

CITY COUNCIL AGENDA REPORT

April 20, 2021
City Attorney
City Clerk

TITLE: CONSIDER INTRODUCTION OF AN ORDINANCE TO ADOPT A VOLUNTARY CAMPAIGN CONTRIBUTION LIMIT OF \$1,000 PER PERSON, AND REDUCE THE VOLUNTARY CAMPAIGN EXPENDITURE LIMIT TO \$15,000 FOR A COUNCIL MEMBER CANDIDATE AND \$25,000 FOR A MAYORAL CANDIDATE BY AMENDING MUNICIPAL CODE CHAPTER 1.22

SUMMARY

The City Council at its March 16, 2021 meeting received information about a new state law limiting contributions to a candidate for local elective office. There was also an overview of the City's existing voluntary campaign expenditure limit. The City Council directed staff to return with a proposed ordinance to set a voluntary campaign contribution limit of \$1,000 per person (individual, business entity, campaign committee); and reduce the existing voluntary campaign expenditure limit to \$15,000 for a council member candidate and \$25,000 for a mayoral candidate.

RECOMMENDATION

It is recommended that the proposed voluntary \$1,000 per person contribution limit track in same manner and time frame as the State's existing campaign finance requirements. It is further recommended that the proposed reduction of the voluntary campaign expenditure limit be applied per "election period" (for a general election from January 1st until December 31st of the election year) as provided in the existing municipal code.

FINANCIAL STATEMENT

No affect. As both limits are voluntary, staff resources will not be used to track compliance.

BACKGROUND

At the City Council's March 16 meeting, information was provided about a new state law (AB 571 of 2019) which imposes a limit on a person's cumulative contributions to a candidate for local office (city and county offices). For the 2021-22 election, that limit is \$4,900 (which is subject to adjustment each election). In the Tri-Valley, only the City of Dublin has a contribution limit of \$500. For the City of Pleasanton's 2020 general election, no candidate received a contribution in excess of \$4,900, but many contributions were greater than \$500.

The City's existing voluntary campaign expenditure limit was also discussed. It was established in 2008 at \$1.00 per registered voter, plus inflation. For the 2020 general election, this expenditure limit was \$55,325. All candidates pledged to abide by that limit and no candidate exceeded the limit.

Based on concerns about keeping large contributions out of local politics, Council directed staff to prepare an ordinance to adopt a voluntary contribution limit of \$1,000 per person; and decrease the voluntary expenditure limit to \$15,000 for a council member candidate and \$25,000 for a mayoral candidate.

DISCUSSION

Contribution Limit. The proposed ordinance (Attachment 1) amends the existing Pleasanton Municipal Code Chapter 1.22 to create a Voluntary Campaign Contribution and Expenditure Limitation.

The \$1,000 contribution limit would be per "person", defined as an individual, business entity, or committee (see proposed Section 1.22.020¹). The \$1,000 limit is the cumulative amount that a person may contribute to both a candidate and that same candidate's controlled committee.

If a candidate raises more funds than the candidate spends, it is proposed that excess funds carried over from one campaign to the next campaign be attributed to the transferring committee's contributors in a process that mirrors state law's "last in, first out" or "first in, first out" accounting basis.² (See Attachment 2 example, and proposed Section 1.22.025.D.) Transferred contributions count against a person's contribution limit to that same candidate or candidate's committee for the next election. Otherwise, the voluntary contribution limit resets each election.

The proposed definitions and accounting methods for the Pleasanton Municipal Code (PMC) purposely match State law. This is intentional because candidates and committees are still subject to State campaign finance requirements and keeping two sets of books based on different definitions or accounting methods would be difficult and confusing. Since candidates are still subject to state penalties if they exceed the

¹ See Political Reform Act - Cal. Government Code §82015 defines "Contribution" and §82047 defines "Person".

² See Political Reform Act - Cal. Government Code §85306, and Title 2 Cal. Code of Regulations §18536. "Transfer and Attribution of Contributions".

contribution limits of state law, there is proposed language that reminds them of that fact. (See proposed PMC 1.22.025.E)

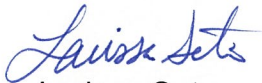
Expenditure Limits. The proposed voluntary expenditure limit of \$15,000 for a council member candidate and \$25,000 for a mayoral candidate is set forth in PMC Section 1.22.030. The inflation adjustment is deleted.

The existing Municipal Code provides that the voluntary expenditure limit applies to each "election period". For a general election, that period is January 1 through December 31 of the calendar year of the general election. For a special election, that period is from the date the city calls for the special election until 60 days after the special election. Such time periods are not proposed to be modified.

Verification. Candidates who pledge to follow either, or both, the voluntary contribution and expenditure limits would be required to execute a verification of compliance with each filing of a campaign statement with the City Clerk's Office. However, as both limits are voluntary, there is no penalty for exceeding local limits. This is unchanged from the current code. (See PMC 1.22.050.)

Submitted by:

Approved by:


Larissa Seto
Assistant City
Attorney


Karen Diaz
City Clerk


Nelson Fialho
City Manager

Attachment

1. Proposed Ordinance amending Pleasanton Municipal Code Chapter 1.22
2. Sample roll-over of unused contributions using Last In, First Out accounting method

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON AMENDING MUNICIPAL CODE CHAPTER 1.22 TO ADD A \$1,000 VOLUNTARY CAMPAIGN CONTRIBUTION LIMIT AND DECREASE THE EXISTING VOLUNTARY CAMPAIGN EXPENDITURE LIMIT TO \$15,000 FOR A COUNCIL MEMBER CANDIDATE AND TO \$25,000 FOR A MAYORAL CANDIDATE

WHEREAS, new state law, the Political Reform Act and Local Contribution Limits (AB 571 adopted in 2019), establishes effective January 1, 2021 state-wide individual contribution limits for some local elective offices at an amount determined by the Fair Political Practices Commission (FPPC), as adjusted. The amount for the 2021-22 election cycle is \$4,900, which would apply to the candidates for mayor and council members in Pleasanton. The City Council finds this new state limit too high given the nature of local Pleasanton elections, that there is a public interest in keeping large contributions out of politics, and the relevance of candidates receiving small donations; and

WHEREAS, the City Council desires to adopt a voluntary local campaign contribution limit which is less than this new state law, recognizing that the voluntary nature of the local contribution limit means that the higher state law limit will still be enforced by the FPPC; and

WHEREAS, there also is concern that the voluntary campaign expenditure limit originally set in 2008 is too high; and

WHEREAS, to decrease concerns about large contributions in local politics, the City Council desires to adopt a voluntary campaign contribution limit, as well as a decrease the voluntary campaign expenditure limit.

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

Section 1. Amends Chapter 1.22 of the Municipal Code as shown in Exhibit A.

Section 2. A summary of this Ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation, and the complete Ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on April 20, 2021, by the following vote:

Ayes:
Noes:

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Absent:
Abstain:

Karla Brown, Mayor

ATTEST:

Karen Diaz, City Clerk

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

EXHIBIT A

Chapter 1.22 VOLUNTARY CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITATION

1.22.010 Findings and purpose. There is a public interest in keeping large contributions out of local politics by decreasing the maximum contributions being made to candidates running for local office. By meeting residents, business owners and community members in person, candidates will not need to rely as heavily on mass media communication, and therefore campaign expenditures can be voluntarily reduced.

1.22.020 Definitions. For the purposes of this chapter, definitions set forth in the Political Reform Act, Government Code Sections 82000 et seq., shall apply with the addition of the following:

A. "Contribution" means a payment, the forgiveness of a loan, and a transfer of anything of value (unless full and adequate consideration is received), as further defined in California Government Code §82015.

A.B. "Election" means any municipal election, whether general or special, at which the offices of mayor and/or council member are to be filled.

B.C. "Election period" means that period of time:

1. For general elections, from January 1st of the calendar year of the general election, until December 31st of the calendar year of the general election.
2. For special elections, from the date that the city council calls for the special election, until 60 days after the special election.

D. "Organization or committee" includes an independent expenditure committee.

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

-1.22.025 Voluntary campaign contribution limitation.

A. No Person shall make any contribution(s) to a candidate for the office of council member or mayor in a general election, cumulated with such Person's contribution(s) to such candidates' controlled committees, which exceed the

cumulative amount of one thousand dollars (\$1,000), nor shall any such contribution(s) which exceed the cumulative amount of one thousand dollars (\$1,000) be accepted by any candidate or candidate's committee from any person.

B. No Person shall make any contribution(s) to a candidate for the office of council member or mayor in a special election, cumulated with such Person's contribution(s) to such candidates' controlled committees, which exceed the cumulative amount of one thousand dollars (\$1,000), nor shall any such contribution(s) which exceed the cumulative amount of one thousand dollars (\$1,000) be accepted by any candidate or candidate's committee from any person.

