ORDINANCE NO. 2011-033

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AMENDING CHAPTER 2, "ADMINISTRATION", SECTION 2-30, "INDIVIDUAL CAMPAIGN CONTRIBUTION LIMITS" OF THE CITY CODE OF ORDINANCES TO PROVIDE FOR ADDITIONAL CAMPAIGN FINANCING PROVISIONS SUPPLEMENTING STATE LAW THAT WILL PROHIBIT ENTITIES AND ORGANIZATIONS FROM MAKING CONTRIBUTIONS TO CANDIDATES IN CITY ELECTIONS FOR MAYOR AND CITY COMMISSIONERS; PROVIDING ADDITIONAL RELATED DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the United States Supreme Court has held in several instances beginning with the decision in Buckley v. Valeo, 424 U.S. 1 (1976), that the perception of corruption is inherent in a system of large financial contributions to candidates for public office, and the City Commission of the City of Dania Beach has determined that it is necessary to prevent corruption and the appearance of corruption that results from campaign contributions from entities and organizations; and

WHEREAS, the City Commission has found that it is necessary for the preservation of the integrity of representative democracy in the City of Dania Beach to impose limitations and restrictions on campaign contributions, which includes direct expenditures on behalf of and in support of candidates in municipal elections in order to remove the perception of corruption stemming from candidate dependence upon contributors such as corporations, special interest groups and other entities and organizations; and

WHEREAS, the United States Supreme Court has found that when the perception of corruption is not addressed, the resulting cynical assumption of voters is that large donors unduly influence the work of government and could jeopardize the willingness of voters to participate in the democratic process of representative government; and

WHEREAS, the City Commission has found that the public's awareness of the possibilities of abuse and corruption arising from contributions from entities and organizations erodes the public's confidence in the democratic system and in the integrity of municipal elections in the City of Dania Beach; and

WHEREAS, the City Commission has determined that in order to prevent the appearance of undue influence and access to candidates by contributors and to prevent

candidates from gaining an unfair advantage in the political marketplace, it is necessary to address the potential for abuses associated with campaign contributions, including direct expenditures by entities formed for business purposes such as, but not limited to, corporations, limited liability companies, professional associations, national and state banks, unincorporated associations, labor organizations, and limited partnerships, limited liability partnerships, and general partnerships, as well as special interest groups such as political committees, political action committees, committees of continuous existence and unincorporated associations; and

WHEREAS, business entities and entities formed for business purposes have the ability to amass great wealth in the economic marketplace and to utilize such wealth to disproportionately impact municipal elections with campaign contributions, which unfairly influences elections and creates the perception that public officials may be influenced by special interests to the public detriment; and

WHEREAS, resources in the treasury and accounts of a business entity are not an indication of popular support of the entity's political ideas, but instead reflect the economically-motivated decisions of investors, owners, and customers; and

WHEREAS, the City Commission has determined that in order to prevent abuses that can result from the City's limited campaign contribution amounts, it is necessary to prohibit contributions from groups and organizations to inhibit circumvention of the City's contribution limitations; and

WHEREAS, there is a danger that a candidate's reliance on contributions from corporations, special interest groups and other entities and organizations for election assistance will impair such candidate's ability to make independent choices; and

WHEREAS, the City Commission has determined that the appearance of quid pro quo relationships between special interest contributors and political recipients, whether or not it exists, seriously undermines public confidence in the political system, and has the potential for a disproportionate impact on elections in the City of Dania Beach; and

WHEREAS, the City Commission has determined that campaign contributions in previous elections demonstrate that candidates can amass the resources necessary to participate effectively in the electoral process, by means of contributions from individuals and without relying on contributions from corporations, special interest groups and other entities and organizations; and

WHEREAS, the City Commission has determined the campaign finance provisions of this ordinance will eliminate the appearance of and the potential for undue and unfair influence on elected city officials and will help to instill more faith and trust in government, will ensure that competition among candidates in the political arena is truly a competition of political ideas, and will level the playing field for qualified individuals, who may not otherwise choose to run for public office, desiring to devote the time and effort necessary to seek and hold the office of Mayor or City Commissioner of the City of Dania Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:

Section 1. That the foregoing "WHEREAS" clauses are confirmed as being true and correct and they are made a specific part of this Ordinance.

