

Honest Elections and Clean Governance Charter Amendment

Initiative Petition To The People Of Multnomah County

We, the undersigned voters of Multnomah County, Oregon, respectfully direct that this proposed Honest Elections and Clean Governance Amendment to the Multnomah County Home Rule Charter (a full, true and correct copy which is printed on the reverse side hereof) be submitted to the electors of Multnomah County for their approval or rejection at the general election scheduled for November 8, 2016.

Title: "Honest Elections and Clean Governance Charter Amendment"

An Amendment to the Multnomah County Home Rule Charter:

To reduce the influence of large campaign contributions and expenditures on candidate elections and to increase information available to voters on the sources and amounts of such contributions and expenditures.

NOW, THEREFORE, THE PEOPLE OF MULTNOMAH COUNTY HEREBY ORDAIN:

Whereas, the Oregon State Constitution declares that "We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper"; and

Whereas, The people of Multnomah County have the right to honest and fair elections, which shall include the right to an electoral process free from the influence of large political contributions and expenditures and from the treatment of money as speech for elections purposes; and

Whereas, The purpose of this Amendment is to establish the right of Multnomah County voters to honest elections and clean local governments by: (1) limiting large political contributions and expenditures and (2) requiring that political advertisements identify their major funders; and

Whereas, All residents of this County possess the fundamental and unalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them; and

Whereas, this Amendment shall be known and may be cited as the "Honest Elections and Clean Governance Amendment"; and

Whereas, this Amendment is enacted pursuant to the inherent right of the voters of this County to govern their own community, including, without limitation: (1) the Declaration of Independence's declaration that governments are instituted to secure the rights of people, and (2) recognition within the Oregon Constitution that all power is inherent in the people and that county governments may exercise home rule pursuant to Article VII, section 10.

The People of Multnomah County therefore adopt the following Amendment to the Multnomah County Home Rule Charter:

A new Section 11.60 to Chapter XI of the Multnomah County Home Rule Charter, shall read as follows:

(1) Definitions.

For purposes of this Amendment, unless otherwise indicated by the text or context of this Amendment, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2017.

- (a) "Candidate" means a Candidate in a Multnomah County Candidate Election.
- (b) "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of January 1, 2017, for the term "principal campaign committee."
- (c) "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of:
 - (A) Small items worn or carried by Individuals, such as buttons, pins, stickers, bracelets, and pens;
 - (B) Bumper stickers smaller than 60 square inches;
 - (C) Signs smaller than 6 square feet; or
 - (D) A distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.
- (d) "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of January 1, 2017, except it does not include:
 - (A) Funds provided to candidate committees or Small Donor Committees by entities of government pursuant to systems of public funding; or
 - (B) Providing rooms, phones, and internet access for use by a candidate committee at no charge or a reduced charge.
- (e) "Coordinated Expenditure" has the meaning set forth at ORS 260.005 (10)(d), as of January 1, 2017.
- (f) "Coordinated Entity" means an Entity making a Coordinated Expenditure.
- (g) "Dominant Contributor" means any Individual or Entity, other than a Small Donor Committee, which contributes more than five hundred dollars (\$500) during an Election Cycle to a candidate committee, Political Committee (other than a Small Donor Committee), Political Party, or Independent Expenditure campaign.
- (h) "Dominant Independent Spender" means any Individual or Entity which expends more than five hundred dollars (\$500) during an Election Cycle to support or oppose a particular Candidate.
- (i) "Election cycle" means:
 - (A) Generally: the period between one biennial general election and the next biennial general election, including any primary or other preliminary elections to select candidates.

- (B) For any contest which does not occur at a biennial general election: the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, and any special election called to fill vacancies.
- (C) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
- (D) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (j) "Entity" means any corporation, partnership, limited liability company, proprietorship, or other form of organization which creates an entity which is legally separate from an Individual.
- (k) "Expenditure" has the meaning set forth at ORS 260.005(8) and 260.007, as of January 1, 2017, except that it does not include:
 - (A) Production of an officeholder scorecard or Candidate survey and its distribution by paper or electronic copies (but not by paid advertising on television or radio) at a cost of less than ten thousand dollars (\$10,000) for distribution to the public.
 - (B) Any bona fide news story, commentary or editorial distributed through the facilities of any media organization, including any television or radio station, newspaper, magazine or other regularly published periodical; provided, that the media organization:
 - (i) Is not paid by any Individual or Entity for distributing it, apart from normal advertisers;
 - (ii) Is not owned or controlled by one or more Candidates, Political Committees, or Political Parties mentioned in it; and
 - (iii) Does not distribute it to voters by unsolicited mailings or other means of distribution not sought by the recipient, including any paid advertisement about it in any other medium.
 - (C) Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing the outcome of contests, including communication of an officeholder scorecard or candidate survey.
- (l) "Independent Expenditure" means an Expenditure to influence the outcome of a Candidate election that is not made by that Candidate's committee and is not a "Coordinated Expenditure" as defined in this section.
- (m) "Independent Spender" means any Individual or Entity that makes an Independent Expenditure.
- (n) "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Amendment expresses a limitation or prohibition, "Individual" means any human being.
- (o) "Involved in Multnomah County Candidate Elections" means that the Individual, Entity, or group has expended money to support or oppose one or more Candidates in a Multnomah County Candidate Election since the most recent biennial general election.
- (p) "Membership Organization" means an incorporated or unincorporated nonprofit organization:
 - (A) With individual members who have taken action to join the organization and have

made a payment of money or volunteer time to maintain membership in the organization; and

- (B) Is not formed or operated as, or for the purpose of, a commercial enterprise.
 - (C) A Membership Organization can transfer to one and only one small donor committee not more than forty percent (40%) of the dues paid by each individual member of the organization, with a limit of one hundred dollars (\$100) transferred per individual member per calendar year.
 - (D) A Membership Organization shall within fifteen (15) days of such transfer notify each dues-paying member of the amount or percentage of dues transferred. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on a website. If the amount or percentage of dues transferred is the same for each member or category of members, the posting may state that amount or percentage and need not identify any member.
- (q) "Multnomah County Candidate Election" means an election, including a primary election, conducted in whole or in part by Multnomah County to select (or recall) a person to serve (or cease serving) in public office, other than statewide or federal public office or seat in the Oregon Legislature.
- (r) "Multnomah County Internal Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of Multnomah County.
- (s) "Political Committee" shall have the definition at ORS 260.005, except:
- (A) It includes only committees which support or oppose one or more Candidates for public office.
 - (B) It is duly and currently registered as a Political Committee under Oregon law.
 - (C) The following shall be treated as a single Political Committee: All Political Committees established, financed, maintained, or controlled by:
 - (i) For corporations: the same corporation (including all corporate affiliates and subsidiaries) or substantially the same group of corporations;
 - (ii) For unions: the same labor organization unit, at any level, if the unit has authority to make an independent decision as to which Candidates to support or oppose; or
 - (iii) For others, substantially the same group of Individuals or Entities or combinations thereof.
- (t) "Political Party" means an Entity which qualifies as an Oregon major Political Party or minor Political Party under ORS Chapter 248.
- (u) "Prominently Disclose" or "Prominent Disclosure" means that the Communication states information which is:
- (A) Current to within ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video, audio, or electronic Communication;
 - (B) Comprehensible to a person with average reading, vision, and hearing abilities;
 - (C) Printed on the first page or fold of the printed Communication in type not smaller than 10 points;

- (D) Printed on the sign or billboard in type not smaller than 10% of the largest size type used in the Communication;
 - (E) If presented by video, readable on the regular screen (not closed captioning) for not less than 10 seconds in letters greater than 10 percent of the visual screen height with reasonable color contrast with the background;
 - (F) If presented by audio, spoken to be clearly audible and understood at a maximum rate of five words per second and otherwise appropriately conveyed for the hearing impaired.
- (v) "Small Donor Committee" means a Political Committee:
- (A) Established to accept only Contributions from Individuals; and
 - (B) Which cannot accept such Contributions in amounts exceeding one hundred dollars (\$100) per Individual per calendar year.
 - (C) The following shall be treated as a single Small Donor Committee: All Small Donor Committees established, financed, maintained, or controlled by:
 - (i) For corporations: the same corporation (including all corporate affiliates and subsidiaries) or substantially the same group of corporations;
 - (ii) For unions: the same labor organization unit, at any level, if the unit has authority to make an independent decision as to which Candidates to support or oppose; or
 - (iii) For others, substantially the same group of Individuals or Entities or combinations thereof.
- (w) "Types of Businesses" means that the business shall be described by the words that correspond to the primary six-digit North American Industry Classification System (NAICS) classification that the business has applied or will apply to documents it files with the Internal Revenue Service.

(2) Contributions relating to Candidates in Multnomah County Candidate Elections.

- (a) An Individual or Entity may make Contributions to influence the outcome of any Multnomah County Candidate Election only as specifically allowed to be received in this Amendment.
- (b) A Candidate, Candidate Committee, Political Committee, or other Entity may accept a Contribution to influence the outcome of any Multnomah County Candidate Election only from funds obtained from the sources and in accordance with the Contribution limits set forth in this Amendment.
- (c) For the purpose of supporting or opposing candidates in Multnomah County Candidate Election:
 - (A) A Candidate Committee may receive only the following contributions during any Election Cycle:
 - (i) Not more than five hundred dollars (\$500) from an individual to support or oppose candidates in any particular Multnomah County Candidate Election;
 - (ii) Not more than five hundred dollars (\$500) from a political committee other than

a Small Donor Committee;

(iii) Any amounts contributed by a Small Donor Committee in compliance with the requirements applicable to Small Donor Committees; and

(B) A Small Donor Committee may receive only the following contributions during any calendar year: not more than one hundred dollars (\$100) from any Individual.

(d) A Contribution to a Candidate shall be deemed a Contribution to the Candidate's candidate committee.

(e) No Individual under fourteen (14) years of age shall make any Contributions to Candidates or Entities to influence the outcome of Multnomah County Candidate Elections. Any Contribution by a dependent child under age 18 shall be considered as if made by the child's parent or guardian.

(f) Individuals shall have the right to make contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

(3) Expenditures relating to Candidates in Multnomah County Candidate Elections.

(a) No Individual or Entity shall expend funds to support or oppose a Candidate in a Multnomah County Candidate Election, except those collected from the sources and in accordance with the Contribution limits set forth in Section (2) above.

(b) Expenditures by or Coordinated with Candidates, Political Committees, or Political Parties.

(A) A Coordinated Expenditure shall constitute both (1) a Contribution to the relevant Coordinated Entity by the maker of the Expenditure and (2) an Expenditure by the relevant Coordinated Entity.

(B) A Candidate or Political Party may seek a determination that an Expenditure is a Coordinated Expenditure benefitting an opposing Candidate or Political Party by filing a petition with the Circuit Court of Multnomah County. The court shall schedule the petition for hearing not later than the third business day after its filing and service upon the benefitting Candidate or party. The courts shall accord such petitions, and appeals therefrom, precedence on their dockets.

(4) Independent Expenditures relating to Candidates in Multnomah County Candidate Elections.

(a) Any group, association, or Entity that makes an Independent Expenditure that seeks to influence the outcome of any Multnomah County Candidate Election shall register as a Political Committee within three (3) business days of making such expenditure. The filing shall also report the Entity's previous sources of funding during the current election cycle.

(b) Only the following Independent Expenditures are allowed to support or oppose Candidates contesting for any particular public office in a Multnomah County Candidate Election:

(A) An Individual in any calendar year may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).

(B) No Individual under eighteen (18) years of age may make any Independent Expenditures.

- (C) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section (2) of this Amendment.
- (D) A Political Committee in any calendar year may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of contributions to the Political committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

(5) Candidate Personal Contributions and Expenditures in Multnomah County Elections.

