

ORDINANCE NO. MC-1558

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
ADDING CHAPTER 2.55 TO THE CITY OF SAN
BERNARDINO MUNICIPAL CODE RELATING TO
LOCAL CAMPAIGN FINANCE REGULATIONS**

WHEREAS, the City desires to eliminate any appearance of impropriety during City permitting processes that come before the City Council; and

WHEREAS, in an effort to increase transparency and eliminate any appearance of quid pro quo, thereby increasing trust in the City's government, the City seeks to establish a limit on campaign contributions by persons, or persons acting on their behalf, with active applications with the City; and

WHEREAS, Government Code section 81013 provides that a local agency may impose additional laws regulating political practices on any person as long as it does not prevent that person from complying with the Political Reform Act; and

WHEREAS, Government Code section 84308 already imposes limits on the solicitation and receipt of contributions for appointed officials from active or recent participants in the entitlement process and the City's elected officials are required to comply with such rules when they are appointed to other legislative bodies; and

WHEREAS, at its December 16, 2020 meeting, the City Council directed staff to bring forth an ordinance for consideration that provided: (1) a campaign contribution limit; (2) limits on contributions by applicants and their agents during the permitting process; (3) limits on solicitation of contributions by elected officials from applicants and their agents during the permitting process; and (4) a disclosure requirement for any contributions for a period prior to any City Council action involving the contributor; and

WHEREAS, it is the City Council's intent to address the perception that unregulated campaign contributions lead to improper influence over elected officials and to establish realistic, narrowly tailored and enforceable limits on the amounts which may be contributed to City political campaigns by persons with active applications in the City consistent with the rights of political expression protected under the United States Constitution; and

WHEREAS, consistent with current federal case law, nothing in this Ordinance is intended to limit or prohibit independent expenditures; and

WHEREAS, the purpose of this Ordinance is to establish limits on the amounts of money that may be directly contributed to political campaigns by persons with active applications in the City's elections.

NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO DO ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein.

SECTION 2. Addition of Chapter 2.55. Chapter 2.55 is hereby added to Title 2 of the San Bernardino Municipal Code to read as follows:

“

**CHAPTER 2.55
LOCAL CAMPAIGN FINANCE REGULATIONS**

Sections:

2.55.010	Pay-to-Play Restrictions
2.55.020	Enforcement

2.55.010 Pay-to-Play Restrictions

A. **Definitions.** The definitions set forth in this subdivision shall govern the interpretation of this Section 2.55.010:

- (1) “Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.
- (2) “Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.
- (3) “Elected Official” means any elected official of the City including the Mayor and all City Council Members.
- (4) “License, permit, contract, or entitlement for use” means all business, professional, trade and land use licenses and permits and all other entitlements for use, all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.
- (5) “Contribution” includes contributions to candidates and committees in federal, state, or local elections.

B. Prohibition on Soliciting and Accepting Certain Contributions. No Elected Official shall accept, solicit, or direct a contribution of more than two hundred and fifty dollars (\$250.00) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, contract, or entitlement for use is pending before the City and for three (3) months following the date a final decision is rendered in the proceeding if the Elected Official knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code. This prohibition shall apply regardless of whether the Elected Official accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

C. Elected Official Disclosure Requirements. Prior to rendering any decision in a proceeding involving a license, permit, contract, or entitlement for use pending before the City, each Elected Official who received a contribution since their last California Fair Political Practices Commission (“FPPC”) Form 460 Filing (Recipient Committee Campaign Statement) in an amount of more than two hundred and fifty dollars (\$250.00) from a party or from any participant shall disclose that fact on the record of the proceeding.

D. Application to Candidates. Contributions made to candidates for elective office shall subject the candidate to the disclosure provision of subdivision C should the candidate be subsequently elected. Candidates who have become the Council Member-Elect or Mayor-Elect, but who have not yet been sworn in, shall be subject to the prohibition of subdivision B.

E. Applicant Restrictions. A party to a proceeding before the City involving a license, permit, contract, or entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred and fifty dollars (\$250.00) made since their last FPPC Form 460 Filing (Recipient Committee Campaign Statement) by the party, or his or her agent, to any Elected Official. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before the City and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred and fifty dollars (\$250.00) to any Elected Official during the proceeding and for three (3) months following the date a final decision is rendered by the City in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before the City, the majority shareholder is subject to the disclosure and prohibition requirements herein.

2.55.020 Enforcement

The City hereby designates the California Fair Political Practices Commission (“FPPC”) as the enforcement agency for this Chapter. The City shall provide to the FPPC twice, annually, data for all licenses, permits, or other entitlements for use, as defined in Section 2.55.010 above. The FPPC will cross-reference the data received from the City against the most recent FPPC Form 460 Filing (Recipient Committee Campaign Statement) of each Elected Official who has received Contributions equal to or exceeding two thousand dollars (\$2,000) as shown on the most recent FPPC Form 460 Filing. As set forth in Government Code section 83116, the FPPC shall have prosecutorial discretion to enforce this Chapter and may discipline an Elected Official


for violating this Chapter, including, but not limited to, requiring the Elected Official to pay a monetary fine.”

SECTION 3. Severability. If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

SECTION 4. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

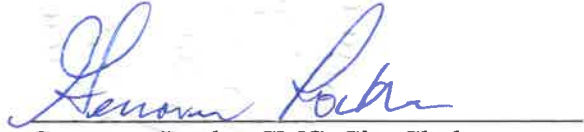
SECTION 5. Notice of Adoption. The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

APPROVED and ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk this 2nd day of June, 2021.




John Valdivia, Mayor
City of San Bernardino

Attest:



Genoveva Rocha, CMC, City Clerk

Approved as to form:




Sonia R. Carvalho, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)ss.
CITY OF SAN BERNARDINO)

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1558, introduced by the City Council of the City of San Bernardino, California, at a regular meeting held the 21st day of April, 2021. Ordinance No. MC-1558 was approved, passed and adopted at a regular meeting held the 2nd day of June, 2021 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
IBARRA	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
FIGUEROA	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
SHORETT	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
REYNOSO	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
CALVIN	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
ALEXANDER	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

WITNESS my hand and official seal of the City of San Bernardino this 3rd day of June, 2021.


Genoveva Rocha, CMC, City Clerk