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ORDINANCE NUMBER O-18846 (NEW SERIES)

ADOPTED ON SEPTEMBER 12, 2000

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7, DIVISION 29, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2901, 27.2902, 27.2903, 27.2904, 27.2905, 27.2911, 27.2912, 27.2921, 27.2922, 27.2923, 27.2924, AND 27.2925; BY REPEALING THE SUBDIVISION TITLES OF SECTIONS 27.2926, 27.2927, 27.2928, AND 27.2929; BY AMENDING SECTION 27.2931; BY REPEALING THE SUBDIVISION TITLES OF SECTIONS 27.2932, 27.2933, 27.2934, 27.2935, 27.2936, 27.2937, AND 27.2938; BY AMENDING SECTIONS 27.2940 AND 27.2941; BY REPEALING THE SUBDIVISION TITLE AND TEXT OF SECTION 27.2942; BY AMENDING SECTIONS 27.2943, 27.2944, 27.2945, 27.2946, 27.2947, 27.2948, 27.2949, 27.2950, 27.2951, 27.2952, 27.2954, 27.2961, 27.2963, AND 27.2971; BY REPEALING THE SUBDIVISION TITLE OF SECTION 27.2972; BY AMENDING SECTIONS 27.2973 AND 27.2974; AND BY REPEALING SECTION 27.2975; ALL RELATING TO THE ELECTION CAMPAIGN CONTROL ORDINANCE.

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 Sections 27.2901, 27.2902, 27.2903, 27.2904, 27.2905, 27.2911, 27.2912, 27.2921, 27.2922, 27.2923, 27.2924, and 27.2925, to read as follows:

SEC. 27.2901 Purpose and Intent

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; to provide full and fair enforcement of all the provisions of this division; and to avoid the corruption or the appearance of corruption brought about when candidates for elective office accept large campaign contributions. 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 27.0102 of this article shall not apply to this division.

SECTION 27.2902 - Citation

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

SECTION 27.2903 - Definitions

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

“*Agent*” means a *person* who acts on behalf of any other *person*.

"*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*.

"*Candidate*" has the same meaning as that term is defined in Section 27.0103.

"*City*" means the *City* of San Diego.

"*City-wide General Election*" has the same meaning as that term is defined in Section 27.0103.

"*City-wide Primary Election*" has the same meaning as that term is defined in Section 27.0103.

"*Clerk*" has the same meaning as that term is defined in Section 27.0103.

"*Committee*" has the same meaning as that set forth in California Government Code Section 82013(a) through (b).

"*Compensation*" means any economic consideration for services rendered. This includes reimbursement for expenses.

"*Contribution*"

(a) "*Contribution*" includes:

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

(2) 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 unless the loan is received from a commercial lending institution in the ordinary course of business.

(3) 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

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

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

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

(7) 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

(8) any *payment of compensation* by any *person* for the 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

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

(b) "*Contribution*" does not include:

(1) 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

(2) the cost of a meeting or fundraising event held in a home or office when the total cost of the meeting or event is no more than five hundred dollars (\$500); or

(3) 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

(4) any *independent expenditure*; or

(5) the rendering of volunteer services.

"*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*.

“*Council*” has the same meaning as that term is defined in Section 27.0103.

“*District General Election*” has the same meaning as that term is defined in Section 27.0103.

“*District Primary Election*” has the same meaning as that term is defined in Section 27.0103.

“*Election*” has the same meaning as that term is defined in Section 27.0103, but does not include *elections* of the San Diego Unified School District.

(a) For the purpose of this division, a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, and a *special election* are single and separate *elections*.

“*Elective Office*” has the same meaning as that term is defined in Section 27.0103, but does not include the office of a member of the governing board of the San Diego Unified School District.

“*Enforcement Authority*” has the same meaning as that term is defined in Section 27.0103.

"*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.

"*Gift*" has the same meaning as that set forth in California Government Code section 82028.

"*Independent expenditure*" means any *expenditure* made by any *person* in connection with a communication which:

- (a) expressly supports or opposes the nomination, *election*, defeat or recall of a clearly identified *candidate*; or
- (b) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified *measure*; or
- (c) 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* is not an *independent expenditure*.

"*Measure*" has the same meaning as that term is defined in Section 27.0103 but does not include a recall *election*.

"*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.

"*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.

"*Petition*" has the same meaning as that term is defined in Section 27.0103.

"*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 *elective officer*, for or against the qualification of a *City measure* for the ballot, or for or against the adoption or defeat of any *City measure*.

"*Special election*" has the same meaning as that term is defined in Section 27.0103, but does not include *elections* of the San Diego Unified School District.

"*Travel expenses*" has the same meaning as that term is defined in Section 27.4002.

"*Treasurer*" or "*Committee treasurer*" means the individual designated to perform the duties of *treasurer* under Section 27.2912.

"*Voter*" has the same meaning as that term is defined in Section 27.0103.

"*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**

(a) For purposes of this division, any individual who is a *candidate* retains the status of *candidate* until that status is terminated either:

(1) pursuant to California Government Code section 84214;

or

(2) pursuant to Sections 27.2971(c) or 27.2971(d) of this Municipal Code.

(b) For purposes of this division, any *committee* retains the status of *committee* until that status is terminated pursuant to California Government Code section 84214.

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 the recall provisions of this article; 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*. Only 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. 27.2921 - Campaign Contribution Checking Account

(a) Every *candidate* and every *committee* 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*.

(b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*

(c) 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 an individual on behalf of a *candidate*, to a *committee* supporting or opposing a *candidate* or a *City measure*, or to an individual 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 twenty business *days*.

(d) *Contributions* must include the information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign *treasurer* within ten business *days* of receipt of the contribution. No contribution shall be deposited to a campaign contribution checking account without the receipt by the candidate or committee of that information.

(e) Any *contribution* not deposited within twenty business *days* shall be returned to the contributor as soon as possible after the twentieth business *day*, but no later than twenty-five business *days* after receipt of the *contribution*.

SEC. 27.2922 - Disbursements

Funds shall be disbursed from a campaign *contribution* checking account established pursuant to Section 27.2921 only by check signed by the *candidate* or by the *candidate's* or *committee's*

campaign *treasurer* or designated *agents* of the campaign *treasurer*.

SEC. 27.2923 - Petty Cash Fund

A petty cash fund may be established for each campaign bank account under the following conditions:

(a) No more than \$100 may be held in the petty cash fund at any one time.

(b) No *expenditure* that totals \$100 or more may be made from the petty cash fund.

(c) *Expenditures* from a petty cash fund are deemed to be *expenditures* from the campaign bank account.

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 to the *committee* for use in any lawful manner pursuant to California Government Code sections 81000 *et seq.*

SEC. 27.2925 - Accounting

(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 by the *candidate* or *committee*; and
- (2) any *contribution* received by the *candidate* or *committee* and returned to the contributor; and
- (3) any *contribution* received by the *candidate* or *committee* and deposited 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 made by the *candidate* to his or her own campaign, 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 (if requested), 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 (a) and (b) shall be kept by the *candidate* or *committee treasurer* establishing the account for a period of four 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*.

Section 2. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by repealing the subdivision titles of Sections 27.2926, 27.2927, 27.2928, and 27.2929.

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

SEC. 27.2931 - Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* Compliance with the disclosure requirements of California Government Code sections 81000 *et seq.* is deemed to be compliance with this section.

Section 4. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by repealing the subdivision titles of Sections 27.2932, 27.2933, 27.2934, 27.2935, 27.2936, 27.2937, and 27.2938.

Section 5. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code

be and the same is hereby amended by amending Sections 27.2940 and 27.2941, to read as follows:

**SEC. 27.2940 - Lawful Use of Campaign Funds by A
Committee**

Uses of campaign funds held by any *committee* formed in accordance with this division shall be governed by California Government Code sections 81000 *et seq.*

SEC. 27.2941 - Contribution Limits

(a) It is unlawful for a *candidate*, *committee* supporting or opposing a *candidate*, or individual acting on behalf of a *candidate* or *committee* to solicit or accept from any other individual a *contribution* which will cause the total amount contributed by that other individual 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 individual to make to any *candidate* or *committee* supporting or opposing a *candidate* a *contribution* that will cause the total amount contributed by that individual 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 of his or her own money or property that a *candidate* may contribute to, including loan to, or expend on behalf of the

be and the same is hereby amended by amending Sections 27.2940 and 27.2941, to read as follows:

**SEC. 27.2940 - Lawful Use of Campaign Funds by A
Committee**

Uses of campaign funds held by any *committee* formed in accordance with this division shall be governed by California Government Code sections 81000 *et seq.*

SEC. 27.2941 - Contribution Limits

(a) It is unlawful for a *candidate*, *committee* supporting or opposing a *candidate*, or individual acting on behalf of a *candidate* or *committee* to solicit or accept from any other individual a *contribution* which will cause the total amount contributed by that other individual 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 individual to make to any *candidate* or *committee* supporting or opposing a *candidate* a *contribution* that will cause the total amount contributed by that individual 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 of his or her own money or property that a *candidate* may contribute to, including loan to, or expend on behalf of the

candidate's own campaign.

(d) The *contribution* limits contained in Section 27.2941(b) apply to the total *contributions* of an individual to a *candidate*, whether to the *candidate's controlled committee* or to a *committee* that makes *independent expenditures* in support of that *candidate*.

Section 6. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by repealing the subdivision title and text of Section 27.2942.

Section 7. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 27.2943, 27.2944, 27.2945, 27.2946, 27.2947, 27.2948, 27.2949, 27.2950, 27.2951, 27.2952, 27.2954, 27.2961, 27.2963, and 27.2971, to read as follows:

SEC. 27.2943 - Terms and Disclosure of Loans

(a) A *candidate* who makes a loan to his or her *committee* from his or her personal funds is not required to charge interest on that loan, but may charge a rate of interest comparable to or less than that which would be charged by a commercial lending institution for loans not made for *political purposes*.

(b) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216 and 84216.5.

SEC. 27.2944 - Payment and Disclosure of Payment for Goods or Services

(a) An *expenditure* is made on the date the *payment* is made or the date that the *candidate* or *committee* receives the goods or services, whichever is earlier.

(b) Every *candidate* and *committee* shall disclose *expenditures* in the same time and manner required by California Government Code section 84211. An *expenditure* which has been incurred but not paid during a reporting period shall be disclosed as an accrued expense.

(c) 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.

(d) 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 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 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 calendar *days* after receipt of a bill or invoice and in no event later than ninety calendar *days* after the last calendar *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 calendar *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 twenty business *days* of the calendar *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 ten calendar *days* of the date of the

candidate's, committee's or committee treasurer's discovery of the violation provide 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, a report of 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) a report of the means of tender, delivery or

confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, *in person*, etc.); and

(5) a report of the full name and street address of the

contributor.

(d) The *candidate or committee treasurer* shall promptly deliver from available funds, if any, 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 Clerk* and made payable 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 - Prohibition of 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 Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

SEC. 27.2950 - Prohibition of Contributions in the Name of Another Individual

(a) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a *contribution* in a name other than the name by which he or she or they are identified for legal purposes.

(b) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a *contribution* in the name of another individual or combination of individuals.

(c) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a

contribution in his or her or their name of:

(1) anything belonging to another individual; or

(2) anything received from another individual on the condition that it be used as a *contribution*.

(d) When it is discovered by the campaign *treasurer* that a *contribution* has been received and deposited in violation of Section 27.2950, the campaign *treasurer* shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That amount shall be delivered to the *City Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

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*.

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 or be less than the charges normally made for comparable use of such space or time by other users thereof.

**SECTION 27.2954 - Suppliers of Goods and Services —
Disclosure of Records Required**

It is unlawful for any who supplies goods or services or both goods and services to a *candidate* or *committee* for use in connection with the campaign of a *candidate* or for or against a *measure* to refuse knowingly to divulge or disclose to the *Enforcement Authority* his or her record of any *expenditures* made by the *candidate* or *committee* in *payment* for such goods or services or both.

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 the 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.

**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. The *Enforcement Authority* may demand and shall 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.

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 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 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 *City's* discovery of the violation.

Section 8. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by repealing the subdivision title of Section 27.2972.

Section 9. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 27.2973 and 27.2974, to read as follows:

SEC. 27.2973 - Effect of Violation on Certification of Election Results

(a) The *City Clerk* shall not issue any certificate of nomination or *election* to any *candidate* until his or her campaign statements required in Section 27.2931, or, if no campaign statement is required, the written declaration permitted under Section 84212 of the California Government Code have been filed in the form and at the place required by California Government Code sections 81000 *et seq.*

(b) The *City Council* shall not adopt a resolution declaring any *candidate* to be nominated or elected until such statements or

declaration have been filed in the form and at the place required of the *candidate* in this division.

SEC. 27.2974 - Rules of Construction

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

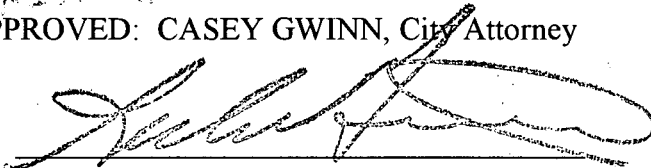
Section 10. That Chapter II, Article 7, Division 29, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 27.2975.

Section 11. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 12. This ordinance shall take effect and be in force on November 8, 2000.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard
Assistant City Attorney

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Or.Dept:Clerk

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