

ORDINANCE NO. 5108

AN ORDINANCE ADDING CHAPTER 2.18 TO
TITLE 2 OF THE EL CAJON MUNICIPAL CODE
TO ESTABLISH LOCAL CAMPAIGN LIMITS
FOR THE CITY OF EL CAJON

WHEREAS, on January 1, 2021, new California state law took effect, arising from passage of AB 571 in 2019, amending Government Code section 85301 and adding Government Code section 85702.5 pertaining to campaign contribution limits for local candidates for office (the "Law"); and

WHEREAS, the Law allows cities to enact their own campaign contribution limits for local elections by ordinance or resolution, or, absent such an enactment, sets \$4,900 as the default campaign contribution limit (the "Default Limit"); and

WHEREAS, the City of El Cajon (the "City") has never adopted local campaign contribution limits for elections involving the offices of Mayor and Councilmembers, nor has the City ever adopted local campaign contribution limits for other local election matters, including recall, referendum, or initiative; and

WHEREAS, the City Council finds that setting campaign contribution limits should be a matter of local control, and left to the desire of local public officials rather than to be subject to the Default Limit established by the Law; and

WHEREAS, after due consideration, the City Council believes that it would be in the best interest of the City to establish local campaign contribution limits for all City elections in the initial amount of \$10,000, which amount would be adjusted annually each January 1, equal to the most recently reported Consumer Price Index for the San Diego region (CPI-U), from the U.S. Bureau of Labor Statistics.

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

Section 1. A new Chapter 2.18 is hereby added to Title 2 of the El Cajon Municipal Code to read as follows:

Chapter 2.18 LOCAL CAMPAIGN CONTRIBUTION LIMITS

2.18.010 Intent and purpose.

It is the intent of the city council in enacting the ordinance codified in this chapter to place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections, as well as to supplement the requirements of state law with regard to the making and reporting of campaign contributions and expenditures, for the purpose of preventing the exercise by campaign contributors of potential undue or improper influence over elected officials and to inform the public

of the sources and objects of campaign contributions and expenditures. The city council finds that municipal elections are municipal affairs; that the regulation of campaign expenditures and contributions in municipal elections is not preempted by general State law; and that a limitation on campaign contributions by individuals is the proper subject of municipal regulation under authority granted to cities by Article XI, section 7 of the California Constitution and Government Code section 81013. The contribution limitations of this chapter shall not only apply to all elections for the offices of mayor and councilmembers, but shall also apply to recall elections in which the electorate determines whether to recall an officeholder, and to ballot measure elections. This chapter shall not apply to contributions or other amounts given to a committee that is organized (a) for the purpose of supporting candidates for city offices, or (b) for the purpose of supporting or opposing ballot measures. It is the intent of the city council that this chapter is to be interpreted in a manner consistent with Constitutional requirements. Should any provision of this chapter be determined to be invalid for any reason, the remainder shall be severed therefrom and shall remain in full force and effect.

2.18.020 Definitions.

For the purposes of this chapter, the words and phrases used herein shall have the meanings respectively ascribed to them by the Political Reform Act of 1974, as amended, commencing with Government Code section 81000 or in the regulations adopted by the Fair Political Practices Commission, as amended, commencing with 2 California Code of Regulations section 18202.

2.18.030 Limitations.

A. Contributions Generally.

1. Except as expressly provided in this section, no individual shall make, nor shall any person solicit or accept, any contribution in aid of or in opposition to the nomination or election of a candidate, which will cause the total amount contributed to the candidate by such person to exceed \$10,000 in a single election.
2. The prohibition of subsection (A)(1) of this section shall not apply to any committee or political party or its committee that receives contributions to be expended in elections.
3. The \$10,000 limitation of subsection (A)(1) of this section is not a limitation upon expenditures and shall not limit the expenditures by any candidate or any committee.

4. Spouses are two separate individuals for purposes of the contribution limitation of subsection (A)(1) of this section.
5. The \$10,000 limitation of subsection (A)(1) of this section shall not apply to a candidate in aid of himself or herself, or to any committee which makes expenditures solely for the purpose of advocating the adoption or defeat of a ballot measure or to any committee advocating or opposing the recall of an officeholder.
6. No person shall make a contribution anonymously or under an assumed name. No person shall make a contribution on behalf of another person, whether as agent, intermediary, or otherwise.
7. Contributions are not permitted to be retained by a candidate or any committee when received from anonymous sources or from persons who do not consent to having their name made known. Any such contributions shall be refunded to the donor (if known) or (if unknown) shall be turned over to the city clerk and deposited to the city's treasury, in any event within 72 hours of receipt.
8. The \$10,000 contribution limitation of subsection (A)(1) of this section shall be adjusted in January of every year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for the San Diego region (CPI-U), from the U.S. Bureau of Labor Statistics.

B. Prohibited Activities.

1. No officer, employee, agent or attorney or other representative of a person covered by this subsection shall aid, abet, advise, or participate in a violation of this section.
2. No person shall knowingly accept a payment or contribution made in a violation of this section.
3. If a candidate's campaign treasurer is offered a contribution that would be in excess of the limitation the treasurer must refuse the contribution. If, however, a contribution is deposited into the campaign trust account, which is in violation of this section, the treasurer shall report in writing within five days of learning of the illegal nature of the contribution to the city clerk the facts surrounding such contribution. Any such contribution so deposited shall be paid promptly, from available campaign

funds, if any, to the city, and shall be deposited in the general fund of the city.

