

51 (10)

(O-92-89 REV. 2)

ORDINANCE NUMBER O- 18086 (NEW SERIES)

ADOPTED ON JUL 11 1994

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7, DIVISION 29, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.2903; BY ADDING SECTIONS 27.2904, 27.2905, 27.2911, AND 27.2912; BY AMENDING SECTIONS 27.2925 AND 27.2931; BY REPEALING AND REENACTING SECTIONS 27.2941 AND 27.2942; BY RENUMBERING SECTIONS 27.2943 AND 27.2944 TO READ 27.2949 AND 27.2950 RESPECTIVELY; BY ADDING SECTIONS 27.2943, 27.2944, 27.2945, 27.2946, 27.2947 AND 27.2948; BY REPEALING SECTIONS 27.2971 AND 27.2972; BY REENACTING SECTION 27.2971; AND BY REPEALING SUBDIVISION TITLES, RELATING TO THE SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTROL ORDINANCE.

WHEREAS, the San Diego Municipal Election Campaign Control Ordinance (Chapter II, Article 7, Division 29 of the San Diego Municipal Code) (the "Ordinance") was first adopted in April 1973 by Ordinance No. O-11034 N.S.; and,

WHEREAS, time and experience has shown that certain portions of the Ordinance would benefit from clarification to facilitate enforcement; and

WHEREAS, in the fall of 1991, the City Attorney formed a Task Force comprised of representatives of the Criminal and Civil Advisory Divisions of the City Attorney's office, the District Attorney's office, the County Counsel's office, and the City Clerk and City Auditor's offices, to examine the Ordinance and to recommend areas for clarification; and

WHEREAS, this Task Force identified two primary areas that

would benefit from clarification, namely, limitations on "extensions of credit" and contributions to committees that make independent expenditures; and

WHEREAS, the Task Force proposes amendments to the Ordinance for the reasons set forth in the City Attorney's Report to the Committee on Rules, Legislation, and Intergovernmental Relations dated January 10, 1992, and to the City Council on February 3, 1992, all as summarized in the City Attorney's Report to the City Council dated April 22, 1994; and

WHEREAS, the City Council concurs with the proposed ordinance prepared by the City Attorney's Task Force.

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

Section 1. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by amending Section 27.2903 to read as follows:

**SEC. 27.2903 DEFINITIONS**

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

(a) "Broadcast station" means any person who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934, including any cable television system franchised or otherwise licensed by the City.

(b) "Candidate" means any individual who

(1) is listed on the ballot for elective City office; or

(2) has begun to circulate nominating

petitions or authorized others to do so on his or her behalf for nomination for or election to a City office; or

(3) has received a contribution or made an expenditure or authorized another person to receive a contribution or make an expenditure with the intent to bring about his or her nomination for or election to any City office; or

(4) is a City office holder who becomes the subject of a recall election. For purposes of Section 27.2903(b)(4), a City office holder "becomes the subject of a recall election" on the date a notice of intention to circulate a recall petition is published pursuant to San Diego Municipal Code section 27.2704.

(c) "City office" means the offices of Mayor, Councilmember, and City Attorney of the City of San Diego.

(d) "Committee" means any person or combination of persons who for political purposes directly or indirectly:

(1) Receives contributions totaling five hundred dollars (\$500) or more in a calendar year; or

(2) Makes expenditures totaling five hundred dollars (\$500) or more in a calendar year.

(e) "Contribution"

(1) "Contribution" includes:

(i) any payment, as defined in Section 27.2903(1); or

(ii) any loan, forgiveness of a loan, payment of a loan by a third party, or any enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes; or

(iii) forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered resulting from a settlement of a claim disputed by the candidate or committee, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute; or

(iv) any expenditure made at the behest of a candidate, committee or elected officer, unless full and adequate consideration is received for making the expenditure; or

(v) any purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; or

(vi) a candidate's own money or property used on behalf of his or her candidacy; or

(vii) any granting of discounts or rebates not extended to the public generally, or any granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; or

(viii) any payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration; or

(ix) any transfer of anything of value by a committee to another committee, unless full and adequate consideration is paid.

(2) "Contribution" does not include:

(i) the transfer of anything of value if the transfer is made pursuant to an enforceable promise, to the extent that the amounts have been previously reported as a contribution; or

(ii) the cost of an event held in honor or behalf of a candidate or committee when the total cost of the event is no more than five hundred dollars (\$500) and the event is not held for the purpose of obtaining contributions to the candidate or committee; or

(iii) any payment made by an individual for the individual's own travel expenses if the payment is made voluntarily and without an understanding or agreement that they shall be directly or indirectly repaid to the individual; or

(iv) any independent expenditure; or

(v) the rendering of volunteer personal services.

(f) "Controlled committee" means any committee controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, the candidate's agent or any other committee controlled by the candidate has a significant influence on the actions or decisions of the committee.

(g) "Election" means any primary, general or special election held in the City of San Diego, including any initiative, referendum or recall election. Primary, general and special elections are separate elections for purposes of this Division.

(h) "Enforcement authority" means the City Attorney or other special prosecutor designated by resolution of the City Council. Nothing in this Division limits the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Division under any circumstances where the law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

(i) "Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

(j) "Independent expenditure" means any expenditure made by any person in connection with a communication which:

(1) expressly supports or opposes the nomination, election, defeat or recall of a clearly identified candidate; or

(2) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified measure; or

(3) taken as a whole and in context, unambiguously urges a particular result in a City election.

An expenditure that is made to or at the behest of a candidate or a committee supporting or opposing a measure is not an independent expenditure.

(k) "Measure" means any City Charter amendment or proposition which is:

(1) submitted to a popular vote at a City election by action of the City Council; or

(2) submitted or intended to be submitted to a popular vote at a City election by the procedures of initiative or referendum whether or not it qualifies for the ballot.

The term "measure" does not include a recall election.

(1) "Payment" means any payment, reimbursement, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or any

other thing of value, whether tangible or intangible.

(m) "Person" means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, labor union or any other organization or group of persons acting in concert.

(n) "Political purpose" means the purpose of influencing or attempting to influence the action of the voters for or against the nomination, election, defeat or recall of any candidate or holder of a City office, for or against the qualification of a City measure for the ballot, or for or against the adoption or defeat of any City measure.

(o) "Treasurer" or "Committee treasurer" means the individual designated to perform the duties of treasurer under San Diego Municipal Code section 27.2912.

(p) "Vendor" means any person who delivers goods or renders services to a candidate or committee, unless it is clear from the circumstances that they were not made for political purposes.

Section 2. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code is hereby amended by adding Sections 27.2904, 27.2905, 27.2911 and 27.2912 to read as follows:

**SEC. 27.2904 CANDIDATE AND COMMITTEE STATUS;  
DURATION**

For purposes of this Division, any individual who is a candidate retains the status of candidate, and any



person or combination of persons constituting a committee retains the status of committee, until that status is terminated either:

(a) pursuant to Government Code section 84214 and all vendors granting credit for goods or services have been paid in full; or

(b) pursuant to Section 27.2971(d) of this Municipal Code.

**SEC. 27.2905 RECALL ELECTIONS**

For purposes of this Division, a recall election begins on the date a notice of intention to circulate a recall petition is published pursuant to SDMC section 27.2704; and, a recall election occurs whether voters cast ballots pertaining to the recall or not.

**SEC. 27.2911 DUTY TO HAVE CAMPAIGN TREASURER**

Every candidate and every committee shall have a Treasurer. A candidate may designate him or herself as Treasurer. No person other than an individual may be designated as a Treasurer.

**SEC. 27.2912 AUTHORITY OF TREASURER**

No expenditure may be made by or on behalf of a committee without the authorization of the Treasurer. No contribution may be accepted or expenditure made by or on behalf of a committee at a time when the office of Treasurer is vacant.

Section 3. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code is hereby amended by amending Sections 27.2925 and 27.2931 to read as follows:

**SEC. 27.2925 ACCOUNTABILITY**

(a) In addition to any other requirements of this Division, every candidate or committee establishing a campaign contribution checking account pursuant to this Division shall maintain a record of each of the following:

- (1) any contribution offered to and refused in whole or in part by the candidate or committee; and
- (2) any contribution received by the candidate or committee and returned in whole or in part to the contributor; and
- (3) any contribution received by the candidate or committee and deposited in whole or in part into the campaign contribution checking account; and
- (4) any disbursement made from the campaign contribution checking account.

(b) The records required by Section 27.2925(a)

shall include, but not be limited to, all of the following:

- (1) the name and address of the contributor;  
and
- (2) the amount of the contribution, and the date on which it was received or offered; and
- (3) if the contribution is made by check, a legible photocopy of the check; and
- (4) if the contribution offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash contribution was deposited into the campaign contribution checking account; and
- (5) legible photocopies or originals of all bank records pertaining to the campaign contribution checking account; and
- (6) if a contribution is self-funded, a statement disclosing the source of the funds; and
- (7) if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate; and
- (8) for each disbursement made from or check drawn on the campaign contribution checking account, the canceled check, the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each

check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.

(c) The records required by Section 27.2925 shall be kept by the candidate or committee treasurer establishing the account for a period of four (4) years following the date that the campaign statement to which they relate is filed.

(d) Each candidate and committee shall deliver, on demand, to any public officer having authority to enforce this Division a written authorization permitting the officer to have access to all records pertaining to the campaign contribution checking account.

(e) Each candidate and committee shall, on demand, make available to any public officer having authority to enforce this Division all records required by this Division to be maintained by the candidate or committee.

(f) Each committee that also participates in elections other than City candidate elections shall segregate contributions received and expenditures made for political purposes in connection with City candidate elections from all other contributions or expenditures made.

**SEC. 27.2931 CAMPAIGN STATEMENTS AND DISCLOSURES**

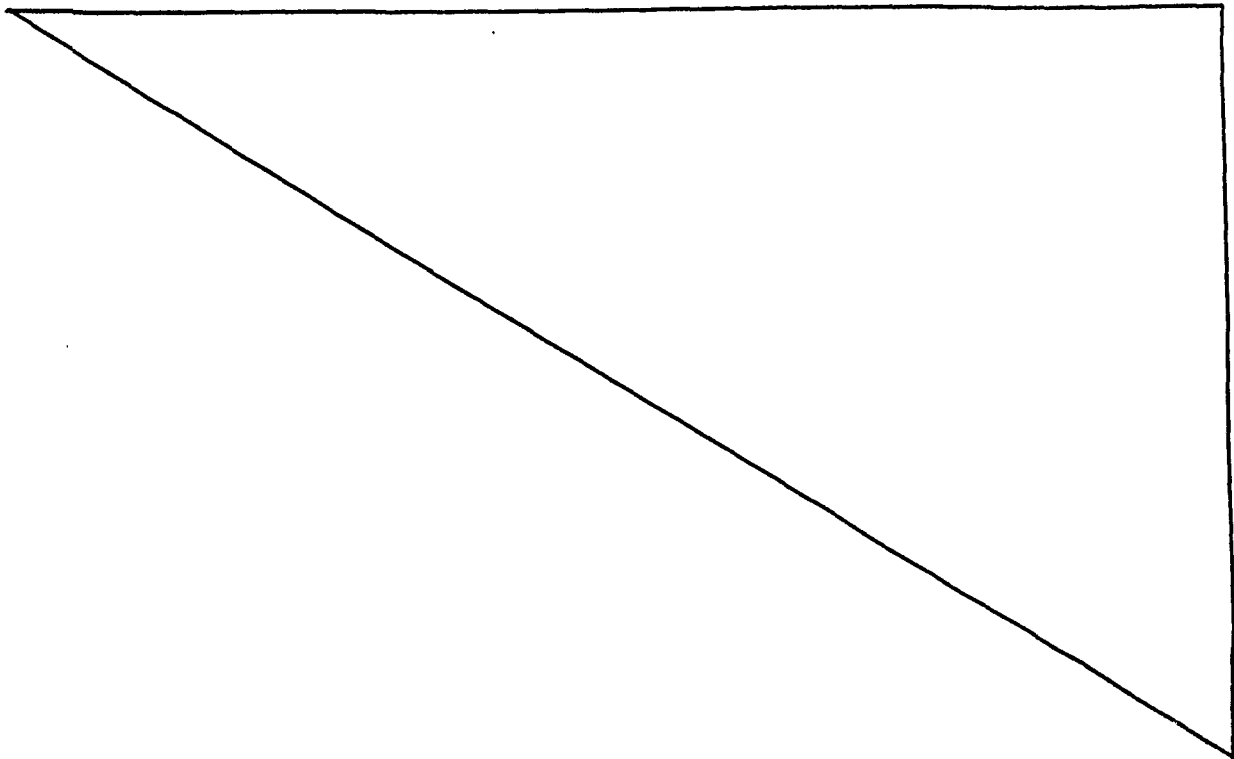
Each candidate and committee shall file campaign

**SEC. 27.2931 CAMPAIGN STATEMENTS AND DISCLOSURES**

Each candidate and committee shall file campaign statements in the time and manner required by the Political Reform Act of 1974 as amended (Government Code Sections 81000 et seq.). Compliance with the disclosure requirements of the Political Reform Act of 1974, as amended, is deemed to be compliance with this Section.

Section 4. That Chapter II, Article 7, Division 29, is hereby amended by repealing Sections 27.2941 and 27.2942.

Section 5. That Chapter II, Article 7, Division 29, is hereby amended by renumbering Sections 27.2943 and 27.2944 to read 27.2949 and 27.2950 respectively, as follows:



**Sec. 27.2949 ANONYMOUS CONTRIBUTIONS**

[No change in text.]

**Sec. 27.2950 ASSUMED NAME CONTRIBUTIONS**

[No change in text.]

Section 6. That Chapter II, Article 7, Division 29, is hereby amended by reenacting Sections 27.2941 and 29.2942 and by adding Sections 27.2943, 27.2944, 27.2945, 27.2946, 27.2947, and 27.2948 to read as follows:

**SEC. 27.2941 CONTRIBUTION LIMITS**

(a) It is unlawful for a candidate, committee supporting or opposing a candidate, or person acting on behalf of a candidate or committee to solicit or accept from any person a contribution which will cause the total amount contributed by that person in support of or opposition to a candidate to exceed two hundred fifty dollars (\$250) for any single election.

(b) It is unlawful for any person to make to any candidate or committee supporting or opposing a candidate a contribution that will cause the total amount contributed by that person in support of or opposition to a candidate to exceed two hundred fifty dollars (\$250) for any single election.

(c) Nothing in this section is intended to limit the amount that a candidate may contribute to or expend on behalf of the candidate's own campaign.

(d) For purposes of Section 27.2941(a) and (b), the term "committee" includes but is not limited to a

committee that makes independent expenditures.

**SEC. 27.2942 LIMITS ON LOANS TO CANDIDATES AND COMMITTEES**

(a) Except as provided in Section 27.2942(b) and (c), a candidate or committee may not obtain a loan in excess of the monetary limits set forth in Section 27.2941 from any person for the purpose of supporting or opposing a candidate in a City election.

(b) Subject to the requirements of Section 27.2943, a candidate may personally borrow any amount of money and contribute that money to the candidate's own campaign.

(c) A committee may borrow any amount of money for the purpose of supporting or opposing the qualification of a City measure for the ballot, or adopting or defeating a City measure, so long as the committee is organized solely for either of these two purposes, and pursues no other purpose.

**SEC. 27.2943 DISCLOSURE, EVIDENCE AND TERMS OF LOANS**

(a) If a candidate or committee obtains a loan in compliance with Section 27.2942, the candidate or committee shall comply with all of the following requirements:

(1) The candidate or committee shall document the loan by a written agreement that sets forth the lender, loan amount, funding source if different from the lender, interest rate, repayment terms, asset(s) pledged for the loan,

records of payments on the loan including legible photocopies of any canceled checks, and any other promises or conditions pertaining to the loan; and

(2) The candidate or committee shall file with the City Clerk a legible photocopy of the written agreement required by Section 27.2943(a) within five (5) calendar days of the execution of the agreement or the receipt of the loan proceeds, whichever occurs first; and

(3) The candidate or committee treasurer shall personally sign a promissory note for the amount borrowed and with a specific payment schedule and other terms comparable to that which would be imposed by a commercial lending institution for loans not made for political purposes;

(4) The candidate or committee shall agree to repay the loan at a rate of interest comparable to that which would be charged by a commercial lending institution for loans not made for political purposes;

(5) A candidate shall not pledge security for the loan other than the personal assets of the candidate or the joint assets or community property of the candidate and the candidate's spouse, except that other individuals may pledge security for the loan in an amount not to exceed the monetary limits set forth in Section 27.2941; and



(6) A candidate or committee shall maintain copies of all loan documents and make legible copies available for inspection in the manner provided in Section 27.2925.

(b) Section 27.2943 does not apply to committees that are organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot or solely for the purpose of adopting or defeating a City measure, and that pursue no other purpose.

**SEC. 27.2944 PAYMENT FOR GOODS OR SERVICES**

(a) Except as provided in Section 27.2945, each candidate or treasurer of a controlled committee that supports or opposes a candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or services in whole or in part.

(b) Except as provided in Section 27.2945, the treasurer of a committee that makes independent expenditures in support of or in opposition to a candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or services in whole or in part.

**SEC. 27.2945 EXTENSIONS OF VENDOR CREDIT**

(a) Vendors may extend credit to candidates or committees in the ordinary course of business in the same manner as extended to persons for other than political purposes.

(b) For leases or rentals of one (1) month or more, candidates or committees that rent or lease real or personal property for political purposes shall pay at least one month's rent in advance of taking possession. Thereafter, candidates or committees shall pay rent in advance.

(c) For leases or rentals of less than one (1) month, candidates or committees that rent or lease real or personal property for political purposes shall pay in full in advance.

(d) A candidate or committee that accepts goods or services for political purposes on credit under section 27.2945(a), shall pay for those goods or services in full no later than ninety (90) calendar days after receipt of a bill or invoice and in no event later than ninety (90) calendar days after the last day of the month in which the goods were delivered or the services were rendered.

**SEC. 27.2946 CONTINUING VIOLATIONS**

A candidate or committee treasurer violates Section 27.2945(b), (c) or (d) whenever the candidate or committee treasurer fails to pay any rent or for goods or services in full within the time periods set forth in Section 27.2945. Each and every day any obligation remains partially or wholly unpaid after the time periods set forth in Section 27.2945 constitutes a separate violation.

**SEC. 27.2947 PROHIBITIONS AND LIMITS ON CONTRIBUTIONS FROM ORGANIZATIONS**

(a) It is unlawful for a candidate, committee, committee treasurer or other person acting on behalf of a candidate or committee to accept a contribution from any person other than an individual.

(b) It is unlawful for a person other than an individual to make a contribution to any candidate or committee, except to a committee that is organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the committee pursues no other purpose.

(c) For purposes of Section 27.2947(a) and (b), the term "committee" includes any committee that makes independent expenditures, in addition to any controlled committee.

(d) Notwithstanding Section 27.2947(a), a committee may accept a contribution from any person if the committee is organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the committee pursues no other purpose.

(e) For purposes of Section 27.2947(b) and (d), a recall election is not an election on a City measure.

**SEC. 27.2948 OBLIGATION TO RETURN CONTRIBUTIONS**

(a) If a candidate, committee, or committee

treasurer is offered a contribution the acceptance of which would constitute a violation of this Division, the candidate, committee or committee treasurer shall refuse the offer.

(b) If a candidate, committee, or committee treasurer receives a monetary contribution the acceptance of which would constitute a violation of this Division, neither the candidate, committee, nor committee treasurer shall be subject to any penalty for receipt of that contribution if the candidate, committee, or committee treasurer:

(1) does not deposit the contribution into the campaign contribution checking account; and,

(2) returns the contribution within five (5) calendar days of the day the contribution was received.

(c) If a candidate, committee, or committee treasurer deposits into the campaign contribution checking account a monetary contribution the acceptance of which constitutes a violation of this Division, the candidate, committee, or committee treasurer shall within five (5) calendar days of the date of discovery of the violation report in writing to the City Clerk all facts pertaining to the contribution, including but not limited to:

(1) a copy of any check(s), draft(s), or other instrument(s) by which the contribution was made; and

(2) if made in cash, the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and

(3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and

(4) the means of tender, delivery or confirmation of the contribution (e.g. U.S. Postal Service or private mail, courier service, in person, etc.). If delivered in person by the contributor or the contributor's agent, the report shall include the full name, address, and telephone number of the contributor or agent.

(d) The candidate or committee treasurer shall promptly deliver an amount equal to any monetary contribution constituting a violation of this Division that is deposited into the campaign contribution checking account to the City Treasurer. The City Treasurer shall deposit any contribution or equivalent amount he or she receives under Section 27.2948 into the City's General Fund.

Section 7. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code is hereby amended by repealing Sections 27.2971 and 27.2972.

Section 8. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code is hereby amended by reenacting Section 27.2971 to read as follows.

**SEC. 27.2971 PENALTIES**

(a) Any person who violates any part of this Division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in Chapter I of this Municipal Code.

(b) In addition to being subject to the penalties set forth in Chapter I of this Municipal Code, any person found guilty of violating Sections 27.2941 or 27.2947, or both, shall be required to forfeit the amount received in violation of this Division and pay over these funds to the City Treasurer for deposit in the City's General Fund.

(c) If, after an election, a candidate or office holder is convicted of a violation of any provision of this Division, the election to office of such candidate or office holder shall be void and the office shall become vacant immediately upon the later of the following two (2) dates:

(1) the date of the candidate or office holder's conviction; or

(2) the date the candidate would have taken office, if the candidate is not an incumbent.

In the event of a vacancy resulting from application of Section 27.2971(c), the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City

offices.

(d) If a candidate is convicted of violating any provision of this Division any time prior to the election, the candidacy shall be terminated immediately and the person shall be no longer eligible for election.

(e) Any person convicted of a violation of any provision of this Division shall be ineligible to hold a City elective office for a period of five (5) years from and after the date of the conviction.

(f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this Division must be commenced shall not begin to run until the discovery of the violation.

Section 9. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code is hereby amended by repealing subdivision titles A, B, D, E, F, G and H.

Section 10. 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 *Cristie C McGuire*  
Cristie C. McGuire  
Deputy City Attorney

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NEW LANGUAGE - SHADED

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7, DIVISION 29, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.2903; BY ADDING SECTIONS 27.2904, 27.2905, 27.2911, AND 27.2912; BY AMENDING SECTIONS 27.2925 AND 27.2931; BY REPEALING AND REENACTING SECTIONS 27.2941 AND 27.2942; BY RENUMBERING SECTIONS 27.2943 AND 27.2944 TO READ 27.2949 AND 27.2950 RESPECTIVELY; BY ADDING SECTIONS 27.2943, 27.2944, 27.2945, 27.2946, 27.2947 AND 27.2948; BY REPEALING SECTIONS 27.2971 AND 27.2972; BY REENACTING SECTION 27.2971; AND BY REPEALING SUBDIVISION TITLES, RELATING TO THE SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTROL ORDINANCE.

**DIVISION 29**  
**San Diego Municipal Election Campaign**  
**Control Ordinance**

~~A. General Provisions~~

**SEC. 27.2901 PURPOSE AND INTENT**

Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributions over elected officials. It is the purpose and intent of the City Council of the City of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal elections; to prohibit contributions by organizations in order to develop a



broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal election campaigns; 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. [NO CHANGE TO SEC. 27.2901.]

**SEC. 27.2902 CITATION**

This division shall be cited as the San Diego Municipal Election Campaign Control Ordinance.

[NO CHANGE TO SEC. 27.2902.]

**SEC. 27.2903 DEFINITIONS**

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

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

(b) "Candidate" shall mean any individual who

(1) is listed on the ballot for elective City office;

or

(2) who has begun to circulate nominating petitions or authorized others to circulate nominating petitions in do so

on his or her behalf, for nomination for or election to any elective a City office; or

(3) ~~who receives~~ has received a contribution or makes made an expenditure or gives his consent for any other authorized another person to receive a contribution with a view or make an expenditure with the intent to bringing about his or her nomination for or election to any City office; or  
~~whether or not the specific elective office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he has announced his candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any holder of any City office who is the subject of a recall election.~~

(4) is a City office holder who becomes the subject of a recall election. For purposes of Section 27.2903(b)(4), a City office holder "becomes the subject of a recall election" on the date a notice of intention to circulate a recall petition is published pursuant to San Diego Municipal Code section 27.2704.

(c) "City office" shall means the offices of Mayor, ~~Councilman~~ Councilmember, and City Attorney of the City of San Diego.

(d) "Committee" shall means any person or combination of persons who for political purposes directly or indirectly: ~~receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action~~

~~of the voters for or against the nomination or election of one or more candidates, or the passage or defeat of any City measure, including any committee or subcommittee of a political party, whether national, state or local, if:~~

~~(1) Contributions received total~~ Receives  
contributions totaling five hundred dollars (\$500) or more  
in a calendar year; or

~~(2) Expenditures and contributions made, other than~~  
~~contributions described in subsection (3), total five~~  
~~hundred (\$500) or more in a calendar year, or~~ Makes  
expenditures totaling five hundred dollars (\$500) or more in  
a calendar year.

~~(3) Contribution of cash, checks and other cash~~  
~~equivalents paid directly to candidates and committees total~~  
~~five thousand (\$5,000) or more in a calendar year.~~

~~(c) "Contribution" shall mean a payment, a forgiveness of a~~  
~~loan, a payment of a loan by a third party, or an enforceable~~  
~~promise to make a payment except to the extent that full and~~  
~~adequate consideration is received unless it is clear from the~~  
~~surrounding circumstances that it is not made for political~~  
~~purposes. An expenditure made at the behest of a candidate,~~  
~~committee or elected officer is a contribution to the candidate,~~  
~~committee or elected officer unless full and adequate~~  
~~consideration is received for making the expenditure.~~

~~The term "contribution" shall include 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 of credit in the~~

~~normal course of business; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.~~

~~The term "contribution" shall further include any payment received by a committee from another committee.~~

~~The term "contribution" shall not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution.~~

~~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 two hundred dollars (\$200) and when the event is not held for the purpose of obtaining contributions to the candidate or committee.~~

~~Notwithstanding the foregoing definition, the term "contribution" shall not include volunteer personal services or payment made by an individual for his own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him. Further, the term "contribution" shall not include an independent expenditure.~~

**(e) "Contribution"**

**(1) "Contribution" includes:**

**(i) any payment, as defined in Section**

27.2903(1); or

(ii) any loan, forgiveness of a loan, payment of a loan by a third party, or any enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes; or

(iii) forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered resulting from a settlement of a claim disputed by the candidate or committee, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute; or

(iv) any expenditure made at the behest of a candidate, committee or elected officer, unless full and adequate consideration is received for making the expenditure; or

(v) any purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; or

(vi) a candidate's own money or property used on behalf of his or her candidacy; or

(vii) any granting of discounts or rebates not extended to the public generally, or any granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office;  
or

(viii) any payment of compensation by any person for the personal services or expenses of any other person if such

services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration; or

(ix) any transfer of anything of value by a committee to another committee, unless full and adequate consideration is paid.

(2) "Contribution" does not include:

(i) the transfer of anything of value if the transfer is made pursuant to an enforceable promise, to the extent that the amounts have been previously reported as a contribution; or

(ii) the cost of an event held in honor or behalf of a candidate or committee when the total cost of the event is no more than five hundred dollars (\$500) and the event is not held for the purpose of obtaining contributions to the candidate or committee; or

(iii) any payment made by an individual for the individual's own travel expenses if the payment is made voluntarily and without an understanding or agreement that they shall be directly or indirectly repaid to the individual; or

(iv) any independent expenditure; or

(v) the rendering of volunteer personal services.

(f) "Controlled committee" shall mean a any committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if he the candidate, his the candidate's agent or any other committee he controls controlled by the candidate has a

significant influence on the actions or decisions of the committee.

(g) "Election" shall means any primary, general or special election held in the City of San Diego, including any initiative, referendum or recall election. ~~The p~~Primary, and general ~~er~~ and special elections are separate elections for purposes of this Division.

(h) "Enforcement authority" shall means the ~~officer, agent or organization~~ City Attorney or other special prosecutor designated by resolution of the City Council ~~to enforce the provisions of this division.~~ Nothing in this ~~d~~Division shall be construed as limiting limits the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this ~~d~~Division under any circumstances where the law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

(i) "Expenditure" shall means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the ~~surrounding~~ circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

~~(j) (1) "Independent expenditure" shall mean an expenditure by a person for a communication expressly advocating the support of or opposition to a clearly identified candidate or measure which is not made with the cooperation or with the prior consent of, a candidate or his agent or a controlled committee of a~~

~~candidate or measure.~~

~~(2) For the purposes of this definition:~~

~~(a) "Expressly advocating" shall mean any communication containing a message advocating support or opposition. Content may include but not be limited to the name of a candidate, the title of a measure or any expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat," or "reject" and an identifying phrase.~~

~~(b) "Clearly identified candidate or measure" shall mean that the name of a candidate or the title of a measure appears, a photograph or drawing of the candidate appears, or the identity of the candidate or substance of the measure is otherwise apparent by unambiguous references.~~

~~(c) "Made with the cooperation or with the prior consent of, or in consultation with, or at the behest or suggestion of, a candidate or his agent or a controlled committee of a candidate or measure" shall mean any arrangement, coordination, or direction by a candidate, agent or committee prior to the publication, display or broadcast of the communication.~~

~~(d) "Agent" shall mean any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate or measure, or any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities, he or she may authorize expenditures.~~

~~(3) An expenditure not qualifying under this section as~~



~~an independent expenditure shall be considered a contribution to the candidate or measure.~~

(j) "Independent expenditure" means any expenditure made by any person in connection with a communication which:

(1) expressly supports or opposes the nomination, election, defeat or recall of a clearly identified candidate; or

(2) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified measure; or

(3) taken as a whole and in context, unambiguously urges a particular result in a City election.

An expenditure that is made to or at the behest of a candidate or a committee supporting or opposing a measure is not an independent expenditure.

(k) "Measure" shall means any City Charter amendment or other proposition which is:

(1) submitted to a popular vote at an a City election by action of the City Council; or

(2) ~~which is~~ submitted or is intended to be submitted to a popular vote at a City election by ~~initiative, referendum or recall procedure~~ the procedures of initiative or referendum whether or not it qualifies for the ballot.

The term "measure" does not include a recall election.

(l) "Payment" shall means any payment, reimbursement, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or any other thing else of

value, whether tangible or intangible.

(m) "Person" shall mean any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, labor union, and or any other organization or group of persons acting in concert.

(n) "Political purpose" means the purpose of influencing or attempting to influence the action of the voters for or against the nomination, election, defeat or recall of any candidate or holder of a City office, for or against the qualification of a City measure for the ballot, or for or against the adoption or defeat of any City measure.

(o) "Treasurer" or "Committee treasurer" means the individual designated to perform the duties of treasurer under San Diego Municipal Code section 27.2912.

(p) "Vendor" means any person who delivers goods or renders services to a candidate or committee, unless it is clear from the circumstances that they were not made for political purposes.

**SEC. 27.2904 CANDIDATE AND COMMITTEE STATUS; DURATION**

For purposes of this Division, any individual who is a candidate retains the status of candidate, and any person or combination of persons constituting a committee retains the status of committee, until that status is terminated either:

(a) pursuant to Government Code section 84214 and all vendors granting credit for goods or services have been paid in full; or

(b) pursuant to Section 27.2971(d) of this Municipal Code.

**SEC. 27.2905 RECALL ELECTIONS**

For purposes of this Division, a recall election begins on the date a notice of intention to circulate a recall petition is published pursuant to SDMC section 27.2704; and, a recall election occurs whether voters cast ballots pertaining to the recall or not.

SEC. 27.2906 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2907 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2908 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2909 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2910 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

**~~B. Campaign Treasurer~~**

**SEC. 27.2911 DUTY TO HAVE CAMPAIGN TREASURER**

Every candidate and every committee shall have a Treasurer. A candidate may designate him or herself as Treasurer. No person other than an individual may be designated as a Treasurer.

**SEC. 27.2912 AUTHORITY OF TREASURER**

No expenditure may be made by or on behalf of a committee without the authorization of the Treasurer. No contribution may be accepted or expenditure made by or on behalf of a committee at a time when the office of Treasurer is vacant.

SEC. 27.2913 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2914 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2915 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2916 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2917 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2918 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2919 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2920 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

**SEC. 27.2921 CAMPAIGN CONTRIBUTION CHECKING ACCOUNT**

Every candidate and every committee receiving contributions of five hundred dollars (\$500) or more shall establish one campaign contribution checking account at an office of a bank or other financial institution providing checking account services located in the City of San Diego. Upon opening of an account, the name of the bank or other financial institution and number thereof shall be filed with the City Clerk and the enforcement authority within twenty-four (24) hours. Upon opening of an account, all contributions of money or checks, or anything of value converted by such candidate or committee to money or a check, made to a candidate, to a person on behalf of a candidate, to a committee supporting or opposing a candidate or a City measure, or to a person on behalf of a committee supporting or opposing a candidate or a City measure shall be placed in the candidate's or committee's checking account within ten (10) business days. No contribution shall be deposited to a campaign contribution checking account without the receipt by the candidate or committee of that information required by Government Code Sections 84210 and 84211 concerning the contribution to be deposited. Any contribution not deposited within ten (10)

business days shall be returned to the contributor as soon as possible after the tenth (10) business day, but no later than fifteen (15) business days after receipt of the contribution. A candidate and a committee formed solely for the purpose of acting in aid of the nomination or election of the candidate may establish and maintain one joint checking account for the candidate and the committee.

**[NO CHANGE TO SECTION 27.2921.]**

**SEC. 27.2922 DISBURSEMENTS**

Funds shall be disbursed from a campaign contribution checking account established pursuant to Section 27.2921 hereof only by check signed by the candidate or by the candidate's or committee's campaign treasurer or designated agents of the campaign treasurer. Each candidate or committee shall maintain a written record of the payee of each check drawn on a campaign contribution checking account and an itemized record of the goods or services for which each check is issued.

**[NO CHANGE TO SECTION 27.2922.]**

**SEC. 27.2923 PETTY CASH FUND**

Section 27.2922 notwithstanding, the candidate or campaign treasurer or other designated agents authorized to issue checks on a campaign contribution checking account may disburse to the candidate or committee establishing the checking account an amount not greater than \$20 per week to be used for petty cash purposes by the candidate or committee. An amount not greater than \$40 per week may be disbursed to a candidate and committee

jointly establishing a campaign contribution checking account, to be used for petty cash purposes.

[NO CHANGE TO SECTION 27.2923.]

**SEC. 27.2924 LIQUIDATION OF ACCOUNTS**

In the event that payment has been made for all goods and services furnished in connection with the campaign of a candidate or committee, a campaign contribution checking account may be liquidated by paying the remaining balance in the checking account to the candidate or committee for his or its use in any lawful manner.

[NO CHANGE TO SECTION 27.2924.]

**SEC. 27.2925 ACCOUNTABILITY**

~~Every candidate or committee establishing a campaign contribution checking account pursuant to this division shall make available on demand to any public officer having legal authority to enforce this division, the details of any such checking account requested and the records supporting it. Every candidate or committee establishing a campaign checking account shall maintain a record of every contribution received and disbursement made from the checking account, which record shall include, but not be limited to, copies of checks, canceled checks, bank records, bills and invoices. Such records shall be kept by the candidate or treasurer of the committee establishing the account for the periods specified in Section 18401 of Title 2, Division 6 of the California Administrative Code. Each candidate and committee shall, on demand, make available to any~~

~~public officer having authority to enforce this division, a written declaration of consent that such officer may have access to the campaign contribution checking account.~~

(a) In addition to any other requirements of this Division, every candidate or committee establishing a campaign contribution checking account pursuant to this Division shall maintain a record of each of the following:

(1) any contribution offered to and refused in whole or in part by the candidate or committee; and

(2) any contribution received by the candidate or committee and returned in whole or in part to the contributor; and

(3) any contribution received by the candidate or committee and deposited in whole or in part into the campaign contribution checking account; and

(4) any disbursement made from the campaign contribution checking account.

(b) The records required by Section 27.2925(a) shall include, but not be limited to, all of the following:

(1) the name and address of the contributor; and

(2) the amount of the contribution, and the date on which it was received or offered; and

(3) if the contribution is made by check, a legible photocopy of the check; and

(4) if the contribution offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the

cash contribution was deposited into the campaign contribution checking account; and

(5) legible photocopies or originals of all bank records pertaining to the campaign contribution checking account; and

(6) if a contribution is self-funded, a statement disclosing the source of the funds; and

(7) if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate; and

(8) for each disbursement made from or check drawn on the campaign contribution checking account, the canceled check, the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.

(c) The records required by Section 27.2925 shall be kept by the candidate or committee treasurer establishing the account for a period of four (4) years following the date that the campaign statement to which they relate is filed.

(d) Each candidate and committee shall deliver, on demand, to any public officer having authority to enforce this Division a written authorization permitting the officer to have access to all records pertaining to the campaign contribution checking account.

(e) Each candidate and committee shall, on demand, make



available to any public officer having authority to enforce this Division all records required by this Division to be maintained by the candidate or committee.

(f) Each committee that also participates in elections other than City candidate elections shall segregate contributions received and expenditures made for political purposes in connection with City candidate elections from all other contributions or expenditures made.

SEC. 27.2926 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2927 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2928 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2929 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2930 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

#### ~~D. Campaign Statements~~

#### SEC. 27.2931 CAMPAIGN STATEMENTS AND DISCLOSURES

Each candidate and committee shall file campaign statements in the time and manner required by the Political Reform Act of 1974 as amended (Government Code Sections ~~84100 through 84305~~ 81000 et seq.) and ~~e~~Compliance with the disclosure requirements of ~~that the~~ Political Reform Act of 1974, as amended, shall be is deemed to be compliance with this ~~s~~Section.

SEC. 27.2932 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2933 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2934 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

SEC. 27.2935 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2936 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2937 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2938 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2939 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2940 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

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

~~(b) Extensions of credit for a period of more than thirty (30) days are prohibited. Extensions of credit for more than two hundred fifty dollars (\$250) are prohibited. Provided, however, a candidate may personally borrow an unlimited amount and such funds shall be considered as a contribution by the candidate himself; provided, further, that such transaction is fully disclosed and documented in accordance with applicable law.~~

~~(c) The terms of this section are applicable to any contributions made to a candidate or committee hereunder, whether used by such candidate or committee to finance a current campaign, to pay deficits incurred in prior campaigns, or otherwise.~~

~~(d) If any person is found guilty of violating the terms of~~

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~~this section, the amount of funds received constituting such violation shall be paid by the candidate or committee treasurer who received such funds to the City Treasurer for deposit in the General Fund of the City.~~

~~E. Campaign Contributions~~

~~SEC. 27.2941 CONTRIBUTION LIMITS~~

~~(a) It is unlawful for a candidate, committee supporting or opposing a candidate, or person acting on behalf of a candidate or committee to solicit or accept from any person a contribution which will cause the total amount contributed by that person in support of or opposition to a candidate to exceed two hundred fifty dollars (\$250) for any single election.~~

~~(b) It is unlawful for any person to make to any candidate or committee supporting or opposing a candidate a contribution that will cause the total amount contributed by that person in support of or opposition to a candidate to exceed two hundred fifty dollars (\$250) for any single election.~~

~~(c) Nothing in this section is intended to limit the amount that a candidate may contribute to or expend on behalf of the candidate's own campaign.~~

~~(d) For purposes of Section 27.2941(a) and (b), the term "committee" includes but is not limited to a committee that makes independent expenditures.~~

~~SEC. 27.2942 ORGANIZATIONAL CONTRIBUTIONS~~

~~(a) No person, other than an individual, 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 City measures.~~

~~(b) No officer, employee, agent or attorney or other representative of a person covered by this division 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 committee treasurer is offered a contribution which would be in excess of the limitation, the treasurer must refuse the contribution. If, however, a contribution is deposited into the campaign trust account 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 so deposited shall be paid promptly, from available campaign funds, if any, to the City Treasurer to be used for deposit in the General Fund of the City.~~

~~(e) This section shall not prohibit a committee from conveying to a candidate any monies legally received by said committee as contributions.~~

#### **SEC. 27.2942 LIMITS ON LOANS TO CANDIDATES AND COMMITTEES**

**(a) Except as provided in Section 27.2942(b) and (c), a candidate or committee may not obtain a loan in excess of the monetary limits set forth in Section 27.2941 from any person for**

the purpose of supporting or opposing a candidate in a City election.

(b) Subject to the requirements of Section 27.2943, a candidate may personally borrow any amount of money and contribute that money to the candidate's own campaign.

(c) A committee may borrow any amount of money for the purpose of supporting or opposing the qualification of a City measure for the ballot, or adopting or defeating a City measure, so long as the committee is organized solely for either of these two purposes, and pursues no other purpose.

**SEC. ~~27.2943~~ 27.2949 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, from available campaign funds, if any, to the City Treasurer for deposit in the General Fund of the City.

[NO CHANGE IN TEXT.]

**SEC. ~~27.2943~~ DISCLOSURE, EVIDENCE AND TERMS OF LOANS**

(a) If a candidate or committee obtains a loan in compliance with Section 27.2942, the candidate or committee shall comply with all of the following requirements:

(1) The candidate or committee shall document the loan by a written agreement that sets forth the lender, loan amount,

funding source if different from the lender, interest rate, repayment terms, asset(s) pledged for the loan, records of payments on the loan including legible photocopies of any canceled checks, and any other promises or conditions pertaining to the loan; and

(2) The candidate or committee shall file with the City Clerk a legible photocopy of the written agreement required by Section 27.2943(a) within five (5) calendar days of the execution of the agreement or the receipt of the loan proceeds, whichever occurs first; and

(3) The candidate or committee treasurer shall personally sign a promissory note for the amount borrowed and with a specific payment schedule and other terms comparable to that which would be imposed by a commercial lending institution for loans not made for political purposes;

(4) The candidate or committee shall agree to repay the loan at a rate of interest comparable to that which would be charged by a commercial lending institution for loans not made for political purposes;

(5) A candidate shall not pledge security for the loan other than the personal assets of the candidate or the joint assets or community property of the candidate and the candidate's spouse, except that other individuals may pledge security for the loan in an amount not to exceed the monetary limits set forth in Section 27.2941; and

(6) A candidate or committee shall maintain copies of all loan documents and make legible copies available for inspection in the manner provided in Section 27.2925.

(b) Section 27.2943 does not apply to committees that are organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot or solely for the purpose of adopting or defeating a City measure, and that pursue no other purpose.

**SEC. ~~27.2944~~ 27.2950 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.

[NO CHANGE IN TEXT.]

**SEC. 27.2944 PAYMENT FOR GOODS OR SERVICES**

(a) Except as provided in Section 27.2945, each candidate or treasurer of a controlled committee that supports or opposes a candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or services in whole or in part.

(b) Except as provided in Section 27.2945, the treasurer of a committee that makes independent expenditures in support of or

in opposition to a candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or services in whole or in part.

#### SEC. 27.2945 EXTENSIONS OF VENDOR CREDIT

(a) Vendors may extend credit to candidates or committees in the ordinary course of business in the same manner as extended to persons for other than political purposes.

(b) For leases or rentals of one (1) month or more, candidates or committees that rent or lease real or personal property for political purposes shall pay at least one month's rent in advance of taking possession. Thereafter, candidates or committees shall pay rent in advance.

(c) For leases or rentals of less than one (1) month, candidates or committees that rent or lease real or personal property for political purposes shall pay in full in advance.

(d) A candidate or committee that accepts goods or services for political purposes on credit under section 27.2945(a), shall pay for those goods or services in full no later than ninety (90) calendar days after receipt of a bill or invoice and in no event later than ninety (90) calendar days after the last day of the month in which the goods were delivered or the services were rendered.

#### SEC. 27.2946 CONTINUING VIOLATIONS

A candidate or committee treasurer violates Section 27.2945(b), (c) or (d) whenever the candidate or committee treasurer fails to pay any rent or for goods or services in full



within the time periods set forth in Section 27.2945. Each and every day any obligation remains partially or wholly unpaid after the time periods set forth in Section 27.2945 constitutes a separate violation.

**SEC. 27.2947 PROHIBITIONS AND LIMITS ON CONTRIBUTIONS FROM ORGANIZATIONS**

(a) It is unlawful for a candidate, committee, committee treasurer or other person acting on behalf of a candidate or committee to accept a contribution from any person other than an individual.

(b) It is unlawful for a person other than an individual to make a contribution to any candidate or committee, except to a committee that is organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the committee pursues no other purpose.

(c) For purposes of Section 27.2947(a) and (b), the term "committee" includes any committee that makes independent expenditures, in addition to any controlled committee.

(d) Notwithstanding Section 27.2947(a), a committee may accept a contribution from any person if the committee is organized solely for the purpose of supporting or opposing the qualification of a City measure for the ballot, or the adoption or defeat of a City measure, and the committee pursues no other purpose.

(e) For purposes of Section 27.2947(b) and (d), a recall election is not an election on a City measure.

SEC. 27.2948 OBLIGATION TO RETURN CONTRIBUTIONS

(a) If a candidate, committee, or committee treasurer is offered a contribution the acceptance of which would constitute a violation of this Division, the candidate, committee or committee treasurer shall refuse the offer.

(b) If a candidate, committee, or committee treasurer receives a monetary contribution the acceptance of which would constitute a violation of this Division, neither the candidate, committee, nor committee treasurer shall be subject to any penalty for receipt of that contribution if the candidate, committee, or committee treasurer:

(1) does not deposit the contribution into the campaign contribution checking account; and,

(2) returns the contribution within five (5) calendar days of the day the contribution was received.

(c) If a candidate, committee, or committee treasurer deposits into the campaign contribution checking account a monetary contribution the acceptance of which constitutes a violation of this Division, the candidate, committee, or committee treasurer shall within five (5) calendar days of the date of discovery of the violation report in writing to the City Clerk all facts pertaining to the contribution, including but not limited to:

(1) a copy of any check(s), draft(s), or other instrument(s) by which the contribution was made; and

(2) if made in cash, the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and

(3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and

(4) the means of tender, delivery or confirmation of the contribution (e.g. U.S. Postal Service or private mail, courier service, in person, etc.). If delivered in person by the contributor or the contributor's agent, the report shall include the full name, address, and telephone number of the contributor or agent.

(d) The candidate or committee treasurer shall promptly deliver an amount equal to any monetary contribution constituting a violation of this Division that is deposited into the campaign contribution checking account to the City Treasurer. The City Treasurer shall deposit any contribution or equivalent amount he or she receives under Section 27.2948 into the City's General Fund.

SEC. 27.2949 Renumbered from Section 27.2943

[For text see page 22.]

SEC. 27.2950 Renumbered from Section 27.2944

[For text see page 24.]

~~F. Campaign Expenditures~~

SEC. 27.2951 CAMPAIGN EXPENDITURES - UNCONTROLLED BY CANDIDATE OR COMMITTEE

Persons or organizations not subject to the control of a candidate or committee but who make independent expenditures for or against a candidate or committee shall indicate clearly on any

material published, displayed or broadcast that it was not authorized by a candidate or committee, 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 or committee.

[NO CHANGE IN SECTION 27.2951.]

**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.

[NO CHANGE IN SECTION 27.2952.]

**SEC. 27.2953 NO EXISTING SECTION. RESERVED FOR FUTURE USE.**

**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.

[NO CHANGE IN SECTION 27.2954.]

SEC. 27.2955 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2956 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2957 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2958 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2959 NO EXISTING SECTION. RESERVED FOR FUTURE USE.  
SEC. 27.2960 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

~~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) Supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all candidates and committees, and to all other persons required to report.

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.

(c) Notify promptly all persons and known committees who have failed to file a document in the form and at the time required by state law.

(d) Report apparent violations of this division and applicable state law to the Enforcement Authority.

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

candidate and each measure.

(f) Cooperate with the Enforcement Authority in the performance of the duties of the Enforcement Authority as prescribed in this division and applicable state law.

[NO CHANGE IN SECTION 27.2961.]

SEC. 27.2962 NO EXISTING SECTION. RESERVED FOR FUTURE USE.

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

(a) The Enforcement Authority shall enforce the provisions of this division.

(b) 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.

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

(d) The Enforcement Authority shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this

division.

[NO CHANGE IN SECTION 27.2963.]

SEC. 27.2964 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2965 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2966 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2967 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2968 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2969 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

SEC. 27.2970 NO EXISTING SECTION. RESERVE FOR FUTURE USE.

#### ~~H. Penalties, Violations and Construction~~

#### ~~SEC. 27.2971 PENALTIES~~

~~Any person who knowingly or wilfully 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. 27.2971 PENALTIES

(a) Any person who violates any part of this Division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in Chapter I of this Municipal Code.

(b) In addition to being subject to the penalties set forth

in Chapter I of this Municipal Code, any person found guilty of violating Sections 27.2941 or 27.2947, or both, shall be required to forfeit the amount received in violation of this Division and pay over these funds to the City Treasurer for deposit in the City's General Fund.

(c) If, after an election, a candidate or office holder is convicted of a violation of any provision of this Division, the election to office of such candidate or office holder shall be void and the office shall become vacant immediately upon the later of the following two (2) dates:

(1) the date of the candidate or office holder's conviction; or

(2) the date the candidate would have taken office, if the candidate is not an incumbent.

In the event of a vacancy resulting from application of Section 27.2971(c), the vacancy shall be filled in accordance with the procedures set forth in the City Charter for the filling of vacant City offices.

(d) If a candidate is convicted of violating any provision of this Division any time prior to the election, the candidacy shall be terminated immediately and the person shall be no longer eligible for election.

(e) Any person convicted of a violation of any provision of this Division shall be ineligible to hold a City elective office for a period of five (5) years from and after the date of the conviction.

(f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this Division must be



commenced shall not begin to run until the discovery of the violation.

~~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 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 permitted under Section 84212 of the Government Code have been filed in the form and at the place required by the Political Reform Act of 1974. 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.

[NO CHANGE IN SECTION 27.2973.]

**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.

[NO CHANGE IN SECTION 27.2974.]

**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.

[NO CHANGE IN SECTION 27.2975.]

5116

Passed and adopted by the Council of The City of San Diego on JUL 11 1994  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christine Kehoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barbara Warden	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Mary Cepeda, 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 JUN 27 1994, and on JUL 11 1994.

~~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.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Mary Cepeda, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Or 18086 Adopted JUL 11 1994  
Number.....

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE

94 JUL 26 AM 10:10

SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK  
2ND FLOOR CITY ADMIN BLDG  
202 C STREET  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7, DIVISION  
29, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING

**ORDINANCE NUMBER 0-18086 (NEW SERIES)**

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7, DIVISION 29, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.2903; BY ADDING SECTION 27.2904, 27.2905, 27.2911, AND 27.2912; BY AMENDING SECTIONS 27.2925 AND 27.2931; BY REPEALING AND REENACTING SECTIONS 27.2941 AND 27.2942; BY RENUMBERING SECTIONS 27.2943 AND 27.2944 TO READ 27.2949 AND 27.2950 RESPECTIVELY; BY ADDING SECTIONS 27.2943, 27.2944, 27.2945, 27.2946, 27.2947 AND 27.2948; BY REPEALING SECTIONS 27.2971 AND 27.2972; BY REENACTING SECTION 27.2971; AND BY REPEALING SUBDIVISION TITLES, RELATING TO THE SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTROL ORDINANCE.

This ordinance amends the San Diego Municipal Elections Campaign Finance Ordinance.

It repeals section 27.2941 on campaign contributions-limitations and Section 27.2942 on organizational contributions, and reenacts those Sections 27.2941 and 27.2942 as eight new sections; 27.2941, 27.2942, 27.2943; 27.2944, 27.2945, 27.2946, 27.2947, and 27.2948. These new provisions clarify existing law. In particular, the basic contribution limit of \$250 per election remains. Also, existing Section 27.2941(b) prohibiting extensions of credit past 30 days is replaced with two new sections: Section 27.2944 on payment for goods and services and Section 27.2945 on extensions of vendor credit. Proposed Section 27.2945(d) contains three options for repayment of vendor's debt: 30, 60 or 90 days. The Council must choose only one of these options if the City Council adopts this ordinance. New Section 27.2942 clarifies existing law pertaining to loans. New Section 27.2943 clarifies the law pertaining to documentation required for loans. New Section 27.2945 clarifies that failure to pay campaign debts is a continuing violation. New Section 27.2947 on prohibition and limits on contributions from organizations clarifies existing Section 27.2942(a) pertaining to organizational contributions. The obligation to return contributions accepted in violation of the ordinance has been rewritten and placed in proposed new Section 27.2948.

Additionally, the prohibition against "aiding and abetting" violations of the existing Campaign Control Ordinance has been rewritten and placed in new Section 27.2971 on penalties. The scienter ("knowledge") requirement of existing Section 27.2942(c) has been eliminated. All penalties have been placed in a single new section (No. 27.2971) and the two existing penalty sections (Nos. 27.2971 and 27.2972) are repealed. Section 27.2971(f) has been added to clarify that the statute of limitations begins to run only from the date of discovery of the violation. The new penalties section also clarifies that a court is required to make persons found guilty of the contribution limits forfeit those monies and pay them over to the City Treasurer. The ordinance also amends Section 27.2925 to clarify the types of records candidates and committees must keep to ensure that they are complying with the City's ordinance.

The ordinance amends Section 27.2903 to add some definitions, including the terms "Vendor," "Political purposes," "Treasurer" and "Committee Treasurer." It also amends Section 27.2903 to change some definitions to correspond more to state law than they do currently. Sections 27.2911 and 27.2912 have been added to create a duty to have a Committee Treasurer and to prescribe the duties and authority of the Treasurer. New Section 27.2905 on Recall Elections makes explicit that recall elections begin, for purposes of this campaign finance law, when the Notice of Intent to circulate a recall petition is published. This section is also intended to clarify that a recall election takes place, for purposes of this ordinance, even though voters never cast ballots on the recall. As a related amendment, the term "measure" is redefined to clarify that it does not include a recall election. New Section 27.2904 is added to clarify how long a candidate or committee retains its status for purposes of this campaign finance law.

I, STACY L. MARTIN

, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-18086 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

JULY 25

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 25th day of JULY, 19 94.

Stacy L. Martin  
(Signature)

7" x 2 = \$ 199.68

01 JUN 28 1984

CHAS G ABDELNOUR

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.  
INTRODUCED ON JUN 27 1984. Passed and adopted by the Council of the City of San Diego on JUL 11 1984.  
AUTHENTICATED BY:  
SUSAN GOLDING  
Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, CA  
(SEAL)  
By MARY CEPEDA, Deputy  
Pub. July 25 297758