



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 10/29/02  
AGENDA ITEM 8  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT:** An Ordinance Amending Chapter 2 Article 13 of the Hayward Municipal Code Relating to the Establishment of Contribution Limitations and a Voluntary Campaign Expenditure Limit for Elections to City Offices

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Ordinance, which includes changes as requested by Council.

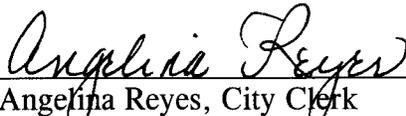
**BACKGROUND:**

The ordinance was introduced at the October 15, 2002, meeting of the City Council with the following vote:

<b>AYES:</b>	Council Members:	Jimenez, Hilson, Ward, Henson
<b>NOES:</b>	Council Members:	Rodriquez, Dowling
	Mayor:	Cooper
<b>ABSENT:</b>	Council Members:	None
<b>ABSTAIN:</b>	Council Members:	None

The ordinance was published in the Hayward Daily Review on October 23, 2002. Adoption at this time is therefore appropriate.

Prepared by:

  
\_\_\_\_\_  
Angelina Reyes, City Clerk

Approved by:

  
\_\_\_\_\_  
Jesús Armas, City Manager

Draft Ordinance

# DRAFT

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2 ARTICLE 13 OF  
THE HAYWARD MUNICIPAL CODE RELATING TO THE  
ESTABLISHMENT OF CONTRIBUTION LIMITATIONS AND  
A VOLUNTARY CAMPAIGN EXPENDITURE LIMIT FOR  
ELECTIONS TO CITY OFFICES

WHEREAS, monetary contributions to political campaigns are a legitimate form of participation in the political process; and

WHEREAS, the rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger amounts of money; and

WHEREAS, the Council finds that the adoption of a campaign finance reform ordinance will help ensure that individuals and interest groups will have a fair and equitable opportunity to participate in the elective and governmental processes and minimize the appearance of impropriety.

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

Section 1. Chapter 2, Article 13, of the Hayward Municipal Code is hereby repealed and replaced by the following to read in full as follows:

"ARTICLE 13

SEC. 2-13.00. VOLUNTARY EXPENDITURE LIMITS FOR CAMPAIGNS FOR CITY ELECTIVE OFFICES.

- ( a ) A voluntary expenditure limit of \$50,000 per candidate is hereby established for each election to City elective office. As used in this section, the term "City elective office" shall mean the offices of Members of the City Council and Mayor. Beginning January 1, 2004, the amount established by this section shall

be adjusted by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the expenditure limit in a visible place in the City Clerk's Office.

- ( b ) Prior to accepting any contribution for a campaign, each candidate for City elective office shall file with the Hayward City Clerk statement of acceptance or rejection of the voluntary expenditure limit established herein with regard to that campaign.
- ( c ) No candidate for City elective office who accepts the voluntary expenditure limit established herein and no controlled campaign committee of such a candidate shall make campaign expenditures cumulatively in excess of the voluntary expenditure limit established herein.
- ( d ) Each candidate for City elective office who rejects the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Section 2-13.01 of this Article as that section may be amended from time to time.
- ( e ) Each candidate for City elective office who accepts the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Section 2-13.02 of this Article as that section may be amended from time to time.

**SEC. 2-13.01 LIMITATION OF CONTRIBUTIONS.**

- ( a ) Except as provided hereafter in Section 2-13.02 of this Article, no person shall make to any candidate for City elective office, or the candidate's controlled committee, a contribution or contributions totaling more than two hundred and fifty dollars (\$250) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
- ( b ) Except as provided hereafter in Section 2-13.02 of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall accept a contribution or contributions totaling more than two hundred and fifty dollars (\$250) per contributor for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
- ( c ) For the purposes of this section and section 2-13.02 the term person shall include corporations, businesses, partnerships, associations, groups and committees.

**SEC. 2-13.02 CONTRIBUTION LIMITATIONS FOR CANDIDATES ACCEPTING EXPENDITURE LIMITATIONS.**

- ( a ) Notwithstanding Section 2-13.01, if a candidate accepts the expenditure limit set

forth in section 2-13.00 (a) of this Article no person shall make to any candidate for City elective office, or the candidate's controlled committee, a contribution or contributions totaling more than one thousand dollars (\$1000) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

- ( b ) Notwithstanding Section 2-13.01, if a candidate accepts the expenditure limit set forth in section 2-13.00 (a) of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall accept a contribution or contributions totaling more than one thousand dollars (\$1000) per person for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

SEC. 2-13.03 NOTIFICATION TO VOTERS.

The City Clerk shall prominently designate in the voter information portion of the sample ballot those candidates who have voluntarily agreed to expenditure limits.

SEC. 2-13.04 ENFORCEMENT AND PENALTIES.

- ( a ) Any person who knowingly or willfully violates any provision of this Article is guilty of a misdemeanor.
- ( b ) In addition to other penalties provided by law, a fine of up to one thousand dollars (\$1,000) for each violation of this Article may be imposed.
- ( c ) Prosecution for violations of this title must be commenced within four years of the date on which the violation occurred.

SEC. 2-13.05 CIVIL LIABILITY FOR VIOLATIONS.

- ( a ) Any person who violates any provision of this Article shall be liable in a civil action brought by either the district attorney or independent counsel, appointed by the City Attorney, for an amount up to one thousand dollars (\$1,000) per violation of this Article.
- ( b ) No civil action alleging a violation of this Article may be filed against a person pursuant to this section if a criminal prosecution arising out of the same allegations is pending.

SEC. 2-13.06 VIOLATION OF TITLE; PROBABLE CAUSE; HEARING; NOTICE;  
ORDER.

- ( a ) If evidence of a violation of this Article is presented to the City Clerk, she/he shall consult with the City Attorney to determine if probable cause exists to either refer the matter to the District Attorney or appoint an independent counsel to serve as a hearing officer. Such hearing officer shall not be an employee of City.
  
- ( b ) In the event that the matter is referred to a hearing officer, notice shall be given and a hearing be conducted in accordance with the Administrative Procedures Act contained in the California Government Code. If the hearing officer determines on the basis of the hearing that a violation has occurred, a written order containing findings of fact shall be issued which may require the violator to:
  - (1) Cease and desist violation of this Article;
  - (2) Pay a monetary penalty of up to one thousand dollars (\$1,000) per violation to the General Fund of the City.

If it is determined, after a hearing, that no violation of this Article has occurred, an order so stating shall be prepared."

Section 2. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. In accordance with the provisions of Section 620, subdivision (a), of the City Charter, this ordinance shall become effective upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of  
Hayward, held the \_\_\_\_ day of \_\_\_\_\_, 2002, by Council Member\_\_\_\_\_ .

ADOPTED at a regular meeting of the City Council of the City of Hayward

held the \_\_\_\_ day of \_\_\_\_\_, 2002, by the following votes of members of said City Council.

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: \_\_\_\_\_

Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney of the City of Hayward