

**MARIN COUNTY BOARD OF SUPERVISORS**

**ORDINANCE NO. 2009-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ENACTING CAMPAIGN FINANCE REFORM FOR INDEPENDENT EXPENDITURES; AND ALSO FOR PROVIDING PENALTIES FOR VIOLATION OF THE TERMS OF THIS ORDINANCE.**

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**SECTION I. FINDINGS**

**The Marin County Board of Supervisors finds as follows:**

**WHEREAS**, integrity in the political process is of paramount importance in County elections; and,

**WHEREAS**, in prior County elections, mailers by independent expenditures have, at times, contained misleading information and voters have not always been aware of who supports or opposes a campaign message; and,

**WHEREAS**, meaningful disclosure laws related to independent expenditures in County elections are essential to the political process because they ultimately affect the voters' ability to make informed choices; and,

**WHEREAS**, increased disclosure requirements for independent expenditures in County elections will ensure transparency of independent expenditures so that voters are provided information on contributors, contributions and expenditures in a timely manner.

**NOW, THEREFORE**, the Board of Supervisors of the County of Marin does hereby ordain as follows:

**SECTION II. Chapter 2.02 is hereby added to the Marin County Code as follows:**

## **Chapter 2.02      Disclosure and Reporting Requirements for Independent Expenditures.**

### **Section 2.02.010    Purpose:**

The purpose of this ordinance is to ensure transparency of independent expenditures so that voters are provided information on contributors, contributions and expenditures in a timely manner.

### **Section 2.02.020    Intent:**

This ordinance is intended to supplement the Political Reform Act of 1974. Unless a word or term is specifically defined in this ordinance, or the contrary is stated or clearly appears from the context, words and terms used herein shall have the same meaning as defined or used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, and as supplemented by the Regulations of the Fair Political Practices Commission as set forth in Title 2, Division 6 of the California Code of Regulations, as the same may be, from time to time, amended.

### **Section 2.02.030.    Definitions:**

The following definitions shall be used for the purposes of interpreting the provisions of this ordinance:

- (a) "County candidate" means any person who is a candidate for a county office as defined in section (d) below.
- (b) "County measure" means any local measure placed on the ballot by the County of Marin in an election which is governed by the Elections Code.
- (c) "County election" means any primary, general, runoff, special or recall election.
- (d) "County office" means the office of county supervisor, assessor-recorder, auditor-controller, county clerk, treasurer-tax collector, district attorney, sheriff, and coroner.
- (e) "Elective county officer" means any member of the board of supervisors, the assessor-recorder, auditor-controller, county clerk, treasurer-tax collector, district attorney, sheriff, or coroner, whether appointed or elected.
- (f) "Individual" means a living person contributing funds.
- (g) "Independent Expenditure" means an expenditure made by any person or committee 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.

**Section 2.02.040. Reporting of Independent Expenditures:**

(a) Disclosure of Payments for Independent Expenditures shall be as follows:

(1) At any time, any person, including any committee, that makes or incurs independent expenditures that combine to \$1,000 or more in support of or in opposition to any candidate for elective County office or any County measure as defined herein shall report to the Marin County Registrar of Voters office within twenty-four (24) hours by certified mail, fax or e-mail each time this threshold is reached. The form of notification is described in subsection (a) (2) and (a) (3) of this section. Additionally, all contributions of \$100 or more shall be itemized in the report and shall be posted with the report immediately to the County's website.

(2) The notification shall consist of a declaration made under penalty of perjury and signed by the person or officer and the treasurer of the group making the expenditure, specifying the following: (i) if applicable, each candidate who was supported or opposed by the expenditure; (ii) the amount spent to support or oppose each candidate or measure; (iii) if applicable, whether the measure was supported or opposed; and, (iv) the expenditure was not behested by the candidate or candidates who benefited from the expenditure.

(3) In addition, the notification will include the date and amount of the payment, a description of the type of communication for which the payment was made or incurred, the name and address of the person making the payment, the name and address of the payee or committee, and a copy of the mailing or advertisement, or a copy of the script or recording of the call, transmission, or advertisement. The Marin County Registrar of Voters shall determine the reporting form to fulfill the notification requirement.

**Section 2.02.050. Additional Requirements for Campaign Communications Funded By Independent Expenditures**

(a) Campaign communications funded by an independent expenditure supporting or opposing County candidates or County measures shall include the following disclosures: "This communication was not authorized by candidate \_(name)\_ for \_(office)\_" or "\_\_\_(name) initiative proponent".

(b) Campaign communications funded by an independent expenditure supporting or opposing County candidates or County measures shall include the names of the three largest contributors of \$2,000 or more listed in order of their contribution amounts (the largest contributor listed first), city and state of residence. In the event that more than three donors meet this disclosure threshold at identical contribution levels, the first three

highest shall be selected according to chronological sequence. If the committee can show, on the basis that contributions are spent in the order they are received, that one or more of the contributions received from the three highest contributors have been used for expenditures unrelated to the candidate or ballot measure featured in the communication, the committee shall disclose the contributors making the next largest cumulative contribution of \$2,000 or more. The communication shall further include the following: "Additional information regarding the contributors of \$100 or more to this committee can be found at [www.marinvotes.org](http://www.marinvotes.org)." The disclosure required by this section shall be presented in a clear and conspicuous manner as to give the reader, observer or listener adequate notice as follows:

(1) For printed campaign communications that measure no more than twenty-four inches by thirty-six inches, all disclosure statements required by this section shall be printed using a typeface that is easily legible to an average reader or viewer, but is not less than 10 point type in contrasting color to the background on which it appears. For oversize printed campaign communications, all disclosure statements shall constitute at least five percent of the height of the material and be printed in contrasting color.

(2) For video broadcasts including television, satellite, internet, telephone and cable campaign communications, the information shall be both written and spoken either at the beginning or at the end of the communication, except that if the disclosure statement is written for at least five seconds of a broadcast of thirty seconds or less or ten seconds of a sixty second broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be of sufficient size to be readily legible to an average viewer and air for not less than five seconds.

(3) For audio, telephone call or radio advertisement campaign communications, the disclosures shall be spoken in a clearly audible manner at the same speed and volume as the rest of the telephone call or radio advertisement at the beginning or end of the communication and shall last at least three seconds. The requirement shall be satisfied by using the words "on behalf of" immediately followed by the name of the candidate or committee that pays for the communications.

(c) For purposes of this section, "campaign communication" includes any of the following campaign related items:

(1) More than 200 substantially similar pieces of campaign literature distributed within a calendar month, including but not limited to mailers, flyers, facsimiles, pamphlets, door hangers, e-mails, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger;

(2) Posters, yard or street signs, billboards, super-graphic signs and similar items;

(3) Television, cable, satellite and radio broadcasts;

(4) Newspaper, magazine, internet website banners and similar

advertisements; or,

(5) 200 or more substantially similar live or recorded telephone calls made within a calendar month.

(d) For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, skywriting or other items on which the statement required by this section can not be reasonably printed or displayed in an easily legible typeface; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members other than a communication from a political party to its members.

### **Section 2.02.060. Enforcement of Chapter**

(a) Notwithstanding any other provision of the Marin County Code, any person who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall be liable as set forth in Section 1.04.270.

(b) In addition to the penalty set forth in subsection (a) of this section, any person who intentionally or negligently violates any section of this chapter shall be subject to an administrative fine for a sum of \$5,000 for each violation, or up to 3 times the amount of the communication, whichever is greater. In imposing the administrative fine, the Registrar of Voters shall issue a notification of violation setting forth the violation and the amount of the fine.

(c) Any person subject to an administrative fine pursuant to subsection (b) of this section shall have the right to request an administrative hearing within forty-five days of the issuance of a citation for a civil violation of this chapter pursuant to the authority granted to the board of supervisors by Government Code Section 25845, subdivision (i). To request such a hearing, the person requesting the hearing shall notify the Marin County Administrator’s office in writing within forty-five days of the issuance of the citation. The Marin County Administrator’s office shall refer any request for a hearing to an administrative law judge. The administrative law judge shall conduct an evidentiary hearing on the matter within ninety days of the request for the hearing unless one of the parties requests a continuance for good cause. The administrative law judge shall render a decision within thirty days of the conclusion of the hearing. Either party may appeal the decision of the administrative law judge pursuant to the requirements set forth below in subsection (d).

(d) The person upon whom a civil fine is imposed pursuant to subsection (c) of this section may appeal the decision of the administrative law judge. The county may also appeal the decision of the administrative law judge. No appeal can lie unless the party filing the appeal has first properly requested and obtained a hearing as set forth under subsection (c) of this section. The appeal must be filed within twenty days after service of the final decision issued by the administrative law judge pursuant to California Government Code Section 53069.4, subdivision (b). The procedures outlined in

Government Code 53069.4 shall apply. (Ord. 3462 § 1 (part), 2006)

**Section 2.02.070. Severability and Preemption**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application, and to this end the provisions of this chapter are severable.

The civil fines and fees imposed by this chapter do not preclude other potential civil actions or criminal prosecution under any other provision of law.

**Section 2.02.080. Enforcement of Chapter**

This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen days after its passage, with the names of the supervisors voting for and against the same, in the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation published in the county of Marin. (Ord. 3462 § 1 (part), 2006)

**-END-**

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this \_\_\_th day of \_\_\_\_\_, 2009 by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

\_\_\_\_\_  
CLERK