# URGENCY ORDINANCE NO. 2014-04-1469

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIGNAL HILL, CALIFORNIA, AMENDING CHAPTER 2.90 OF THE SIGNAL HILL MUNICIPAL CODE, ELECTION AND CAMPAIGN CONTRIBUTIONS TO DISCLOSE INDEPENDENT EXPENDITURES BY OUTSIDE PARTIES**

**WHEREAS,** a purpose and intent of Chapter 2.90 of the Signal Hill Municipal Code is to preserve an orderly forum in which political individuals and groups may express themselves effectively; and

**WHEREAS**, Chapter 2.90 currently requires the disclosure of direct campaign contributions of City Council, City Treasurer and City Clerk candidates; and

**WHEREAS**, Chapter 2.90 currently does not require the disclosure of campaign contributions made by any person or group in support or opposition to a candidate or measure; and

**WHEREAS**, in both 2011 and 2013 general municipal elections, significant expenditures were made in mass mailings opposing City candidates; and

**WHEREAS**, recent National, State and local elections have seen the proliferated influence of Political Action Committees (organizations that pool campaign contributions from members and donates those funds to campaign for or against candidates, ballot initiatives, or legislation), 501(c)(3) tax-exempt groups (corporations, associations or foundations organized exclusively for religious, charitable or scientific purposes) and 501(c)(4) tax exempt groups (civic leagues, corporations or local associations of employees operating exclusively for the promotion of "social welfare"); and

**WHEREAS**, this Urgency Ordinance will require persons, organizations, not-for profits and political action committees to disclose independent expenditures; and

**WHEREAS**, on June 3, 2014, the City of Signal Hill will hold a special municipal election on a ballot measure and the disclosure requirements of Chapter 2.90 apply directly to the June 3, 2014 election; and

**WHEREAS**, pursuant to Government Code Section 36937(b) this Urgency Ordinance shall take effect immediately upon adoption for the immediate preservation of the public peace, health or safety of the City of Signal Hill; and

**WHEREAS**, the City Council finds that the proposed amendments to Chapter 2.90 will assist in City efforts to bring campaign finance transparency and disclosure to the upcoming June 3, 2014 election and subsequent elections; and

**WHEREAS**, the City Council finds that the operation of transparent, fair and impartial elections is vital to the public peace, health and safety of the City of Signal Hill.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIGNAL HILL, CALIFORNIA HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 2.90 of the Signal Hill Municipal Code is hereby amended as follows:

**2.90.010 Purpose and intent.** Inherent to the cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials. It is the purpose and intent of the city council in enacting the ordinance codified in this chapter to preserve an orderly political forum in which individuals and groups may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal elections for city offices; to limit the use of loans and credit in the financing of municipal election campaigns; and to provide full and fair enforcement of all the provisions of this chapter.

**2.90.020 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

A. "Campaign contribution limitation" means contributions over a given election cycle from the contributing person in support of or in opposition to any candidate, including contributions to all the candidate's controlled committees, of $440 for the 2006 election cycle, provided, that such dollar limit shall increase by 12% on January 1, 2010, and by the same percentage on January 1st of every fourth year thereafter. This amount shall be rounded up or down to the nearest amount divisible evenly by $25.

B. "City office" means an elected office of the city, including the city council, the city clerk and city treasurer, or any other office which shall become elective in the future.

C. "Election cycle" means:

1. For an incumbent candidate seeking re-election, a period beginning from the date the office holder assumes his or her city office for his or her present term, and ending on the date the newly elected person assumes the city office following the election in which the candidate seeks re-election;

2. For an incumbent city office holder raising funds for election to any other city office, a period of two years prior to the date of the election for the city office sought;

3. For non-incumbent candidates in any regular election for city office, a period commencing from the date of the last regular election and ending on the date of the election for the city office sought;

4. For non-incumbent candidates in any special elections for city office, a period beginning from the date the special election is set for the ballot and ending on the date of the special election for the city office sought.

D. "Express advocacy" means communications that advocate support or opposition of a clearly identified candidate or ballot measure. A communication expressly advocates support or opposition when it uses words such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for," or the communication, taken as a whole, unambiguously urges a particular result in an election.

E. "Independent expenditure" means:

1. an expenditure having a value of one-hundred dollars ($100) or greater, made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

2. An independent expenditure is made on the date the payment is made, services are rendered, or consideration, if any, is received, whichever is earlier.

