

ORD. 11034, N.S.

SAN DIEGO MUNICIPAL ELECTION
CAMPAIGN CONTRIBUTION AND EXPENDITURE
CONTROL ORDINANCE

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The City of San Diego

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ORDINANCE NO. 11034 APR 10 1973
(New Series)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 29, SECTIONS 27.2901 THROUGH 27.2903, 27.2911 THROUGH 27.2913, 27.2921 THROUGH 27.2929, 27.2931 THROUGH 27.2933, 27.2941 THROUGH 27.2944, 27.2951 THROUGH 27.2954, 27.2961 THROUGH 27.2963, AND 27.2971 THROUGH 27.2975 ESTABLISHING A SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE CONTROL ORDINANCE.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 7 of the San Diego Municipal Code be, and it is hereby amended by adding Division 29, Sections 27.2901 through 27.2903, 27.2911 through 27.2913, 27.2921 through 27.2929, 27.2931 through 27.2938, 27.2941 through 27.2944, 27.2951 through 27.2954, 27.2961 through 27.2963, and 27.2971 through 27.2975 to read as follows:

DIVISION 29

SAN DIEGO MUNICIPAL ELECTION
CAMPAIGN CONTRIBUTION AND EXPENDITURE
CONTROL ORDINANCE

A. GENERAL PROVISIONS

SEC. 27.2901 PURPOSE AND INTENT

Huge sums of money often are necessary to finance American election campaigns. Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over

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elected officials. It is the purpose and intent of the City Council of The City of San Diego in enacting this division to place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections; to require full public disclosure of campaign contributions received, the names and addresses of contributors to such campaigns, and the purpose and amounts of expenditures in political campaigns in municipal elections; and to provide full and fair enforcement of all the provisions of this division. This division is enacted in accordance with the terms of Section 5 of Article XI of the Constitution of the State of California and Articles II and III of the Charter of The City of San Diego. The provisions of Section 27.2002 of this article shall not apply to this division.

SEC. 27.2902 CITATION

This division may be cited as the San Diego Municipal Election Campaign Contribution and Expenditure Control Ordinance.

SEC. 27.2903 DEFINITIONS

Whenever in this division the following words or phrases are used, they shall mean:

(a) "Broadcast station" shall mean a person who engages in the dissemination of radio communication as

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defined in the Federal Communications Act of 1934. "Broadcast station" includes each cable television system franchised or otherwise licensed by the City.

(b) "Campaign statement" shall mean an itemized report, made according to a form prescribed and supplied by the City Clerk, which, when completed and filed, provides the information required in Section 27.2932 of this division.

(c) "Candidate" shall mean any individual listed on the ballot for nomination for or election to any City office or who otherwise has taken affirmative action to seek nomination or election to public office.

(d) "Committee" shall mean any person or combination of two or more persons acting jointly in behalf of or in opposition to a candidate or to the qualification for the ballot or adoption of one or more measures.

(e) "Contribution" shall mean a gift, subscription, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund raising events; a candidate's own money or property used on

behalf of his candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving in behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee otherwise must report under the terms of this division. The term "contribution" further includes any transfer, gift, loan, advance, deposit, pledge, contract agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor when volunteered by the person performing the service or labor, but shall include a gift of service or labor paid for by a person other than the person performing the service or labor. The term "contribution" shall not include the cost of an event held in honor or behalf of a candidate or committee when the total cost of the event amounts to no more than \$200 and when the event is not held for the purpose of obtaining contributions to the candidate or committee.

(f) "Election" shall mean any primary, general or special municipal election held in the City of San Diego, including an initiative, referendum or recall election.

(g) "Enforcement authority" shall mean the officer, agent or organization designated by resolution of the City

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Council to enforce the provisions of this division. Nothing in this division shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this division under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

(h) "Expenditure" shall mean a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee.

(i) "Measure" shall mean any City Charter amendment or other proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise, or circulated for purposes of submission to a popular vote at any election, whether or not the proposition qualifies for the ballot.

(j) "Occupation and principal place of business" shall mean the type of work or title, name of employer or employing organization and city of employment or, if self-employed, the type of work or profession and city where self-employed of any person whose

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"occupation and principal place of business" is required to be disclosed by the terms of this division.

(k) "Person" shall mean any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

B. CAMPAIGN TREASURERS

SEC. 27.2911 CAMPAIGN TREASURER--APPOINTMENT

Each candidate and each committee shall appoint a campaign treasurer, to serve at their pleasure. A candidate or committee may appoint as many deputy campaign treasurers, to serve at their pleasure, as they deem desirable. A candidate may appoint himself as his campaign treasurer.

SEC. 27.2912 CAMPAIGN TREASURER--DUTIES

(a) The campaign treasurer shall keep a true and full record of contributions and expenditures. The record of contributions and expenditures required to be kept under the terms of this division shall include, but is not limited to, the full name, complete mailing address, occupation, principal place of business and name of employer, if any, of every contributor, the amount and form of every contribution; and a full record of all disbursements, including the name and address of every recipient thereof, receipts reflecting the purpose of each expenditure, the date and method of payment, and all campaign bank records, including deposit slips and cancelled checks. He shall also prepare the campaign statements for the candidate or committee in the form and at the times required by this division.

(b) Records required to be kept by the campaign treasurer under the terms of paragraph (a) of this section shall be furnished

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to the City Clerk, to the Enforcement Authority, or to any peace officer at the direction of the Enforcement Authority, the California Attorney General or a duly authorized federal agency at any time upon demand.

(c) Records kept by the campaign treasurer under the terms of paragraph (a) of this section shall be kept current within not more than seven (7) days after the date of a contribution or of an expenditure.

(d) Records kept by the campaign treasurer under the terms of paragraph (a) of this section shall be preserved by him for at least three years after the date of the election for which the accounts are required to be kept under the terms of this division or at least three years after the date of the last statement filed in compliance with Section 27.2931 of this division, whichever is later.

SEC. 27.2913 REPORT TO CAMPAIGN TREASURER

All contributions to a candidate or to a person in behalf of a candidate shall be reported promptly to the candidate's treasurer or deputy treasurer by the person receiving the contribution. All contributions to a person in behalf of a committee shall be reported promptly to the committee's treasurer or deputy treasurer by the person receiving the contribution.

