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OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER LIBBY SCHAAF,
CITY ATTORNEY BARBARA PARKER, AND
CITY CLERK LATONDA SIMMONS

2013 MAR 13 PM 2:54

CITY ATTORNEY

ORDINANCE NO. 13156 C.M.S.

AN ORDINANCE AMENDING TITLE THREE CHAPTER 3.12 ARTICLES I, II, VI AND VII OF THE OAKLAND MUNICIPAL CODE AND ADDING ARTICLE IX REQUIRING ELECTRONIC FILING OF CAMPAIGN STATEMENTS FOR (1) CANDIDATES SEEKING ELECTION IN THE CITY OF OAKLAND, (2) COMMITTEES FORMED OR EXISTING PRIMARILY TO SUPPORT OR OPPOSE AN OAKLAND CANDIDATE(S) OR TO SUPPORT OR OPPOSE THE QUALIFICATION OF, OR PASSAGE OF, AN OAKLAND BALLOT MEASURE, AND (3) GENERAL PURPOSE COMMITTEES ACTIVE ONLY IN OAKLAND

WHEREAS, California law mandates that elected officers, candidates, and committees file semiannual statements each year as well as preelection statements, and

WHEREAS, the required campaign statements must contain information such as contributions received, expenditures made, total contributions made by persons who have given one hundred dollars or more, balance of cash and cash equivalents on hand at the beginning and end of each period covered by the campaign statement, the amount of expenditures to persons, and information sufficient to identify the nature and interest of the filer if the filer is a committee (Gov't Code 84211), and

WHEREAS, California law allows local government agencies to institute electronic filing requirements so long as the electronic filing system will operate securely and effectively and would not unduly burden filers, and

WHEREAS, the City Council finds that the proposed electronic filing system will operate securely and effectively and will not unduly burden filers, and

WHEREAS, public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate, and

WHEREAS, complete and timely online disclosure ensures that this information is easily accessible to the public,

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

Section 1. That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes the recitals a part of this Ordinance by adding them to Chapter 3.12, Article I section 3.12.030.

Section 2. Oakland Municipal Code Title Three, Chapter 3.12 is hereby amended to add, delete, or modify the sections as set forth below (additions are indicated by *italicized underlined type* and deletions are indicated by ~~strikethrough type;~~ portions of the Oakland Municipal Code not cited or not shown in italicized underlined or strikethrough type are not changed).

Section 3. Article II, section 3.12.040 "Interpretation of this Act" is hereby amended as set forth below:

"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 one thousand dollars ($1,000) or make expenditures totaling more than one thousand dollars ($1,000) in a calendar year.

"Local Committee" shall mean those committees that receive contributions totaling more than one thousand dollars $1,000 or make expenditures totaling more than one thousand dollars $1,000 in a calendar year that are:

i. a committee controlled by a candidate for city office,

ii. a committee primarily formed to support or oppose a candidate's election for City office,

iii. a committee primarily formed to support or oppose a local ballot measure, or

iv. 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.

Section 3. Article IX is hereby added to Oakland Municipal Code Chapter 3.12 as set forth below:

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 8100 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 ten dollars ($10) 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 one hundred dollars ($100), 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.*

Section 4. Oakland Municipal Code Chapter 3.12, Article VI, section 3.12.250 "Duties of the City Clerk" is hereby amended as set forth below:

§3.12.250 – Duties of the City Clerk

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

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.*

Section 5. Oakland Municipal Code Chapter 3.12, Article VII, sections 3.12.270 "Criminal misdemeanor actions" and 3.12.280 "Enforcement actions" are hereby amended as set forth below:

§3.12.270 – Criminal misdemeanor actions.

Any person who knowingly or willfully violates Articles III, IV, ~~or~~ V, *or IX* of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of the Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within four years after the date on which the violation occurred.

§3.12.280 – Enforcement actions.

A. Any person who intentionally or negligently violates Articles III, IV, ~~or~~ 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, ~~or~~ 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 refused 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.

   i. *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 two thousand dollars ($2,000), 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.

Section 5. The City Clerk, with the assistance of the City Attorney, shall codify the above sections in the Oakland Municipal Code

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 19 2013, 2013

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, SCHAAF, REID AND PRESIDENT KERNIGHAN – 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: LaTonda Simmons

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: 3/27/13

Introduction Date MAR 5 2013