

ORDINANCE NO. _____

AN ORDINANCE ADOPTING TITLE 2, CHAPTER 2.106, SECTIONS 2.106.010 THROUGH 2.106.180 OF THE STOCKTON MUNICIPAL CODE RELATING TO CITY SEAL AND LOGO

BE IT ORDAINED BY THE CITY ~~COUNSEL~~ COUNCIL OF THE CITY OF STOCKTON AS FOLLOWS:

SECTION I. ADOPTION OF CODE.

Title 2, Chapter 2.106, sections 2.106.010 through 2.106.180 of the Stockton Municipal Code shall be adopted and read as follows:

§ 2.106.010 Name of Chapter.

This Chapter shall be known and cited as the “City of Stockton Campaign Finance Reform Ordinance” or the “Campaign Finance Reform Ordinance.”

§ 2.106.020 Purpose of the Chapter.

The purposes of this Chapter are to promote public trust in governmental institutions and the electoral process, to negate the appearance, real or perceived, of corruption, and to curtail the financial ability of certain individuals or organizations to exercise a disproportionate or controlling influence on the election of candidates for elective City office. To further these purposes, this Chapter is designed to protect individual voters by reducing the potential influence and the appearance of influence resulting from large campaign contributions and, thereby, to promote the integrity of the process of electing candidates and the integrity of the government of the City of Stockton. ~~The United States Supreme Court has held that the purpose of a campaign reform ordinance must be to reduce corruption or the appearance of corruption in the electoral process, and that corruption in this context means “quid pro quo” corruption, that is, the contribution of money or resources for political favors.~~ This Chapter does this primarily in three ways. First, this Chapter establishes a limit on the amount that individuals and entities may contribute to candidates for elective City office and their controlled committees. Second, this Chapter prohibits the hiding of the identity of contributors through the making of contributions via intermediaries without disclosure. Such contributions are attributed to the real contributor and subject to the contribution limit. Third, this Chapter requires candidates, and persons or entities making independent expenditures (expenditures that are not coordinated with candidates), who raise or expend \$10,000.00 or more, to file campaign statements in an electronic form with the City Clerk, thus making them more accessible to the public. ~~All of these requirements are intended to make it more difficult for candidates and influential individuals and entities to~~

~~engage in quid pro quo corruption, to make the financing of campaigns for elective City office more transparent, and to make more information, especially financial information, regarding candidates and their supporters available to voters.~~

§ 2.106.030 Relationship to the Political Reform Act of 1974.

(a) The Political Reform Act, as amended and codified, already establishes certain minimum reporting and other requirements for candidates and certain committees making independent and other expenditures. The Political Reform Act establishes contribution limits for candidates for State office but does not provide for any contribution limits for candidates for local office. The Political Reform Act expressly authorizes local governments to impose additional requirements on candidates for local office as long as the requirements do not prevent any person from complying with the Political Reform Act.

(b) Unless a word or term is specifically defined in this Chapter or the contrary is stated or clearly appears from the context, words and terms shall have the same meaning as when they are used in the Political Reform Act, as amended and codified, and in the related regulations of the Fair Political Practices Commission.

(c) If any provision of this Chapter prevents any candidate or person from complying with the Political Reform Act, such provision is preempted by the Political Reform Act to the extent necessary to bring this Chapter into full compliance therewith.

§ 2.106.040 Definitions.

For the purposes of this Chapter, certain words are defined as follows:

CANDIDATE. Any individual who is a candidate for Mayor, Councilmember, or any other elective City office. Such office would include any elected City offices that have been consolidated or later separated. The provisions of Government Code § 82007 shall also apply to such individual.

CITY. The City of Stockton.

ELECTION. A primary, general, special, or recall election. Each of these is a separate election for purposes of this Chapter.

ELECTIVE OFFICER. An individual who is a Mayor, Councilmember, or holder of any other elective City office.

ENTITY. Any person, other than an individual.

INDIVIDUAL. A human being.

PERSON. 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.

SPONSORED COMMITTEE. A committee, other than a controlled committee, which has one or more sponsors.

SPONSOR. Any entity may sponsor a committee. A candidate or other individual may not sponsor a committee. An entity sponsors a committee if any of the following applies:

(a) The committee receives 80 percent or more of its contributions from the entity or its members, officers, employees, or shareholders.

(b) The entity collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(c) The entity, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(d) The entity, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

§ 2.106.050 Contribution Limit.

(a) Limit on Contributions to a Candidate or a Candidate's Controlled Committee. A person may not make to a candidate or the candidate's controlled committee, and a candidate or the candidate's controlled committee may not accept from a person, any contribution totaling more than the per election amount permitted in Government Code § 85301(a), as adjusted by the Fair Political Practices Commission pursuant to California Code of Regulations title 2, section 18544, effective on [EFFECTIVE DATE], and on January 1 of each odd-numbered year thereafter. Each primary, general, special, and recall election is a separate election for purposes of this Chapter.

(b) Post-Election Fundraising Restrictions. A contribution for an election may be accepted by a candidate after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election. Notwithstanding any other provision of Stockton Municipal Code § 2.106.050, if a candidate or the candidate's controlled committee had net debts resulting from an election held prior to [EFFECTIVE DATE], contributions to that candidate or committee for that election are not subject to the limits of Subdivision 2.106.050 (a).