C. CAMPAIGN CONTRIBUTION TRUST FUND--TRUST ACCOUNT

SEC. 27.2921 CAMPAIGN CONTRIBUTION TRUST FUND--ESTABLISHED-- TRUSTEE--ACCOUNTS

The City Auditor and Comptroller shall establish a Campaign Contribution Trust Fund of which he shall serve as trustee. Except

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as provided in Section 27.2926, every campaign contribution to a candidate or committee immediately upon its receipt by the candidate, committee or campaign treasurer shall be paid over to the Campaign Contribution Trust Fund. The trustee shall keep the contributions received by the Fund segregated in accounts established for each candidate and each committee, which accounts shall hereinafter be referred to as Fund accounts. Where a candidate and a committee are permitted under paragraph (e) of Section 27.2931 to file a joint campaign statement, the trustee may establish and maintain one joint Fund account for the candidate and the committee.

SEC. 27.2922 CAMPAIGN CONTRIBUTION TRUST FUND--DISBURSEMENTS

Amounts shall be paid by the trustee from the Fund account of a candidate or a committee upon receipt by the trustee of a bill or voucher, certified by the campaign treasurer, from a person furnishing goods or services to the candidate or committee which bill or voucher itemizes and identifies the goods or services furnished and lists the unit and total price therefor.

SEC. 27.2923 CAMPAIGN CONTRIBUTION TRUST FUND--
INSUFFICIENCY OF FUNDS

In the event there are insufficient funds in the Fund account of a candidate or committee to pay any bill or voucher submitted against such Fund account, the trustee shall pay nothing. Neither the City nor the City Auditor and Comptroller nor both of them shall be liable for any failure to pay part or all of any amount on any bill or voucher submitted to them for payment from the Fund or any

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other amount alleged to be due and owing from the Fund.

SEC. 27.2924 CAMPAIGN CONTRIBUTION TRUST FUND--SURPLUS FUNDS

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 Fund account of the candidate or committee, upon certification by the campaign treasurer that to his knowledge the candidate or committee has no further outstanding indebtedness in connection with the campaign, the trustee shall liquidate the Fund account by paying the remaining balance in the Fund account to the candidate or committee for his or its use in any lawful manner.

SEC. 27.2925 CAMPAIGN CONTRIBUTION TRUST FUND--CONFIDENTIALITY

The trustee shall maintain the confidentiality of the separate Fund accounts; provided, however, that he shall make available to the Enforcement Authority on demand the details of any Fund account requested and the records supporting it. The trustee shall maintain a record of every contribution received and disbursement made by the Fund which record shall include, but is not limited to, copies of checks, cancelled checks, bank records, bills and vouchers.

SEC. 27.2926 CAMPAIGN CONTRIBUTION TRUST ACCOUNT--
ESTABLISHMENT

A campaign treasurer may establish a campaign contribution trust account for the candidate or committee to be administered by a trust officer of a bank at an office of the bank located in the City of San Diego. If such a campaign contribution trust account be established by the campaign treasurer, the

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provisions of Sections 27.2921 through 27.2924 shall not apply to such campaign treasurer and the candidate and the committee he serves, but all contributions to the candidate, to a person in behalf of the candidate or to a person in behalf of the committee shall be placed in the candidate's or committee's trust account promptly. Where a candidate and a committee are permitted under paragraph (e) of Section 27.2931 to file a joint campaign statement, a campaign treasurer may establish, under the terms of this section, one joint trust account for the candidate and the committee.

SEC. 27.2927 CAMPAIGN CONTRIBUTION TRUST ACCOUNT--
DISBURSEMENTS

When a campaign contribution trust account has been established amounts shall be paid from the trust account only upon receipt, by the trust officer administering the trust account, of a bill or voucher, certified by the campaign treasurer, from a person furnishing goods or services to the candidate or committee which bill or voucher itemizes and identifies the goods or services furnished and lists the unit and total price therefor.

SEC. 27.2928 CAMPAIGN CONTRIBUTION TRUST ACCOUNT--
SURPLUS FUNDS

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 trust account of the candidate or committee, upon certification by the campaign treasurer that to his knowledge the candidate or committee has no further outstanding indebtedness

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in connection with the campaign, the trust officer shall liquidate the trust account by paying the remaining balance in the trust account to the candidate or committee for his or its use in any lawful manner.

SEC. 27.2929 CAMPAIGN CONTRIBUTION TRUST ACCOUNT--
CONFIDENTIALITY

The trust officer shall maintain the confidentiality of the trust account; provided, however, that he shall make available to the Enforcement Authority on demand the details of any trust account requested and the records supporting it. The trust officer shall maintain a record of every contribution received and disbursement made from the trust account which record shall include, but is not limited to, copies of checks, cancelled checks, bank records, bills and vouchers.

D. CAMPAIGN STATEMENTS

SEC. 27.2931 CAMPAIGN STATEMENT--REQUIRED

Each candidate and each committee shall file a campaign statement during each of the following periods:

(a) From the 20th to 25th day preceding an election in which the candidate is seeking nomination for or election to an office or in connection with which the committee has received contributions or made expenditures;

(b) From the 7th to 10th day preceding such election;

(c) Within 35 days following such election or not later than the day preceding the day upon which the candidate takes office, whichever occurs first;

(d) Every six months following such election, so long as a candidate or committee has unpaid obligations, whether

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legally enforceable or not, still outstanding, has unexpended balances of contributions totaling more than one hundred dollars (\$100), or receives contributions during such period; and

(e) Where a committee is formed for the sole purpose of acting in aid of or in behalf of the nomination or election of a candidate and the contributions received and expenditures made by the committee are identical to those contributions received and expenditures made by the candidate, one joint campaign statement may be filed by the candidate and the committee at each time required by this section.

