

ORDINANCE NUMBER O- **19317** (NEW SERIES)

ADOPTED ON **SEP 07 2004**

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING DIVISION 29, AND ADDING NEW DIVISION 29, TITLED "SAN DIEGO MUNICIPAL ELECTION CAMPAIGN CONTROL ORDINANCE," AND ADDING SECTIONS 27.2901 THROUGH 27.2991, ALL RELATING TO THE CITY OF SAN DIEGO ELECTION CAMPAIGN CONTROL ORDINANCE

WHEREAS, the San Diego Municipal Election Campaign Control Ordinance [ECCO], codified at Chapter 2, Article 7, Division 29 of the San Diego Municipal Code, was first adopted in April of 1973 by Ordinance No. O-11034 N.S.; and

WHEREAS, the City Council has amended ECCO from time to time to clarify certain issues, but has not made comprehensive changes to ECCO since its adoption in 1973; and,

WHEREAS, campaign finance laws throughout the state and country have become increasingly complex since ECCO was first adopted; and

WHEREAS, difficulties in applying ECCO to modern campaign activities have shown that ECCO would benefit from a comprehensive review and update; and

WHEREAS, pursuant to San Diego Municipal Code section 26.0414, the City of San Diego Ethics Commission has the responsibility of reviewing the City's existing governmental ethics laws, and proposing updates to those laws to the City Council for its approval; and

WHEREAS, the Ethics Commission has engaged in a thorough review of ECCO and has identified many areas in ECCO that would benefit from clarification and modernization; and

WHEREAS, the Ethics Commission has proposed numerous changes designed to harmonize ECCO with comparable provisions of state law, better enable interested parties to

participate in the political process, give the Ethics Commission enforcement authority over additional campaign-related activities, and further the City's interest in preventing corruption and the appearance of corruption in campaign finance matters in order to re-enforce public confidence in the integrity of local campaign activities; and

WHEREAS, the City Council concurs with the proposals recommended by the Ethics Commission; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 7 of the San Diego Municipal Code is hereby amended by repealing Division 29.

Section 2. That Chapter 2, Article 7 of the San Diego Municipal Code is hereby amended by adding new Division 29, titled "San Diego Municipal Election Campaign Control Ordinance," and by adding sections 27.2901 through 27.2991, to read as follows:

#### Division 29

#### San Diego Municipal Election Campaign Control Ordinance

#### §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 City 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 Cahfomia 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.

**§27.2902 Citation**

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

**§27.2903 Definitions**

Unless otherwise defined in this section, or the contrary is stated or clearly appears from the context, the definitions of the Political Reform Act of 1974 (Government Code sections 81000 *et seq.*) and the definitions contained in the regulations adopted by the Fair Political Practices Commission shall govern the interpretation of this division.

*Agent* means a *person* who acts on behalf or at the behest of any other *person*.

*Assistant Treasurer* means an individual designated by a *committee* to have the duties, responsibilities, and obligations of a treasurer as described in title 2, section 18426.1 of the Cahfomia Code of Regulations.

*Candidate* means any individual who:

- (a) is listed on the ballot for *elective City office*; or
- (b) 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

- (c) 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
- (d) is a *City* officeholder who becomes the subject of a recall *election*. A *City* officeholder “becomes the subject of a recall *election*” on the earlier of:
  - (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
  - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the *City Clerk* or the Secretary of State pursuant to state and local law.

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

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

*City Council* means the Mayor and Council of the City of San Diego vested with all legislative powers of the City of San Diego pursuant to article III, section 11 of the Charter of the City of San Diego.

*Citywide General Election* means either the *election* at which the Mayor and City Attorney are elected unless such officers are elected at the *Citywide Primary Election*, or the *Citywide municipal election* consolidated with the statewide *election* on the first Tuesday after the first Monday in November of each even-numbered year.

*Citywide Primary Election* means the *election* at which the Mayor and City Attorney are nominated.