3. An expenditure made at the behest of the affected candidate or committee is not an independent expenditure.

F. For purposes of this chapter, street address means the street name and building number, and the city, state, and ZIP Code, or the Army and Air Force Post

Office (A.P.O.) or Fleet Post Office (F.P.O.) address assigned by the United States government to an individual or a dependent who resides with the individual when the individual is on government duty outside the United States and does not have a conventional street address.

G. For purposes of this chapter, spouse shall include Domestic Partner as defined by Section 297 of the Family Code of California.

**2.90.030 Campaign contribution checking account.** Each candidate and each controlled committee shall establish a campaign contribution checking account within five business days following receipt of a contribution, but no later than five business days after the candidate files his or her nomination papers, whichever shall first occur. Each committee shall establish a campaign contribution checking account within five business days following receipt of a contribution. The name of the bank and the number of the account shall be filed with the city clerk within five business days after the opening of the account. All contributions of money or checks, or anything of value converted by the candidate or committee to money or a check, made to a candidate, to a person on behalf of a candidate, or to a committee shall be placed in the candidate's or committee's checking account within five business days after receipt thereof. A candidate and his or her controlled committee shall establish and maintain one joint checking account. A candidate's personal campaign funds, and including contributions from the candidate's spouse, shall also be placed in his or her campaign contribution checking account before being disbursed for use in his or her campaign.

**2.90.040 Liquidation of accounts.** In the event that payment has been made for all goods and services furnished in connection with the campaign of a candidate or controlled committee, a campaign contribution checking account may be liquidated by paying the remaining balance in the account to the candidate or controlled committee for use in any lawful manner. In the event that payment has been made for all goods and services furnished in connection with the activities of a committee other than a controlled committee, a campaign contribution checking account may be liquidated by paying the remaining balance to the city treasurer for deposit into the city's general fund.

**2.90.050 Accountability.**

A. Contribution Checks—Auditing. Each candidate or committee establishing a campaign contribution checking account shall designate an individual as treasurer, who shall maintain a record which shall include copies of checks of every contribution received, and be in sufficient detail to permit an auditing of the account.

B. Filing Campaign Statements. The treasurer of a candidate or committee formed, or existing, primarily to support or oppose a candidate or candidates for city office, or active only within the city and involved in any election for city office, shall prepare a campaign statement on a form prescribed by the city clerk and file same with the city clerk at the following times:

1. On the dates required for filing of campaign statements under Article 2 of Chapter 4 of the California Political Reform Act (Government Code § 84200-84225).

2. On the fourteenth day after any municipal election at which the candidate is seeking office covering the period ending 16 days prior to the election through the second Thursday following the election.

C. Report Contents. The campaign statements required to be filed with the city clerk shall disclose the total amount of contributions received and expenditures made, the name of each person who contributed one hundred dollars or more, the name of each person to whom an expenditure was made, and all other information required under Government Code § 84211.

D. Public Records. The campaign statements described in this section, and all information filed with the city clerk in connection with campaign statements shall be deemed to be public records and shall be subject to public disclosure upon request.

**2.90.060 Campaign contributions limitation.**

A. No person, other than a candidate or the candidate's spouse, shall make, no candidate or committee shall solicit or accept, and no person working for a candidate or a committee shall solicit or accept, any contribution in excess of the campaign contribution limitation. This section shall not limit contributions to the campaign made personally by the candidate, or the candidate's spouse, from his or her own funds; provided such contributions are placed into the campaign contribution checking account pursuant to Section 2.90.030, and further provided, that the candidate, or spouse, is not acting as an agent or intermediary for any other person.

B. Extensions of credit to a candidate or committee for purposes of aiding the political activity of a candidate or committee in amounts of more than the campaign contribution limitation and for periods of longer than sixty days are prohibited; provided, that a candidate may personally borrow funds where such funds will be the candidate's personal contribution to his or her campaign if the loan is a bona fide loan made on such terms and conditions comparable to those available from commercial lending institutions for loans not made for political purposes, including payment of a reasonable rate of interest and a reasonable, specific repayment schedule. The loan shall be made in the form of a loan agreement, promissory note or other appropriate written document, which document shall be maintained and made available pursuant to Section 2.90.050.

C. The terms of this chapter are applicable to any contribution, whether it is used in a current campaign, or to pay deficits incurred in prior campaigns, or otherwise.

**2.90.070 Assumed name contributions.** No contribution shall be made, directly or indirectly, by any person or combination of persons acting jointly in a name

other than the name by which he or she or it is identified for legal purposes, nor in the name of any other person or combination of persons, nor anonymously. No person shall make a contribution in the name of any person who is not eligible to vote because of age. No person shall make a contribution in his, her or its name of anything belonging to another person or received from another person on the condition that it be used as a contribution. Whenever it is discovered that a contribution has been received in violation of this section, that contribution shall be returned to whoever made it, and the city clerk shall be notified by the recipient of the contribution of the amount of the contribution and the person to whom it was returned. If the recipient of the contribution cannot ascertain the person who made the contribution, the contribution shall be forwarded to the city treasurer for deposit in the general fund of the city.

**2.90.080 Expenditures uncontrolled by a candidate or a controlled committee.** Persons not subject to the control of a candidate or a candidate's controlled committee who make independent expenditures for or against a candidate or identified group of candidates for city office shall indicate clearly on any material published, displayed or broadcast that the expenditure was not authorized by a candidate or a candidate's controlled committee whenever such an expenditure, in whole or in part, would have been covered by the provisions of this chapter were it subject to the control of a candidate or a candidate's controlled committee.

**2.90.085 Independent expenditure reports.**

A. Any person or committee meeting the criteria of subsection D of this section, which makes independent expenditures in excess of one hundred dollars ($100.00) in any calendar year, shall file an independent expenditure report with the city clerk.

B. Independent expenditure reports required hereunder shall be in a form provided by the city clerk, and shall contain all of the following:

1. The name, street address, and telephone number of the person or committee making the expenditure and of the committee's treasurer;

2. If the report is related to a candidate, the full name of the candidate and the office for which the candidate seeks nomination or election;

3. The total amount of expenditures related to the candidate during the period covered by the report made to persons who have received less than one hundred dollars;

4. The total amount of expenditures related to the candidate during the period covered by the report made to persons who have received one hundred dollars or more;

5. For each person to whom an expenditure of one hundred dollars or more related to the candidate has been made during the period covered by the report, or for each person who has provided consideration to the maker of the independent expenditure for an expenditure of one hundred dollars or more during the period covered by the report:

a. His or her full name,

b. His or her street address,

c. If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee,

d. The date of the expenditure,

e. The amount of the expenditure,

f. A brief description of the consideration for which each such expenditure was made and the value of the consideration if less than the total amount of the expenditure,

g. The cumulative amount of expenditures to such person over the period covered by the report.

6. A list of all the filing officers with whom the committee filed its most recent campaign statement.

C. The independent expenditure reports required hereunder shall be filed semiannually. On January 31st a report shall be filed for the period covered July 1st through December 31st of the preceding year. On July 31st, a report shall be filed for the period covering January 1st through June 30th of that year. A supplemental independent expenditure report shall also be filed for any independent expenditure which totals in the aggregate one thousand dollars or more and is made for or against any specific candidate for city office, after the closing date of the prior semiannual report period. Such supplemental independent expenditure report shall be in a form provided by the city clerk, and shall be filed within twenty-four hours of the making of the independent expenditure.

D. The independent expenditure reporting requirements herein shall apply only to candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose the candidacy of a candidate for city office, to committees formed or existing primarily to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in the city, and to city general purpose committees, and to other committees active only within the city.

**2.90.086 Independent Expenditures By Outside Parties.**

A. Disclosure of Expenditures.

1. Any person, organization, not-for-profit or political action committee that makes an independent expenditure of one hundred dollars ($100.00) or more in support of or in opposition to any measure or candidate, or group of measures or candidates, in the 40 days preceding an election in which the measure or candidate, or group of measures or candidates, appears on the ballot, shall notify the City Clerk within 24 hours by personal delivery, fax, overnight mail, or other electronic means as authorized by law each time an expenditure which meets this threshold is made.

2. Notification shall consist of submittal of Form 461, 465, 496, or 462, or any other form(s) as published and required by the Fair Political Practices Commission.

3. The City Clerk shall post a copy of the notice to the City's website within two business days after receiving the notice.

4. Late independent expenditures shall be reported on subsequent campaign statements in addition to the reports filed pursuant to this section.

5. The person shall also provide to the City Clerk three copies of the communication funded by the expenditure.

B. Contents of Notice. The notice shall specify:

1. Each candidate or measure supported or opposed by the expenditure;

2. The amount spent to support or oppose each candidate or measure;

3. Whether the candidate or measure was supported or opposed;

4. The date and amount of each expenditure;

5. A description of the type of communication for which the expenditure was made;

6. The name and address of the person making the expenditure; and

7. The name and address of the payee.

C. The notice shall include a statement that the expenditure was not made at the behest of any candidate or ballot measure proponent who benefited from

the expenditure; and shall be signed under penalty of perjury by both a responsible officer and the treasurer of the committee making the expenditure.

D. Notification to Candidates of Expenditures. The City Clerk shall notify all candidates and committees in each affected race by electronic mail within one business day of receiving notice of the independent expenditures of one hundred dollars ($100.00) or more. This notification will indicate who was supported or opposed by the independent expenditure and include a copy of the communication provided by the person/group making the expenditure.

E. Exemption for Regularly Published Newsletters. For purposes of the notification required by subsection (A) of this section, payments by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication, shall not be required to be reported.

**2.90.087 Independent Expenditures – Advertisements-Disclosures.**

A. If the expenditure for a broadcast or mass mailing advertisement that expressly advocates the election or defeat of any candidate is an independent expenditure, the committee shall include on the advertisement "Paid for by" immediately followed by the name, address, and city of that committee including the person controlling the committee, as well as the names of the two persons making the largest cumulative contributions to the committee making the independent expenditure.

B. If an acronym is used to specify any committee names in this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements.

C. For the purposes of determining the two contributors to be disclosed, the contributions of each person to the committee making the independent expenditure during the one-year period before the election shall be aggregated.

D. Any broadcast or mass mailing advertisement by an independent expenditure committee that expressly advocates the election or defeat of any candidate shall clearly state that the advertisement is authorized and paid for by a committee independent of the candidate.

**2.90.088 Independent Expenditure for Paid Online Communications.**

A. When reporting an Independent expenditure a person or committee, must specifically describe amounts the committee paid to provide content on a candidate or ballot measure by:

1. Providing content for posting on a web site or a web log ("blog"), whether one's own or another's;

2. Providing content for or posting on a social media platform or service;

3. Providing video content for posting online.

B. When reporting these expenditures, whether the payment is made directly or through a third party, a person or committee must list specific details of the payment, including, but not limited to, the amount of the payment, the payee, the name of the person providing content, and the name of the website or the URL on which the communication is published in the first instance. The person or committee must report the expenditure for online content using the expenditure code "WEB" and the specifics described in this section.

C. Paid advertisements placed on the Internet by a recipient committee that are purchased at regularly published rates are not subject to the additional reporting required by this regulation.

D. The reporting in this regulation does not apply to payments that a recipient committee makes to a person for producing content solely for the committee's own websites or social media accounts.

E. If the fact that a campaign has paid for content as described in this regulation is posted in a clearly conspicuous manner along with the posted content in each instance of the content appearing on the Internet or other digital platform, reporting is not required as described in this regulation. For example, the following type of posting would satisfy this requirement: "The author was paid by the Committee to Re-Elect Mayor Jane Doe in connection with this posting".

F. "Content" means that which is offered on a website or other digital platform in writing, picture, video, photograph or other similar format. Content does not include clicking on images to cast a "vote" or opinion, nor does it include commentary posted in response to another person's content.

**2.90.090 Enforcement—Violation—Penalties.**

A. In addition to any other penalty provided by law, any person who knowingly or willfully violates any provision of this chapter, including any willful or knowing failure to keep a record of contributions, to place contributions in a campaign contribution checking account, or to refuse excessive contributions, shall be guilty of a misdemeanor and punishable as provided in Section 1.16.010 of this code.

B. Any contribution received in violation of this chapter shall be returned to the contributor if the funds can be identified; if the funds cannot be identified, the amount of the contribution made in violation of this chapter shall be paid to the city treasurer for deposit in the general fund of the city.

C. The city attorney may maintain in the name of the city a civil action at any time during an election cycle or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain a judicial declaration regarding the applicability of or compliance with, the provisions of this chapter.

D. The city attorney may maintain in the name of the city a civil action to recover from a candidate, or committee, or from any person who intentionally or negligently violates any of the reporting requirements or contribution limitations set forth in this chapter, an amount up to the campaign contribution limitation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to this chapter, whichever is greater. Any money recovered in any such action shall be deposited in the city's general fund.

E. Any limitation of time prescribed by law within which criminal prosecution or a civil action pursuant to this chapter must be commenced shall not begin to run until discovery of the violation.

F. If, after election, any holder of a city office is convicted of a violation of any provision of this chapter, such violation shall constitute an offense involving violation of official duties, and the office shall be deemed vacant pursuant to Government Code Section 1770. Any person convicted of a violation of this chapter shall be ineligible to hold a city office for a period of five years from and after the date of the conviction.

**2.90.100 Application of limitation upon amendment of chapter or adjustment of limitation.**

A. In determining whether any particular contribution exceeds the campaign contribution limitation, all contributions made during the election cycle including the effective date of any ordinance amending this chapter, shall be counted towards the campaign contribution, provided that no person whose contributions exceed the campaign contribution limitation during such period as a result of any amendment shall be in violation of this chapter so long as that person does not make, solicit or accept further contributions in support of or in opposition to a candidate or group of candidates until that person would otherwise be permitted to make, solicit or accept contributions pursuant to this chapter.

B. Upon adjustment of the amount of the campaign contribution limitation pursuant to subsection A of Section 2.90.020, the given election cycle for determining the appropriateness of the contribution shall remain the election cycle in which the adjustment becomes effective.

**2.90.110 Burden of proof.** Wherever this chapter provides that a contribution or expenditure is exempt from the provisions hereof if "it is clear from the surrounding circumstances that it is not made for political purposes," the burden of proof

shall be on the candidate or committee to demonstrate by clear and convincing evidence that such contribution or expenditure does not have a political purpose and, unless such burden is met, it shall be presumed that the purpose is political.

**2.90.120 Rules of construction.** This chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this chapter that does not directly affect the jurisdiction of the city council to control campaign contributions shall avoid the effect of this chapter.

**2.90.130 Severability.** If any provision of this chapter or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

**SECTION 2. Urgency Clause.** It is urgent to adopt this Ordinance under Government Code Section 36937(b) because the City will conduct a special election on June 3, 2014. The amendments described above will assist in City efforts to bring campaign finance transparency and disclosure to the June 3, 2014 special election. Specifically, Chapter 2.90.086(A)(1) now requires the disclosure of expenditures by outside parties in the forty (40) days preceding an election. Adopting this Ordinance pursuant to Government Code Section 36937(b) means that this requirement will now take effect prior to the June 3, 2014 special election and expenditures by outside parties must be disclosed. Such action ensures that the City of Signal Hill operates a transparent, fair and impartial special election on June 3, 2014, which is vital to the public peace, health and safety of the community.

**SECTION 3. Effective Date.** Pursuant to Government Code Section 36937(b), this Ordinance shall take effect immediately upon a 4/5ths approval vote by the City Council.

**SECTION 4. Certification and Publication by City Clerk.** The City Clerk shall certify and publish to the passage and adoption of this Ordinance by the City Council of the City of Signal Hill and shall cause a summary of this ordinance to be published in accordance with Government Code Section 36933.

**PASSED, APPROVED and ADOPTED** this 15th day of April, 2014.

[redacted]

EDWARD H.J. WILSON
MAYOR

ATTEST:

[redacted]

KATHLEEN L. PACHECO
CITY CLERK

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) ss.
CITY OF SIGNAL HILL )

I, KATHLEEN L. PACHECO, City Clerk of the City of Signal Hill, California, hereby certify that Ordinance No. 2014-04-1469 was introduced and adopted at a regular meeting of the City Council of the City of Signal Hill held on the 15th day of April, 2014, and that the same was adopted by the following roll call vote:

AYES: VICE MAYOR LARRY FORESTER, COUNCIL MEMBERS TINA L. HANSEN, MICHAEL J. NOLL, LORI Y. WOODS

NOES: NONE

ABSENT: MAYOR EDWARD H.J. WILSON

ABSTAIN: NONE

[redacted]

KATHLEEN L. PACHECO
CITY CLERK

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES )SS
CITY OF SIGNAL HILL )

I, KATHLEEN L. PACHECO, City Clerk of the City of Signal Hill, California, do hereby certify that this document is a true and correct copy of Urgency Ordinance No. 2014-04-1469, which was introduced and adopted at a regular meeting of the City Council on Tuesday, April 15, 2014, and that it has been published and posted pursuant to G.C. 36933, G.C. 40806, and SHMC 1.08.010.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 15th of April 2014.

KATHLEEN L. PACHECO, City Clerk
City of Signal Hill, California