SEC. 27.2932 CAMPAIGN STATEMENT--CONTENTS

(a) Each campaign statement filed in accordance with the terms of this division shall contain the following information:

(1) The cumulative total amount of all contributions and expenditures with respect to each election held during the calendar year in which the statement is required to be filed, including, but not limited to, contributions and expenditures in aid of or in opposition to candidates or measures before they qualify for the ballot, contributions and expenditures following the election, and contributions and expenditures in the year preceding the calendar year in which the election is held;

(2) The full name, complete mailing address, occupation and principal place of business, if any, of any person from whom a contribution or contributions

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totaling fifty dollars (\$50) or more have been received, together with the total amount contributed by each such person;

(3) The name, which in the case of an individual shall consist of the full name, complete mailing address, occupation and principal place of business of each person to whom an expenditure or expenditures totaling fifty dollars (\$50) or more have been made, together with the total amount paid to such person and a brief description of the goods, services or facilities provided in consideration thereof;

(4) The cumulative total amount of all expenditures for each candidate or measure supported or opposed for each election during the calendar year with respect to which expenditures have been made; and

(5) The full names, complete mailing addresses, occupation and principal place of business of the candidate and his campaign treasurer if filed by a candidate, and the full name and address of the committee and the full name, complete mailing address, occupation and principal place of business of the committee's treasurer, if filed by a committee.

(b) Where goods, materials, services, facilities or anything of value other than money is contributed or expended, the monetary value thereof shall be the fair market value.

(c) Campaign statements shall include all information which is required by this section, but which has not been

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reported previously, for contributions and expenditures as recorded by the campaign treasurer under the requirements of paragraph (a) of Section 27.2912 of this division up to no more than three (3) days prior to the date of filing, paragraph (c) of Section 27.2912 of this division to the contrary notwithstanding.

SEC. 27.2933 CAMPAIGN STATEMENT--VERIFICATION

(a) Each campaign statement shall be verified by the campaign treasurer. The verification shall state that the campaign treasurer has used all reasonable diligence in its preparation and that, to his knowledge, it is true and complete.

(b) The candidate shall verify that he has read his own campaign statement and the campaign statement of each committee subject to his control, that he has made reasonable inquiry into the truthfulness and completeness of each such campaign statement and that the statements, to his knowledge, are true and complete.

(c) Any verification required by this division may be made by oath or affirmation before any officer authorized to administer oaths or by certification or declaration made "under penalty of perjury," as provided in Section 2015.5 of the California Code of Civil Procedure.

SEC. 27.2934 CAMPAIGN STATEMENT--FILING

Each campaign statement required to be filed by this division shall be filed with the City Clerk, at his office, during regular business hours.

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SEC. 27.2935 CAMPAIGN STATEMENT--FILING FEE

No fee or charge shall be collected by the City Clerk for the filing of any campaign statement, or for the forms upon which statements are to be filed.

SEC. 27.2936 CAMPAIGN STATEMENT--EXCEPTIONS--DECLARATION

Neither a candidate nor a committee is required to file a campaign statement if neither the contributions received nor the expenditures made on behalf of the campaign exceed two hundred dollars (\$200). However, between the 20th and 25th day ^{preceding} preceding the election, and again between the 7th and 10th day preceding the election, such a candidate or committee shall file with the City Clerk a written declaration, verified as provided in Section 27.2933, to the effect that neither the campaign contributions nor the expenditures of the candidate or the committee have exceeded two hundred dollars (\$200). If contributions received or expenditures made thereafter exceed a sum total of two hundred dollars (\$200), including contributions received or expenditures made prior to the 20th day before the election, the candidate or committee shall file campaign statements thereafter at the times required by this ordinance.

SEC. 27.2937 CAMPAIGN STATEMENT--PUBLIC INSPECTION AND COPYMAKING

Campaign statements are to be open for public inspection and reproduction during regular City business hours at the office of the City Clerk and from 9 a.m. to 5 p.m. on the

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Saturday preceding an election at the Central Library, San Diego Public Library, 820 E Street. Copies of statements or parts of statements shall be provided by the City Clerk at a price of not more than ten cents (\$0.10) per page copied.

SEC. 27.2938 CAMPAIGN STATEMENT--RETENTION

Every campaign statement shall be preserved by the City Clerk for at least six (6) years from the date upon which it was required to be filed under the terms of this division.

E. CAMPAIGN CONTRIBUTIONS

SEC. 27.2941 CAMPAIGN CONTRIBUTIONS--LIMITATIONS

(a) No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to such candidate, including contributions to political committees supporting or opposing such candidate, to exceed two hundred and fifty dollars (\$250).

(b) No person shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to a measure to exceed five hundred dollars (\$500).

(c) No candidate shall make any contribution which will cause the total amount contributed by him to his

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campaign treasurer and all political committees supporting him to exceed, with respect to a single election, ten times the limit specified in paragraph (a) of this section.

(d) If any person is found guilty of violating the terms of this section, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available campaign funds, if any, the amount received from such person in excess of the amount permitted by this section to the City Treasurer for deposit in the General Fund of the City.

SEC. 27.2942 BUSINESS AND LABOR UNION CONTRIBUTIONS

(a) No corporation, partnership, labor union or other business or labor organization shall make a contribution to any candidate or committee; provided, however, that this section shall not apply to contributions made to a committee which is organized solely for the purpose of supporting or opposing the qualification for the ballot or adoption of one or more measures.

(b) No officer, partner, employee, agent or attorney or other representative of a corporation, partnership, labor union or other business or labor organization shall aid, abet, advise or participate in a violation of this section.

(c) No person shall knowingly accept a payment or contribution made in violation of this section.

(d) If a campaign treasurer is offered a contribution which would be in excess of the limitation, the treasurer

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must refuse the contribution. If, however, a contribution is received which is in violation of this section, he shall report in writing within five (5) days of the receipt of the contribution to the Enforcement Authority the facts surrounding such payment or contribution. Any such payment or contribution received shall be paid to the treasurer of The City of San Diego, who shall cause such money to be placed in the Election Fund (Department 03.90) to be used for the purpose of defraying the costs of elections borne by The City of San Diego, and shall not be used to benefit any candidate or committee.

SEC. 27.2943 ANONYMOUS CONTRIBUTIONS

Total anonymous contributions to a candidate or committee which exceed in the aggregate two hundred dollars (\$200) with respect to a single election shall not be used by the candidate or committee for whom it was intended. To the extent that total anonymous contributions exceed two hundred dollars (\$200) the excess shall be paid promptly to the City Treasurer.

SEC. 27.2944 ASSUMED NAME CONTRIBUTIONS

No contribution shall be made, directly or indirectly, by any person or combination of persons acting jointly in a name other than the name by which they are identified for legal purposes, nor in the name of another person or combination of persons. No person shall make a contribution in his

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or its name of anything belonging to another person or received from another person on the condition that it be used as a contribution. When it is discovered by the campaign treasurer that a contribution has been received in violation of this section, the campaign treasurer shall pay promptly, from available campaign funds, if any, the amount received in violation of this section to the City Treasurer for deposit in the General Fund of the City.

