE SUMMARY

The proposed amendments to the Oakland Campaign Reform Act (OCRA) include a variety of changes intended to align OCRA with the 2014 City Charter amendment and the California Political Reform Act, strengthen the Commission's enforcement authority to parallel the Oakland Government Ethics Act, and clarify and expand definitions and substantive provisions to ensure the Act is clear and enforceable. The amendments are intended to become effective on January 1, 2017.

The proposed amendments were drafted by the Public Ethics Commission, incorporating input from Commissioners, Commission staff, the City Attorney's office, and members of the public through the Commission's subcommittee and open meeting process.

OUTCOME

A more clear, well-aligned, and strengthened Oakland Campaign Reform Act can have the effect of facilitating education and advice, enhancing awareness, understanding, and compliance with the law, and ensuring effective and efficient enforcement.

BACKGROUND/LEGISLATIVE HISTORY AND ANALYSIS

See attached *PEC Staff Analysis of Proposed Amendments to the Oakland Campaign Reform Act* for an explanation of each provision of the proposed ordinance.

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PUBLIC OUTREACH/INTEREST

On October 15, 2015, the Public Ethics Commission (PEC) held a public hearing on *Money in Politics* that highlighted current practices and emerging trends in campaign finance reform at the local, state, and federal level, hearing from experts including Ann Ravel, Chair of the Federal Elections Commission, Paul Ryan of the Campaign Legal Center, and Denise Roth-Barber of the organization that created www.followthemoney.org. Following the forum, Commission staff identified a variety of amendments to OCRA that arose in the course of these and other discussions about the Commission's work in this area.

On August 1, 2016, the PEC's Campaign Finance Subcommittee (Subcommittee) held a public meeting to review staff-proposed amendments to OCRA and brainstorm broader, more substantive concepts on which to conduct further research for potential future amendments to the OCRA. The Subcommittee members, staff, and members of the public participated in an in-depth discussion of the proposed amendments and broader reforms on the horizon. As a result, the Subcommittee submitted the proposed amendments as the first round of basic changes needed in order for the Commission to fully enforce the existing provisions and for the local law to be clear, enforceable, and in alignment with state law. The Subcommittee will meet again in future months to develop a second round of broader, more substantive changes to both OCRA and the Limited Public Financing Act.

The Subcommittee presented the proposed OCRA amendments to the full Public Ethics Commission at its September 6 public meeting, at which the Commission made a few minor amendments that resulted in the attached proposed amendments.

COORDINATION

The proposed amendments are a product of coordination among the Public Ethics Commission, Commission staff, the City Attorney's office, members of the public, Councilmember Kalb's office, and outside parties that included the Chair of the Federal Elections Commission and senior staff of national non-profit organizations specializing in campaign finance laws and disclosure.

In addition to the collaborative partners mentioned above, Commission staff also consulted the laws of the Los Angeles, San Diego, and San Francisco ethics commissions, all of which have a local campaign finance ordinances with local enforcement authority, as well as state campaign finance laws and regulations under the Political Reform Act.

COST SUMMARY/IMPLICATIONS

The ordinance expands the enforcement provisions of OCRA, resulting in broader capabilities, but does not add any new responsibilities beyond what was added by the recent City Charter Sec.

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603 changes that were made in 2014. There will be minor, absorbable costs associated with amending manuals and other Commission publications to ensure accurate reflection of the law.

SUSTAINABLE OPPORTUNITIES

Economic: These amendments aim to ensure OCRA is clear and enforceable so that the regulated community can understand and comply with the law. Clear language promotes compliance, which in turn helps enhance public trust in the campaign finance system and the electoral process. Strengthening compliance and performance in this area could have the effect of increasing trust among citizens and government, thereby bolstering the City's economic viability.

Environmental: There are no environmental opportunities.

Social Equity: Social equity depends on a political and governmental system that ensures a fair and equal opportunity for all individuals and interest groups to participate meaningfully in the governmental process. Clear and enforceable local campaign finance laws, combined with the authority to properly enforce government ethics laws, help to ensure that all participants know the rules, understand how to play by them, and be held accountable if they choose not to comply.

For questions regarding this report, please contact Whitney Barazoto, Executive Director of the Public Ethics Commission, at (510) 238-6620.

Respectfully submitted,



WHITNEY BARAZOTO
Executive Director, Public Ethics Commission

Attachments

1. ***Analysis of Proposed Government Ethics Act Prepared by PEC Staff***

PEC Staff Analysis of Proposed Oakland Campaign Reform Act Amendments

Summary

Under existing law, the Public Ethics Commission (PEC or Commission) is established in City Charter section 603, as amended by voters in 2014, and is tasked with the duty to ensure compliance with the Oakland Campaign Reform Act (OCRA), among other laws. [City Charter Sec. 603(b)(1)(ii)]. City Charter section 603 further assigns the Commission with the responsibility to perform other functions and duties as prescribed by City ordinance. [City Charter Sec. 603(b)(8)].