*City Official* includes:

- (a) any elected or appointed *City* officeholder, including any *City* officeholder elected but not yet sworn in; and
- (b) any *City* Board member, as defined in section 27.3503; and
- (c) any employee of the *City*, except for classified employees as that term is defined in San Diego Charter section 117, who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended; and
- (d) *City Council* members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (e) any consultants of the *City* who are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

*Committee* means any *person* acting, or any combination of two or more *persons* acting jointly, who raise \$1,000 or more, or make *independent expenditures* of \$1,000 or more, within a single calendar year on behalf of or in opposition to a *candidate* or for the qualification to the ballot or adoption or rejection of one or more ballot *measures*. *Committees* include *controlled committees, primarily formed recipient committees, and general purpose recipient committees*.

*Contribution* has the same meaning as that term is defined in California Government Code section 82015 and is subject to the inclusions and exceptions contained in title 2, section 18215 of the California Code of Regulations, except as modified by the

following provisions. In the event of any conflict between the state law definition and the following provisions, the following provisions shall control:

- (a) *contribution* includes any 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, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute. A good faith dispute shall be presumed if the *candidate* or *committee* produces:
  - (1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
  - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
- (b) *contribution* does not include an *independent expenditure*.
- (c) *contribution* does not include a *payment* made for *internal communications*.

*Controlled committee* means any *committee* controlled directly or indirectly by a *candidate* or that 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*.

*District General Election* means an *election* at which *City Council candidates* are

elected unless such officers are elected at the *District Primary Election*.

*District Primary Election* means an *election* at which *City Council candidates* are nominated.

*Election* means a *District or Citywide Primary Election*, a *District or Citywide General Election*, or a *Special Election or Special Run-off Election* held in the *City*. *Election* includes a ballot *measure* election, but does not include an election of the San Diego Unified School District. For the purpose of this division, a *District or Citywide Primary Election*, a *District or Citywide General Election*, and a *Special Election or Special Run-off Election*, are single and separate *elections*.

*Elective City office* means the office of the Mayor, Councilmember, or City Attorney of the City of San Diego. *Elective City office* does not include the office of a member of the governing board of the San Diego Unified School District.

*Enforcement Authority* means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

*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. An *expenditure* does not include a *payment* for *internal communications*, nor does it include costs incurred for communications advocating the nomination, election, or defeat of a *candidate* or the qualification, passage, or defeat of a *measure* by a federally regulated broadcast outlet or by a regularly published newspaper, magazine, or periodical of general circulation that routinely carries news, articles, or commentary of general interest.

*General purpose recipient committee* means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose more than one *candidate* or *measure*. This type of *committee* is not controlled by a *candidate*.

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

- (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 *controlled committee* is not an *independent expenditure*.

*Internal communication* means communications directed solely to members, employees, or shareholders of an organization, including communications to members of any political party, for the purpose of supporting or opposing a *candidate*



or *candidates for elective City office*, specifically not to include communication activities used in connection with broadcasting, newspaper, billboard or similar type of general public communication. The meaning of *internal communication* is intended to be consistent with the definitions contained in California Government Code section 85312 and title 2, section 18531.7 of the California Code of Regulations. Any amendments made to these authorities shall be deemed to be an amendment to the language of this definition.

*Mass mailing* means more than 200 substantially similar pieces of campaign literature sent within a single calendar month.

*Measure* means any City Charter amendment or proposition that is submitted to a popular vote at a City *election* by action of the City *Council*, or submitted or intended to be submitted to a popular vote at a *City election* by the procedure of initiative or referendum whether or not it qualifies for the ballot. A *measure* and a proposition are synonymous. A *measure* 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* means one or more documents seeking action by the *City Council* or some officer. It includes a nominating, initiative, referendary, or recall *petition*.

*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 elected City 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*.

*Primarily formed recipient committee* means a *person*, entity, or organization that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose a single *candidate* for a *City election* or a single *City measure*. This type of *committee* is not controlled by a *candidate*.