- (a) A Candidate may contribute to the Candidate's own committee during any Election Cycle not more than twenty thousand dollars (\$20,000) plus fifty percent (50%) of an amount equal to the largest sum, for any other Candidate for the same public office in the same contest, of:
 - (A) Contributions received from Dominant Contributors; plus
 - (B) Independent Expenditures by Dominant Independent Spenders benefitting that other Candidate.
- (b) Once a Candidate has contributed more than \$5,000 in the aggregate to the Candidate's own committee during any Election Cycle, the Candidate's committee shall report to the appropriate filing officer pursuant to ORS Chapter 260, within seven (7) business days of its receipt, every subsequent Contribution by the Candidate to the candidate committee during the election cycle.
- (c) A Candidate shall make no loans to the Candidate's own committee.
- (d) If for any reason subsection (c) above is not in effect, then every loan by a Candidate to the Candidate's own committee outstanding at the close of the Election Cycle shall be considered a Contribution and shall not be repaid from committee funds.
- (e) All Expenditures by a Candidate regarding the candidacy shall be deemed a Contribution to the Candidate's committee.

(6) Timely Disclosure of Large Contributions and Expenditures.

- (a) Every Political Committee involved in Multnomah County Candidate Elections shall name and identify itself in all Communications using a name or phrase that clearly states the economic or other interest of its Dominant Contributors, if any.
- (b) Each Communication to voters related to a Multnomah County Candidate Election shall Prominently Disclose:
 - (A) The names of all Political Committees and other Entities that have paid to provide or present the Communication; and
 - (B) For each contributor to such Entities who has contributed amounts equal to or more than the fifth largest Dominant Contributor to each such Entity in the current Election Cycle:
 - (i) The contributor's name as an Individual or Entity (in the case that, for any reason, Contributions by Entities occur); and
 - (ii) The Types of Businesses from which the contributor has obtained a majority of income over the previous 5 years.

- (c) If any of the five largest Dominant Contributors is a Political Committee or nonprofit organization, the Prominent Disclosure shall include the top three donors to that Dominant Contributor during the current Election Cycle.
- (d) Each Communication to voters related to a Multnomah County Candidate Election funded by Independent Expenditure(s) shall Prominently Disclose for each Independent Spender who has paid amounts equal to or more than the fifth largest Dominant Independent Spender to present the Communication (or substantially similar Communications) during the current Election Cycle:
 - (A) The Independent Spender's name as an Individual or Entity (in the case that, for any reason, Contributions by Entities occur); and
 - (B) The Types of Businesses from which the Independent Spender has obtained a majority of income over the previous 5 years.
- (e) If any of the five largest Independent Spenders is a Political Committee or nonprofit organization, the Prominent Disclosure shall include the top three donors to that Independent Spender.
- (f) The Prominent Disclosure shall identify the Individuals and corporations that are the true original sources of the Contributions and/or Independent Expenditures.
- (g) The Multnomah County Auditor shall adopt rules to ensure compliance with this Section.

(7) Multnomah County Voters' Pamphlet.

Multnomah County shall for every primary and general election maintain both a printed and an online voters' pamphlet displaying all of the information specified for a county voter's pamphlet in ORS Chapter 251.

- (a) Each candidate shall provide to Multnomah County an accurate annotated list of the candidate's top 5 Dominant Contributors as of the date that the candidate submits the voters' pamphlet statement, which list shall be included in the printed Multnomah County voters' pamphlet as part of the candidate's statement.
- (b) During the 42 days immediately preceding a primary election or general election, each candidate shall provide to Multnomah County an accurate annotated list of the candidate's top 5 Dominant Contributors, always current to within 7 calendar days, which list shall be included in the online Multnomah County voters' pamphlet as part of the candidate's statement.
- (c) The annotated list for each candidate appearing in the printed and online Multnomah County voters' pamphlet shall include:
 - (A) For each identified Dominant Contributor:
 - (i) The contributor's name as an Individual or Entity (in the case that, for any reason, Contributions by Entities occur);
 - (ii) The Types of Businesses from which the contributor has obtained a majority of income over the previous 5 years; and
 - (iii) The amount contributed to the candidate since the most recent biennial general election.