The Oakland Campaign Finance Act (O.M.C. Chapter 3.12) is a City ordinance passed by Council in 1994 to limit campaign contributions and expenditures, reduce the pressure on candidates to raise campaign funds, and ensure that all individuals have a fair and equal opportunity to participate in elective and governmental processes. OCRA has been amended several times over the years but has not undergone a comprehensive review to update the law in alignment with the California Political Reform Act, which has been amended repeatedly over the years, or to bring it on par with the campaign finance laws of other local ethics commissions. In addition, in recent years, the Commission has identified areas where the law is unclear or where enforcement provisions are weak compared with other jurisdictions.

The proposed amendments to the Oakland Campaign Reform Act would align OCRA with the 2014 City Charter amendment and the California Political Reform Act, strengthen the Commission's enforcement authority to parallel the Oakland Government Ethics Act, and clarify and expand definitions and substantive provisions to ensure OCRA is clear and enforceable.

Specifically, the proposed amendments make the following changes:

- **3.12.020 Findings and declarations** – Replaces all references to “officeholders” with the term, “elected City officials” because “officeholder” is not defined in OCRA and “City official” is a term used in other sections of OCRA; adds a clause to expressly state that OCRA shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled, akin to the language of the California Political Reform Act.
- **3.12.040 Interpretation of this Act** – Clarifies the reference to the California Political Reform Act and limits the scope of the reference to the code sections cited; amends or adds definitions for the terms “Candidate,” “City,” “City Office,” “City Official,” “Entity,” and “Local Committee” in order to clarify these terms and in some cases, align the terms with those used in the California Political Reform Act; deletes the definition of “Redevelopment Agency” since the agency no longer exists.
- **3.12.050 Limitations on contributions from persons** – makes clarifying changes that include adding a notation that contribution limits are adjusted annually to alert the reader to refer to a later section that requires limits to be adjusted annually; deletes the provision that exempts candidates from liability for contribution limit violations; transfers the duty to adjust contribution limits from the City Clerk's office to the Public Ethics Commission.

- **3.12.060 Limitations on contributions from broad-based political committees** – makes clarifying changes that include adding a notation that contribution limits are adjusted annually to alert the reader to refer to a later section that requires limits to be adjusted annually; deletes the provision that exempts candidates from liability for contribution limit violations; transfers the duty to adjust contribution limits from the City Clerk’s office to the Public Ethics Commission.
- **3.12.065 Contributions made under legal name** – aligns OCRA with the California Political Reform Act which requires that contributions must be made in one’s own legal name.
- **3.12.080 Aggregation of payments** – simplifies and moves subsection A to become subsection A(5) and renumbers this part of the section, resulting in language that is more clear and concise to cover situations where one entity finances, maintains, or controls another entity’s contributions. Subsection B is substantively amended and renumbered to include B, C, and D to align OCRA with the contribution aggregation rules under the California Political Reform Act and related regulations to expand the aggregation rule to the following situations in which individual contributions are aggregated with those of another entity:
 1. Contributions of all entities in which a person owns more than a majority interest.
 2. Contributions of an individual and all entities whose contributions the individual directs and controls.
 3. Contributions of multiple entities whose contributions are directed and controlled by the same individual or group of individuals.
- **3.12.100 Family contributions** – deletes a reference to contributions by a husband and wife, which is duplicative of the California Political Reform Act.
- **3.12.110 One campaign committee and one checking account per candidate** – deletes obsolete words, “for city office.”
- **3.12.115 Ballot measure committees controlled by candidates or elected City Officials** – makes clarifying changes to conform to revised definitions (“elected City Official” and “candidate”).
- **3.12.120 Money received by elected City Officials and candidates treated as contributions, income or gifts** – makes clarifying changes to terms and the reference to the California Political Reform Act.
- **3.12.130 Contributor Identification and Restriction on Use of Cash** – adds subsections B, C, and D to incorporate rules from the California Political Reform Act limiting the use of cash for contributions and expenditures; amends the title to reflect the new content of the section.
- **3.12.140 Contractors doing business with the City or the Oakland Unified School District prohibited from making contributions** – adds leases to the types of contracts that trigger the prohibition; makes clarifying changes to terms and clauses to conform to revised definitions and City titles; deletes obsolete references to the Redevelopment Agency since the agency no longer exists; adds a subsection (C) to expressly state which individuals of an entity are subject to the prohibition of section 3.12.140.

- **3.12.150 Officeholder fund** – amends terms to conform with revised definitions from section 3.12.040.
- **3.12.160 Allowance for donation of office space** – amends terms to conform with revised definitions.
- **3.12.170 Legal expense funds** – amends terms to conform with revised definitions.
- **3.12.190 Expenditure ceilings** – corrects a typographical error in the existing language that references other sections; replaces the word “accepting” with “receiving” as it relates to contributions in order to align the language with the California Political Reform Act and allow a candidate or committee to return a contribution pursuant to section 3.12.070.
- **3.12.200 Amount of expenditure ceilings** – transfers the duty to adjust expenditure ceiling amounts from the City Clerk’s office to the Public Ethics Commission.
- **3.12.220 Expenditure ceilings lifted** – clarifies the language of this section by changing the reference to “independent expenditure committee,” which is not defined by OCRA or the California Political Reform Act, to a person who “makes one or more independent expenditures totaling” more than the specified amount that triggers the expenditure ceiling lift; corrects a typographical error in the existing language that references other sections.
- **3.12.240 Electronic filing of campaign statements** – moves the language of the electronic filing section from the end of OCRA to a section that precedes the enforcement provisions, which apply to all the preceding sections; replaces “City Clerk” with “Public Ethics Commission” as the filing officer for campaign statements pursuant to the City Charter amendment of 2014.
- **3.12.245 Recordkeeping requirements** – adds new language from the California Political Reform Act and LA Campaign Finance Ordinance section 49.1.17(C) to give the Commission enforcement authority over existing state recordkeeping requirements