C. The voluntary contribution limits stated in subsections A and B of this section shall not apply to contributions made or received in support of, or in opposition to, a ballot measure, nor shall said voluntary contribution limits apply to contributions made by a candidate to his or her own campaign.

D. A candidate may transfer campaign funds from that candidate's controlled committee to a campaign committee for elective city office controlled by the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in subsections A and B of this section. A committee transferring funds must designate in its records at the time of its first transfer whether it elects the "last in, first out" or a "first in, first out" method of accounting for the current and future transfers. This designation is irrevocable. Candidates and committees shall comply with the campaign finance requirements set forth in Section 18536 of Title 2 of the California Code of Regulations, as amended, except that references therein to state contribution limits shall be deemed to refer to the requirements of this chapter.

E. Notwithstanding the foregoing, it is acknowledged that the contribution limits of this chapter are voluntary, and candidates, candidates' committees and other persons must still adhere to the requirements of state law regarding state contribution limits.

1.22.030 Voluntary campaign expenditure limitation.

A. The voluntary expenditure limit for candidates for the office of council member or mayor in a general election, cumulated with the expenditures of such candidates' controlled committees, shall be: fifteen thousand dollars (\$15,000) for the office of council member; and twenty-five thousand dollars (\$25,000) for the office of

~~mayor one dollar for each registered voter within the city, subject to adjustment as provided in subsection C, based on the number of registered voters in the city last reported by the county elections official to the Secretary of State on or about 150 days prior to the general election, for the election period.~~

B. The voluntary expenditure limit for candidates for the office of council member or mayor in a special election, cumulated with the expenditures of such candidates' controlled committees, shall be: fifteen thousand dollars (\$15,000) for the office of council member; and twenty-five thousand dollars (\$25,000) for the office of mayor ~~one dollar for each registered voter within the city, subject to adjustment as provided in subsection C, based on the number of registered voters in the city last reported by the county elections official to the Secretary of State on or about the date when the special election is called by the city council, for the election period.~~

~~A. In addition to the voluntary expenditure limit changing based upon the variation in the number of registered voters in the city, the one dollar voluntary expenditure limit shall also be cumulatively adjusted based upon the Consumer Price Index.~~

C. Each candidate for the office of council member or mayor may voluntarily pledge to adhere to the expenditure limitation set forth in this section by signing and submitting an original voluntary pledge, on the form provided by the city clerk, simultaneously with the candidate filing nomination papers for office.

1.22.040 Verification of compliance.

A. Each candidate and candidate's controlled committee which has taken the voluntary contribution limitation pledge set forth in Section 1.22.025 shall execute a verification, in a form provided by the city clerk, stating that such candidate or candidate's controlled committee did not accept any cumulative contribution in excess of the amount established by Section 1.22.025. Such verification shall be filed with the city clerk along with each campaign statement required by Section 1.20.030 of this code.

B. Each candidate and candidate's controlled committee which has taken the voluntary expenditure limitation pledge set forth in Section 1.22.030 shall execute a verification, in a form provided by the city clerk, stating that such candidate or candidate's controlled committee did not make any cumulative expenditure in excess of the amount established by Section 1.22.030. Such verification shall be filed with the city clerk along with each campaign statement required by Section 1.20.030 of this code.

1.22.050 Violation. Any violation of this chapter shall not be subject to penalty or

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citation.

Sample Roll-Over of Unused Campaign Contributions
Last In, First Out Accounting Method

2022 General Election – Contributions to Council Candidate A

<u>Contributor</u>	<u>Amount</u>	<u>Date</u>
B. Business	\$1,000	5/1/2022
C. Committee	\$500	6/1/2022
D. Resident	\$750	7/1/2022
E. Citizen	<u>\$1,000</u>	8/1/2022
Total Contributions	\$3,250	
Total Expenditures	(\$2,500)	
Amount Rolled-Over to next election	\$750	

In the Last In, First Out accounting method, the \$2,500 in expenditures is attributed to each contributor as follows:

\$1,000	E. Citizen
\$750	D. Resident
\$500	C. Committee
<u>\$250</u>	B. Business
\$2,500	

As only \$250 of B. Business' \$1,000 contribution was expended for the 2022 election, if Candidate A rolls-over these remaining \$750 in funds to his/her 2024 election committee, then B. Business may only contribute \$250 to Candidate A in the 2024 election.