- (B) For each Dominant Independent Spender whose expenditures favored the candidate or opposed one or more of the candidate's opponents:
 - (i) The Independent Spender's name as an Individual or Entity;
 - (ii) The Types of Businesses from which the Independent Spender has obtained a majority of income over the previous 5 years;
 - (iii) The amount the Independent Spender has spent in the particular election contest since the most recent biennial general election; and
 - (iv) If submitted by the candidate favored by the Independent Expenditure, a statement of 25 or fewer words renouncing the Dominant Independent Spender.

(8) **Enforcement.**

- (a) The provisions of this Amendment shall be administered and enforced by the Multnomah County Auditor.
- (b) For any Candidate determined to have violated any provision of this Amendment, the Voters' Pamphlet prepared for the election at issue shall display no statement of the Candidate but shall state the Candidate's specific violation(s) of this Amendment.
- (c) Each violation of any provision in this Amendment shall be punishable by imposition of a civil fine which is not less than five times, nor more than twenty times, the amount of the unlawful Contribution or Expenditure or Independent Expenditure, including Contributions or Expenditures or Independent Expenditures not disclosed in accordance with Section (6).
- (d) Any person eligible to vote in a Multnomah County Candidate Election shall have a civil cause of action against any violator of this Amendment and shall, upon proof of violation, recover a civil penalty of not less than \$500 per incident of violation.
- (e) Any person may file a written complaint of a violation of any of the provisions of this Amendment with the Multnomah County Auditor, who shall immediately refer the complaint to an administrative law judge. The administrative law judge shall hold a hearing on the complaint within fifteen (15) days and shall render a final decision within fifteen (15) days of the hearing. The decision shall include any appropriate order, sanction, or relief authorized by statute and shall be final and subject to review by the Court of Appeals as an agency decision in a contested case.
- (f) The decision, when final, shall be enforced by the Multnomah County Auditor, Multnomah County Attorney, and Multnomah County District Attorney. If the decision is not enforced within thirty (30) days of the decision becoming final, the complainant may bring a civil action, in a representative capacity for the benefit of the public, for the collection of the applicable civil penalty, payable to Multnomah County.

(9) **Adjustments.**

- (a) All dollar amounts specified in Section 11.60 shall be adjusted on January 1 of each odd-numbered year to reflect the change in the federal "Consumer Price Index for All Urban Consumers (CPI-U); Portland-Salem, OR: All items, not seasonally adjusted; 1982-1984+100 reference base" or successor federal index that is most similar to the that specified index. The resulting amounts shall be rounded to the nearest two dollar interval.
- (b) If, in the absence of this Section (9)(b), there would be entered in any court of final

jurisdiction any order impairing the effectiveness of any provision of this Amendment on the ground that the United States Constitution or Oregon Constitution:

(A) Does not allow such a numeric limit or threshold, percentage limit or threshold, time period, or age limit, we, the electors of Multnomah County, acting in our legislative capacity, hereby:

- (i) Increase the challenged numeric limit or threshold by a factor of two;
- (ii) Increase the challenged percentage limit or threshold by fifty percent (50%);
- (iii) Adjust the challenged time period by thirty (30) days;
- (iv) Increase the challenged age limit by 2 years;

A prohibition shall be considered a numeric limit of zero.

(B) Requires that any type of Individual or Entity be wholly or partially exempt from any of the prohibitions or limitations in this Amendment, then we, the electors of Multnomah County, acting in our legislative capacity, hereby declare that the provisions of this Amendment shall be given a narrowing interpretation so as to avoid invalidation of any provision of this Amendment and to preserve its effectiveness to the maximum degree consistent with the constitutions.

(10) **Severability.**

The provisions of this Charter Amendment shall supersede any provisions of law with which they may conflict. For the purpose of determining constitutionality, every section, subsection, and subdivision thereof of this Amendment, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Amendment consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

If the courts of Oregon determine, with finality, that the provisions of this Amendment cannot be applied to Candidates for office other than public offices of Multnomah County itself, then this Amendment shall apply only to elections for public offices of Multnomah County itself, and every instance of "Multnomah County Candidate Election" in this Amendment shall be replaced with "Multnomah County Internal Candidate Election."