In addition to the above changes, the Enforcement section of OCRA is significantly amended to strengthen the Commission’s authority to enforce compliance, akin to the enforcement provisions of the Oakland Government Ethics Act of 2014. Specifically, the new enforcement section includes the following changes:

- **3.12.250 Violations Related to Enforcement** – adds a section to prohibit the filing of false or fraudulent complaints, evidence, documents, or information to the Public Ethics Commission or District Attorney or misrepresent a material fact, or conceal any evidence or information relevant to an investigation; adds a duty to cooperate and assist with an investigation.
- **Prior section 3.12.250 Duties of the City Clerk** – this section is deleted, in accordance with the transfer of the filing officer duties to the Commission pursuant to the City Charter amendment of 2014.
- **3.12.260 Public Ethics Commission Role and Responsibilities** – adds the duty to serve as filing officer for campaign statements to the Public Ethics Commission pursuant to the City Charter amendment of 2014, which transferred these duties from the City Clerk’s

office to the Commission; restates the Commission's authority to adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of OCRA, pursuant to O.M.C. section 2.24.070.

- **Prior section 3.12.260 Public Ethics Commission as enforcing body** – the language of this prior section is deleted as unnecessary due to the new and more precise language in 3.12.260 and section 3.12.270.
- **Prior section 3.12.270 Criminal misdemeanor actions** – the language of this prior section is deleted and is replaced with the new enforcement language in section 3.12.270 that is more specific and detailed.
- **3.12.270 Penalties** – adds new language similar to the enforcement provisions of the Oakland Government Ethics Act of 2014 and the California Political Reform Act to provide clear explanation of the criminal, civil, and administrative penalties available as well as a maximum fine amount of \$5,000 per violation or three times the unlawful amount, whichever is greater; requires a vote of five (out of seven) Commissioners in order to bring a civil action by the PEC. To establish a balanced enforcement program, the Commission adopted new Penalty Guidelines in 2015, required by the City Charter amendment of 2014, to guide the Commission in assessing penalties in a manner that is fair, consistent, and proportional to the seriousness of each violation. The Penalty Guidelines outline lower fine amounts for common violations and higher fine amounts for more serious violations. The proposed increased maximum penalty would apply in the latter situations. For more information about the PEC's Penalty Guidelines, see the Commission's "Enforcement" webpage, accessible through www.oaklandnet.com/pec.
- **3.12.280 Injunctive relief** – adds an injunctive relief remedy for the Commission or an Oakland resident to enjoin violations or compel compliance with the provisions of the Act; adds language similar to the Oakland Government Ethics Act and the California Political Reform Act to allow an individual to file a civil action for injunctive relief to enjoin violations or compel compliance with OCRA in the event the PEC fails to take administrative or civil action; this section establishes a process for notification to the Commission as a precursor to individual action.
- **3.12.290 Forfeiture** – adds language to allow the PEC to require a person to disgorge contributions or financial benefits received in violation of OCRA.
- **Prior section 3.12.290 Injunctive Relief** – the language of this prior section was incorporated into new section 3.12.280.
- **3.12.300 Costs of Litigation** – adds a provision to allow the recovery of attorney's fees and costs for a person (other than the City) who prevails in a civil action under OCRA.
- **Prior section 3.12.300 Cost of Litigation** – the language of this section is deleted and substituted with the new language described above to limit recovery of attorney's fees and costs to persons other than the City.
- **3.12.310 Limitation of Actions** – expands the statute of limitations from two years to four years for criminal actions and to five years for civil or administrative action, as is provided by the California Political Reform Act; clarifies the commencement of the statute of limitations.

- **3.12.320 Liability** – adds language that provides more detailed explanation of joint and several liability and adds a rebuttable presumption that certain individuals are agents of a committee.
- **3.12.330 Disqualification** – this section is renumbered as a result of the provisions added above it; amends a term to conform with revised definitions.
- **3.12.340 Applicability of other laws** – renumbered from 3.12.320.
- **3.12.350 References to other laws** – adds a section to state that all references to other laws in this Act refer to those laws as amended.
- **3.12.360 Severability** – renumbered from 3.12.330.
- **Prior section 3.12.340 Electronic filing of campaign statements** – this section was renumbered to section 3.12.240 (see explanation above).

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Approved as to Form and Legality

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE _____ C.M.S.

ADOPT AMENDMENTS TO THE "OAKLAND CAMPAIGN REFORM ACT" (OCRA) ORDINANCE (A) ALIGNING OCRA WITH THE 2014 AMENDMENT TO THE OAKLAND CITY CHARTER SECTION 603, (B) STRENGTHENING THE COMMISSION'S ENFORCEMENT AUTHORITY TO MATCH THE GOVERNMENT ETHICS ACT AND THE CALIFORNIA POLITICAL REFORM ACT, AND (C) CLARIFYING AND EXPANDING DEFINITIONS AND SUBSTANTIVE PROVISIONS TO ENSURE THE ACT USES CLEAR AND ENFORCEABLE LANGUAGE; TO BECOME EFFECTIVE JANUARY 1, 2017.

WHEREAS, the integrity of City government depends upon a government election process that includes clear rules to which candidates and committees must adhere as they raise and spend money to run for City elective office or to support or oppose candidates or ballot measures; and

WHEREAS, in order to ensure integrity in the campaign finance process, the California Political Reform Act imposes requirements on candidates and committees, including but not limited to required reporting of all campaign contributions and expenditures on state campaign forms and restrictions on the receipt, maintenance, use, and distribution of campaign funds (Government Code Section 81000 et seq.); and

WHEREAS, a Charter City has the constitutional authority to enact local regulations to supplement state ethics laws under the home rule and municipal affairs doctrines; and

WHEREAS, the Oakland Campaign Reform Act was passed in 1993, and amended over the years, to reduce the influence of money in local politics; and

WHEREAS, the citizens of Oakland voted to amend the Oakland City Charter in 2014 to strengthen the Public Ethics Commission to better ensure compliance with laws, including the Oakland Campaign Reform Act, that seek fairness, openness, honesty, and integrity in City government; and

WHEREAS, the City Charter amendments in 2014 transferred the duty to serve as the City's filing officer for campaign statements pursuant to the California Political Reform Act from the City Clerk's office to the Public Ethics Commission; and

WHEREAS, the Oakland Campaign Reform Act has not been amended to keep pace with changes in the California Political Reform Act or with the enforcement authority vested with

other City ethics commissions in California, resulting in comparably weaker enforcement of campaign finance laws in Oakland;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Oakland Campaign Reform Act. The City Council of the City of Oakland, in order to ensure clear expectations pertaining to the financing of campaigns and campaign committees, and to ensure effective enforcement of local campaign finance laws, does hereby amend Chapter 3.12 of the Oakland Municipal Code to amend the Oakland Campaign Reform Act (hereinafter referred to as the "Act") as follows:

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT¹

Article I. - Findings and Purpose

3.12.010 - Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

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~~ elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise

¹ **Editor's note**—Per Ord. 11969, passed March 18, 1997, effective January 1, 1997, except to acts occurring on or before December 31, 1996, Chapter 3.12, the Oakland Campaign Reform Act, is suspended pending further legislative action by ordinance, by the Oakland City Council in response to pending legal challenges to Proposition 208, the California Political Reform Act of 1996. Chapter 3.12 will be automatically reinstated without legislative action by the Oakland City Council if Proposition 208 is enjoined in its entirety.
Prior ordinance history: Ords. 11612, 11874, 12043 and 12075.

contributions is distracting ~~officeholders~~ elected City Officials from urgent governmental matters.

- E. ~~Officeholders~~ Elected City Officials 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.
- G. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

(Ord. 12158 (part), 1999)

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, 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~~ elected City Officials 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.

(Ord. 12158 (part), 1999)

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~~ the California

Political Reform Act (California Government Code Sections 81000 through 91014), as amended, shall govern the interpretation of this Act.

A. "Broad-based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five or more candidates.

B. "Candidate" means any candidate, as defined by the California Political Reform Act, for City Office.

C. "City" means the City of Oakland.

D. "City Offices" for the purposes of this Act includes, but is not limited to, City of Oakland Mayor (Mayor), City of Oakland City Attorney (City Attorney), City of Oakland City Auditor (City Auditor), City of Oakland City Councilmembers (Councilmembers), and Oakland School Board Directors (School Board Directors).

A-E. "City Official" means any person holding a City Office, any member of a City board or commission, and any City employee.

B-F. "Election" means any election held in the City of Oakland for City Office.

G. "Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.

H. "Entity" means any person, other than an individual.

~~"Local candidate" shall be defined as set forth in the California Political Reform Act, California Government Code Section 81000 et seq., but shall include only candidates for City office that receive contributions totaling more than \$1,000.00 or make expenditures totaling more than \$1,000.00 in a calendar year.~~

C-I. "Local committee" shall means those any committees, as defined in the California Political Reform Act, that receive contributions totaling more than \$1,000.00 or make expenditures totaling more than \$1,000.00 in a calendar year that are that is required by the California Political Reform Act to file campaign statements with the City.

- ~~1. A committee controlled by a candidate for City office;~~
- ~~2. A committee primarily formed to support or oppose a candidate's election for City office;~~
- ~~3. A committee primarily formed to support or oppose a local ballot measure; or~~
- ~~4. A general purpose committee as defined in the California Political Reform Act, California Government Code Section 81000 et seq. that is active only in Oakland.~~

D-J. "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.

Qualified Campaign Expenditure.

E-K. 1. "Qualified campaign expenditure" for candidates means and includes all of the following:

1. a. Any expenditure made by a candidate, officeholder, elected City Official or committee controlled by the candidate or officeholder, elected City Official, for the

purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate ~~for city office~~.

2. ~~b.~~—A nonmonetary contribution provided at the request of or with the approval of the candidate, ~~officeholder~~relected City Official or committee controlled by the candidate or ~~officeholder~~relected City Official.

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.

~~"Redevelopment Agency" means the Oakland Redevelopment Agency.~~

(Ord. No. 13262, § 1, 10-21-2014; Ord. No. 13156, § 3, 3-19-2013; Ord. No. 12998, § 1, 3-2-2010; Ord. 12158 (part), 1999)

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~~receive from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00), adjusted annually pursuant to subsection F, for each election except as stated in subsection B of this section.
- B. For candidates who adopt the expenditure ceilings as defined in 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~~receive contributions totaling more than five hundred dollars (\$500.00), adjusted annually pursuant to subsection F, from any person for each election.
- C. Any person who makes independent expenditures supporting or opposing a candidate ~~for city office~~ shall not ~~accept~~receive any contribution for the purpose of influencing elections for City Office in excess of the amounts stated in subsections A.
- D. This section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than city offices.
- E. Upon the effective date of the ordinance codified in this section, persons making independent expenditures supporting or opposing a candidate ~~for city office~~ shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a person has separately accounted for such contributions and expenditures for such elections for city office, contributors to that person may contribute more than the amount set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.
- F. ~~Candidates for city office shall not be held responsible for violations of this provision by any person.~~
- G.—Beginning January 1, ~~2017~~04, the ~~City Clerk~~Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation 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 contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The ~~City Clerk~~Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

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~~receive from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00), adjusted annually pursuant to subsection F, for each election except as stated in subsection B of this section.
- B. 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~~receive from a broad-based political committee, a contribution or contributions totaling more than one thousand dollars (\$1,000.00), adjusted annually pursuant to subsection F, for each election.
- C. Any broad-based political committee that makes independent expenditures supporting or opposing a candidate ~~for city office~~ shall not ~~accept~~receive any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsection A of this section.
- D. This section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than city offices.
- E. Upon the effective date of the ordinance codified in this section, a broad-based political committee making independent expenditures supporting or opposing a candidate ~~for city office~~ shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a broad-based political committee has separately accounted for such contributions and expenditures for such elections for city office, contributors to that broad-based political committee may contribute more than the amounts set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.
- F. ~~Candidates for city office shall not be held responsible for violations of this provision by any broad-based political committee.~~
- G. ~~Beginning January 1, 2017~~04, the ~~City Clerk~~Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation 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 contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The ~~City Clerk~~Public Ethics

Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.065 – Contributions made under legal name.

No contributions shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

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 5 business days ~~of~~ before the closing date of the campaign statement on which the contribution was or would otherwise be reported. 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 forty-eight (48) hours of receipt.

(Ord. 12158 (part), 1999)

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.~~

~~BA. Two or more entities' contributions shall be aggregated~~ 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 a majority of ~~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.
5. One entity finances, maintains, or controls the other entity's contributions or expenditures.

~~CB. An individual and any general or limited partnership in which the individual has more than a fifty (50) percent share, or an individual and any corporation in which the individual owns a controlling interest (more than fifty (50) percent), shall be treated as one person. Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decision to make contributions.~~

C. The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by that same individual.

D. If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

~~E.~~ 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.

(Ord. 12158 (part), 1999)

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 one thousand five hundred dollars (\$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.

(Ord. 12158 (part), 1999)

3.12.100 - Family contributions.

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

A. Contributions by two persons who are married to each other ~~a husband and wife~~ shall be treated as separate contributions and shall not be aggregate.

B. Contributions by children under 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).

(Ord. 12158 (part), 1999)

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.

(Ord. 12158 (part), 1999)

3.12.115 - Ballot measure committees controlled by candidates for City office or City officeholder selected City Officials.

A candidate for City office or elected City Official officeholder who controls a ballot measure committee may not directly or indirectly use or influence the use of ballot measure committee funds to support the candidate's or officeholder's elected City Official's election or re-election to City office or to support or oppose other candidates for City office, and may not transfer such funds to another committee supporting the candidate's or officeholder's elected City Official's election or re-election to City office, or supporting or opposing other candidates for City office. The foregoing notwithstanding, the prohibitions of this section shall not apply to a committee created to oppose or support the qualification of a recall measure and/or the recall election of the controlling candidate for City office or controlling elected City officeholder Official.

(Ord. No. 13262, § 1, 10-21-2014)

3.12.120 - Money received by elected Ceity O officials and candidates treated as contributions, income or gifts.

Any funds received by any elected Ceity O official, ~~or candidate,~~ running in the jurisdiction or any committee controlled by such an elected City e 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 California Political Reform Act, ~~Government Code Sections 87100 et seq.~~

(Ord. 12158 (part), 1999)

3.12.130 — Contributor Identification of contributor required and Restriction on Use of Cash.

- A. No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate for city office or local committee unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.
- B. No person shall make, and no candidate or local committee shall receive, a contribution of one hundred dollars (\$100) or more in cash.
- C. No candidate or local committee shall make an expenditure of one hundred dollars (\$100) or more in cash.

D. No person shall make a contribution of one hundred dollars (\$100) or more other than an in-kind contribution unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code Section 84302.

(Ord. 12158 (part), 1999)

3.12.140 - Contractors doing business with the city of Oakland, ~~City~~ the Oakland Redevelopment Agency or the Oakland Unified School District prohibited from making contributions.

A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, ~~or for selling or leasing any land or building to the City,~~ or for purchasing or leasing any land or building from the City, whenever the value of such transaction would require approval by the City Council shall make any 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, or committee controlled by such ~~officeholder~~ elected City Official or candidate at any time between commencement of negotiations and either ~~one hundred eighty (180) days after the completion of,~~ or the termination of, negotiations for such contract.

~~B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Redevelopment Agency for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the Redevelopment Agency or for selling any land or building to the Redevelopment Agency or for purchasing any land or building from the Redevelopment Agency, whenever the value of such transaction would require approval by the Redevelopment Agency, shall make any 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, or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.~~

~~C. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District, or for selling or leasing any land or building to the School District, or for purchasing or leasing any land or building from the School District, whenever the value of such transaction would require approval by the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such ~~officeholder~~ elected City Official or candidate at any time between commencement of negotiations and either ~~one hundred eighty (180) days after the completion of,~~ or the termination of, negotiations for such contract.~~

C. If a person is an entity, the restrictions of subsections A and B also apply to all of the entity's principals, including, but not limited to, the following:

1. The entity's board chair, president, chief executive officer, chief operating officer, and any individual who serves in the functional equivalent of one or more of those positions;
2. Any individual who owns an ownership interest in the entity of 20 percent or more; and

4.3. An individual employee, independent contractor, or agent of the entity, that represents or is authorized to represent the entity before the City in regards to the contract or proposal contract.

- D. "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.
- E. For contributions to ~~city officers~~selected City Officials other than School Board Directors, transactions that require approval by the City Council ~~or Redevelopment Agency~~ include but are not limited to:
1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).
 2. Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.
 3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).
 4. Contracts for the sale or lease of any building or land to or from the City ~~or the Redevelopment Agency~~.
 5. Amendments to contracts described in subsections (E)(1), (2), (3), and (4) of this section.
- F. 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 twenty-five thousand dollars (\$25,000.00), including personal service agreements.
 2. Contracts requiring School Board approval under Public Contract Code Section 20111.
 3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
 4. Contracts for the sale or lease of any building or land to or from the School District.
 5. Amendments to contracts described in subsections (F)(1), (2), (3), and (4) of this section.
- G. "Commencement of negotiations" for City contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed ~~city officer~~City Official or City employee or when any elected or appointed ~~city officer~~City Official or City employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- H. ~~"Commencement of negotiations" for Redevelopment Agency contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed Redevelopment Agency officer or employee or when any elected or appointed Redevelopment Agency officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.~~
- I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any

elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

- J. "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.
- K. "Completion of negotiations" occurs when the City, ~~the Redevelopment Agency~~ or the School District executes the contract or amendment.
- L. "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, ~~Redevelopment Agency officer~~, City employee or ~~Redevelopment Agency employee~~ or an appointed or elected School District officer or employee.
- M. The Oakland City Manager ~~Administrator~~ shall be responsible for implementing procedures for City of Oakland and ~~Redevelopment Agency~~ contracts to ensure contractor compliance with the ~~Oakland Campaign Reform~~ this Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, ~~the Oakland Redevelopment Agency~~ or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed by the City Clerk at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The City Clerk shall keep an updated list of current contractors available for inspection.

- N. The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, ~~the Oakland Redevelopment Agency~~ or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

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

P. ~~Elected city officeholders, candidates for city office~~ and their controlled committees shall include a notice on all campaign fundraising 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 limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland, ~~the Oakland Redevelopment Agency or the Oakland Unified School District (OMC § 3.12.140, paragraphs A., B., and C.).~~

(Ord. 12158 (part), 1999)

3.12.150 - Officeholder fund.

A. Every elected ~~city officeholder~~City Official shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected City Official~~officer~~. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office

of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.

B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in subsection (C)(1) through (5) of this section. 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 elected City Official 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 elected City Official (2) a member of the officeholder's elected City Official's staff; or (3) such other person designated by the officeholder elected City Official 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 elected City Official, (2) a member of the officeholder's elected City Official's staff, (3) such other person designated by the officeholder elected City Official 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 have a material financial effect on 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 elected City Official or a member of the officeholder's elected City Official'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~~elected City Official 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 City employee;
5. Any expenditure 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 fund of an elected ~~city officeholder~~City Official 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.

(Ord. 12158 (part), 1999)

3.12.160 - Allowance for donation of office space.

A. Donation of office space for use by ~~city officeholders~~selected City Officials 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 an elected City Official ~~city officeholder~~ shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

(Ord. 12158 (part), 1999)

3.12.170 - Legal expense funds.

- A. An elected ~~city officeholder~~ City Official 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~~ elected City Official'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~~ elected City Official'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~~ elected City Official or candidate for legal expense fund must be deposited into the ~~officeholder's~~ elected City Official'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.

(Ord. 12158 (part), 1999)

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.

(Ord. 12158 (part), 1999)

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 3.12.050BC and 3.12.060BC of this Act. Before ~~accepting~~ receiving any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the Public Ethics Commission ~~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.

(Ord. 12158 (part), 1999)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$.70) per resident for each election in which the candidate is seeking elective office. A candidate for other citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning in ~~1999~~2017, the Public Ethics Commission ~~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 increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.210 - Reserved.

Editor's note— Ord. No. 12998, § 1, adopted March 2, 2010, repealed the former section 3.12.210 in its entirety, which pertained to time periods for expenditures, and derived from Ord. No. 12158, adopted 1999.

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if any person independent expenditure committee in the aggregate spends makes one or more independent expenditures totaling more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) 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 3.12.050BG and 3.12.060BG of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) 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 3.12.480-200 of this chapter.

(Ord. 12158 (part), 1999)

Article V. - Independent Expenditures

3.12.230 - 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 fourteen 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)

(Ord. 12158 (part), 1999)

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

- A. Electronic Filing of Campaign Statements. Any person required by state or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission provided that the Public Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.
- B. Continuous Filing of Electronic Statements. Once a committee is subject to the electronic filing requirements imposed by this section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Act and the California Political Reform Act.
- C. Late Filing Fees. If any person files an original statement or report after the deadline imposed by state or local law, he or she shall, in addition to any other penalties or remedies established by this Act or state law, be liable in the amount of \$10.00 per day after the deadline until the statement or report is filed, to the Public Ethics Commission. No liability under this subsection shall exceed the cumulative amount stated in the late statement or

report, or \$100.00, whichever is greater. The Public Ethics Commission shall deposit any funds received under this section into the City's general fund.

D. Adoption of General Law. Except as otherwise provided in, or inconsistent with, this Act or other provisions of local law, the provisions of the California Political Reform Act relating to local elections including any subsequent amendments are hereby incorporated as part of this article.

(Ord. No. 13156, § 3, 3-19-2013)

3.12.245 - Recordkeeping requirements.

Every person required by state or local law to file a campaign statement or report with the City shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four (4) years following the date the campaign statement or report was filed with the Public Ethics Commission.

Article VII. - Violations Related to Enforcement

3.12.2450 - Violations Related to Enforcement

False Charges and Information. A person shall not knowingly furnish false or fraudulent complaints, evidence, documents, or information to the Public Ethics Commission, or District Attorney, or knowingly misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Public Ethics Commission or District Attorney of an alleged violation of this Act.

~~Duty to Cooperate and Assist. A City Official shall cooperate and assist with an investigation into an alleged violation of this Act, upon the request of the Public Ethics Commission or District Attorney. This requirement shall not be construed as requiring the identification of a confidential whistleblower, as defined by the Oakland Whistleblower Ordinance.~~

Article VIII. - Agency Responsibility and Authority

3.12.26540 - Duties of the Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

- A. Oversee compliance with the Act.
- B. Serve as the local filing officer for campaign statements and reports pursuant to the California Political Reform Act.~~B. Propose necessary regulations in furtherance of this Act subject to City Council approval.~~
- C. Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this Act, subject to Section 2.24.070 of the Oakland Municipal Code.

(Ord. 12158 (part), 1999)

3.12.26550 - Duties of the City Clerk.

The City Clerk shall, at a minimum, provide with the nomination packets given to candidates an advisory sheet directing candidates to the Public Ethics Commission for information about campaign reporting requirements.

- ~~A. Prescribe the necessary forms and manuals for filing the appropriate statements;~~
- ~~B. Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;~~
- ~~C. Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;~~
- ~~D. Ensure that any electronic filing system will operate securely and effectively and will not unduly burden filers;~~
- ~~E. Ensure that any electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State and that is compatible with the Secretary of State's system for receiving an online or electronic filing;~~
- ~~F. Report violations of this title to the appropriate agencies, including the Public Ethics Commission, the City Attorney, and/or the District Attorney;~~
- ~~G. Compile and maintain a current record of all reports and statements filed with the City Clerk;~~
- ~~H. At a minimum, offer trainings, at no cost, on the electronic filing system prescribed by the City during the first semi-annual and first pre-election reporting periods during election years; and~~
- ~~I. Provide with nomination packets given to candidates an advisory sheet on locations of computers with internet access made available by the City for free public use.~~

(Ord. No. 13156, § 4, 3-19-2013; Ord. 12158 (part), 1999)

Article VIII. - Enforcement

3.12.260 - 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.~~

(Ord. 12158 (part), 1999)

3.12.270 - Criminal misdemeanor actions.

~~Any person who knowingly or willfully violates Articles III, IV, V, or IX of this Act is guilty of a misdemeanor. Any person who knowingly or wilfully causes any other person to violate any provision of the Act, or who knowingly or wilfully 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 years after the date on which the violation occurred.~~

~~(Ord. No. 13156, § 5, 3-19-2013; Ord. 12158 (part), 1999)~~

3.12.27680 - Enforcement Penalties actions.

Any person who violates this Act is subject to criminal, civil, administrative, and other penalties provided for in this Section. In the event criminal violations of this Act come to the attention of the Public Ethics Commission, it may forward the information to the appropriate law enforcement agency.

A. Criminal Penalties. Any person who knowingly or willfully violates any provision of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Act.

1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless a court, at the time of sentencing, specifically determines that this provision shall not be applicable.

1.

2. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.

A. Civil Penalties. Any person who violates any provision of this Act shall be liable in a civil action for an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed expended, gave or received, whichever is greater. A decision by the Public Ethics Commission to bring a civil action requires an affirmative vote of at least five (5) of its members.

B.

1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

1.

2. In determining the amount of liability, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.

C. Administrative Penalties. Any person who violates any provision of this Act, who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable in an administrative proceeding before the Public Ethics Commission held pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. In addition to administrative penalties, the Public Ethics Commission may issue warnings or require other remedial measures.

1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

3.12.280 - Injunctive Relief:

- A. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, VI, and VII of this Act.
- B. Any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, and VI of this Act.
- ~~A. Any individual, other than the Public Ethics Commission, before filing a civil action pursuant to this section, shall first file with the Public Ethics Commission a written request for the Public Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Public Ethics Commission shall respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an administrative or civil action. If the Public Ethics Commission indicates in the affirmative and brings an administrative or civil action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Public Ethics Commission is dismissed without prejudice.~~
- C.
- D. If the Public Ethics Commission needs additional time to determine whether to bring an action or needs additional time to bring an action, it may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety (90) day time period by another sixty (60) days. If the Public Ethics Commission indicates they will not pursue the matter, or if it does not pursue an administrative or civil action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit pursuant to this section. No resident may bring an action underpursuant to this section if the Public Ethics Commission has commenced an administrative action or a law enforcement agency has commenced criminal action arising out of the same facts.

3.12.290 - Forfeiture:

Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's general fund up to the amount of the financial benefit received as a result of the violation.

3.12.300 - Costs of Litigation.

The court may award to a party, other than the City or any of its commissions, boards, departments or agencies, who prevails in any civil action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

3.12.310 - Limitation of Actions:

- A. A criminal action alleging a violation of this Act may only be commenced by the Alameda County District Attorney or the California Attorney General and no more than four (4) years after the date of the violation.
- ~~A. A civil action alleging a violation of this Act may only be commenced by the Public Ethics Commission or an individual residing in the City and no more than five (5) years after the date of the violation.~~

B.

C. An administrative action alleging a violation of this Act may only be commenced by the Public Ethics Commission and no more than five (5) years after the date of the violation.

B. Commencement of an administrative action is the date the Public Ethics Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.

D. .

E. Unless otherwise prescribed by applicable law, the date of the violation means the earliest date when the complainant, the Public Ethics Commission, or other prosecuting authority has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant, the Public Ethics Commission, or other prosecuting authority to know or suspect under the facts of the situation.

3.12.320 - Liability

A. In addition to a committee itself, persons who qualify under the California Political Reform Act as principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers.

B. In addition to a person whose conduct is required or prohibited under this Act, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:

1. A current or former officer of the committee;
2. An employee of the committee;
3. A person who has received compensation or reimbursement from the committee; and
4. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.

C. This Section does not limit potential liability for persons who cause another person to violate this Act or who aids and abets another person in a violation.

~~A. Any person who intentionally or negligently violates Articles III, IV, V or IX 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, V or IX 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 mediation is not undertaken, 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 times the amount of the unlawful contribution or expenditure.~~

~~1. For any violation of Article IX the Commission is authorized to administer penalties and fines not to exceed three times the amount the person failed to report properly or \$2,000.00, whichever is greater.~~

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

~~(Ord. No. 13156, § 5, 3-19-2013; Ord. 12158 (part), 1999)~~

3.12.290 – Injunctive relief.

~~The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.~~

~~(Ord. 12158 (part), 1999)~~

3.12.300 – 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.~~

~~(Ord. 12158 (part), 1999)~~

3.12.33340 - Disqualification.

In addition to any other penalties prescribed by law, if an official a candidate 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.

(Ord. 12158 (part), 1999)

Article VIII. - Miscellaneous Provisions

3.12.34420 - Applicability of other laws.

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

(Ord. 12158 (part), 1999)

3.12.355025 – Reference to Other Laws.

All references to other laws in this Act refer to those laws as amended.

3.12.36630 - 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.

(Ord. 12158 (part), 1999)

Article IX. – Electronic Filing Requirements

~~3.12.340 – Electronic filing of campaign statements.~~

- ~~A. – Electronic Filing of Campaign Statements. Whenever any local candidate or local committee is required by state or local law to file a campaign statement with the City Clerk, that candidate or committee shall file the statement or report in an electronic format with the City Clerk's office provided that the City Clerk has prescribed the format at least 60 days before the statement or report is due to be filed.~~
- ~~B. – Continuous Filing of Electronic Statements. Once a committee, including a candidate's committee, is subject to the electronic filing requirements imposed by this section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this chapter and the California Political Reform Act (California Government Code Section 81000 et seq.).~~
- ~~C. – Late Filing Fees. If any person files an original statement or report after the deadline imposed by state or local law, he or she shall, in addition to any other penalties or remedies established by this title or state law, be liable in the amount of \$10.00 per day after the deadline until the statement or report is filed, to the City Clerk. No liability under this subsection C. shall exceed the cumulative amount stated in the late statement or report, or \$100.00, whichever is greater. The City Clerk shall deposit any funds received under this section into the general fund.~~
- ~~D. – Adoption of General Law. Except as otherwise provided in, or inconsistent with, this chapter or other provisions of local law, the provisions of the Government Code of the State of California (commencing at Section 81000), relating to local elections including any subsequent amendments, are hereby incorporated as part of this article.~~

(Ord. No. 13156, § 3, 3-19-2013)

Section 3. Effective Date. This Ordinance shall become effective on January 1, 2017.

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____