

EFFECTIVE DATE
OF ORDINANCE

December 16, 2004

ORDINANCE NO. 2198 N.C.S.

AN ORDINANCE OF THE VOTERS OF THE CITY OF PETALUMA
AMENDING CHAPTER 1.30 OF THE PETALUMA MUNICIPAL CODE AND
SETTING MANDATORY LIMITS ON CAMPAIGN CONTRIBUTIONS TO
CITY COUNCIL AND CITY MAYOR CANDIDATES, ENACTING MANDATORY
PUBLIC DISCLOSURE REGULATIONS, PRESCRIBING ENFORCEMENT
MECHANISMS AND PENALTIES FOR VIOLATIONS

THE PEOPLE OF THE CITY OF PETALUMA DO ORDAIN AS FOLLOWS:

Section 1. Chapter 1.30 of Title 1 of the City of Petaluma Municipal Code is hereby amended in its entirety, in the manner hereinafter described.

CHAPTER 1.30

PETALUMA CAMPAIGN FINANCE

Sections:

1.30.010	Title
1.30.020	Legislative Intent
1.30.022	Relation to Political Reform Act of 1974
1.30.025	Definitions
1.30.030	Contribution Limitation
1.30.035	Election Cycles
1.30.040	Disclosure Requirement
1.30.042	Aggregation of Contributions
1.30.044	Loan to City Candidates and Their Controlled Committees
1.30.045	Outstanding Debt Retirement and Reporting
1.30.046	Multiple Campaign Committees
1.30.070	Independent Expenditures
1.30.080	Enforcement

1.30.010 - Title.

This Chapter shall be entitled "Petaluma Campaign Finance."

1.30.020 - Legislative Intent.

To assure the public that:

- A. excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process;

- 1 B. large campaign contributions will not be used to buy political access or to
2 influence governmental actions;
3 C. access to large amounts of money will not be a prime requirement for
4 participation in the political process;
5 D. they are fully informed of the contributors to political campaigns.
6

7 1.30.022 – Relation to Political Reform Act of 1974

8 This chapter is intended to supplement the Political Reform Act of 1974 (Government
9 Code Title 9, §§ 81000 et seq.). Unless a word or term is specifically defined in this chapter, or the
10 contrary is stated or clearly appears from the context, words and terms used herein shall have
11 the same meaning as defined or used in Title 9 of the California Government Code, in which the
12 Political Reform Act of 1974 is codified, and as supplemented by the Regulations of the Fair
13 Political Practices Commission as set forth in Title 2, Division 6 of the California Code of
14 Regulations, as the same may be, from time to time, amended. If a definition of any word or
15 term defined in this chapter is preempted by the provision of the Political Reform Act or the
16 Regulations of the Fair Political Practices Commission, then the definition in said Act and
17 Regulations shall prevail.
18

19 1.30.025 - Definitions.

- 20 A. "Person" means an individual, proprietorship, firm, partnership, joint venture,
21 syndicate, business trust, company, corporation, limited liability company,
22 association, committee, and any other organization or group of persons acting in
23 concert.
24 B. "City election" means any general election, special election or recall election.
25 C. "Election Cycle" shall mean the applicable period as set forth in Section 1.30.035.
26 D. "Candidate" means any person who is a candidate for Mayor or City Council for
27 the City of Petaluma, including incumbent Mayor or Council Members,
28 appointed or elected whether or not a candidate for reelection.
29 E. "Indebted Former Candidate" means a person who was a candidate for Mayor
30 or City Council at any City Election and who has campaign debt remaining from
31 such election after expiration of the Election Cycle for the office of which he or
32 she was a candidate.
33

34 1.30.030 - Contribution Limitation.

- 35 A. No candidate for City Council or Mayor, or candidate committee, or Council
36 Member of Mayor shall solicit or accept any contribution, including any "in-kind"
37 contribution, that will cause the total contributions to that candidate from any

1 person to exceed Two Hundred Dollars (\$200.00) during any Election Cycle. The
2 receipt of any contribution which would cause the total amount of contributions
3 to a candidate from a single person to exceed Two Hundred Dollars (\$200.00)
4 shall promptly return any such excess to the donor. The provisions of this section
5 shall not apply to contributions by a candidate for City Council or Mayor of his or
6 her own funds to his or her own controlled committee. Contributions by the
7 spouse of a candidate for City Council or Mayor from such spouse's separate
8 property shall be subject to the contribution limits.

9 B. Elective Council Members and Candidates With Outstanding Debt From Prior
10 Election. No person shall make, and no Mayor or City Council member or
11 indebted former candidate, or treasurer of any controlled committee of any
12 Mayor or City Council member or indebted former candidate, shall solicit or
13 accept, any contributions for the purpose of retiring outstanding debt from a prior
14 City Election which would cause the total amount contributed by such person to
15 such Mayor or Council member or indebted former candidate or to his or her
16 controlled committee, to exceed Two Hundred Dollars (\$200) for the election in
17 which the outstanding debt was incurred, regardless of when the contribution(s) is
18 made or received.

19 C. Recall Elections. The contribution limitations set forth in subsection A above shall
20 also apply to any committee which collects contributions for the purpose of
21 making expenditures in support of or opposition to the recall of a Mayor or City
22 Council Member, and to contributions received by such Mayor or City Council
23 Member during a recall Election Cycles as defined in Section 1.30.035.

24 D. Candidates Personal Funds. The provisions of this section shall not apply to a
25 Candidate's contribution of his or her personal funds to his or her own controlled
26 committee. Contributions by the spouse of a Candidate from such spouse's
27 separate property shall be subject to the contribution limitations set forth in
28 Subsection A.

29
30 1.30.035 - Election Cycles.

31 A. General Elections. For purposes of any election for City Council or Mayor, the
32 term Election Cycle as used in this chapter shall mean the period commencing
33 on January 1 of the year following a year in which a City Council election is held
34 and ending on December 31 of the year in which the next succeeding election is
35 held.

36 B. Special Elections. For purposes of any special election for City Council or Mayor,
37 the term Election Cycle as used in this chapter shall mean the period

commencing on the date a special election is called by the City Council and ending on the thirtieth (30th) day following said special election.

C. Recall Elections. For purposes of any recall election for City Council or Mayor, the term Election Cycle as used in this chapter shall mean the period commencing on either the date a committee is formed pursuant to the Political Reform Act in support of a recall election or the date the City Clerk approves a recall petition for circulation and gathering of signatures, whichever occurs earlier, and ending on the thirtieth (30th) day following the first to occur of any of the following:

(1) The time provided by law for the gathering of signatures on recall petitions expires without sufficient recall petition signature having been filed with the City Clerk to require a recall election;

(2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act;

(3) The date the recall election is held.

D. Campaign Debt. Nothing in this chapter shall prohibit indebted candidates and/or their controlled campaign committee from soliciting and receiving funds to pay off their campaign debt in accordance with the provisions of Section 1.30.030, after the end of the Election Cycles defined above.

1.30.040 - Disclosure Requirement.

A. Each candidate for city council or mayor, or candidate committee, or council member or mayor, shall provide detailed itemization, as defined in the California Political Reform Act of 1974, for all contributions received in excess of Twenty-Five Dollars (\$25.00).

B. Each candidate for City Council or Mayor, or candidate committee shall file a third pre-election Campaign Disclosure Statement (Form 460 or any successor form thereto), as provided by the California Fair Political Practices Commission for the period from the end of the period covered by the second pre-election statement to 11:59 PM on the third business day immediately preceding election day (normally Thursday). Such statement shall be filed with the Clerk of the City of Petaluma by 5:00 PM on the second business day immediately preceding Election Day (normally Friday).

C. Each candidate, and each committee making independent expenditures, who sends a mailing or distributes more than 200 substantially similar pieces of campaign literature shall send a copy of the mailing or other literature to the City Clerk at the same time the mailing or other literature is given to the post office or otherwise distributed. During the election campaign, the City Clerk merely serves

1 as a repository for such literature and shall not judge or comment on the contents
2 of such literature.
3

4 1.30.042 - Aggregation of Contributions.

5 The contributions of any person whose contributions are directed and controlled by
6 another person shall be aggregated with those of the controlling person for purposes of the
7 contribution limits. Contributions by a married person shall be treated as the separate
8 contributions of such person and shall not be aggregated with any contributions of the spouse
9 of such person
10

11 1.30.044 - Loan to City Candidates and Their Controlled Committees.

12 A. A loan shall be considered a contribution from the maker and the guarantor of
13 the loan and shall be subject to the contribution limitations of this chapter.

14 B. The proceeds of a loan made to a candidate for City Council or Mayor by a
15 commercial lending institution in the regular course of business on the same terms
16 available to members of the public shall not be subject to the contribution
17 limitations of this chapter if the loan is made directly to the candidate. The
18 guarantors of such a loan shall remain subject to the contribution limits of this
19 chapter.

20 C. Extensions of credit (other than loans pursuant to subsection B) for a period of
21 more than thirty (30) days are subject to the contribution limitations of this
22 chapter.

23 (1) An "extension of credit" means the provision of goods or services for
24 which payment in full is not received. An extension of credit is deemed to
25 begin by the earlier of two dates:

26 (a) 15 days after the date specified on the invoice for payment; or

27 (b) 45 days from the date the goods or services were delivered.

28 (2) "Payment in full" means payment of not less than fair market value for the
29 goods or services provided.

30 (3) An extension of credit for a period of more than 30 days is a contribution
31 subject to the contribution limitations of the ordinance, except as
32 provided in subsections (d), (e), (f) and (g) of this section.

33 (4) If a candidate or a candidate's controlled committee has an extension of
34 credit for more than 30 days outstanding with a provider or vendor of
35 goods or services, any additional credit extended to the candidate or the
36 candidate's controlled committee by the same provider or vendor of
37 goods or services shall be a contribution to the candidate or the

1 candidate's controlled committee from the person subject to all of the
2 contribution limitations of the Act.

3 (5) If all of the following criteria are satisfied by a provider or vendor of goods
4 or services, it shall (i) be a complete defense for the provider or vendor of
5 the goods or services in any enforcement action initiated by the City, and
6 (ii) relieve the provider or vendor of the goods or services of any reporting
7 requirements of this title;

8 (a) The credit arrangement was recorded in a written instrument;

9 (b) It is a primary business of the provider or vendor of goods or
10 services to provide similar goods or services;

11 (c) The provider or vendor of goods or services provided the goods or
12 services in the ordinary course of business and on the same terms
13 and conditions offered to customers generally;

14 (d) The provider or vendor of goods or services did not have actual
15 knowledge that the candidate or committee would not be able
16 to pay within the time limit specified in Subsection (a);

17 (e) The provider or vendor of goods or services made reasonable
18 efforts to collect the full amount of the payment owed within one
19 hundred twenty (120) days of the date specified in subsection (a);

20 (f) The provider or vendor of goods or services entered into the
21 agreement with the intent that the candidate or committee
22 would be required to pay within the time limit specified in
23 subsection (a); and,

24 (g) The provider or vendor of goods or services did not extend any
25 additional credit to the candidate or the candidate's controlled
26 committee when the candidate or the candidate's controlled
27 committee already had an extension of credit for more than 30
28 days outstanding with the same provider or vendor of goods or
29 services as provided in subsection (d).

30 D. This section shall apply only to loans and extensions of credit used or intended for
31 use for campaign purposes or which are otherwise connected with the holding of
32 public office.
33

34 1.30.045 – Outstanding Debt Retirement and Reporting

35 A. Any Mayor or City Council member or indebted former candidate, or any
36 controlled committee of any such officer or candidate, accepting any
37 contribution(s) for the purpose of retiring outstanding debt from a prior City

1 Election and required by City or state law to report such contributions on
2 Schedule A of Fair Political Practices Commission Form 460, or any successor form
3 thereto, shall, at the time required for the reporting of such contributions on
4 Schedule A and in addition to any other reporting requirements under state law,
5 clearly designate on said Schedule A which contributions were received for the
6 purpose of retiring outstanding debt and for which prior City Election such
7 contributions were received.

8 B. Any contribution accepted for the purpose of retiring outstanding debt from a
9 prior City Election shall be applied to reduce or retire said outstanding debt in the
10 same reporting period in which such contribution was accepted. The application
11 of any contribution to retire outstanding debt from a prior City Election (i.e.,
12 repayment of outstanding loans and payment of accrued expenses) shall be
13 itemized and identified on the appropriate schedules and on the Summary Page
14 of Form 460 or any successor form thereto, provided by the Fair Political Practices
15 Commission.

16 C. If a Mayor or City Council member or indebted former candidate, or a controlled
17 committee of any such officer or candidate, receives contributions for the
18 purpose of retiring outstanding debt from a prior City Election and the amount of
19 the contributions exceeds the amount of the debt, the excess funds may be used
20 for any other campaign or officeholder expense and shall not be subject to the
21 aggregation requirements set forth in section 1.30.042 in the election cycle in
22 which the excess funds are expended.

23
24 1.30.046 - Multiple Campaign Committees.

25 A. A candidate for City Council or Mayor shall have no more than one controlled
26 committee and such controlled committee shall have only one bank account
27 out of which all qualified campaign and officeholder expenses related to that
28 office shall be made.

29 B. This section does not prevent a candidate for City Council or Mayor or a City
30 Council member or Mayor from establishing another controlled committee solely
31 for the purpose of running for a state, federal, county or other elective office, or
32 for opposing his or her recall.

33
34 1.30.070 - Independent Expenditures.

35 A. Any person or entity making independent expenditures which aggregate in
36 excess of Twenty-Five Dollars (\$25.00) during any Election Cycle shall deliver
37 notice in writing of such independent expenditure, as well as the amount of such

1 expenditure, and a detailed description of the use of such independent
2 expenditure. Such notice shall be filed with the city clerk on a form prepared by
3 the city clerk for such purpose. The notice shall specifically state the name of the
4 candidate or candidates whom the independent expenditure is intended to
5 support or oppose and shall also include the information required to be provided
6 in the Campaign Disclosure Statement (form 465 or any successor form thereto)
7 as provided by the California Fair Political Practices Commission. Each
8 independent expenditure shall require delivery of a new notice. Such notice shall
9 be filed for the same reporting periods and be the same deadlines as are
10 expenditures by Candidates pursuant to the California Fair Political Practices Act
11 and by Section 1.30.040(B) of this Ordinance.

- 12 B. Any person or entity making an independent expenditure in excess of Twenty-Five
13 dollars (\$25.00) shall disclose in any political message produced by the
14 expenditure, the full name, address, and phone number of the person or
15 organization, the name of the registered agent, the amount of the expenditure,
16 and the specific statement that the advertisement of material is not authorized
17 by any candidate. Persons or organizations who make independent
18 expenditures for or against a Candidate or committee shall indicate clearly on
19 any material published, displayed or broadcast that it was not authorized by a
20 Candidate or committee controlled by a Candidate. Such disclosure shall be
21 printed in 12-point type or larger in any printed materials, and prominently
22 displayed in any non-printed materials or message.

23
24 1.30.080 - Enforcement.

- 25 A. No Criminal Penalties. Notwithstanding any other provision of the Petaluma
26 Municipal Code, any violation of any provision of this chapter shall be
27 enforceable solely as provided in this section.
- 28 B. Civil Liability. Any person who fails to comply with any provision or requirement of
29 this chapter shall be strictly liable to the City of Petaluma in a sum not to exceed
30 the following amount for each such violation:
- 31 (1) For the making or accepting of any contribution in excess of the
32 applicable contribution limits specified in this chapter, a sum equal to
33 three (3) times the amount by which the contribution exceeds the
34 applicable contribution limit, or the sum of five hundred dollars (\$500),
35 whichever is greater, for each violation.
- 36 (2) For any other violation of this chapter, the sum of five hundred dollars
37 (\$500) for each violation.

- 1 C. Right to Cure Unknowing Violation. In the event a candidate accepts a
2 contribution and then becomes aware it is in violation of the contribution limit,
3 that violation by the candidate may be excused if the candidate returns the
4 contribution or contributes it to the City General Fund within 14 days of becoming
5 aware of the violation.
- 6 D. Debt Owing to City. Any amount due from any person pursuant to subsection (B)
7 above shall be a debt due and owing upon demand to the General Fund of the
8 City of Petaluma.
- 9 E. Civil Action to Collect Debt and Obtain Other Relief. The District Attorney of the
10 County of Sonoma shall file and prosecute a civil action in superior court, to
11 recover any amount(s) due and owing to the City of Petaluma by any person
12 pursuant to this section, or to enjoin any violation or otherwise compel
13 compliance with the requirements of this chapter.
- 14 F. Limitations of Actions. No civil action shall be brought under the provisions of this
15 section unless said action is filed within one (1) year following the date of such
16 violation.
- 17 G. Remedial Measures. If the District Attorney determines or believes that any person
18 (the target party) has violated any provision of this chapter, the District Attorney
19 may, at his or her sole discretion, advise the target party of remedial measures
20 which may be taken by the target party to avoid possible civil action (the
21 "Remedial Measures"). Such Remedial Measures may, but need not necessarily,
22 include the payment of a civil fine to the City. Nothing contained herein shall be
23 deemed to require the District Attorney to offer Remedial Measures to any target
24 party. In the event the target party is offered and timely performs such Remedial
25 Measures to the Satisfaction of the District Attorney, the District Attorney shall
26 advise the target party (and any person who, in writing, informed or complained
27 to the District Attorney concerning any such violation), in writing, that the alleged
28 violation has been resolved (the "Letter of Resolution") and, in such event, no civil
29 action shall thereafter be filed or maintained relating to such alleged violation of
30 this chapter.

31
32 Section 2. The City shall reimburse the Office of the District Attorney for all expenses
33 incurred in enforcing Chapter 1.30 of the Petaluma Municipal Code.
34

35 Section 3. If any section, subsection, sentence, clause or phrase or word of this
36 ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court
37 of competent jurisdiction, such decision shall not affect the validity of the remaining portions of

1 this ordinance. The Voters of the City of Petaluma hereby declare that they would have passed
2 and adopted this ordinance and each and all provisions thereof irrespective of the fact that any
3 one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

4
5 Section 4. This ordinance shall become effective ten (10) days after the date the vote is
6 declared by the City Council.

7
8 Section 5. This ordinance may be amended or repealed by a unanimous vote of the
9 City Council.

10
11 Section 6. The City Clerk is hereby directed to post this ordinance for the period and in
12 the manner required by the City Charter.

13
14 DECLARED by a vote of the people at the November 4, 2004 General Municipal Election
15 and CERTIFIED by the City Council this 6th day of December 2004.

16 (d)(5)

17
18
19 David Glass, Mayor

20
21
22
23 ATTEST:

24 (d)(5)

25
26
27 Claire Cooper, Deputy City Clerk

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45 APPROVED AS TO FORM:

(d)(5)

Richard R. Rudriánsky, City Attorney