(c) Contributions Received for Primary and General Elections. A candidate may raise contributions for a general election prior to the primary election, and for a special general election prior to a special primary election, for the same elective office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate is elected to office in a primary election or special primary election and will not appear on the ballot in the ensuing general election or special general election, is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Government Code § 85201, candidates may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(d) Separate Controlled Committee for Each Campaign Account. A candidate who is required to file a statement of organization for a controlled committee pursuant to Government Code § 84101 shall establish a separate controlled committee and campaign bank account for each specific term of elective office identified in statements filed by the candidate pursuant to Government Code § 85200. A controlled committee and campaign bank account established for a specific term of elective office may not be redesignated as a controlled committee and campaign account for a future election, even if the future election is for the same elective office.

(e) Return of Contribution in Excess of Limits.

(1) Contributions which either in the aggregate or on their face exceed the contribution limits of § 2.106.050 (a) shall be deemed not to have been accepted within the meaning of that provision, if returned pursuant to § 2.106.050 (e).

(2) A monetary contribution shall be returned prior to deposit or negotiation, within 14 days of receipt.

(3) A non-monetary contribution shall be returned by returning to the contributor, within the deadline specified in Subdivision (2), any of the following: the non-monetary contribution; its monetary equivalent; the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of § 2.106.050 (a).

(4) Subdivision (e) shall not be construed to authorize the making or solicitation of any contribution in excess of the contribution limits of § 2.106.050 (a).

§ 2.106.060 Contribution Through Intermediary and Disclosure.

(a) Contributor Acting through an Intermediary. A person may not make any contribution to another person or to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Government Code § 84302.

(b) Intermediary Acting on Behalf of Contributor. A person may not make any contribution to a particular candidate on behalf of another person, or while acting as the intermediary or agent or conduit of another person, unless the contribution is fully disclosed pursuant to Government Code § 84302.

§ 2.106.070 Aggregation of Contributions.

(a) For purposes of the contribution limit and reporting requirements of this Chapter, the contributions from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as made by, and received from, a single contributor. Such aggregated amount shall not exceed the contribution limit established under § 2.106.050.

(b) Contributions of an Entity Treated as Contributions of an Individual.

(1) The contributions of an entity whose contributions are directed and controlled by an individual shall also be treated as the contributions of the individual.

(2) The contributions of an entity whose contributions are directed and controlled by two or more individuals shall also be treated as the contributions, on a pro rata basis, of the individuals.

(3) The contributions of an entity that is majority-owned by an individual shall also be treated as the contributions of the individual, unless the entity acts independently in its decision to make the contributions.

(c) Contributions of an Entity Treated as Contributions of Another Entity.

(1) The contributions of an entity whose contributions are directed and controlled by an individual shall also be treated as the contributions of any other entity whose contributions are directed and controlled by the same individual.

(2) The contributions of an entity whose contributions are directed and controlled by a majority of persons shall also be treated as the contributions of all other entities whose contributions are directed and controlled by the same majority of persons.

(3) The contributions of an entity that is majority-owned by a person shall also be treated as the contributions of all other entities majority owned by the same person, unless the entity acts independently in its decision to make the contributions.

§ 2.106.080 Reasonable Diligence and Disclosure of Aggregated Contributions.

(a) Candidates, their controlled committees and treasurers, and any person must exercise reasonable diligence to determine whether a particular contribution must be aggregated with another contribution by operation of any provision of this Chapter or law.

(b) Any person who makes a contribution that is subject to aggregation by operation of any provision of this Chapter or law shall, at the time of making the contribution, disclose in writing to the candidate or the candidate's controlled committee the existence of all other contributions that must be aggregated with such contribution. This requirement does not relieve the candidate and the candidate's controlled committee and treasurer of the obligations under § 2.106.080(a) or law.

§ 2.106.090 Candidate's Own Contributions; Family Contributions.

(a) Contribution of Candidate's Own Funds. The provisions of § 2.106.050 do not apply to a candidate's contributions of his or her personal funds or community property to his or her campaign.

(b) Contribution of Spouses or Domestic Partners. For purposes of this Chapter, a single contribution made by both spouses or by both registered domestic partners shall not be aggregated but shall be divided equally between both spouses or between both domestic partners.

(c) Contribution of Minor. A contribution made by a child less than 18 years of age is presumed to be a contribution from the parent or guardian of the child. For contribution tracking purposes, if the parents or guardians of the child are married or have joint legal custody of child, the contribution shall be divided equally between them. If one parent or guardian has primary or sole legal custody of the child, then the contribution shall be attributed to that parent or guardian. The committee or candidate accepting a contribution from a child under the age of 18 shall obtain the information concerning parental or guardian attribution.

§ 2.106.100 Intra-Candidate Transfer of Funds.

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for City office of 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 may not exceed the limits set forth in § 2.106.050.

(b) Notwithstanding § 2.106.100(a), a candidate for City office may carry over contributions raised in connection with one election to City office to pay campaign expenditures incurred in connection with a subsequent election for the same City office.

§ 2.106.110 Electronic Filing of Campaign Statements.

(a) Electronic Filing of Statements. Any candidate and the candidate's controlled committee that raises or spends at least \$10,000.00, or any other person, entity, or committee that raises or spends at least \$10,000.00, in any election in support of or opposition to a candidate, shall file all campaign statements in a format that is approved by the City Clerk for electronic filing.

(b) Placement of Statements on City's Website. The City Clerk shall cause to be placed on the City's web site a copy of each campaign statement required by Subdivision (a) within one working day of the statement being filed with the City Clerk.

§ 2.106.120 Non-Application to Other Elections and Recall Elections.

(a) Non-City Election. In the event a candidate also runs for election for a State, Federal, county, special district, or other non-City office, the provisions of this Chapter do not apply to the candidate's campaign for such other office nor to any committee established solely for the purpose of running for such other office.

(b) Recall Election. The contribution limit of this Chapter shall not apply to recall elections but all other provisions of this Chapter shall apply to recall elections.

§ 2.106.130 Maintenance and Access to Records.

(a) Maintenance of Records. Candidates and their controlled committees shall maintain, for the period of time required in Government Code § 84104, such detailed accounts, records, bills, receipts, and other documentation necessary to prepare campaign statements and to comply with the provisions of this Chapter.

(b) Disclosure of Records. Candidates and their controlled committees shall deliver to the City Clerk and any public entity or official having authority to implement or enforce this Chapter, upon demand, the documentation and information described in Subdivision (a) and any other information and documentation sufficient to allow the determination of whether any provision of this Chapter has been violated.

(c) Authorization to Access Records. Candidates and their controlled committees shall deliver to the City Clerk and any public entity or official having authority to implement or enforce this Chapter, upon demand, a written authorization permitting such entity or official to have access to all documentation and information pertaining to the campaign contribution checking account.

§ 2.106.140 Violations and Enforcement—Criminal.

(a) Any person who knowingly or willfully violates any provision of this Chapter, who purposely causes any other person to violate any provision of this Chapter, or who aids and abets any other person in the violation of any provision of this Chapter, is guilty of a misdemeanor.

(b) In addition to any other penalties provided by this Chapter or the Stockton Municipal Code or law, a fine of up to the three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, or \$10,000.00, whichever is greater, may be imposed upon conviction for each violation.

(c) A plea of nolo contendere shall be deemed a conviction for purposes of this Section.

§ 2.106.150 Violations and Enforcement—Civil.

(a) Any person who violates any provision of this Chapter, who purposely causes any other person to violate any provision of this Chapter, or who aids and abets any other person in the violation of any provision of this Chapter, shall be subject to, in addition to any other penalties provided by this Chapter or the Stockton Municipal Code or law, a civil penalty of up to three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, or \$1,000.00, whichever is greater. Civil remedies also include injunctive or other equitable or declaratory relief.

(b) If two or more persons are responsible for any violation of any provision of this Chapter, then they shall be jointly and severally liable.

(c) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this Chapter. The civil prosecutor shall be the Fair Political Practices Commission.

(d) Any person residing within the jurisdiction of the election may bring a civil action under this Section. Before filing such action, such person must first file with the civil prosecutor a written request for the civil prosecutor to commence the action, subject to procedures that comport with the procedures set forth in Government Code § 91007.

(e) No civil action may be filed with regard to a person for any violation of this Chapter after an administrative order pursuant to § 2.106.160 has been issued against such person for the same violation.

§ 2.106.160 Violations and Enforcement—Administrative.

(a) Any person who, pursuant to an appropriate administrative action, is determined to have violated any provision of this Chapter, purposely caused any other person to

violate any provision of this Chapter, or aided and abetted any other person in the violation of any provision of this Chapter, shall be subject to an administrative order requiring that the person to do all or any of the following:

- (1) Cease and desist violation of this Chapter;
- (2) File any reports, statements, or other documents or information required by this Chapter;
- (3) Pay a monetary penalty of up to \$5,000.00 per violation;
- (b) If two or more persons are responsible for any violation of any provision of this Chapter, then they shall be jointly and severally liable.
- (c) No administrative action brought alleging a violation of any provision of this Chapter shall be commenced more than five years after the date on which the violation occurred.

§ 2.106.170 Construction.

This Chapter shall be liberally construed to accomplish its purposes.

§ 2.106.180 Effective Date.

The Campaign Finance Reform Ordinance shall be effective on [EFFECTIVE DATE]. The Campaign Finance Reform Ordinance shall apply only to contributions made to, or received by, a candidate on or after [EFFECTIVE DATE]. No contribution made to, or received by, a candidate prior to [EFFECTIVE DATE], shall be considered whatsoever for purposes of the contribution limit, the aggregation of contributions provision, or any other requirement of the Campaign Finance Reform Ordinance."

SECTION II. EFFECTIVE DATE.

This ordinance shall take effect and be in full force on the date identified in section 2.106.180, but not less than thirty (30) days after its passage.

ADOPTED: _____

EFFECTIVE: _____

ANTHONY SILVA
Mayor of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton