

ORDINANCE NUMBER O- 18284 (NEW SERIES)

ADOPTED ON APR 15 1996

AN ORDINANCE AMENDING CHAPTER XI, ARTICLE 1, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 111.0107; BY ADDING SECTIONS 111.0110, 111.0111, 111.0112, 111.0113, AND 111.0114, ALL RELATING TO DENIAL OF PERMITS FOR VIOLATION OF CAMPAIGN LAWS.

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

Section 1. That Chapter XI, Article 1, Division 1, of the San Diego Municipal Code by and the same is hereby amended by amending Section 111.0107, to read as follows:

SEC. 111.0107 Definitions

Each defined term will appear in quotation marks and the first letter of each term will be capitalized. Unless the context otherwise indicates, the defined terms shall have the following meanings:

For purposes of Sections 111.0110 through 111.0114:

"Affiliate" means business entities, organizations, or individuals who either directly or indirectly (a) control one another or have the power to control one another, or (b) are controlled by a third party or are subject to control by a third party. "Affiliates" include chief executive

officers and members of boards of directors
or their equivalents.

No further change to this section.

Section 2. That Chapter XI, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 111.0110, 11.0111, 111.0112, 111.0113, and 111.0114, to read as follows:

SEC. 101.0110 Statement of Purpose

Denial of a permit, map or other matter because of an Applicant or Affiliate's violation of campaign disclosure laws is a sanction to be imposed only in the public interest to avoid actual, or the appearance of, undue influence in the land development process, and not for purposes of punishment. Sections 111.0110 through 111.0114 are designed to protect the City's land development process by ensuring that permits, maps and other matters are to be granted only by means of a process that is conducted under the highest standards of integrity and honesty.

SEC. 111.0111 Effect of Campaign Money Laundering Violation on Issuance of Permit, Map or Other Matter

(a) Unless denial of a particular permit, map or other matter would adversely affect an Applicant or Affiliate's vested rights to the permit, map or other matter, a

decision-maker shall deny an Applicant's request for any permit, map or other matter listed in Section 111.0111(b) if the Applicant or Affiliate:

(1) has been convicted in a court of law for violations of California Government Code sections 84300(c) and 84301 (sections of the California Political Reform Act requiring disclosure of true campaign donor), as they exist on MAY 15, 1996, or as amended thereafter, which violations occurred on or after MAY 15, 1996, and which violations occurred with respect to a City election; or,

(2) is subject to a Fair Political Practices Commission ("FPPC") enforcement order, either following a hearing or by stipulation, that makes a finding of a violation of California Government Code sections 84300(c) and 84301, as those sections exist on MAY 15, 1996, or as amended thereafter, which violations occurred on or after MAY 15, 1996, and which violations occurred with respect to a City election.

(b) The decision-maker's determination under Section 111.0111(a) as to whether an Applicant or Affiliate's vested rights to a

permit, map or other matter may be made only after consultation with the City Attorney.

(c) The following types of permits, maps or other matters are subject to Section 111.0111(a):

(1) Zone Changes issued pursuant to Chapter X, Article 1, Division 2, of this Municipal Code;

(2) Transfer of Density Permit issued pursuant to Chapter X, Article 1, Division 3 of this Municipal Code;

(3) Variances, Conditional Use Permits and other types of Special Permits issued pursuant to Chapter X, Article 1, Division 5, of this Municipal Code;

(4) Application to establish or change a setback line pursuant to Chapter X, Article 1, Division 6, of this Municipal Code;

(5) Planned Development Permits issued pursuant to Chapter X, Article 1, Division 9, of this Municipal Code;

(6) Subdivision Maps issued pursuant to Chapter X, Article 2, Division 2, of this Municipal Code;

(7) Parcel Maps issued pursuant to Chapter X, Article 2, Division 3, of this Municipal Code;

(8) Planned District Permits issued pursuant to Chapter X, Article 3, of this Municipal Code;

(9) Coastal Development Permits issued pursuant to Chapter X, Article 5, Division 2, of this Municipal Code;

(10) Development Agreements entered into pursuant to Chapter XI, Article 1, Division 9 of this Municipal Code.

(11) Any other similar permit, map or other matter identified by the Development Services Director.

(d) The City's obligation to deny an Applicant's request for permit, map or other matter under Section 111.0111(a) shall cease three years from the date of conviction in a court of law, or date of an FPPC enforcement order, finding a violation of California Government Code sections 84300(c) and 84301.

SEC. 111.0112 General

(a) Persons prohibited from obtaining permits, maps or other matters under Section 111.0111 shall be placed on a list compiled and maintained by the City Manager in accordance with Section 111.0113.

(b) A decision-maker's duty under Section 111.0111(a) to deny permits, maps or other matters to an Applicant extends to all

divisions or other organizational elements of the Applicant, unless the prohibition is limited by its terms to specific divisions, organizational elements, or commodities. The City may extend the prohibition to include an Affiliate if the Affiliate is (1) specifically named and (2) given written notice of the proposed prohibition and an opportunity to respond.

SEC. 111.0113 List of Persons Subject to Prohibition

(a) The City Manager shall:

(1) compile and maintain a current, consolidated list of all persons whose application for permits, maps or other matters is required to be denied under Section 111.0111(a);

(2) periodically revise and distribute the list and issue supplements; and,

(3) establish procedures to provide for effective use of the list, to ensure that the City does not issue permits, maps or other matters to anyone on the list.

(b) The list maintained by the City Manager under Section 111.0113 shall indicate:

(1) The names and addresses of all

persons who have been denied permits, maps or other matters under Section 111.0111, with cross references when more than one name is involved in a single action;

(2) the cause for the action; and,

(3) the termination date for each listing.

SEC. 111.0114 Scope of Prohibition

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individuals associated with an Applicant may be imputed to the Applicant when the conduct occurred in connection with the individual's performance of duties for, or on behalf of, the Applicant, or with the Applicant's knowledge, approval, or acquiescence. The Applicant's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of an Applicant may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the Applicant who participated in, knew of, or had reason to know of the Applicant's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one Applicant participating in a joint venture or similar arrangement may be imputed to other participating Applicants if the conduct occurred for, on approval of, or acquiescence of these Applicants. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Section 3. The City Clerk is hereby directed to insert the effective date of this ordinance, once known, in the blank spaces provided in Section 111.0111.

Section 4. 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

CCM:jrl
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