ORDINANCE NO. 7,296–N.S.

AMENDING SECTIONS 2.12.145, 2.12.250 AND 2.12.297 AND REPEALING SECTIONS 2.12.285 AND 2.12.290 OF THE BERKELEY MUNICIPAL CODE TO CONFORM WITH STATE LAW REGULATING CAMPAIGN STATEMENTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 2.12.145 of the Berkeley Municipal Code is amended to read as follows:

2.12.145 Late contribution.

"Late contribution" means any contribution of one hundred dollars or more, but less than one thousand dollars, received after the closing date of the last campaign statement required to be filed prior to an election and contributions of one thousand dollars or more received within the reporting period specified in California Government Code Section 82036.

Section 2. That Section 2.12.250 of the Berkeley Municipal Code is amended to read as follows:

2.12.250 Campaign expenditure and contribution account--Establishment required-- Procedure for use.

A. A campaign treasurer for each candidate and for each and every committee shall establish and manage a campaign expenditure and contribution checking account for the candidate or committee. All monetary contributions to the candidate, to a person on behalf of the candidate or to a person on behalf of a committee shall be placed in the candidate's or committee's checking account promptly.

B. Amounts shall be paid by the campaign treasurer from the campaign contribution checking account only upon receipt of a bill or voucher from a person furnishing goods or services to the candidate or committee, which bill or voucher itemizes and identifies the goods or services furnished or to be furnished and lists the unit and total price therefor. All payments of fifty dollars or more shall be made by check, credit card or debit card, and payable to the person furnishing the goods or services to a candidate or committee.

C. In the event that, after payment has been made for all goods and services furnished in connection with the campaign of a candidate or committee, there remains a balance in the checking account of the candidate or committee, the campaign treasurer shall liquidate the contribution checking account consistent with California Government Code Section 89510 et seq., and applicable state regulations, before terminating the campaign committee.

D. No committee or candidate shall accept or receive a non-monetary contribution with a fair market value in excess of fifty dollars unless the contributor provides the campaign treasurer with a receipt or voucher that itemizes and identifies the goods or services contributed and states the fair market value of such goods or services. The

campaign treasurer shall maintain all receipts and vouchers for a period of four years from the date of the final report.

E. The campaign treasurer shall make available to the commission, the City Attorney, the City Clerk, the District Attorney, the California Attorney General and the California Secretary of State, or their designees, on demand, the details of any account requested and the records supporting it. In addition, the campaign treasurer shall sign a waiver permitting the aforementioned authorities or their designees to inspect the campaign account records maintained by the bank in which the campaign account is opened, and shall maintain a record of every contribution received and every disbursement made from the account, which record shall include copies of cancelled checks, bank records, bills and vouchers. Such record shall be maintained for a period of four years from the date of the final report.

F. If, prior to the date of the filing of the final report, or during a reasonable period of time not to exceed six months thereafter, the commission reasonably believes a reporting or disclosure requirement has been violated by a candidate or committee, the commission shall be empowered to conduct or cause to be conducted an independent audit of the books and records of such candidate or committee. The cost of such audit shall be borne by the commission. After an audit is completed and a written report presented to the commission, the commission shall make a determination whether there is a probable cause for a violation. If cause for violation is found, the provisions of Section 2.12.230 of this chapter shall apply.

Section 3. That Section 2.12.297 of the Berkeley Municipal Code is amended to read as follows:

2.12.297 Late independent expenditures preceding election.

A. Disclosure of Expenditures. Any person that makes a late independent expenditure as defined in California Government Code Section 82036.5 shall file the required report with the City Clerk within 24 hours of making the expenditure. The City Clerk shall post a copy of the report to the City's website within two business days after receiving the report. Late independent expenditures shall be reported on subsequent campaign statements in addition to the reports filed pursuant to this section. The person shall also provide to the City Clerk three copies of the communication funded by the expenditure.

B. Contents of Report. The report shall specify:

a. Each candidate or measure supported or opposed by the expenditure;
b. The amount spent to support or oppose each candidate or measure;
c. Whether the candidate or measure was supported or opposed;
d. The date and amount of each expenditure;
e. A description of the type of communication for which the expenditure was made;
f. The name and address of the person making the expenditure; and
g. The name and address of the payee.

C. Notification to Candidates of Expenditures. The City Clerk shall notify all candidates and committees in each affected race by first class mail within two business days of receiving a report filed pursuant to this section.

D. 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.

Section 4. That Section 2.12.285 of the Berkeley Municipal Code is repealed.

Section 5. That Section 2.12.290 of the Berkeley Municipal Code is repealed.

Section 6. These amendments shall be effective on January 1, 2014.

Section 7. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 11, 2013 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.