Section 2. That Section 2-30, entitled "Individual campaign contribution limits," of the City Code of Ordinances is amended to read as follows:

Sec. 2-30. Individual campaign contribution limits.

(a) *Definitions.* The following terms, as used in this section, shall mean:

Candidate shall have the meaning given to such term in Chapter 106, Florida Statutes, as amended from time to time.

Committee of continuous existence shall have the meaning given to such term in Chapter 106, Florida Statutes, as amended from time to time.

Contribution shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented. An independent expenditure, as that term is defined in Chapter 106, Florida Statutes, is not included within the meaning of contribution.

Expenditure shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.

Labor organization or *union* shall mean any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Natural person shall mean any human being other than an unemancipated child under the age of eighteen years old.

Political Committee shall have the meaning given to such term in Chapter 106, Florida Statutes, as amended from time to time.

Unincorporated association means any group of natural persons formed for a common purpose or objective.

Unopposed candidate shall have the meaning given to such term in Section 106.011(15), Florida Statutes, as amended from time to time.

(b) *State law to apply.* All city elections shall be conducted in accordance with the requirements set forth in Florida Statutes, and with the coexisting provisions of the City Charter and this Section.

(c) *Prohibited contributions.* No contribution shall be made to any candidate with respect to any election for the office of mayor or city commissioner, except by a natural person. It shall be unlawful for any entity or organization listed below to make a contribution in connection with any general or special election held to select candidates for mayor or city commissioner, or for any mayoral or commission candidate or other person to accept or receive any contribution prohibited by this Section, or any officer or director of any entity or organization below to consent to any contribution by the entity or organization, as the case may be, where prohibited by this Section:

(1) any corporation, corporation not for profit, partnership, limited partnership, limited liability partnership, association cooperative, joint venture, business trust, limited liability company, professional service corporation, or sole proprietorship organized under the laws of the State of Florida or any other state or foreign country, and as defined in Florida Statutes;

(2) any bank or financial institution organized or doing business under the laws of the United States, the State of Florida or any other state or foreign country;

(3) any labor organization or union;

(4) any political committee or political action committee;

(5) any committee of continuous existence;

(6) any unincorporated association;

(7) any entity similar to any of the foregoing.

(~~b~~d) *Limitation on contributions and expenditures.* It is unlawful for any natural person ~~or political committee, as defined in Chapter 106, Florida Statutes,~~ to make a contribution or expenditure in excess of two hundred fifty dollars ($250.00) directly~~,~~ or indirectly ~~or through a political committee,~~ to any candidate for election to the office of mayor or city commissioner. Furthermore, it shall be unlawful for any candidate, political committee or other person to knowingly accept or receive any campaign contribution or expenditure prohibited by this ~~s~~Section. The contribution and expenditure limits of this ~~s~~Section apply to each election. For the purposes of this ~~s~~Section, any special election and any general election are separate elections so long as the candidate is not an unopposed candidate as defined in section 106.011(15), Florida Statutes, as amended or supplemented.

(~~e~~e) *Penalties.* Any individual who violates this section shall be subject to the penalties elsewhere prescribed in the City Code of Ordinances which are applicable to a violation of a municipal ordinance.

Section 3. That if any section, clause, sentence or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed to such extent of the conflict.

Section 5. That this Ordinance shall take full effect immediately upon its passage and adoption.

PASSED on first reading on October 25, 2011.

PASSED AND ADOPTED on second reading on November 8, 2011.

ATTEST:

LOUISE STILSON, CMC
CITY CLERK

PATRICIA A. FLURY
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

THOMAS J. ANSBRO
CITY ATTORNEY