

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1243

Amending Multnomah County Code Chapter 5 – Elections to Add Section 5.200 - Campaign Finance and Declaring an Emergency.

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Pursuant to Multnomah County Home Rule Charter Section 12.30 – 12.70, a Charter Review Committee was convened in September 2015. A majority of the Committee voted to submit to the voters of Multnomah County a Charter amendment regulating campaign contributions and expenditures in Multnomah County candidate elections. The Board of County Commissioners is required to submit all proposed amendments to the Charter to the people of Multnomah County.
- b. The proposed amendment was passed by Multnomah County voters, with 88% of voters voting in favor of the Charter amendment. The Charter amendment becomes operative by its terms on September 1, 2017.
- c. The Campaign Finance charter amendment was added to the County Charter at Section 11.60.
- d. This ordinance implements the above described Charter amendment.
- e. There are concerns that Multnomah County Charter Section 11.60 may violate constitutional protections, including but not limited to Article I, section 8 of the Oregon Constitution and the First Amendment of the United States Constitution as an impermissible limitation on protected speech or association.
- f. In light of these concerns, the Board requests the County Attorney to initiate a Validation Action pursuant to ORS 33.710(2)(e)-(g) in Multnomah County Circuit Court to determine the regularity and legality of this ordinance, including the constitutionality of the ordinance.
- g. Notice of the Validation Action will be published at least once per week for three weeks, and interested parties will have an opportunity to appear and participate in the lawsuit in accordance with ORS 33.720.

Multnomah County Ordains as Follows:

Section 1. MCC 5.200 is added as follows:

§ 5.200 - Definitions.

Unless otherwise indicated by the text or context of this Section, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of November 8, 2016. Terms found therein or defined below are capitalized in this Section.

"Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."

"Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, signs smaller than 6 square feet, or a distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.

"Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include (1) funds provided by government systems of public funding of campaigns or (2) providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.

"Election cycle" means:

- (A) Generally, the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.
- (B) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
- (C) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.

"Entity" means any corporation, partnership, limited liability company, proprietorship, or other form of organization which creates an entity which is legally separate from an Individual.

"Expenditure" has the meaning set forth at ORS 260.005(8) and 260.007, as of November 8, 2016, except that it does not include Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of

influencing the outcome of contests.

"Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Amendment expresses a limitation or prohibition, "Individual" means any human being.

"Membership Organization" means an incorporated or unincorporated nonprofit organization having members who pay dues or otherwise affirmatively join and support the organization.

"Multnomah County Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of Multnomah County.

"Small Donor Committee" means a Political Committee which cannot accept Contributions in amounts exceeding one hundred dollars (\$100) per Individual contributor per calendar year.

Section 2. MCC 5.201 is added as follows:

§ 5.201 - Contributions in Multnomah County Candidate Elections.

(A) An Individual or Entity may make Contributions only as specifically allowed to be received in this Section.

(B) A Candidate or Candidate Committee may receive only the following contributions during any Election Cycle:

- (1) Not more than five hundred dollars (\$500) from an Individual or a Political Committee other than a Small Donor Committee;
- (2) Any amount from a Small Donor Committee; and
- (3) No amount from any other Entity.

(C) Individuals shall have the right to make contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

Section 3. MCC 5.202 is added as follows:

§ 5.202 - Expenditures in Multnomah County Candidate Elections.

(A) No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Section.

(B) An Entity shall register as a Political Committee within three (3) business days of making aggregate Independent Expenditures exceeding \$750 in any Election cycle to support or oppose one or more Candidates in any Multnomah County Candidate Election.

(C) Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular Multnomah County Candidate Election:

- (1) An Individual may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).
- (2) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 5.200.
- (3) A Political Committee may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of contributions to the Political Committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

Section 4. MCC 5.203 is added as follows:

§ 5.203 - Timely Disclosure of Large Contributions and Expenditures.

Each Communication to voters related to a Multnomah County Candidate Election shall prominently disclose the Individuals and Entities that are the five largest true original sources, in excess of \$500 each, of the Contributions and/or Independent Expenditures used to fund the Communication.

Section 5. MCC 5.204 is added as follows:

§ 5.204 - Implementation and Enforcement.

(A) The provisions of this Section shall be operative not later than September 1, 2017.

(B) Each violation of any provision in this Section shall be punishable by imposition of a civil fine, which is not less than two or more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure.

Section 6. MCC 5.205 is added as follows:

§ 5.205 - Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

Section 7. MCC 5.206 is added as follows:

§ 5.206 - Severability.

For the purpose of determining constitutionality, every subsection, and subdivision thereof this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

Section 8. This Ordinance goes into effect on September 1, 2017.

FIRST READING AND ADOPTION:

April 6, 2017

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Deborah Kafoury, Chair



REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Jacqueline A. Weber, Deputy County Attorney

SUBMITTED BY: Jenny M. Madkour, County Attorney.