



**JAMES C. SANCHEZ**  
City Attorney

December 5, 2011

MEMORANDUM

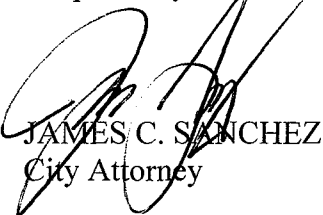
TO: Victor Salazar, County Clerk/Registrar of Voters

RE: City of Fresno Elections

The Fresno City Attorney's Office has prepared the attached memorandum addressed to candidates for City of Fresno Elective Office. This memorandum focuses on City ordinances, resolutions and Charter provisions and supersedes any previously issued memorandum on this subject.

Please transmit a copy of this memorandum to all candidates for City Elective Office. If you have any questions, please do not hesitate to call.

Respectfully submitted,



JAMES C. SANCHEZ  
City Attorney

c: Mayor  
Councilmembers  
Mark Scott, City Manager  
Becky Klisch, City Clerk  
David P. Hale, Chief Assistant City Attorney

Enclosure: Memo to Candidates for City of Fresno Elective Office re City Laws Applicable to  
Candidates for City Elective Office

JCS:pn[57430pn/JCS]



JAMES C. SANCHEZ  
City Attorney

December 5, 2011

MEMORANDUM

TO: Candidates for City Elective Office

RE: City Laws Applicable to Candidates for City Elective Office

In addition to state law requirements applicable to candidates seeking elective office in the City of Fresno, the City of Fresno has adopted local charter requirements, resolutions, and ordinances. A summary thereof follows:

1. **City Residency Requirement.** To be eligible to hold City elective office, a person must have been a resident of the City for at least 30 days immediately preceding the filing of the nomination papers for that office. (Charter Section 304.) To be eligible to hold office as a Councilmember, a person must have been a resident of the Council District for which he/she is seeking office, for at least the same time period. (Charter Section 304.1.)

To ensure compliance with the 30 day residency requirement for candidates seeking a Council office, the Council Residency Act ("Act") was enacted effective January 1, 2011. A copy of the Act is attached as Exhibit A. The Act requires that candidates file specific documents with the City Clerk to verify their residency. We refer candidates to the Act, which lists the documents that must be filed with the City Clerk, and the certification process that must be completed to be eligible for elective office.

2. **Charter Prohibition on Contributions.** In the Spring of 1993, the City electors adopted an off-year contributions prohibition. Charter Section 309 states, "No mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held." Pursuant to Charter Section 309, a candidate cannot begin soliciting or accepting contributions until after the date set by law for filing nomination papers.

In the past, we have received inquiries as to whether invitations to fundraisers to be held on or after the legal date for filing of nomination papers are permissible. The Charter provision expressly prohibits "solicitations" prior to the subject date. To "solicit" means that one is appealing for something or asking for the purpose of receiving. For this reason, Charter Section 309 prohibits invitations to a fundraiser for a candidate to be distributed prior to the date for filing nomination papers.

3. **Candidate Filing Fees and Alternative Signature Gathering Method.** The City Council has adopted Ordinance No. 93-32 setting candidate filing fees and adopting the Elections Code provisions for alternative signature gathering. These requirements are codified in Section 2-1003 through 2-1006 of the Fresno Municipal Code, which are attached as Exhibit "A." Where the ordinance is silent as to specific provisions, the Elections Office shall utilize Elections Code provisions for making determinations on the requisite number of signatures and the monetary value attributed to signatures.
4. **Campaign Contribution Limits Ordinance.** The City Council adopted an ordinance establishing campaign contribution limits to candidates in Chapter 2, Article 11 of the Fresno Municipal Code. The contribution limits for candidates for City elective office are the same as for candidates for State Assembly under the Political Reform Act (PRA). The contribution limits will be adjusted every odd numbered year by the Fair Political Practices Commission (FPPC), in accordance with the Consumer Price Index. The contribution limits for the 2012 election are set at \$3,900 from persons, and \$7,800 from small contributor committees for a single election. A copy of the ordinance is attached as Exhibit "B."

The ordinance complements the provisions in the Political Reform Act (Gov. Code §§ 81000 et seq.), which contain a comprehensive scheme on the conduct of election campaigns. The City Attorney's Office does not have the statutory duty or authority to give advice on the PRA or its application. Candidates should contact the FPPC for questions or advice relating to the PRA. The FPPC can be reached at (866) ASK-FPPC (toll free) or 916.322.5660.

5. **Charter Prohibition Against Political Activities.** Section 813 of the Charter of the City of Fresno provides in part:

No officer or employee of the city and no candidate for any city office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political purpose whatever, from anyone on the eligible lists or holding any position in the Administrative Service.

