ORDINANCE NO. 2022-362

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ADDING CHAPTER 8 TO TITLE 1 OF THE TOWN OF WINDSOR MUNICIPAL CODE RELATING TO CAMPAIGN FINANCE REGULATIONS

WHEREAS, on October 8, 2019, the Governor signed Assembly Bill 571, which imposes a default campaign contribution limit upon cities and counties without local campaign contribution limits beginning January 1, 2021; and

WHEREAS, the default contribution limit amount is set at the same amount as it is for state elected officials, as that amount is adjusted by the Fair Political Practices Commission ("FPPC") pursuant to Government Code sections 85301 and 83124, which is currently Four Thousand Nine Hundred Dollars ($4,900.00) per election; and

WHEREAS, Government Code section 85702.5 allows a city to impose local limitations on campaign contributions to candidates for elective city offices that are different from the limits established by Government Code sections 85301 and 83124; and

WHEREAS, the Town Council desires to update the Municipal Code to adopt limitations on the amount of campaign contributions Town Council and Mayoral candidates may receive during Town elections.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8, "Campaign Finance Regulations," is hereby added to Title I "General Provisions" of the Town of Windsor Municipal Code, to read as follows:

CHAPTER 8
Campaign Finance Regulations

Sections:

1-8-100 Findings and Purpose
1-8-105 Definitions
1-8-110 Contribution Limitations – Council Candidates
1-8-115 Contribution Limitations – Mayoral Candidates
1-8-120 Election Cycles
1-8-125 Aggregation of Contributions
1-8-130 Loans to Candidates and Controlled Committees
1-8-135 Outstanding Debt Retirement Reporting
1-8-140 Multiple Campaign Committees
1-8-145 Enforcement
1-8-150 Review of Ordinance

1-8-100 Findings and Purpose.

Under the authority granted to the Town Council by Government Code section 85702.5, which permits the imposition of a local limit on contributions to a candidate for elective Town office that is different from the limit set forth in the Political Reform Act of 1974, the Town Council finds that it is in the public's interest to limit campaign contributions in municipal elections.

1-8-105 Definitions.

A. "Candidate" means any Council Candidate or Mayoral Candidate.

B. "Council Candidate" means any individual who is a candidate for a Councilmember office in a Town election.

C. "Indebted Former Candidate" means any individual who was a Council Candidate or Mayor Candidate at any Town election and who has campaign debt remaining from such election after expiration of the election cycle for the office of which they were a candidate.

D. "Election cycle" means the applicable period as set forth in Section 1-8-120 of this Chapter.

E. "Mayoral Candidate" means any individual who is a candidate for the office of Mayor in a Town election.

F. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

G. "Town election" means any general election, special election, or recall election.

Unless expressly defined in this Chapter, or the contrary is stated or clearly appears from the context, words, and phrases in this Chapter shall have the same definition and meaning as when they are used in the Political Reform Act of 1974, as that Act may be amended from time to time.

1-8-110 Contribution Limitations – Council Candidates

A. No Council Candidate shall solicit or accept any contribution, including any nonmonetary contribution, that will cause the total contributions to that candidate from any person to exceed Two Hundred and Fifty Dollars ($250.00) during any Town election cycle. The receipt of any contribution which would cause the total amount of contributions to a Council Candidate from a single person to exceed Two Hundred and Fifty Dollars ($250.00) shall prompt the return of any such excess to the donor. The provisions of this Section shall not apply to contributions by a Council Candidate of their own funds to their own controlled committee. Contributions by the spouse of a Council Candidate from such spouse's separate property shall be subject to the contribution limits.

B. No controlled committee of a Council Candidate, or a committee formed primarily to support or oppose a candidate being voted upon in the general election, shall solicit or accept any contributions, including any nonmonetary contributions, that will cause the total contributions to that committee from any person to exceed Two Hundred and Fifty Dollars ($250.00) during any Town election. The receipt of any contribution which would cause the total amount of contributions to such a committee from a single person to exceed Two Hundred and Fifty Dollars ($250.00) shall prompt the return of any such excess to the donor.

C. No person shall make, and no Councilmember or Indebted Former Candidate or Treasurer of any controlled committee of any Councilmember or Indebted Former Candidate shall solicit or accept, any contributions for the purpose of retiring outstanding debt from a prior Town election which would cause the total amount contributed by such person to such Councilmember or Indebted Former Candidate or to their controlled committee to exceed Two Hundred and Fifty Dollars ($250.00) for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received.

D. The contribution limitations set forth in Subsection (A) of this Section shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of a Councilmember and to contributions received by such Councilmember during a recall election cycle.

E. A contribution shall not be considered received or accepted if it is not negotiated, deposited, or utilized and, in addition, is returned to the contributing person within fourteen (14) days of receipt.