2.18.040 Statements generally.

Subject to Government Code section 81009.5, each candidate and each committee, including all independent committees, shall file as a public record with the city clerk campaign statements showing the amounts of contributions received and expenditures made with respect to such election at the time required by the Political Reform Act of 1974, as amended.

2.18.050 Media exemptions.

The provisions of this chapter shall not apply to any publication or broadcast or to any news story, commentary or editorial distributed through the facilities of a broadcasting station or bona fide newspaper, magazine or other periodical publication. A news story, commentary or editorial is not considered to be distributed through a bona fide newspaper, magazine, or other periodical publication if:

- A. Such publication is primarily for distribution to individuals affiliated by membership or stock ownership with the person (other than an individual) distributing it or causing it to be distributed; or
- B. Such publication is not primarily for purchase by the public at newsstands or paid by subscription; or
- C. The news story, commentary or editorial is distributed by a person (other than an individual) who devotes a substantial part of his activities to attempting to influence the outcome of city elections, or to influence public opinion with respect to matters of city policy or concern.

2.18.060 Suppliers of goods and services – Disclosure of records required.

No person who supplies goods or services, or both goods and services, to a candidate or committee for use in connection with the campaign of the candidate or for or against a measure shall refuse to divulge or disclose to the enforcement authority the record of any expenditures made by the candidate or committee in payment for such goods or services, or both.

2.18.070 Late filing of campaign statement.

- A. If any person files a campaign statement after any deadline imposed by this chapter, he or she shall, in addition to any other penalties or remedies established in this chapter, be liable to the city clerk in the amount of \$10.00 per day after the deadline until the statement is

filed, as set forth in California Government Code section 91013, as may be amended from time to time.

- B. The city clerk shall deposit any funds received under this section into the general fund of the city to defray the cost of municipal elections.

2.18.080 Violation – Penalty.

- A. Any knowing or willful violation of any provision of this chapter may be prosecuted, either as an infraction or as a misdemeanor, at the discretion of the prosecutor. The maximum fine which may be imposed for each misdemeanor conviction shall be \$1,000. The chairperson and treasurer of any committee shall be both criminally and civilly responsible for any violation of this chapter by the committee. In addition, the candidate shall be both criminally and civilly responsible for any violation of this chapter by the committee, if a controlled committee.
- B. If a candidate is convicted of a willful violation of section 2.18.030 of this code, the election to office of such candidate shall be void and such office shall immediately become vacant. In such event the vacancy shall be filled in accordance with the procedures as set forth in the Government Code.

2.18.090 Civil liability and penalties.

- A. Any person who violates any provision of this chapter shall be liable in a civil action brought by the city for an amount up to \$1,000. In addition thereto, such person shall be liable for the reasonable attorney's fees and costs incurred by the city in any civil proceeding filed to enforce the provisions hereof.
- B. Enforcement of this chapter through civil action may be filed as an alternative to criminal enforcement pursuant to section 2.18.080 of this code. Civil enforcement shall not require that the violation be knowing or willful. All discovery provisions of state law shall be available to the city in the civil enforcement of this chapter. The city shall have the power to subpoena documents and other materials as may be necessary to conduct the investigation. No civil action alleging a violation of this chapter shall be filed against a person pursuant to this section if the city is maintaining a criminal action against that person pursuant to section 2.18.080 of this code.
- C. Each violation of this chapter shall be a separate offense subject to the civil penalty provided in subsection A of this section.
- D. The city's legal counsel is authorized to settle any civil enforcement hereof prior or subsequent to the filing of a civil action by the

imposition of a civil penalty in an amount which does not exceed the potential civil liability, including attorney's fees, set forth in subsection A of this section. Upon payment in full of such civil penalty, the city shall agree to forbear from filing civil or criminal action or, if action has already been filed, shall agree to dismiss such action. The imposition of all civil penalties shall be made a matter of public record.

E. All civil fines shall be deposited into the general fund.

2.18.100 Application of Government Code section 83116.5.

To the greatest extent permitted by law, Government Code section 83116.5 shall not be applied to any person who is an employee or under contract to the city and is giving advice interpreting the campaign, disclosure, or conflict of interest provisions of the Political Reform Act of 1974 or of this chapter as part of that person's government employment or contract.

Section 2. If any portion of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the ordinance, or its application to any other person or circumstance. The City Council hereby declares that it would have adopted each section, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the ordinance be declared invalid, unenforceable or unconstitutional.

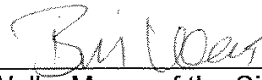
Section 3. The City Council of the City of El Cajon intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent.

Section 4. This ordinance shall go into effect thirty (30) days following its passage and adoption.

Section 5. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED by the City Council of the City of El Cajon, California, at An Adjourned Regular Joint City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Meeting held this 23rd day of March 2021, by the following vote to wit:

AYES : Goble, Kendrick, Metschel, Ortiz, Wells
NOES : None
ABSENT : None
DISQUALIFY: None



Bill Wells, Mayor of the City of El Cajon

ATTEST:



Angela L. Cortez, CMC, City Clerk

03/09/21 CC Agenda – 1st Reading
03/23/21 CC Agenda – 2nd Reading

Ord – Add ECMC 2.18 to Establish Campaign Contribution Limits 022521