This language has been interpreted to prohibit telephone calls, faxes, and personal contacts for political purposes during business hours at City Hall or during an employee's or officer's hours of duty on City premises. See also Section 3-103 of the Fresno Municipal Code attached hereto as Exhibit "C."

The local provisions are consistent with Government Code Sections 3201 et seq., which among other things, prohibit public employees from engaging in the following types of activities:

- a. Unlawful use of office, influence, or authority;
- b. Solicitation of political funds or contribution from other officers, employees, or from persons on employment lists from the same local agency, or from which the candidate is seeking office;
- c. Arranging for increase in compensation or salary in exchange of contribution to committee or person seeking office;

- d. Participation in political activities while in uniform; and
- e. Participation in political activities during work hours on City premises, as governed by the local rules and regulations.

6. **Political Signs.** The City of Fresno exempts political signs from application, permit, and fee requirements. However, the City does impose time, place, and manner restrictions on political signs. Under the City's ordinance located in FMC Section 12-1710 (attached as Exhibit "D"), such signs:

- a. may not exceed 32 square feet in area;
- b. may not be erected or displayed earlier than 90 days prior to the election date nor later than 15 days following the election date;
- c. may not be attached to utility poles;
- d. may not be placed on any public right of way or any property owned by the City of Fresno or Redevelopment Agency;
- e. may be placed on private property with the permission of the property owner or on existing signs on private property with the permission of the sign owner or lessee; and
- f. may not be erected in a manner so that it will or reasonably may be expected to, interfere with, obstruct, confuse or mislead traffic.

The foregoing is meant solely as an outline of applicable City provisions. Candidates are responsible for ensuring that all state and local laws are complied with. The City Attorney's Office does not provide legal advice to candidates for elective office. If you need an interpretation of the City Charter or the Fresno Municipal Code, you may submit your question in writing to the City Attorney. The written response will be provided to the requester and copied to all candidates for City office.

Respectfully submitted,

  
JAMES C. SANCHEZ  
City Attorney

c: Victor Salazar, County Clerk/Registrar of Voters  
Mark Scott, City Manager  
Rebecca E. Klisch, City Clerk  
David P. Hale, Chief Assistant City Attorney

Attachments:

Exhibit "A" Resolution No. 2010-197 adopting the Council Residency Act  
Exhibit "B" FMC Sections 2-1003 through 2-1006  
Exhibit "C" Chapter 2, Article 11 FMC  
Exhibit "D" FMC Section 3-103  
Exhibit "E" FMC Section 12-1710



RESOLUTION NO. 2010-197

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
FRESNO, CALIFORNIA, ESTABLISHING A POLICY  
ENTITLED "COUNCIL RESIDENCY ACT" TO ENHANCE  
COUNCIL RESIDENCY REQUIREMENTS

WHEREAS, Section 304.1 of the Fresno City Charter requires persons running for City Council to reside in the district they are running for at least 30 days prior to filing nomination papers; and

WHEREAS, in nearly every election cycle since Charter Section 304.1 was approved, nearly 30 years ago, there has been controversy regarding alleged false residency claims by Council candidates; and

WHEREAS, there is a need to enhance the City's residency requirements to help prevent potential false residency claims; and

WHEREAS, Fresno City Charter Section 304.1 also requires Council members to live in their district for their entire term; and

WHEREAS, there is a need to establish annual Council residency by applying enhanced residency requirements to be verified by the City Clerk each year.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

SECTION 1. The Council adopts the attached Exhibit "A" Council Residency Act as a formal Council policy to enhance compliance with existing Fresno City Charter residency requirements.

SECTION 2. This resolution shall become effective on January 1, 2011.

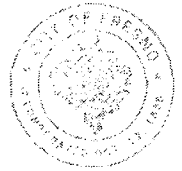
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Adopted 9-16-2010  
Approved 9-27-2010  
Effective 1-1-2011

Resolution Establishing Policy  
Entitled "Council Residency Act" to  
Enhance Council Residency Requirements



\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 16 day of September, 2010.

AYES : Borgeas, Brand, Dages, Perea, Sterling, Xiong  
NOES : Westerlund  
ABSENT : None  
ABSTAIN : None

Mayor Approval: September 27, 2010  
Mayor Approval/No Return: N/A, 2010  
Mayor Veto: N/A, 2010  
Council Override Vote: N/A, 2010

REBECCA E. KLISCH  
City Clerk

BY: Rebecca Klisch  
~~Deputy~~

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY: James C. Sanchez  
James C. Sanchez  
City Attorney

Date: 9-9-10

[rev. 9/9/10]



**CITY OF FRESNO**  
**COUNCIL RESIDENCY ACT**



**SEPTEMBER 7, 2010**

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The following policies are enacted to help insure that City Council candidates and current City Councilmembers reside in the district they will or do represent.



## ARTICLE I DEFINITIONS

### **At Large Municipal Elections**

In at large elections, all voters can vote for all seats up for election. At large elections allow a simple majority of the voters to elect all of the seats in a local election. This can result in disenfranchisement of the local electorate and elected bodies not in compliance with applicable law. Prior to 1981, City Council seats in Fresno were contested in at large elections.

### **City**

"City" means the City of Fresno, a municipal corporation.

### **District Municipal Elections**

A jurisdiction is divided into districts and one member is elected per district. Only the voters in a specific City Council district may vote for City Council candidates in that district.

### **Fresno City Charter Section 304**

This Charter Section provides that no person shall be eligible to hold an elective office unless that person is, and has been for a period of at least 30 days immediately preceding the filing of nomination papers for such office or appointment of such office, a resident of the City, and has been at the time of assuming such office, an elector of the City.

### **Fresno City Charter Section 304.1**

City of Fresno Charter Section 304.1 took effect on all municipal elections after 1981. It provides that no person shall be eligible to hold elective office as a Councilmember unless that person is, and has been for a period of at least thirty days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the Council district corresponding in number to the office to which that person is elected or appointed.

### **Municipal Ordinance**

A Municipal Ordinance is a law of local application. Local ordinances are adopted by the City Council and enforced by the City Manager and staff of local government.

### **Voting Rights Act of 1965**

The National Voting Rights Act of 1965 outlawed discriminatory voting practices for the widespread disenfranchisement of minorities in the United States. The Act established extensive federal oversight of elections administration, providing that states and local governments with a history of discriminatory voting practices could not implement any change affecting voting without first obtaining the approval of the Department of Justice, a process known as preclearance.



## ARTICLE II PURPOSE OF ACT

Prior to 1981, there was a concern that some citizens of Fresno did not have a Councilmember to properly represent their district. There was also a potential violation of the Voting Rights Act of 1965 and subsequent election laws governing citizen representation. This issue was finally decided by the voters in a ballot issue.

On May 31, 1977, the voters of Fresno amended Charter Section 304 to require that persons running for City municipal elections must live in the City for a period of at least 30 days immediately preceding the filing of nomination papers for City offices and live in the City at the time of assuming office.

The voters of Fresno also added Charter Section 304.1 to require that persons running for City Council seats must reside in the district at the time the nomination papers are filed for such office or appointment. It further provided that each Councilmember shall, during the Councilmember's term, reside within such Council district. This was strictly a residence requirement and elections continued to be held at large. On June 3, 1980, the voters amended Charter Section 304.1 to provide that each Councilmember must reside in, and be elected from the district corresponding in number to his/her office. Thus, only the electors from the district could vote for the Councilmember within such district.

### Objectives of Act:

1. To provide stricter and more detailed criteria for establishing a Council candidates residency in the Council district. Developing structured, objective criteria will help ensure proof of district residency for Council candidates.
2. To provide stricter and more detailed criteria for establishing current Councilmembers' residency in the districts they represent during their term in office. Developing structured, objective criteria will help ensure proof of district residency during the entire term of a Councilmember.
3. To protect the interests of all Fresno citizens and insure proper representation by developing policies that will help ensure that the Councilmembers truly reside in the district they represent.
4. Adopt enabling legislation via a municipal resolution to establish necessary policies.

Accomplishing the above stated objectives will help ensure that both the letter and spirit of Charter Section 304.1 can be implemented as Fresno voters intended when they passed the ballot measure 30 years ago.



### **ARTICLE III ADVANTAGES OF DISTRICT REPRESENTATION**

There are compelling reasons for establishing district representation. The Voter Rights Act of 1965 was the legislative vehicle for eliminating discriminatory voting qualifications, standards, practices, and procedures. The advantages of district elections include:

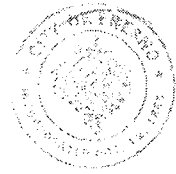
1. It encourages personal campaigns;
2. It encourages attention to neighborhood concerns;
3. It is easier for new candidates to win;
4. There is a lower cost of campaigning; and
5. It enhances descriptive representation and shared policy views and ideology.

Candidates not in compliance with the residency requirements of Charter Section 304.1 undermine the legal principles of representative local elections and raise questions regarding a local election's compliance with applicable law.

### **ARTICLE IV RESIDENCY REQUIREMENTS FOR COUNCIL CANDIDATES**

In addition to providing the Fresno County Clerk proof of voter registration in the district residence claimed for running for a City Council seat, a candidate must provide the following additional information to verify their 30 day residency requirement:

1. Proof of home ownership as evidenced by 1) a copy of a grant deed, a mortgage payment billing statement verifying the address; or any other document that can verify home ownership and residency of the property; and 2) evidence of a homeowners property tax exemption filed with the Fresno County Assessor for proof that the home is the primary residence. If a candidate does not have a tax exemption on file they must submit an affidavit signed by the candidate verifying that the home is the candidates primary residence;  
or;  
If the home ownership is in the name of a person other than the candidate, or in the name of a legal entity, such as a trust, partnership or corporation, the candidate must submit an affidavit signed by the homeowner or authorized



legal representative of the entity verifying that candidate is living in the home as his/her primary residence;

or:

2. If the residence is rented or leased by the candidate, the candidate will provide proof of residency by providing a signed copy of a lease or rental agreement.

or;

If a candidate is living at a residence without a lease/rental agreement and whose name otherwise does not appear in the proof of home ownership, candidate must have landlord/property owner sign an affidavit, under penalty of perjury, verifying candidate's residency in landlords/property owner's property.

3. Proof of motor vehicle registration, if any motor vehicles are registered to the candidate for the residency claimed and proof of a valid California driver's license showing their address on their license is consistent with the address shown on their nomination papers. If the residence address on either the drivers license or auto registration is in the process to being changed, the candidate must provide a document from the California Department of Motor Vehicles (DMV14 form) verifying the change is in process. If a candidate does not own an automobile or does not have a California driver's license, the candidate must submit any other State of California issued identification showing their address on the identification document is consistent with the address shown on their nomination papers.
4. A PG&E bill and/or Fresno City Utility bill in the candidate's name showing that the service address is consistent with the address in candidate's nomination papers. If there is an agreement with a landlord or other a legal entity, as verified by a rental contract or lease contract, that the landlord or other legal entity will pay the PG&E bill and/or the Fresno Utility bill, the candidate must submit an affidavit signed by the landlord or the other legal entity's authorized legal representative verifying that the landlord or other legal entity, is responsible for paying the PG&E bill and/or the Fresno City Utility bill.
5. The candidate must sign an affidavit, under penalty of perjury, verifying residency.

Failure to provide any of the above-required documents will disqualify a candidate from meeting the Charter Section 304.1 district residency requirement. Willfully submitting false, forged, altered documents or coercing or unduly influencing persons providing affidavit documents will also disqualify candidates and constitute a misdemeanor Charter violation in addition to any other legal remedy available to enforce a similar fraudulent act.



## **ARTICLE V VERIFYING RESIDENCY AND CERTIFICATION FOR COUNCIL CANDIDATES**

No earlier than the initial filing date for documents related to a candidate running for a City Council seat and no later than the closing date to file nomination papers, candidates are required to file all of the documents specified in Article IV above with the Fresno City Clerk's office for verification. The City Clerk will review and verify that all required information is correct and meets the requirements of this Act. The City Clerk will diligently work to review and verify all residency documents submitted. No later than five calendar days from receipt of the candidate's documents, the City Clerk's office shall complete the review and verification of the documents. The City Clerk will then do one of the following:

1. If all City residency requirements are satisfied pursuant to this Act, the City Clerk's office will mail a letter to the Fresno County Clerk's office and mail a letter to the candidate certifying that the candidate has met the City's residency requirements; or
2. If any deficiencies are discovered in the documents provided or certain documents are missing, the City Clerk's office will send a letter to the candidate showing the specific deficiency(s) or missing document(s). The candidate will have until the closing date to file nomination papers to correct the deficiencies and re-submit the required documents for verification to the City Clerk; or
3. If the candidate either fails to complete verification of all of the requirements of this Act within the prescribed time limits, or the resubmitted documents do not meet the requirements of the Act, the City Clerk's office will mail a letter to the candidate advising them that they have failed to meet the requirements of the Act; or
4. If the re-submitted documents by the candidate meet all requirements of this Act, the City Clerk's office will certify the Act's residency requirements have been met and mail a letter to the Fresno County Clerk's office and mail a letter to the candidate.

## **ARTICLE VI VERIFYING RESIDENCY FOR COUNCILMEMBERS**

Councilmembers are required to live in the district they represent during their entire term in office. To insure that Councilmembers continue to live in the district they represent, each Councilmember must submit the following documents to the City Clerk during the last 31 calendar days of the year (December 1<sup>st</sup> to 31<sup>st</sup>), at the end of each year in office:



1. Proof of home ownership as evidenced by 1) a copy of a grant deed, a mortgage payment billing statement verifying the address; or any other document that can verify home ownership and residency of the property; and 2) evidence of a homeowners property tax exemption filed with the Fresno County Assessor for proof that the home is the primary residence. If a Councilmember does not have tax exemption on file they must submit an affidavit signed by the Councilmember verifying that the home is their primary residence;  
or;  
If the home ownership is in the name of a person other than the Councilmember, or in the name of a legal entity, such as a trust, partnership or corporation, the Councilmember must submit an affidavit signed by the homeowner or authorized legal representative of the entity verifying that Councilmember is living in the home as his/her primary residence;  
or;
2. If the residence is rented or leased by the Councilmember, the Councilmember will provide proof of residency by providing a signed copy of a lease or rental agreement;  
or;  
If a Councilmember is living at a residence without a lease/rental agreement and Councilmember must have landlord/property owner sign an affidavit, under penalty of perjury, verifying Councilmember's residency in landlords/property owner's property.
3. Proof of motor vehicle registration, if any motor vehicles are registered to the Councilmember for the residency claimed and proof of a valid California driver's license showing their address on the license is consistent with their address on their original nomination papers. If the residence address on either the drivers license or auto registration is in process to being changed, the Councilmember must provide a document from the California Department of Motor Vehicles (DMC14 form) verifying the change is in process. If a Councilmember does not own an automobile or does not have a California driver's license, the Councilmember must submit any other State of California issued identification showing their address on the identification document is consistent with the address shown on their nomination papers.
4. A PG&E bill and/or Fresno City utility bill in the Councilmember's name showing that the service address is consistent with the address is in the Councilmember's original nomination papers in candidate's name. If there is an agreement with a landlord or other a legal entity, as verified by a rental contract or lease contract, that the landlord or other legal entity will pay the PG&E and/or the Fresno Utility bill, the candidate must submit an affidavit signed by the landlord or the other legal entity's authorized legal representative, verifying that the landlord or other legal entity is responsible for paying the PG&E bill and/or the Fresno City Utility bill.



5. The Councilmember must sign an affidavit, under penalty of perjury, verifying residency.
6. In the event that Councilmember moved to a new residence in the district after the filing of the previous affidavit, Councilmember must confirm, within 30 days of moving, using items 1 through 4, the new district residence address.

Failure to provide any of the above-required documents will disqualify a Councilmember from meeting the Charter Section 304.1 district residency requirement. Willfully submitting false, forged, altered documents or coercing or unduly influencing persons providing affidavit documents will also disqualify a Councilmember and constitute a misdemeanor Charter violation in addition to any other legal remedy available to enforce a similar fraudulent act.

#### **ARTICLE VII INVESTIGATION AND ENFORCEMENT**

Any fraudulent residency complaints shall be submitted to the City Attorney. The City Attorney will refer all complaints to the Fresno County District Attorney. The Fresno County District Attorney shall have the discretion to investigate residency complaints and if sufficient evidence of fraud is found during the investigation, the District Attorney can elect to prosecute.

#### **ARTICLE VIII TRANSPARENCY**

The City Clerk shall post the names, corresponding Council district and all required supporting documents, consistent with applicable confidentiality laws, of all candidates that have been certified to meet the residency requirements of this Act at the City's web site and have a hard copy of the list available to be picked up at the City Clerk's office during normal business hours. After the General Election the list shall be removed from the City web site and hard copies will no longer be available for pickup at the City Clerk's office.

A PDF copy of this Act shall be available, year round, at the City's web site and a hard copy shall be available to be picked up at the City Clerk's office during normal business hours. This will enable prospective candidates to review residency requirements pursuant to this Act.



**ARTICLE IX  
ONE YEAR REVIEW**

One year from the adoption of this Act, the Council shall, at a regularly scheduled meeting, review the implementation and practice of this Act and, if necessary, amend the Act to reflect required changes.

**ARTICLE X  
EFFECTIVE DATE**

This resolution shall take effect January 1, 2011.



September 17, 2010

RECEIVED

Council Adoption: 09/16/10

Mayor Approval:

Mayor Veto:

Override Request:

TO: MAYOR ASHLEY SWEARENGH  
FROM: REBECCA E. KLISCH, City Clerk

SEP 17 PM 4:22

REK

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 9/16/10, Council adopted the attached Resolution No. 2010-197 entitled **establishing policy entitled Council Residency Act**, Item No. ~~197~~, by the following vote:

9:00 AM #2 B

Ayes : Borgeas, Brand, Dages, Perea, Sterling, Xiong  
Noes : Westerlund  
Absent : None  
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before September 27, 2010. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

\*\*\*\*\*

**APPROVED:**

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

*Ashley Sweareng*  
Ashley Sweareng, Mayor

Date: 9.27.10

**COUNCIL OVERRIDE ACTION:**

Date: \_\_\_\_\_

Ayes :  
Noes :  
Absent :  
Abstain :

## **SEC. 2-1003. - FILING FEES FOR MAYOR AND COUNCIL CANDIDATES.**

The City Council, by resolution, may establish filing fees for the elective office of Mayor and Councilmember. Those fees shall not exceed the cost reasonably borne for conducting the election for the seat in question. The costs to be covered by the filing fees shall include all costs associated with the candidate's filing, including, but not limited to, the proportional cost in administering the election by the City Clerk or County Clerk under contract to provide election services.

*(Added Ord. 93-32, § 1, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

## **SEC. 2-1004. - FILING FEE WAIVER PETITION.**

In lieu of payment of the filing fees required under Section 2-1003, a candidate may gather signatures on a form to be provided by the City Clerk or County Clerk under contract to provide election services. For Council candidates, the number of signatures required shall be two hundred and fifty registered voters registered to vote within the Council district boundary. Candidates for Mayor shall collect five hundred signatures from voters registered within the City. A voter may sign both the nomination papers and the Filing Fee Waiver Petition for each candidate. A voter may only sign one filing fee waiver form for each office in which he or she is eligible to vote.

*(Added Ord. 93-32, § 2, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

## **SEC. 2-1005. - FILING FEE WAIVER PROCEDURES.**

By resolution, the City Council may adopt further regulations to implement the filing fee waiver process. The filing fee waiver forms shall be provided at no cost to each candidate upon request. However, the elections official may, rather than provide the candidate with the number of forms necessary to gather the requisite signatures, or, upon request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate for the purpose of circulating additional petitions. No other form except the furnished form, or duplicates thereof, shall be used by a candidate to secure signatures. All forms shall be made available commencing forty-five days before the first day for circulating nominating papers. However, in case of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than forty-five days after the declaration of the vacancy by the City Council, the forms shall be made available within five working days after the City Council declaration. The forms to be used shall be in substantially the same form as the nomination papers signature form.

*(Added Ord. 93-32, § 5, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

## **SEC. 2-1006. - FILING FEE WAIVER REQUIREMENTS.**

The fee waiver process shall be subject to the following provisions:

- (a) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.
- (b) If a voter signs more candidate's petitions than there are offices to be filled, the voter's signatures shall be valid only for those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.
- (c) In-lieu-filing-fee petitions shall be filed at least fifteen days prior to the close of nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, the elections official shall issue nomination papers provisionally. Within ten days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, submit a supplemental petition to cover the deficiency.
- (d) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

*(Added Ord. 93-32, § 4, eff. 5-4-93; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

Exhibit B

**Fresno, California, Code of Ordinances >> - MUNICIPAL CODE OF THE CITY OF FRESNO >> CHAPTER 2  
- CITY GOVERNMENT >> ARTICLE 11 - CANDIDATES FOR ELECTIVE CITY OFFICE-CAMPAIGN  
CONTRIBUTION LIMITS >>**

**ARTICLE 11 - CANDIDATES FOR ELECTIVE CITY OFFICE-CAMPAIGN CONTRIBUTION  
LIMITS**

SEC. 2-1101. - TITLE.

SEC. 2-1102. - PURPOSE AND APPLICATION.

SEC. 2-1103. - DEFINITIONS.

SEC. 2-1104. - OFF-YEAR CONTRIBUTION PROHIBITION.

SEC. 2-1105. - CAMPAIGN CONTRIBUTIONS—LIMITATIONS ON AMOUNT.

SEC. 2-1106. - LOANS.

SEC. 2-1107. - AFFILIATED ENTITIES: AGGREGATION OF CONTRIBUTIONS.

SEC. 2-1108. - RESTRICTIONS ON CONTRIBUTIONS BY CANDIDATES.

SEC. 2-1109. - RETURN OF EXCESSIVE CONTRIBUTIONS.

SEC. 2-1110. - SEPARATE BANK ACCOUNT FOR ATTORNEY'S FEES.

SEC. 2-1111. - ENFORCEMENT AUTHORITY—COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.

SEC. 2-1112. - ENFORCEMENT.

SEC. 2-1113. - APPLICABILITY OF OTHER LAWS.

**SEC. 2-1101. - TITLE.**

This article may be cited as the "Local Campaign Contribution Limits Ordinance" of the City of Fresno.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1102. - PURPOSE AND APPLICATION.**

The purpose of this article is to ensure that individuals and interest groups have a fair and equal opportunity to participate in municipal elective and governmental processes. This article is intended to supplement, and in no way conflict with, the Political Reform Act of 1974 ("Political Reform Act"), as amended. Statutory references to specific provisions of the Political Reform Act shall include its amendments.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1103. - DEFINITIONS.**

- (a) Unless the particular provision or the context otherwise requires, the provisions, definitions of words and phrases, and interpretations of the Political Reform Act codified in Government Code Sections 81000 et seq., and its implementing regulations in California Code of Regulations, Title 2, Sections 18110 et seq., as amended, are to be relied upon in administering this article.
- (b) "Election" means any direct primary election, any general municipal election, and any special municipal election as outlined in Charter Sections 1400 and 1401. For purposes of this article, "election" does not include recall elections or elections on ballot measures.
- (c) "Enforcement Authority" means the officer, agent or organization designated by resolution of the Council to enforce the provisions of this article. Nothing in this article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this article.
- (d) "Entity" means any person, other than an individual.
- (e) "Majority-owned" means an ownership of more than 50 percent.
- (f) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, a controlled committee, and any other organization or group of persons acting in concert, as defined in Government Code Section 82047.
- (g) "Political Party Committee" means a state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code, as defined in Government Code Section 85206.
- (h) "Small contributor committee" as defined in Government Code Section 85203, means any committee that

meets all of the following criteria:

- (1) The committee has been in existence for at least six months; and
- (2) The committee receives contributions from 100 or more persons; and
- (3) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year; and
- (4) The committee makes contributions to five or more candidates.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

#### **SEC. 2-1104. - OFF-YEAR CONTRIBUTION PROHIBITION.**

In accordance with Charter Section 309, no Mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

#### **SEC. 2-1105. - CAMPAIGN CONTRIBUTIONS—LIMITATIONS ON AMOUNT.**

- (a) A person, other than a small contributor committee or a political party committee, may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a person, any contribution totaling more than three thousand two hundred dollars (\$3,200) per election. The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.
- (b) A small contributor committee may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a small contributor committee, any contribution totaling more than six thousand four hundred dollars (\$6,400) per election.
- (c) The contribution limitations set forth in this article shall be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index, as determined by the Fair Political Practices Commission pursuant to Government Code Sections 83124, 85301(a), and 83502(a).

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

#### **SEC. 2-1106. - LOANS.**

- (a) The provisions of this article do not apply to loans and extensions of credit made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.
- (b) In accordance with Government Code Section 85307, a candidate for elective City office may not personally lend to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

#### **SEC. 2-1107. - AFFILIATED ENTITIES: AGGREGATION OF CONTRIBUTIONS.**

- (a) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.
- (b) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- (c) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.
- (d) Contributions made by a husband and wife may not be aggregated, and shall be treated as contributions from separate persons. Contributions made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

#### **SEC. 2-1108. - RESTRICTIONS ON CONTRIBUTIONS BY CANDIDATES.**

A candidate for elective office or committee controlled by that candidate may not make any contribution to any candidate for elective city office in excess of the limits for persons set forth in Section 2-2205(a).

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1109. - RETURN OF EXCESSIVE CONTRIBUTIONS.**

The candidate or the candidate's controlled committee shall return any amount in excess of the contribution limit set forth in this article to the contributor within 14 days of receipt. The excess contribution and the date of its return shall be reported on a form prepared or provided by the City Clerk.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1110. - SEPARATE BANK ACCOUNT FOR ATTORNEY'S FEES.**

- (a) A candidate for elective city office or an elected city officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.
- (b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the Political Reform Act.
- (c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in the Political Reform Act.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1111. - ENFORCEMENT AUTHORITY—COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.**

- (a) Any person who believes that a violation of any portion of this article has occurred may file a report with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this article has occurred, he or she shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this article has occurred or is about to occur, he or she may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.
- (b) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this article and may demand, and shall be furnished, records of campaign contributions and expenses at any time.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1112. - ENFORCEMENT.**

- (a) Each candidate or treasurer who received part or all of the contributions in violation of the contribution limits of this article, shall pay promptly, from available campaign funds, if any, the amount received in excess of the amount permitted in this article, to the City Controller for deposit in the General Fund of the city, even though outstanding debts remain unpaid because of such forfeiture.
- (b) Any person who knowingly or willfully causes another person to violate any provision of this article, or who aids and abets any other person in the violation of any provision of this article, shall be liable under the provisions of this section.
- (c) Prosecution of violation of any provision of the article shall be commenced within four years after the date of the violation.
- (d) The enforcement provisions of this section are in addition to, and not in place of, any means of enforcement or remedies at law.
- (e) Any person who violates any of the provisions of this article shall, in addition to any other provisions of this article, be subject to the enforcement provisions set forth in the Political Reform Act, which are hereby incorporated by reference.
- (f) The Enforcement Authority may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 2-1113. - APPLICABILITY OF OTHER LAWS.**

Nothing in this article shall exempt any person from, or excuse such person's noncompliance with, applicable provisions of any other laws of the state or any other jurisdiction.

*(Added Ord. 2003-84, § 1, eff. 11-2-03; Am. Ord. 2007-55, § 4, eff. 9-4-07).*

**SEC. 3-103. - PERMISSIBLE POLITICAL ACTIVITIES.**

The limitations on political activities imposed by Section 813 of the Charter shall not be deemed to prevent any person who holds a position in the administrative service, or whose name is on any register for appointment to a position in the administrative service, from

- (1) Attending a political meeting;
- (2) Enjoying entire freedom from all interference in casting his vote;
- (3) Seeking or accepting election or appointment to public office;
- (4) Seeking signatures to any initiative or referendum petition affecting his rates of pay, hours of work, retirement, civil service, or other working conditions provided such activity is not carried on during hours of work. (Rep. and Added Ord. 5988, 1961, based on former Secs. 2-814 and 2-815; Am. Ord. 69-90, 1969).

Exhibit D

**SEC. 12-1710. - EXEMPT SIGNS.**

The following signs, if nonilluminated, shall be exempt from the application, permit, and fee requirements of this article:

- (a) **Window Signs.** Window signs not exceeding six square feet and limited to lease, sale, business identification, hours of operation, address, and emergency information only.
- (b) **Real Estate Signs.** Real estate signs, other than temporary on- and off-site subdivision signs, provided that:
  - (1) The number and size of such signs displayed complies with the limitations of the relevant zone district.
  - (2) No individual sign exceeds thirty-two square feet in area, including any attached rider(s) used to provide additional information about the property.
  - (3) If free-standing, such sign does not exceed six feet in height.
  - (4) Any model home sign is removed after the lot or home is sold, any open house sign is removed after forty-eight hours and any other on-site real estate sign is removed within fifteen (15) days of the close of escrow or occupancy of the premises.
- (c) **Memorials.** Memorial tablets and plaques installed by an historical agency, provided such historical agency submits a letter to the Director which requests application of this exception and describes the memorial tablet or plaque. The Director shall review the request within five (5) working days of receipt and shall approve or deny the request. The request will be deemed approved if the Director does not deny the request within such review period.
- (d) **Convenience Signs.** Convenience signs not exceeding four square feet in area.
- (e) **Identification Signs.** Identification signs on residential buildings used to identify individual residences and not exceeding two square feet.
- (f) **Official Notice.** Official and legal notices issued by any court, public body, person or officer in the performance of a public duty or in giving any legal notice.
- (g) **Directional Signs.** Directional or identification signs not exceeding six square feet in area or required by law, or by federal, state, county or city authority.
- (h) **Flags.** Official flags of the United States of America, the State of California and other states of the United States, counties, municipalities and official flags of foreign nations and flagpoles or similar supporting structures attached to buildings. Decorative cloth flags and banners, not exceeding eighteen square feet in area and attached singly or in pairs to light standards or individual poles, which are used to attract the attention of the public or complement the visual appearance of a development which do not contain written copy and such flags or banners which have written copy provided such flags and banners with copy comply with 12-1713(l). Freestanding flagpoles or similar structures, used exclusively to support a flag or decorative banner, are exempt from the sign permit requirement but shall not be installed without issuance of a building permit, and must conform to the height and number limitations stated in Chapter 12 for the appropriate zone district.
- (i) **Barberpoles.** Barberpoles less than eighteen (18) inches in height.
- (j) **Public Carriers.** Signs on public carriers vehicles, such as buses, taxicabs and limousines.
- (k) **Political signs.** Political signs, provided that:
  - (1) Such sign does not exceed thirty-two square feet in area.
  - (2) Such sign is not erected or displayed earlier than ninety days before the election to which it relates, nor later than fifteen days following such election.
  - (3) Such sign is not attached to any utility pole and such sign, or portion thereof, is not placed in any public right-of-way or on any property owned by the City of Fresno or Redevelopment Agency of the City of Fresno. Such sign is placed on private property with the permission of the property owner or is attached to an existing sign on private property with the permission of the sign owner or lessee.
  - (4) Such sign is not erected in such a manner that it will, or reasonably may be expected to, interfere with, obstruct, confuse or mislead traffic.
  - (5) Signs not erected or maintained in accordance with the provisions of this subsection shall be the responsibility of the owner of the property upon which the sign is located, shall be deemed a public nuisance, and may be abated by such property owner, the candidate or person advocating the vote described on the sign, or the Development Director. The cost of removal incurred by the Development Director shall be assessed against the property owner and/or the candidate and/or the person advocating the vote described on the sign.
- (l) **Roof Address and Location Signs.** Signs on roofs of buildings used for industrial, commercial or office purposes, or public buildings, provided that:
  - (1) Such sign contains only the street address of the building, the name of the building or other information that will assist law enforcement personnel in locating the building from the air.
  - (2) Such sign is located only on a flat roof, and is either painted on the roof surface or on a rectangular or square board firmly affixed to the roof surface.
  - (3) Such sign consists of either white numerals and letters on black background or black numerals and letters on white background, and such numerals and letters are no less than three feet high and no