1-8-115 Contribution Limitations – Mayoral Candidates

A. No Mayoral Candidate shall solicit or accept any contribution, including any nonmonetary contributions, that will cause the total contributions to that candidate from any person to exceed Five Hundred Dollars ($500.00) during any Town election cycle. The receipt of any contribution which would cause the total amount of contributions to a candidate from a single person to exceed Five Hundred Dollars ($500.00) shall prompt the return of any such excess to the donor. The provisions of this Section shall not apply to contributions by a Mayoral Candidate of their own funds to their own controlled committee. Contributions by the spouse of a candidate for Mayoral Candidate from such spouse's separate property shall be subject to the contribution limits.

B. No controlled committee of a Mayoral candidate, or a committee formed primarily to support or oppose a candidate being voted upon in the general election, shall solicit or accept any contributions, including any nonmonetary contributions, that will cause the total contributions to that committee from any person to exceed Five Hundred Dollars ($500.00) during any election cycle. The receipt of any contribution which would cause the total amount of contributions to such a committee from a single person to exceed Five Hundred Dollars ($500.00) shall prompt the return of any such excess to the donor.

C. No person shall make, and no Mayor or Indebted Former Candidate or Treasurer of any controlled committee of any Mayor or indebted former candidate shall solicit or accept, any contributions for the purpose of retiring outstanding debt from a prior Town election which would cause the total amount contributed by such person to such Mayor or Indebted Former Candidate or to their controlled committee to exceed Five Hundred Dollars ($500.00) for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received.

D. The contribution limitations set forth in Subsection (A) of this Section shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of a Mayor and to contributions received by such Mayor during a recall election cycle.

E. A contribution shall not be considered received or accepted if it is not negotiated, deposited, or utilized and, in addition, is returned to the contributing person within fourteen (14) days of receipt.

1-8-120 Election Cycles.

A. General Elections. For purposes of any General Election for Town Council, the term "election cycle" as used in this Chapter shall mean the period commencing on January 1st of the year following a year in which a Town Council election is held and ending on December 31st of the year in which the next succeeding election is held for that office.

B. Special Elections. For purposes of any Special Election for Town Council, the term "election cycle" as used in this Chapter shall mean the period commencing on the date a Special Election is called by the Town Council and ending on the thirtieth (30th) day following said Special Election.

C. Recall Elections. For purposes of any recall election for Town Council, the term "election cycle" as used in this Chapter shall mean the period commencing on either the date a committee is formed pursuant to the Political Reform Act in support of a recall election or the date the Town Clerk approves a recall petition for circulation and gathering of signatures, whichever occurs earlier, and ending on the thirtieth (30th) day following the first to occur of any of the following:

1. The time provided by law for the gathering of signatures on recall petitions expires without sufficient recall petition signatures having been filed with the Town Clerk to require a recall election;

2. All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act; or

3. The date the recall election is held.

D. Campaign Debt. Nothing in this Chapter shall prohibit Indebted Former Candidates and/or their controlled campaign committee from soliciting and receiving funds to pay off

their campaign debt in accordance with the provisions of this Chapter after the end of the election cycles defined above.

1-8-125 Aggregation of Contributions.

The contributions of any person whose contributions are directed and controlled by another person shall be aggregated with those of the controlling person for purposes of the contribution limits. Contributions by a married person shall be treated as the separate contributions of such person and shall not be aggregated with any contributions of the spouse of such person. Contributions by children under the age of eighteen (18) years shall be treated as contributions by their parent(s) or legal guardian(s); one-half (1/2) of such contribution shall be attributed to each parent or guardian unless only one (1) parent or legal guardian has sole custody of such child in which case any such contributions shall be attributed solely to the custodial parent or guardian.

1-8-130 Loans to Candidates and Controlled Committees.

A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Chapter.

B. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this Chapter if the loan is made directly to the candidate. The guarantors of such a loan shall remain subject to the contribution limits of this Chapter.

C. Extensions of credit (other than loans pursuant to Subsection (B) of this Section) for a period of more than thirty (30) days are subject to the contribution limitations of this Chapter.

1. An "extension of credit" means the provision of goods or services for which payment in full is not received. An extension of credit is deemed to begin by the earlier of two (2) dates:

   (a) Fifteen (15) days after the date specified on the invoice for payment; or

   (b) Forty-five (45) days from the date the goods or services were delivered.

2. "Payment in full" means payment of not less than fair market value for the goods or services provided.

3. An extension of credit for a period of more than thirty (30) days is a contribution subject to the contribution limitations of this Chapter, except as provided in Subsections (C)(5)(d) through (g) of this Section.

4. If a candidate or their controlled committee has an extension of credit for more than thirty (30) days outstanding with a provider or vendor of goods or services, any additional credit extended to the candidate or the candidate's controlled

committee by the same provider or vendor of goods or services shall be a contribution to the candidate or their controlled committee from the person subject to all of the contribution limitations of the Political Reform Act.

5. If all of the following criteria are satisfied by a provider or vendor of goods or services, it shall (i) be a complete defense for the provider or vendor of the goods or services in any enforcement action initiated by the Town, and (ii) relieve the provider or vendor of the goods or services of any reporting requirements of this Chapter:

   (a) The credit arrangement was recorded in a written instrument;

   (b) It is a primary business of the provider or vendor of goods or services to provide similar goods or services;

   (c) The provider or vendor of goods or services provided the goods or services in the ordinary course of business and on the same terms and conditions offered to customers generally;

   (d) The provider or vendor of goods or services did not have actual knowledge that the candidate or committee would not be able to pay within the time limit specified;

   (e) The provider or vendor of goods or services made reasonable efforts to collect the full amount of the payment owed within one hundred twenty (120) days of the date specified;

   (f) The provider or vendor of goods or services entered into the agreement with the intent that the candidate or committee would be required to pay within the time limit specified; and

   (g) The provider or vendor of goods or services did not extend any additional credit to the candidate or their controlled committee when the candidate or their controlled committee already had an extension of credit for more than thirty (30) days outstanding with the same provider or vendor of goods or services as provided in Subsection (C)(5)(d) of this Section.

D. This Section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

1-7-135 Outstanding Debt Retirement and Reporting.

A. Any Mayor, Councilmember, or Indebted Former Candidate, or any controlled committee of any such officer or candidate, accepting any contribution(s) for the purpose of retiring outstanding debt from a prior Town election are required by state law to report such contributions on Schedule A of Fair Political Practices Commission Form 460, or any successor form thereto, shall, at the time required for the reporting of such contributions

on Schedule A and in addition to any other reporting requirements under state law, clearly designate on said Schedule A (i) which contributions were received for the purpose of retiring outstanding debt and (ii) for which prior Town election such contributions were received.

B. Any contribution accepted for the purpose of retiring outstanding debt from a prior Town election shall be applied to reduce or retire said outstanding debt in the same reporting period in which such contribution was accepted. The application of any contribution to retire outstanding debt from a prior Town election (i.e., repayment of outstanding loans and payment of accrued expenses) shall be itemized and identified on the appropriate schedules and on the summary page of Form 460, or any successor form thereto, provided by the Fair Political Practices Commission.

C. If a Mayor, Councilmember, or Indebted Former Candidate, or a controlled committee of any such officer or candidate, receives contributions for the purpose of retiring outstanding debt from a prior Town election and the amount of the contributions exceeds the amount of the debt, the excess funds may be used for any other campaign or officeholder expense and shall not be subject to the aggregation requirements set forth in this Ordinance in the election cycle in which the excess funds are expended.

1-7-140 Multiple Campaign Committees.

A. A candidate shall have no more than one (1) controlled committee, and such controlled committee shall have only one (1) bank account out of which all qualified campaign and officeholder expenses related to that office shall be made.

B. This Section does not prevent a candidate from establishing another controlled committee solely for the purpose of running for a state, federal, county, or other elective office or for opposing his or her recall.

1-7-145 Enforcement.

A. No Criminal Penalties. Notwithstanding any other provision of the Town of Windsor Municipal Code, any violation of any provision of this Chapter shall be enforceable solely as provided in this Section.

B. Civil Liability. Any person who fails to comply with any provision or requirement of this Chapter shall be strictly liable to the Town of Windsor in a sum not to exceed the following amount for each such violation:

1. For the making or accepting of any contribution in excess of the applicable contribution limits specified in this Chapter, a sum equal to three (3) times the amount by which the contribution exceeds the applicable contribution limit, or the sum of Five Hundred Dollars ($500.00), whichever is greater, for each violation.

2. For any other violation of this Chapter, the sum of Five Hundred Dollars ($500.00) for each violation.

C. Right to Cure Unknowing Violation. In the event, a candidate accepts a contribution and then becomes aware it is in violation of the contribution limit, that violation by the candidate may be excused if the candidate returns the contribution or contributes it to the Town General Fund within fourteen (14) days of becoming aware of the violation.

D. Debt Owing to Town. Any amount due from any person pursuant to this Section shall be a debt due and owing upon demand to the General Fund of the Town of Windsor.

E. In addition to the sums provided for above, any person who is found liable for a violation of this Chapter shall also be liable for the reasonable attorneys' fees and costs incurred by the plaintiff in any civil proceeding brought to enforce the provisions hereof.

1-7-150 Review.

The limits and regulations established by this Chapter shall be reviewed by the Town Council in the event the total population of the Town exceeds forty thousand (40,000), or in the event the Town's district-based election system, as set forth in Article 2 of Chapter 2 of Title 1, is amended to remove the office of directly elected at-large Mayor.

SECTION 2. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 3. Effective Date

The provisions of this Ordinance shall become effective thirty (30) days from and after the date of its passage.

SECTION 4. Publication or Posting

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published and/or posted after its adoption in accordance with California Government Code section 36933.

PASSED, APPROVED AND ADOPTED this 18th day of May 2022, by the following vote:

AYES:	**COUNCILMEMBERS REYNOZA, WALL, AND MAYOR SALMON**
NOES:	**COUNCILMEMBER FUDGE AND VICE MAYOR LEMUS**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK