

ORDINANCE NO. 2001

AN ORDINANCE OF THE CITY OF BURLINGAME AMENDING CHAPTER 2.25. OF TITLE 2 OF THE BURLINGAME MUNICIPAL CODE REGARDING LIMITS ON CAMPAIGN CONTRIBUTIONS; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES SECTIONS 15378, 15061(b)(3)

WHEREAS, the City adopted provisions governing campaign contributions to any City Council candidate or to any Council candidate-controlled committee in 2007 and codified in Chapter 2.25 of Title 2 of the Burlingame Municipal Code; and

WHEREAS, in 2007, the contribution limits were set as follows:

- A candidate or controlled committee for a candidate can receive up to \$500 in an election cycle from an individual
- A candidate or controlled committee for a candidate can receive up to \$1,000 in an election cycle from an organization; and

WHEREAS, the contribution limits were automatically adjusted by the Finance Director on March 1 of each even-numbered year to be the product obtained by multiplying the maximum amount specified in this section by a fraction, the numerator of which is the CPI-U, published for the month of December immediately prior to that March 1, and the denominator of which is the CPI-U, published for December, 2006; and

WHEREAS, beginning in 2022, City Council elections will no longer be conducted at-large and instead, Councilmembers will be elected by-district, with each council seat election encompassing approximately 20% of the City's population; and

WHEREAS, as a result of the decreased population that candidates must campaign to and because the City is committed to open and fair processes, this Ordinance is intended to establish fair contribution limits that will reduce any actual or perceived influence of contributions on City officials while ensuring that candidates can raise the money necessary to conduct effective campaigns for office; and

WHEREAS, to create transparency in Council campaigns, this Ordinance establishes equal limits for individuals and organizations, and lowers the threshold for reporting contributions; and

WHEREAS, to encourage a diversity of candidates and create an equal playing field, this Ordinance establishes a voluntary expenditure limit.

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

Section 1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. The City Council hereby finds that the proposed Ordinance is in the public interest.

Section 3. Chapter 2.25 of Title 2 of the Burlingame Municipal Code is amended as follows. Additions are reflected by underlined text and deletions with ~~strike-out text~~.

Section 2.25.010 Definitions.

(a) Unless a term is specifically defined in this chapter, the definitions set forth in Chapter 2, "Definitions," of the State Political Reform Act (Section 82000 et seq. of the Government Code) shall govern the interpretation of the provisions of this chapter. ~~The following words have the following meanings when used in or in connection with the provisions of this chapter:~~

- (1) "Candidate" means a candidate for an elective city office.
- (2) "Controlled committee" means a controlled committee controlled directly or indirectly by a candidate for elective city office or that acts jointly with a candidate for elective city office or another controlled committee in connection with the making of expenditures
- (3) "Election period" means the following:
 - (A) Except as further limited by subsections (B), (C), and (D) of this subsection, for a candidate or controlled committee in a general municipal election, "election period" means the period beginning on January 1st after the last general or special municipal election for the affected office seat and ending on December 31st following the next general municipal election for the particular office seat. This election period is normally four (4) years.
 - (B) For a candidate or controlled committee in a special municipal election held to fill a vacancy in an elective city office, "election period" means the period beginning on the day the vacancy in office began and ending on the December 31st following the special municipal election; provided, however, that for a candidate at the special municipal election who established a controlled committee for the office or accepted contributions before the vacancy occurred, the election period means the period beginning on January 1st following the last general municipal election for the particular office seat affected by the vacancy and ending on the December 31st following the special election.
 - (C) For a candidate or a controlled committee in a special municipal election held to recall an elected city officer, including the elected official who is the subject of the recall election, "election period" means the period beginning on the date that the notice of intention to circulate

a recall petition is filed with the city clerk pursuant to the Elections Code and ending on the December 31st following the special municipal election; provided, however, that for any candidate at the special municipal election who established a controlled committee or accepted contributions for the office before the vacancy occurred, the election period means the period beginning on January 1st following the last general municipal election for the particular office affected by the vacancy and ending on the December 31st following the special municipal election.

(D) For a candidate who is recalled at a special municipal election or who is not elected at a general or special municipal election and for a controlled committee for such a candidate, "election period" begins again on the January 1st following the election at which the candidate was recalled or not elected and ends on the December 31st following the next general or special municipal election at which the person is a candidate again.

(4) "Individual" means a natural person.

(5) "Organization" means a partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

(b) Contributions, in-kind contributions, and gifts of service are regulated by the Political Reform Act of 1974 and Title 2, Division 6 of the California Code of Regulations.

~~(b) Except as more specifically defined in this section, all words and phrases in this chapter shall have the same meaning and be interpreted according to the definitions contained in the California Political Reform Act of 1974, as amended (Government Code Section 81000 and following), and the definitions and interpretations established in the regulations, resolutions, and opinions of the Fair Political Practices Commission pursuant to the Political Reform Act of 1974, as amended.~~

Section 2.25.020 Limits on contributions.

(a) It is unlawful for any individual to make contributions to any single candidate or to any single controlled committee totaling more than ~~five hundred dollars (\$500.00)~~ three hundred and fifty dollars (\$350.00) in an election period.

(b) It is unlawful for any organization to make contributions to any single candidate or to any single controlled committee totaling more than ~~one thousand dollars (\$1,000.00)~~ three hundred and fifty dollars (\$350.00) in an election period.

(c) It is unlawful for any candidate or controlled committee to accept contributions

from any individual totaling more than ~~five hundred dollars (\$500.00)~~ three hundred and fifty dollars (\$350.00) in an election period.

- (d) It is unlawful for any candidate or controlled committee to accept contributions from any organization totaling more than ~~one thousand dollars (\$1,000.00)~~ three hundred and fifty dollars (\$350.00) in an election period.
- (e) The maximum amounts specified in this section shall be automatically adjusted ~~by the finance director on March 1st of each even-numbered year to be the product obtained by multiplying the maximum amount specified in this section by a fraction, the numerator of which is the Index as defined in this subsection, published for the month of December immediately prior to that March 1st, and the denominator of which is the Index published for December, 2006. the city clerk each odd-numbered year. The new amount will be adopted by resolution of the City Council to take effect on January 1 of each even-numbered year, beginning on January 1, 2024. The contribution limit will be increased by \$25.00 every two years thereafter.~~

- ~~(1) "Index" means the Consumer Price Index-All Urban Consumers (CPI-U), All Items, for San Francisco-Oakland-San Jose, CA (1982-84=100) published by the U.S. Department of Labor, Bureau of Labor Statistics. Should the Index no longer be published, the finance director shall select a comparable index that the finance director determines measures the increase and decrease in the cost of living in the San Francisco-Oakland-San Jose area.~~
- ~~(2) The finance director shall send the revised maximum amounts to the city clerk and the city council and make them available to the public. In no event shall the revised maximum amounts be less than the then-current maximum amounts.~~
- ~~(3) The revised amounts shall be applicable to total contributions allowed by this section for the entire election period as applicable to each candidate or controlled committee in which the March 1st adjustment occurs.~~

Section 2.25.030 Limitation on repayment of personal loans. Anonymous contributions

~~Following the date of the election for which a candidate is seeking elective office, it is unlawful for the candidate or the controlled committee for any loan amount incurred during that election's election period by the candidate in excess of twelve thousand dollars (\$12,000.00).~~

Notwithstanding Government Code section 84211, no person shall make an anonymous contribution or contributions to a candidate or a controlled committee totaling fifty dollars (\$50.00) or more in an election period.

Section 2.25.040 Disclosure in campaign statements.

Each campaign statement required to be filed by Article 2 of Chapter 4 of the Political Reform Act of 1974, shall contain, in addition to any other required information:

- (a) The total dollar amount of contributions received during the period covered by the campaign statements from persons who have given less than \$50.00.
- (b) The full name of each person from whom a contribution or contributions totaling fifty dollars (\$50.00) and above has been received, together with the contributor's street address, occupation, and the name of the contributor's employer, if any, or the principal place of business if the contributor is self-employed, the amount of the contribution, and the date the contribution was received.

Section 2.25.050 Voluntary campaign expenditure limits and penalties:

- (a) Each candidate for election to the City Council in November 2022, and for each City Council election thereafter, shall, prior to the time they file their nomination papers with the city clerk, advise the city clerk in writing on a form provided by the City whether or not the candidate will opt to voluntarily limit their campaign expenditures in accordance with the voluntary campaign expenditure limits set forth in this section and by resolution. The agreement to voluntarily limit campaign expenditures shall pertain to all expenditures incurred by the candidate or the candidate's committee in support of their candidacy and shall include all such expenditures that a candidate or candidate's committee is required to report pursuant to the California Political Reform Act of 1974, as amended, whether those expenditures are made before or after the filing of nomination papers.
- (b) Withdrawal Period: within three (3) business days after the deadline to file nomination papers with the city clerk, a candidate that previously accepted the voluntary campaign expenditure limit will have one (1) opportunity to notify the city clerk that they have decided not to accept the voluntary campaign expenditure limit. The candidate shall thereafter be relieved of abiding by the expenditure limit.
- (c) Candidates who agree to abide by the voluntary campaign expenditure limit shall receive the following benefits and incentives at no cost to themselves:
 - (1) The City's website will clearly identify which candidates have agreed to the voluntary expenditure limit
 - (2) The City will publish on social media and in the eNews which candidates have agreed to the voluntary expenditure limit. This will be published twice (once at the next eNews publishing after the

withdrawal period and once when the ballots are mailed to residents.)

- (3) The City will publish Chinese, English, and Spanish notices in newspapers of general circulation the candidates who agreed to the voluntary expenditure limit.

(d) Calculation of Voluntary Expenditure Limit:

- (1) A candidate for district City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding five dollars (\$5.00) per resident in the electoral district for each election in which the candidate is seeking elective office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district. The city clerk shall publish the expenditure limit by resolution at the last meeting of each odd-year that will take effect on the first day of January in the even-numbered year beginning January 1, 2024.
 - (2) The voluntary expenditure limit for the November 2022 election is thirty thousand dollars (\$30,000).
 - (3) Beginning in December 2025, the city clerk shall in odd-numbered years increase the expenditure ceiling amounts by twenty-five cents (\$ 0.25) per resident. The City Council shall adopt the expenditure limit by resolution at the last meeting of each odd-numbered year.
 - (4) The voluntary campaign expenditure limit called for by this section shall include any expenditures made by the candidate or by the candidate's campaign committee in connection with the preparation and publication of the candidate's statement of qualifications in the sample ballot pamphlet published in accordance with California Elections Code Section 13307.
- (e) Penalties: Any violation of this section, including the filing of false reports that entitle the candidate to the benefits conferred by this section, shall within seventy-two (72) hours of the City's knowledge of the violation:
- (1) Be forwarded to newspapers of general circulation in Chinese, English, and Spanish for publication; and
 - (2) Be posted on the City's website; and
 - (3) Be posted in the City's eNews and social media accounts

Section 2.25.060 Limitations on repayment of personal loans.

Following the date of the election for which a candidate is seeking elective office, it is unlawful for the candidate to repay themselves or for any controlled committee to repay the candidate from contributions to the candidate or the controlled committee for any loan amount incurred during that election's election period by the candidate in excess of

twelve thousand dollars (\$12,000.00).

Section 2.25.070 Penalties

Pursuant to Burlingame Municipal Code Section 1.12, the enforcement of violations of the provisions of this chapter, excluding Section 2.25.050, may be prosecuted as an infraction or misdemeanor.

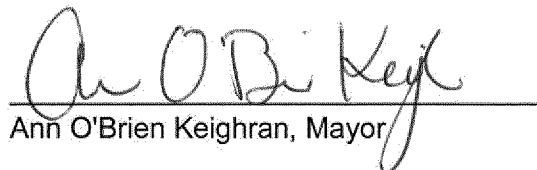
- (a) Prosecution. Every violation of this chapter shall be a misdemeanor; provided, however, that where the prosecutor has determined that such action would be in the best interest of justice, the prosecutor may specify in the accusatory pleading or citation that the violation shall be prosecuted as an infraction.
- (b) Infraction/Misdemeanor. Any person who violates any of the provisions of this chapter shall be guilty of an infraction or misdemeanor, punishable as provided in Chapter 1.12 of the Burlingame Municipal Code.

Section 4. The City Council finds and determines this Ordinance is exempt from CEQA, in that this Ordinance is not a "Project" as provided in state CEQA Guidelines section 15389. Furthermore the City Council finds and determines this Ordinance is exempt from CEQA pursuant to state CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that there is no possibility the Ordinance will have a significant effect on the environment.

Section 5. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of Burlingame hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

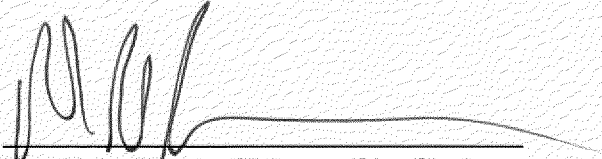
Section 6. This Ordinance shall go into effect 30 days following its adoption. The City Clerk is directed to publish this ordinance in a manner required by law.

Section 7. Section 3 of this Ordinance shall be codified in the Burlingame Municipal Code. Sections 1, 2, 4, 5, 6, and 7 shall not be so codified.


Ann O'Brien Keighran, Mayor

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, certify that the foregoing ordinance was introduced at a public hearing at a regular meeting of the City Council held on the day of 6th of December, 2021, and adopted thereafter on the 20th day of December, 2021, by the following vote:

AYES: Councilmembers: BEACH, BROWNRIGG, COLSON, O'BRIEN KEIGHRAN, ORTIZ
NOES: Councilmembers: NONE
ABSENT: Councilmembers: NONE



Meaghan Hassel-Shearer, City Clerk