F. CAMPAIGN EXPENDITURES

SEC. 27.2951 CAMPAIGN EXPENDITURES--UNCONTROLLED BY CANDIDATE OR COMMITTEE

Persons or organizations not subject to the control of a candidate but who make expenditures for or against a candidate shall indicate clearly on any material published, displayed or broadcast that it was not authorized by a candidate, when such expenditures in whole or part would have been covered by the provisions of this ordinance if they were subject to the control of a candidate. Such persons or organizations shall comply with all filing requirements imposed on candidates and committees by this division.

SEC. 27.2952 ADVERTISING RATES; SERVICE FEES AND CHARGES

To the extent that any person sells space in any newspaper or magazine or sells time on a broadcast station to a candidate or committee or performs other services in connection with the campaign of the candidate or for or against the measure, the charges made for the use of

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such space or time shall not exceed the charges normally made for comparable use of such space or time by other users thereof.

SEC. 27.2953 CAMPAIGN EXPENDITURES RECEIVED BY COMMUNICATIONS MEDIA--STATEMENT REQUIRED

Each candidate or committee shall require each newspaper, periodical, broadcast station, direct mailing company, printer and advertising agency which accepts expenditures from such candidate, committee or campaign treasurer, not more than ^{ten} (10) days and not less than seven (7) days before an election, and again not more than thirty (30) days after an election, to file with the City Clerk a statement listing the amounts paid and obligations incurred by such candidate, political committee or political treasurer with respect to such election. Such statement shall be verified as provided in Section 27.2933. At the discretion of either the City Clerk or the Enforcement Agency a consolidated statement may be filed of all amounts paid and obligations incurred by every candidate and committee from whom such newspaper, periodical, broadcast station, direct mailing company, printer or advertising agency has accepted expenditures. Such a consolidated statement shall state separately the expenditures of each candidate and committee.

SEC. 27.2954 SUPPLIERS OF GOODS AND SERVICES--DISCLOSURE OF RECORDS REQUIRED

No person who supplies goods or services or both goods and services to a candidate or committee for use

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in connection with the campaign of the candidate or for or against the measure shall refuse knowingly to divulge or disclose to the Enforcement Authority his record of any expenditures made by the candidate or committee in payment for such goods or services or both.

G. OFFICIAL DUTIES

SEC. 27.2961 DUTIES OF CITY CLERK

In addition to other duties required of him under the terms of this division, the City Clerk shall:

(a) Prescribe and supply appropriate forms for campaign statements and declarations required by this division. These forms shall be furnished to all candidates and committees, and to all other persons required to report.

(b) Prepare and publish written instructions explaining the duties of persons and committees under this division.

(c) Determine whether required statements and declarations have been filed with his office and, if so, whether they conform on their face with the requirements of this division.

(d) Notify promptly all persons and committees known to him who have failed to file a statement in the form and at the time required by this division.

(e) Report apparent violations of this division to the Enforcement Authority.

(f) Compile and maintain a current list of all statements or parts of statements filed with his office pertaining to each candidate and each measure.

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(g) Cooperate with the Enforcement Authority in the performance of the duties of the Enforcement Authority as prescribed in this division.

SEC. 27.2962 DUTIES OF THE ENFORCEMENT AUTHORITY

In addition to any other duties required of it under the terms of this division, the Enforcement Authority shall:

(a) Enforce the provisions of this division.

(b) Cooperate with the City Clerk in preparing the design and content of appropriate forms for campaign statements and declarations required by this division.

(c) Cooperate with the City Clerk in the preparation and publication of written instructions explaining the duties of persons and committees under this division.

(d) Determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this division.

SEC. 27.2963 ENFORCEMENT AUTHORITY--COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS

(a) Any person who believes that a violation of any portion of this division has occurred may file a complaint with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this division has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this division has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

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(b) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this division and may, under the terms of Section 27.2912 of this division, demand, and be furnished records of campaign contributions and expenses at any time.

H. PENALTIES, VIOLATIONS AND CONSTRUCTION

SEC. 27.2971 PENALTIES

Any person who knowingly or willfully violates any of this division is guilty of a misdemeanor. In addition to any other penalty provided by law, any willful or knowing failure to report contributions, done with intent to mislead or deceive, shall be punishable by a fine of not less than five hundred dollars (\$500).

SEC. 27.2972 EFFECT OF VIOLATION ON OUTCOME OF ELECTION

If after his election a candidate is convicted of a violation of any provision of this division, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon, or on the date upon which the candidate, if he is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City offices. If a candidate is convicted of a violation of this division at any time prior to his election his candidacy shall be terminated immediately and he shall be no longer eligible for election. Any person

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convicted of a violation of this division shall be ineligible to hold City elective office for a period of five (5) years from and after the date of his conviction.

SEC. 27.2973 EFFECT OF VIOLATION ON CERTIFICATION OF ELECTION RESULTS

The City Clerk shall not issue any certificate of nomination or election to any candidate until his campaign statements required in Section 27.2931, or, if no campaign statement is required, the written declaration required in Section 27.2936 have been filed in the form and at the place required by this division. The City Council shall not adopt a resolution declaring any candidate to be nominated or elected until such statements or declaration have been filed in the form and at the place required of the candidate in this division.

SEC. 27.2974 RULES OF CONSTRUCTION

This division shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this division which does not directly affect the jurisdiction of the Council or the City to control campaign contributions and expenditures shall avoid the effect of this division.

SEC. 27.2975 SEVERABILITY

If any provision of this division, or the application thereof to any person or circumstance, is held invalid, the

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validity of the remainder of the division and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
John W. Witt, City Attorney

MICROFILMED

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APR 10 1973

Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

RECEIVED
CITY CLERK'S OFFICE
1973 APR 10 AM 10:24
SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Bates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Anne Mease*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 27 1973

APR 10 1973

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Anne Mease*, Deputy.

MICROFILMED

MAY 1 1978

Office of the City Clerk, San Diego, California

Ordinance Number

11034

Adopted

APR 10 1973

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CITY CLERK'S OFFICE

1973 APR 30 11:11:26

SAN DIEGO, CALIF.

ATTORNEY (S)

* CITY OF SAN DIEGO
202 C Street
12th Floor
San Diego, California 92101

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

ELECTION CAMPAIGN CONTRIBUTIONS

I, Patricia M. Applestill hereby certify that San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; that the

ORDINANCE NO. 11034 (NEW SERIES)

is a true and correct copy of which this certificate is annexed was published in said newspaper on April 19, 1973

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on April 27, 1973

Patricia M. Applestill

(Signature)

Ord 11034 NS

99 1/2"

#46790
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ORDINANCE NO. 11034
(New Series)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 29, SECTIONS 27.2901 THROUGH 27.2903, 27.2911 THROUGH 27.2913, 27.2921 THROUGH 27.2929, 27.2931 THROUGH 27.2933, 27.2941 THROUGH 27.2944, 27.2951 THROUGH 27.2954, 27.2961 THROUGH 27.2963, AND 27.2971 THROUGH 27.2975 ESTABLISHING A SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE CONTROL ORDINANCE.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 7 of the San Diego Municipal Code be, and it is hereby amended by adding Division 29, Sections 27.2901 through 27.2903, 27.2911 through 27.2913, 27.2921 through 27.2929, 27.2931 through 27.2933, 27.2941 through 27.2944, 27.2951 through 27.2954, 27.2961 through 27.2963, and 27.2971 through 27.2975 to read as follows:

DIVISION 29
SAN DIEGO MUNICIPAL ELECTION
CAMPAIGN CONTRIBUTION AND EXPENDITURE
CONTROL ORDINANCE

A. GENERAL PROVISIONS

SEC. 27.2901 PURPOSE AND INTENT

Huge sums of money often are necessary to finance American election campaigns. Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials. It is the purpose and intent of the City Council of The City of San Diego in enacting this division to place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections; to require full public disclosure of campaign contributions received, the names and addresses of contributors to such campaigns, and the purpose and amounts of expenditures in political campaigns in municipal elections; and to provide full and fair enforcement of all the provisions of this division. This division is enacted in accordance with the terms of Section 5 of Article XI of the Constitution of the State of California and Articles II and III of the Charter of The City of San Diego. The provisions of Section 27.2902 of this article shall not apply to this division.

SEC. 27.2902 CITATION

This division may be cited as the San Diego Municipal Election Campaign Contribution and Expenditure Control Ordinance.

SEC. 27.2903 DEFINITIONS

Whenever in this division the following words or phrases are used, they shall mean:

(a) "Broadcast station" shall mean a person who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934. "Broadcast station" includes each cable television system franchised or otherwise licensed by the City.

(b) "Campaign statement" shall mean an itemized report, made according to a form prescribed and supplied by the City Clerk, which, when completed and filed, provides the information required in Section 27.2932 of this division.

(c) "Candidate" shall mean any individual listed on the ballot for nomination for or election to any City office or who otherwise has taken affirmative action to seek nomination or election to public office.

(d) "Committee" shall mean any person or combination of two or more persons acting jointly in behalf of or in opposition to a candidate or to the qualification for the ballot or adoption of one or more measures.

(e) "Contribution" shall mean a gift, subscription, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund raising events; a candidate's own money or property used on behalf of his candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving in behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee otherwise must report under the terms of this division. The term "contribution" further includes any transfer, gift, loan, advance, deposit, pledge, contract agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor when volunteered by the person performing the service or labor, but shall include a gift of service or labor paid for by a person other than the person performing the service or labor. The term "contribution" shall not include the cost of an event held in honor or behalf of a candidate or committee when the total cost of the event amounts to no more than \$200 and when the event is not held for the purpose of obtaining contributions to the candidate or committee.

(f) "Election" shall mean any primary, general or special municipal election held in the City of San Diego, including an initiative, referendum or recall election.

(g) "Enforcement authority" shall mean the officer, agent or organization designated by resolution of the City Council to enforce the provisions of this division. Nothing in this division shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this division under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

(h) "Expenditure" shall mean a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee.

(i) "Measure" shall mean any City Charter amendment or other proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise, or circulated for purposes of submission to a popular vote at any election, whether or not the proposition qualifies for the ballot.

(j) "Occupation and principal place of business" shall mean the type of work or title, name of employer or employing organization and city of employment or, if self-employed, the type of work or profession and city where self-employed of any person whose "occupation and principal place of business" is required to be disclosed by the terms of this division.

(k) "Person" shall mean any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

B. CAMPAIGN TREASURERS

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SEC. 27.2911. CAMPAIGN TREASURER — APPOINTMENT

Each candidate and each committee shall appoint a campaign treasurer, to serve at their pleasure. A candidate or committee may appoint as many deputy campaign treasurers, to serve at their pleasure, as they deem desirable. A candidate may appoint himself as his campaign treasurer.

SEC. 27.2912. CAMPAIGN TREASURER — DUTIES

(a) The campaign treasurer shall keep a true and full record of contributions and expenditures. The record of contributions and expenditures required to be kept under the terms of this division shall include, but is not limited to, the full name, complete mailing address, occupation, principal place of business and name of employer, if any, of every contributor, the amount and form of every contribution; and a full record of all disbursements, including the name and address of every recipient thereof, receipts reflecting the purpose of each expenditure, the date and method of payment, and all campaign bank records, including deposit slips and cancelled checks. He shall also prepare the campaign statements for the candidate or committee in the form and at the times required by this division.

(b) Records required to be kept by the campaign treasurer under the terms of paragraph (a) of this section shall be furnished to the City Clerk, to the Enforcement Authority, or to any peace officer at the direction of the Enforcement Authority, the California Attorney General or a duly authorized federal agency at any time upon demand.

(c) Records kept by the campaign treasurer under the terms of paragraph (a) of this section shall be kept current within not more than seven (7) days after the date of a contribution or of an expenditure.

(d) Records kept by the campaign treasurer under the terms of paragraph (a) of this section shall be preserved by him for at least three years after the date of the election for which the accounts are required to be kept under the terms of this division or at least three years after the date of the last statement filed in compliance with Section 27.2931 of this division, whichever is later.

SEC. 27.2913. REPORT TO CAMPAIGN TREASURER

All contributions to a candidate or to a person in behalf of a candidate shall be reported promptly to the candidate's treasurer or deputy treasurer by the person receiving the contribution. All contributions to a person in behalf of a committee shall be reported promptly to the committee's treasurer or deputy treasurer by the person receiving the contribution.

C. CAMPAIGN CONTRIBUTION TRUST FUND — TRUST ACCOUNT

SEC. 27.2921. CAMPAIGN CONTRIBUTION TRUST FUND —

ESTABLISHED — TRUSTEE — ACCOUNTS

The City Auditor and Comptroller shall establish a Campaign Contribution Trust Fund of which he shall serve as trustee. Except as provided in Section 27.2926, every campaign contribution to a candidate or committee immediately upon its receipt by the candidate, committee or campaign treasurer shall be paid over to the Campaign Contribution Trust Fund. The trustee shall keep the contributions received by the Fund segregated in accounts established for each candidate and each committee, which accounts shall hereinafter be referred to as Fund accounts. Where a candidate and a committee are permitted under paragraph (e) of Section 27.2931 to file a joint campaign statement, the trustee may establish and maintain one joint Fund account for the candidate and the committee.

SEC. 27.2922. CAMPAIGN CONTRIBUTION TRUST FUND —

DISBURSEMENTS

Amounts shall be paid by the trustee from the Fund account of a candidate or a committee upon receipt by the trustee of a bill or voucher, certified by the campaign treasurer, from a person furnishing goods or services to the candidate or committee which bill or voucher itemizes and identifies the goods or services furnished and lists the unit and total price therefor.

SEC. 27.2923. CAMPAIGN CONTRIBUTION TRUST FUND —

INSUFFICIENCY OF FUNDS

In the event there are insufficient funds in the Fund account of a candidate or committee to pay any bill or voucher submitted against such Fund account, the trustee shall pay nothing. Neither the City nor the City Auditor and Comptroller nor both of them shall be liable for any failure to pay part or all of any amount on any bill or voucher submitted to them for payment from the Fund or any other amount alleged to be due and owing from the Fund.

SEC. 27.2924. CAMPAIGN CONTRIBUTION TRUST FUND —

SURPLUS FUNDS

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 Fund account of the candidate or committee, upon certification by the campaign treasurer that to his knowledge the candidate or committee has no further outstanding indebtedness in connection with the campaign, the trustee shall liquidate the Fund account by paying the remaining balance in the Fund account to the candidate or committee for his or its use in any lawful manner.

SEC. 27.2925. CAMPAIGN CONTRIBUTION TRUST FUND —

CONFIDENTIALITY

The trustee shall maintain the confidentiality of the separate Fund accounts; provided, however, that he shall make available to the Enforcement Authority on demand the details of any Fund account requested and the records supporting it. The trustee shall maintain a record of every contribution received and disbursement made by the Fund which record shall include, but is not limited to, copies of checks, cancelled checks, bank records, bills and vouchers.

SEC. 27.2926. CAMPAIGN CONTRIBUTION TRUST ACCOUNT —

ESTABLISHMENT

A campaign treasurer may establish a campaign contribution trust account for the candidate or committee to be administered by a trust officer of a bank at an office of the bank located in the City of San Diego. If such a campaign contribution trust account be established by the campaign treasurer, the provisions of Sections 27.2921 through 27.2924 shall not apply to such campaign treasurer and the candidate and the committee he serves, but all contributions to the candidate, to a person in behalf of the candidate or to a person in behalf of the committee shall be placed in the candidate's or committee's trust account promptly. Where a candidate and a committee are permitted under paragraph (e) of Section 27.2931 to file a joint campaign statement, a campaign treasurer may establish, under the terms of this section, one joint trust account for the candidate and the committee.

SEC. 27.2927 CAMPAIGN CONTRIBUTION TRUST ACCOUNT — DISBURSEMENTS

When a campaign contribution trust account has been established amounts shall be paid from the trust account only upon receipt, by the trust officer administering the trust account, of a bill or voucher, certified by the campaign treasurer, from a person furnishing goods or services to the candidate or committee which bill or voucher itemizes and identifies the goods or services furnished and lists the unit and total price therefor.

SEC. 27.2928 CAMPAIGN CONTRIBUTION TRUST ACCOUNT — SURPLUS FUNDS

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 trust account of the candidate or committee, upon certification by the campaign treasurer that to his knowledge the candidate or committee has no further outstanding indebtedness in connection with the campaign, the trust officer shall liquidate the trust account by paying the remaining balance in the trust account to the candidate or committee for his or its use in any lawful manner.

SEC. 27.2929 CAMPAIGN CONTRIBUTION TRUST ACCOUNT — CONFIDENTIALITY

The trust officer shall maintain the confidentiality of the trust account; provided, however, that he shall make available to the Enforcement Authority on demand the details of any trust account requested and the records supporting it. The trust officer shall maintain a record of every contribution received and disbursement made from the trust account which record shall include, but is not limited to, copies of checks, cancelled checks, bank records, bills and vouchers.

D. CAMPAIGN STATEMENTS

SEC. 27.2931 CAMPAIGN STATEMENT — REQUIRED

Each candidate and each committee shall file a campaign statement during each of the following periods:

(a) From the 20th to 25th day preceding an election in which the candidate is seeking nomination for or election to an office or in connection with which the committee has received contributions or made expenditures;

(b) From the 7th to 10th day preceding such election;

(c) Within 35 days following such election or not later than the day preceding the day upon which the candidate takes office, whichever occurs first;

(d) Every six months following such election, so long as a candidate or committee has unpaid obligations, whether legally enforceable or not, still outstanding, has unexpended balances of contributions totaling more than one hundred dollars (\$100), or receives contributions during such period; and

(e) Where a committee is formed for the sole purpose of acting in aid of or in behalf of the nomination or election of a candidate and the contributions received and expenditures made by the committee are identical to those contributions received and expenditures made by the candidate, one joint campaign statement may be filed by the candidate and the committee at each time required by this section.

SEC. 27.2932 CAMPAIGN STATEMENT — CONTENTS

(a) Each campaign statement filed in accordance with the terms of this division shall contain the following information:

(1) The cumulative total amount of all contributions and expenditures with respect to each election held during the calendar year in which the statement is required to be filed, including, but not limited to, contributions and expenditures in aid of or in opposition to candidates or measures before they qualify for the ballot, contributions and expenditures following the election, and contributions and expenditures in the year preceding the calendar year in which the election is held;

(2) The full name, complete mailing address, occupation and principal place of business, if any, of any person from whom a contribution or contributions totaling fifty dollars (\$50) or more have been received, together with the total amount contributed by each such person;

(3) The name, which in the case of an individual shall consist of the full name, complete mailing address, occupation and principal place of business of each person to whom an expenditure or expenditures totaling fifty dollars (\$50) or more have been made, together with the total amount paid to such person and a brief description of the goods, services or facilities provided in consideration thereof;

(4) The cumulative total amount of all expenditures for each candidate or measure supported or opposed for each election during the calendar year with respect to which expenditures have been made; and

(5) The full names, complete mailing addresses, occupation and principal place of business of the candidate and his campaign treasurer if filed by a candidate, and the full name and address of the committee and the full name, complete mailing address, occupation and principal place of business of the committee's treasurer, if filed by a committee.

(b) Where goods, materials, services, facilities or anything of value other than money is contributed or expended, the monetary value thereof shall be the fair market value.

(c) Campaign statements shall include all information which is required by this section, but which has not been reported previously, for contributions and expenditures as recorded by the campaign treasurer under the requirements of paragraph (a) of Section 27.2912 of this division up to no more than three (3) days prior to the date of filing, paragraph (c) of Section 27.2912 of this division to the contrary notwithstanding.

SEC. 27.2933 CAMPAIGN STATEMENT — VERIFICATION

(a) Each campaign statement shall be verified by the campaign treasurer. The verification shall state that the campaign treasurer has used all reasonable diligence in its preparation and that, to his knowledge, it is true and complete.

(b) The candidate shall verify that he has read his own campaign statement and the campaign statement of each committee subject to his control, that he has made reasonable inquiry into the truthfulness and completeness of each such campaign statement and that the statements, to his knowledge, are true and complete.

(c) Any verification required by this division may be made by oath or affirmation before any officer authorized to administer oaths or by certification or declaration made "under penalty of perjury," as provided in Section 2018.5 of the California Code of Civil Procedure.

SEC. 27.2934 CAMPAIGN STATEMENT — FILING

Each campaign statement required to be filed by this division shall be filed with the City Clerk at his office, during regular business hours.

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SEC. 27.2933 CAMPAIGN STATEMENT — FILING FEE

No fee or charge shall be collected by the City Clerk for the filing of any campaign statement, or for the forms upon which statements are to be filed.

**SEC. 27.2936 CAMPAIGN STATEMENT — EXCEPTIONS —
DECLARATION**

Neither a candidate nor a committee is required to file a campaign statement if neither the contributions received nor the expenditures made on behalf of the campaign exceed two hundred dollars (\$200). However, between the 20th and 25th day preceding the election, and again between the 7th and 10th day preceding the election, such a candidate or committee shall file with the City Clerk a written declaration, verified as provided in Section 27.2933, to the effect that neither the campaign contributions nor the expenditures of the candidate or the committee have exceeded two hundred dollars (\$200). If contributions received or expenditures made thereafter exceed a sum total of two hundred dollars (\$200), including contributions received or expenditures made prior to the 20th day before the election, the candidate or committee shall file campaign statements thereafter at the times required by this ordinance.

**SEC. 27.2937 CAMPAIGN STATEMENT — PUBLIC INSPECTION AND
COPYMAKING**

Campaign statements are to be open for public inspection and reproduction during regular City business hours at the office of the City Clerk and from 9 a.m. to 5 p.m. on the Saturday preceding an election at the Central Library, San Diego Public Library, 320 E Street. Copies of statements or parts of statements shall be provided by the City Clerk at a price of not more than ten cents (\$0.10) per page copied.

SEC. 27.2938 CAMPAIGN STATEMENT — RETENTION

Every campaign statement shall be preserved by the City Clerk for at least six (6) years from the date upon which it was required to be filed under the terms of this division.

E. CAMPAIGN CONTRIBUTIONS

SEC. 27.2941 CAMPAIGN CONTRIBUTIONS — LIMITATIONS

(a) No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to such candidate, including contributions

to political committees supporting or opposing such candidate, to exceed two hundred and fifty dollars (\$250).

(b) No person shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to a measure to exceed five hundred dollars (\$500).

(c) No candidate shall make any contribution which will cause the total amount contributed by him to his campaign treasurer and all political committees supporting him to exceed, with respect to a single election, ten times the limit specified in paragraph (a) of this section.

(d) If any person is found guilty of violating the terms of this section, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available campaign funds, if any, the amount received from such person in excess of the amount permitted by this section to the City Treasurer for deposit in the General Fund of the City.

SEC. 27.2942 BUSINESS AND LABOR UNION CONTRIBUTIONS

(a) No corporation, partnership, labor union or other business or labor organization shall make a contribution to any candidate or committee; provided, however, that this section shall not apply to contributions made to a committee which is organized solely for the purpose of supporting or opposing the qualification for the ballot or adoption of one or more measures.

(b) No officer, partner, employee, agent or attorney or other representative of a corporation, partnership, labor union or other business or labor organization shall aid, abet, advise or participate in a violation of this section.

(c) No person shall knowingly accept a payment or contribution made in violation of this section.

(d) If a campaign treasurer is offered a contribution which would be in excess of the limitation, the treasurer must refuse the contribution. If, however, a contribution is received which is in violation of this section, he shall report in writing within five (5) days of the receipt of the contribution to the Enforcement Authority the facts surrounding such payment or contribution. Any such payment or contribution received shall be paid to the treasurer of The City of San Diego, who shall cause such money to be placed in the Election Fund (Department 03.90) to be used for the purpose of defraying the costs of elections borne by The City of San Diego, and shall not be used to benefit any candidate or committee.

SEC. 27.2943 ANONYMOUS CONTRIBUTIONS

Total anonymous contributions to a candidate or committee which exceed in the aggregate two hundred dollars (\$200) with respect to a single election shall not be used by the candidate or committee for whom it was intended. To the extent that total anonymous contributions exceed two hundred dollars (\$200) the excess shall be paid promptly to the City Treasurer.

SEC. 27.2944 ASSUMED NAME CONTRIBUTIONS

No contribution shall be made, directly or indirectly, by any person or combination of persons acting jointly in a name other than the name by which they are identified for legal purposes; nor in the name of another person or combination of persons. No person shall make a contribution in his or its name of anything belonging to another person or received from another person on the condition that it be used as a contribution. When it is discovered by the campaign treasurer that a contribution has been received in violation of this section, the campaign treasurer shall pay promptly, from available campaign funds, if any, the amount received in violation of this section to the City Treasurer for deposit in the General Fund of the City.

F. CAMPAIGN EXPENDITURES

**SEC. 27.2951 CAMPAIGN EXPENDITURES — UNCONTROLLED BY
CANDIDATE OR COMMITTEE**

Persons or organizations not subject to the control of a candidate but who make expenditures for or against a candidate shall indicate clearly on any material published, displayed or broadcast that it was not authorized by a candidate, when such expenditures in whole or part would have been covered by the provisions of this ordinance if they were subject to the control of a candidate. Such persons or organizations shall comply with all filing requirements imposed on candidates and committees by this division.

SEC. 27.2952. ADVERTISING RATES; SERVICE FEES AND CHARGES

To the extent that any person sells space in any newspaper or magazine or sells time on a broadcast station to a candidate or committee or performs other services in connection with the campaign of the candidate or for or against the measure, the charges made for the use of such space or time shall not exceed the charges normally made for comparable use of such space or time by other users thereof.

SEC. 27.2953. CAMPAIGN EXPENDITURES RECEIVED BY COMMUNICATIONS MEDIA -- STATEMENT REQUIRED

Each candidate or committee shall require each newspaper, periodical, broadcast station, direct mailing company, printer and advertising agency which accepts expenditures from such candidate, committee or campaign treasurer, not more than ten (10) days and not less than seven (7) days before an election, and again not more than thirty (30) days after an election, to file with the City Clerk a statement listing the amounts paid and obligations incurred by such candidate, political committee or political treasurer with respect to such election. Such statement shall be verified as provided in Section 27.2933. At the discretion of either the City Clerk or the Enforcement Agency a consolidated statement may be filed of all amounts paid and obligations incurred by every candidate and committee from whom such newspaper, periodical, broadcast station, direct mailing company, printer or advertising agency has accepted expenditures. Such a consolidated statement shall state separately the expenditures of each candidate and committee.

SEC. 27.2954. SUPPLIERS OF GOODS AND SERVICES--DISCLOSURE OF RECORDS REQUIRED

No person who supplies goods or services or both goods and services to a candidate or committee for use in connection with the campaign of the candidate or for or against the measure shall refuse knowingly to divulge or disclose to the Enforcement Authority his record of any expenditures made by the candidate or committee in payment for such goods or services or both.

G. OFFICIAL DUTIES
SEC. 27.2961. DUTIES OF CITY CLERK

In addition to other duties required of him under the terms of this division, the City Clerk shall:

(a) Prescribe and supply appropriate forms for campaign statements and declarations required by this division. These forms shall be furnished to all candidates and committees, and to all other persons required to report.

(b) Prepare and publish written instructions explaining the duties of persons and committees under this division.

(c) Determine whether required statements and declarations have been filed with his office and, if so, whether they conform on their face with the requirements of this division.

(d) Notify promptly all persons and committees known to him who have failed to file a statement in the form and at the time required by this division.

(e) Report apparent violations of this division to the Enforcement Authority.

(f) Compile and maintain a current list of all statements or parts or statements filed with his office pertaining to each candidate and each measure.

(g) Cooperate with the Enforcement Authority in the performance of the duties of the Enforcement Authority as prescribed in this division.

SEC. 27.2962. DUTIES OF THE ENFORCEMENT AUTHORITY

In addition to any other duties required of it under the terms of this division, the Enforcement Authority shall:

(a) Enforce the provisions of this division.

(b) Cooperate with the City Clerk in preparing the design and content of appropriate forms for campaign statements and declarations required by this division.

(c) Cooperate with the City Clerk in the preparation and publication of written instructions explaining the duties of persons and committees under this division.

(d) Determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this division.

SEC. 27.2963. ENFORCEMENT AUTHORITY -- COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS

(a) Any person who believes that a violation of any portion of this division has occurred may file a complaint with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this division has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this division has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

(b) The Enforcement Authority shall have such investigatory powers as are necessary for the performance of the duties prescribed in this division and may, under the terms of Section 27.2912 of this division, demand, and be furnished records of campaign contributions and expenses at any time.

H. PENALTIES, VIOLATIONS AND CONSTRUCTION

SEC. 27.2971. PENALTIES

Any person who knowingly or willfully violates any of this division is guilty of a misdemeanor. In addition to any other penalty provided by law, any willful or knowing failure to report contributions, done with intent to mislead or deceive, shall be punishable by a fine of not less than five hundred dollars (\$500).

SEC. 27.2972. EFFECT OF VIOLATION ON OUTCOME OF ELECTION

If after his election a candidate is convicted of a violation of any provision of this division, the election to office of such candidate shall be void and such office shall become vacant immediately thereupon, or on the date upon which the candidate, if he is not an incumbent, would otherwise take office, whichever occurs later. In such event, the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City offices. If a candidate is convicted of a violation of this division at any time prior to his election his candidacy shall be terminated immediately and he shall be no longer eligible for election. Any person convicted of a violation of this division shall be ineligible to hold City elective office for a period of five (5) years from and after the date of his conviction.

SEC. 27.2973. SECTION OF WITHIN OR ON THE BASIS OF OF
The City Clerk shall not issue any certificate of nomination or election to any candidate until his campaign statements required in Section 27.2831 or if no campaign statement is required the written declaration required in Section 27.2836 have been filed in the form and at the place required by this division. The City Council shall not adopt a resolution declaring any candidate to be nominated or elected until such statements or declaration have been filed in the form and at the place required of the candidate in this division.

SEC. 27.2974. RULES OF CONSTRUCTION
This division shall be construed liberally in order to effectuate its purpose. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this division which does not directly affect the jurisdiction of the Council or the City to control campaign contributions and expenditures shall avoid the effect of this division.

SEC. 27.2975. SEVERABILITY
If any provision of this division or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the division and the applicability of such provisions to other persons and circumstances shall not be affected thereby.
Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on March 27, 1973.
Passed and adopted by the Council of The City of San Diego on April 10, 1973.

AUTHENTICATED BY: PETE WILSON,
Mayor of The City of San Diego, California
EDWARD NIELSEN,
City Clerk of The City of San Diego, California
BY: MARY ANNE DEARBORN, Treasurer

(REG.)
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