*Shared management* means an organizational structure in which there is common management and control of two or more *general purpose recipient committees*. In determining whether there is common management and control, consideration shall be given to the following factors:

- (a) The same *person* or substantially the same *person* manages the operation of the different *general purpose recipient committees*;
- (b) There are common or commingled funds or assets;
- (c) The *general purpose recipient committees* share the use of the same offices or employees, or otherwise share activities, resources, or personnel on a regular basis;
- (d) There is otherwise a regular and close working relationship between the *general purpose recipient committees*.

*Special Election* means any *election* other than a *District* or *Citywide Primary Election*, or a *District* or *Citywide General Election*. It includes *elections* to consider *ballot measures*, *elections* to fill vacancies in *elective City office*, and recall *elections*.

*Special Run-off Election* means any *election* that is required by the failure of any *candidate* to receive a majority of votes cast at a *Special Election*.

*Sponsor of a committee* means any *person*, except a *candidate*, proponent, or other individual, to whom any of the following applies:

- (a) The *committee* receives 80 percent or more of its *contributions* either from the *person* or from the *person's* members, officers, employees or shareholders;
- (b) The *person* collects *contributions* for the *committee* by use of payroll deductions or dues from its members, officers, or employees;
- (c) The *person* provides, alone or in combination with other organizations, all or nearly all of the administrative services for the *committee*; or
- (d) The *person* sets, alone or in combination with other organizations, the policies for soliciting *contributions* or making *expenditures* of *committee* funds.

*Sponsored committee* means a *committee*, other than a *controlled committee*, which has one or more *sponsors*.

*Treasurer* means the individual designated to perform the duties of *treasurer* pursuant to section 27.2911.

*Voter* means an elector who is qualified and entitled to vote under general law in *City elections* and who is validly registered at the time he or she seeks to exercise the right to vote.

*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*.

**§27.2910 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 27.2991(c) or 27.2991(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.

**§27.2911 Duty to Have Campaign Treasurer**

Every *candidate* and every *committee* shall have a *treasurer*. A *candidate* may designate himself or herself as *treasurer*. A *committee* may designate an *assistant treasurer* to perform the duties and responsibilities of the *treasurer* in the event of a temporary vacancy in the office of the *treasurer* or in the event the *treasurer* is unavailable. Only an individual may be designated as a *treasurer* or *assistant treasurer*.

**§27.2912 Authority of Treasurer**

It is unlawful for any *expenditure* to be made by or on behalf of a *committee* without the express authorization of the *treasurer*. It is unlawful for any *contribution* to be

accepted by a *committee* or any *expenditure* to be made on behalf of a *committee* at a time when the office of *treasurer* is vacant.

**§27.2915 Campaign Contribution Checking Account for Ballot Measure Committees**

Every *committee* that accepts *contributions* for the purpose of supporting or opposing a City of San Diego *measure* shall deposit such *contributions* in a campaign *contribution* checking account located at an office of a bank or other financial institution providing checking account services located in the City of San Diego, and shall make all *expenditures* supporting or opposing the *measure* from that account.

**§27.2916 Campaign Contribution Checking Account for Controlled Committees**

- (a) Every *controlled committee* that accepts *contributions* 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.
- (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) All *contributions* of money or checks, or anything of value converted by such *controlled committee* to money or a check, shall be placed in the *controlled committee's* checking account within thirty business days, except that no *contribution* shall be deposited to a campaign *contribution* checking account without the receipt by the *controlled committee* of all 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 money or check.

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

**§27.2917 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 title 9, chapter 9.5, article 4 of the California Government Code, commencing with section 89510. It is unlawful to use campaign funds in any manner that would violate these provisions of the California Government Code.

**§27.2918 Disbursements**

It is unlawful for any funds to be disbursed from a *controlled committee's* campaign *contribution* checking account unless such disbursement is done by check signed by the *candidate*, the *candidate's* campaign *treasurer*, *assistant treasurer*, or other designated *agent* of the campaign *treasurer*.

**§27.2919 Petty Cash Fund**

A petty cash fund may be established for each *controlled committee* 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.

**§27.2920 Transfers**

- (a) A *candidate* may transfer campaign funds from one *controlled committee* to a *controlled committee* for *elective City office* of the same *candidate*.

*Contributions* transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed *contributions* when aggregated with all other *contributions* from the same contributor may not exceed the limits set forth in section 27.2935.

- (b) It is the intent of this section that transfers of a *candidate's* campaign funds be consistent with the provisions of law set forth in title 2, section 18536 of the Cahfomia Code of Regulations.

**§27.2921 Carryover of Contributions**

- (a) Notwithstanding subdivision (a) of section 27.2920, a *candidate* for *elective City office* may carry over contributions raised in connection with one *election* for *elective City office* to pay campaign expenditures incurred in connection with a subsequent *election* for the *same elective City office*.

- (b) It is the intent of this section that the carrying over of a *candidate's* campaign funds be generally consistent with the provisions of law set forth in title 2, section 18537.1 of the Cahfomia Code of Regulations.

**§27.2922 Loans**

- (a) It is unlawful for any *candidate* to personally make outstanding loans to his or her campaign or *controlled committee* that total at any one time more than \$100,000. Nothing in this section shall prohibit a *candidate* from making unlimited *contributions* to his or her own campaign.

- (b) It is unlawful for any *candidate* who makes a loan to his or her *committee* from his or her personal funds to charge interest on that loan.
- (c) The limits on loans imposed by this section apply to loans and lines of credit obtained from a bank or similar financial institution, but do not apply to debt incurred through the use of a credit card account established by a *candidate* and paid from the *candidate's* campaign bank account.
- (d) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216, and 84216.5.

**§27.2923 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*, a *controlled committee* checking account may be liquidated by paying the remaining balance in the checking account in any lawful manner pursuant to section 27.2924.

**§27.2924 Surplus Campaign Funds**

- (a) Upon leaving any elected office, or at the end of the post-election reporting period following the defeat of a *candidate* for elective office, whichever occurs last, campaign funds under the control of a *candidate* shall be considered surplus campaign funds.
- (b) After the failure of a recall petition or after the recall election, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds.



- (c) Surplus campaign funds shall be used only for the following purposes:
- (1) To pay outstanding campaign debts, as long as such debts are paid within the 180-day period set forth in section 27.2960;
  - (2) To repay *contributions*;
  - (3) To make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the *candidate*, any member of his or her immediate family, or his or her campaign *treasurer*.
  - (4) To make a *contribution* to a political party *committee*, provided the campaign funds are not used to support or oppose *candidates* for *elective City office*. However, the campaign funds may be used by a political party *committee* to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers.
  - (5) To make a *contribution* to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot *measure*.
  - (6) To pay for professional services reasonably required by the *candidate* or *committee* to assist in the performance of its administrative functions, including *payment* for attorney's fees for litigation that arises directly out of a *candidate's* activities or his or her status as a *candidate*, including, but not limited to, an action to enjoin defamation, defense of an action brought

for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

§27.2925 Accounting

- (a) In addition to any other requirements of this division, every *candidate* or *committee* that accepts *contributions* for a *City election* shall maintain a record of each of the following:
- (1) any *contribution* received by the *candidate* or *committee* and deposited into the campaign *contribution* checking account; and,
  - (2) 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, 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* 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*.

**§27.2930 Base Level of Campaign Statements and Disclosures**

Each *candidate* and *committee* shall file campaign statements in the time and manner required by Cahfomia Government Code sections 81000 *et seq.* and title 2 of the Cahfomia Code of Regulations with the following additional requirements:

- (a) All *candidate* and *committee* campaign disclosure statements that are generated from the output of a computer software program shall be generated with the names of all contributors listed in alphabetical order by last name. *Treasurers* for any *committee* that files handwritten campaign disclosure statements shall make reasonable good faith efforts to list the names of all contributors in alphabetical order by last name.
- (b) A *general purpose recipient committee* attributing *contributions* pursuant to section 27.2936 totaling \$100 or more to the same individual for purposes of supporting or opposing a *candidate* in an *election* shall, within six months of the attribution, separately disclose such *contributions* on a campaign statement filed with the *City Clerk* by supplying all identifying information regarding the contributor, reporting the date of the attribution as the “date received,” showing the amount attributed to the individual at that time, identifying the applicable *candidate* and *election* for which the attribution was made, and indicating that the *contribution* is being re-reported per San Diego Municipal Code section 27.2930.
- (c) A *general purpose recipient committee* that submits all of the information required by subsection (b) in a supplemental document attached to a campaign statement filed with the *City Clerk* will be deemed to have complied with the provisions of subsection (b).
- (d) Any payment made by a political party for *internal communications* to its members who are registered with that party and that would otherwise qualify as a *contribution* or *expenditure* shall be reported on that political party’s

campaign disclosure statement in a manner that identifies the payment as an “internal communication.”

- (e) *Contributions* shall be reported in a manner consistent with the provisions of title 2, section 18421.1 of the California Code of Regulations, except that a monetary *contribution* is deemed to have been made or received only after a *candidate* or *committee* obtains:
  - (1) possession or control of the check or other negotiable instrument by which the contribution is made, and
  - (2) possession of all of the information required by California Government Code section 84211.
- (f) When reporting *contributions* for *City candidate elections*, *candidates* and *committees* shall include the notation “(P)” for all *contributions* that the contributor has designated for a primary *election*, and shall include the notation “(G)” for all *contributions* that the contributor has designated for a general *election*. In instances where the contributor has not designated his or her *contribution* for a particular *election*, the *candidate* or *committee* shall include the notation “(P)” for all *contributions* the *candidate* or *committee* has allocated for the primary *election*, and shall include the notation “(G)” for all *contributions* the *candidate* or *committee* has allocated for the general *election*.
- (g) *Sponsors* and *sponsored committees* participating in *City elections* are subject to the reporting obligations set forth in title 2, section 18419 of the California Code of Regulations.
- (h) It is unlawful to fail to comply with the disclosure requirements of California

Government Code sections 81000 *et seq.*, the disclosure requirements of title 2 of the California Code of Regulations, and the additional requirements of this section.

**§27.2931 Online Disclosure of Campaign Statements**

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of financial activities engaged in by *candidates* and *committees* participating in *City election* campaigns. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Each *candidate* and *committee* that has received *contributions* or made *expenditures* of \$10,000 or more in connection with a *City election* shall use the *City Clerk's* electronic filing system to file online each campaign statement required by section 27.2930. Once a *candidate* or *committee* is required to file campaign statements online, that *candidate* or *committee* shall continue to file statements online until the *committee* has officially terminated.
- (c) Any *candidate* or *committee* not required to file online pursuant to subsection (b) may do so voluntarily.
- (d) The beginning date for calculating the \$10,000 threshold shall be determined when the *City Clerk* implements its electronic filing system.
- (e) All *candidates* and *committees* required to file their campaign statements online shall continue to file a paper copy of each campaign statement, as required by the California Political Reform Act and this division, until such *candidates* and *committees* are no longer required to file campaign statements with the *City*

*Clerk*. The paper copy shall continue to be the original campaign statement for audit and other legal purposes.

- (f) In addition to any late filing penalties that may be imposed for the late filing of a paper copy pursuant to the California Political Reform Act or to other provisions of this division, any *person* who fails to comply with the online filing requirement of this section shall be subject to an additional late filing penalty of \$25 per day after the deadline for the filing of the online copy.
- (g) The information contained on a campaign statement filed online shall be the same as that contained on the paper copy of the same statement that is filed with the *City Clerk*.

#### §27.2935 Contribution Limitations

- (a) It is unlawful for an individual to make to any *candidate* or *committee* supporting or opposing a *candidate*, or for any *candidate* or *committee* supporting or opposing a *candidate* to solicit or accept, a *contribution* that would cause the total amount contributed by that individual to support or oppose the *candidate* to exceed \$250 for any single *election* if the *candidate* is seeking *City Council* district office, or to exceed \$300 for any single *election* if the *candidate* is seeking the office of the Mayor or City Attorney.
- (b) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, or expend on behalf of, the *candidate's* own campaign.
- (c) The *contribution* limits imposed by this section do not apply to *general purpose recipient committees*, which are discussed in section 27.2936.

- (d) The *contribution* limits imposed by this section do not apply to *contributions* made to a legal defense fund, as discussed in sections 27.2965-27.2969.
- (e) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

27.2936 **Contribution Limitations for General Purpose Recipient Committees**

- (a) *General purpose recipient committees* may participate in *City candidate elections* by using *contributions* from individuals, subject to the *contribution* limits established by this section.
- (b) It is unlawful for any *general purpose recipient committee* to use a *contribution* for the purpose of supporting or opposing a *candidate* seeking *City Council* district office unless the *contribution* is attributable to an individual in an amount that does not exceed \$250 per *candidate* per *election*.
- (c) It is unlawful for any *general purpose recipient committee* to use a *contribution* for the purpose of supporting or opposing a *candidate* seeking the office of Mayor or City Attorney unless the *contribution* is attributable to an individual in an amount that does not exceed \$300 per *candidate* per *election*.
- (d) It is unlawful for two or more *general purpose recipient committees* with *shared management* to attribute *contributions* to the same individual for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* if it causes the total amount those *committees* attribute to that individual to exceed the contribution limits set forth in subsections (b) and (c).
- (e) A *general purpose recipient committee* that attributes a *contribution* to an individual for the purpose of supporting or opposing one or more *candidates*



seeking *elective City office* shall comply with the reporting requirements set forth in section 27.2930(b) and (c).

- (f) This section shall not be construed to limit the amount of money that an individual or any other *person* may give to a *general purpose recipient committee* in the form of *contributions*, dues, donations, fees, or other forms of monetary transactions, but shall be construed to limit the source and amount of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.
- (g) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

#### §27.2937 Indexing of Campaign Contribution Limits

- (a) On a biennial basis commencing in 2007, the *contribution* limits set forth in sections 27.2935 and 27.2936 shall be subject to adjustment.
- (b) The *City Clerk* shall adjust the *contribution* limits to reflect any changes in the Consumer Price Index for the San Diego area for the two-year period ending December 31 of the previous year. Adjustments shall be rounded to the nearest ten dollars.
- (c) The *City Clerk* shall publish a public notice of any adjustments by March 1, or as soon as practicable, following the Bureau of Labor Statistics's release of the applicable Consumer Price Index data.
- (d) *Contribution* limits adjusted in accordance with this section shall go into effect immediately upon the release of the *City Clerk's* public notice of the adjustment.

- (e) Notwithstanding subsection (d), adjustments to *contribution* limits shall be effective only with regard to *elections* held in subsequent calendar years, and shall not be construed to raise the *contribution* limits applicable to past *elections* or to *special elections* or *special run-off elections* held in the same calendar year that the limits are adjusted.

**§27.2938 Restrictions on Time Period of Contributions**

- (a) It is unlawful for any *candidate* or *controlled committee* seeking elective *City* office to solicit or accept *contributions* prior to the twelve months preceding the primary *election* for the office sought.
- (b) It is unlawful for any *candidate* or *controlled committee* for *City* office to accept *contributions* more than 180 days after the withdrawal, defeat, or election to office. *Contributions* immediately following such a withdrawal, defeat, or election and up to 180 days after that date, may be accepted only by a *candidate* or *controlled committee* with outstanding debts or loans, and shall be used only to pay the outstanding debts or loans owed by the *candidate* or *controlled committee*.
- (c) *Contributions* pursuant to subsections (a) and (b) of this provision shall be considered *contributions* raised for the *election* in which the bills and debts were incurred and shall be subject to the *contribution* limits of that *election*.
- (d) The restrictions on accepting *contributions* imposed by this section do not apply to *contributions* made to a legal defense fund, as discussed in sections 27.2965-27.2969.

- (e) The restrictions on accepting *contributions* imposed by subsection (a) do not apply to *contributions* for *elections* occurring in 2006.

**§27.2939 Pre-Primary Contributions for General Election**

- (a) A *candidate* for *elective City office* may raise contributions for a general election prior to a primary election for the same *elective City office* if the *candidate* sets aside these *contributions* and uses them only for the general election. If the *candidate* wins outright in the primary election, is defeated in the primary election, or otherwise withdraws from the general election, the *contributions* raised for the general election shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election *contributions*.
- (b) For purposes of this section, a “primary election” includes a *district primary election*, a *citywide primary election*, and a *special election*, and a “general election” includes a *district general election*, a *citywide general election*, and a *special run-off election*.
- (c) The particular *election* for which *contributions* are received shall be reported in accordance with section 27.2930(f).

**§27.2940 Family Contributions**

- (a) *Contributions* by a husband and wife shall not be aggregated.
- (b) A *contribution* made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

**§27.2941 Cash Contributions**

- (a) No *contribution* of \$100 or more shall be made or received in cash.

- (b) A cash *contribution* shall not be deemed received if it is not deposited and is returned to the contributor before the closing date of the campaign statement on which the *contribution* would otherwise be reported.
- (c) A cash *contribution* that is deposited shall not be deemed received if it is refunded within 72 hours of receipt, or within 48 hours of receipt if it is a “late contribution” as defined in California Government Code section 82036.

**§27.2942 Prohibition of Anonymous Contributions**

It is unlawful for any *candidate* or *committee* to use more than \$200 in total anonymous *contributions* with respect to a single *election*. To the extent that a *candidate* or *committee* accepts anonymous *contributions* in excess of \$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*.

**§27.2943 Prohibition of Contributions in the Name of Another Person**

- (a) It is unlawful for any *person* to make directly or indirectly a *contribution* in a name other than the name by which that *person* is identified for legal purposes.
- (b) It is unlawful for any *person* to make directly or indirectly a *contribution* in the name of another *person*.
- (c) It is unlawful for any *person* to make directly or indirectly a *contribution* in his or her or its name of:
  - (1) anything belonging to another *person*; or
  - (2) anything received from another *person* 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 this section, 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*.

**§27.2944 Intermediaries**

- (a) No *person* shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the *contribution* both his or her own full name and street address, occupation, and the name of his or her employer, if any, or his or her principal place of business if he or she is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other *person*.
- (b) A *person* is considered an “intermediary” for a *contribution* if any of the following apply:
- (1) The recipient of the *contribution* would consider the *person* to be the contributor without the disclosure of the identity of the true source of the *contribution*; or
  - (2) The *person* is an intermediary pursuant to title 2, section 18419 of the Cahfomia Code of Regulations.
- (c) The recipient of the *contribution* shall include in his or her campaign statement the full name and street address, occupation, and the name of the employer, if

any, or the principal place of business if self-employed, of both the intermediary and the contributor.

**§27.2945 Notification Regarding Reimbursement Prohibition**

- (a) It is unlawful for any *candidate*, or any *committee* supporting or opposing a *candidate*, to solicit *contributions* from potential contributors by distributing printed materials or using an Internet web site unless such materials or site contain at least one instance of the following statement in a prominent place printed in contrasting typeface not smaller than the typeface used in a majority of the text in the materials or on the site: “It is unlawful for a contributor to be reimbursed by any organization, business, or similar entity for a contribution supporting or opposing a City candidate.”
- (b) Upon the discovery by the *candidate* or *committee* that a violation of subsection (a) has occurred, such violation may be remedied by the *candidate* or *committee* submitting written notice reciting the statement required by subsection (a) to all individuals who were sent the materials constituting the violation and to all individuals who made a *contribution* through the web site during the period of violation, and thereafter reporting in writing the nature of the violation and remedial action to the *Enforcement Authority*, provided that the remedial action takes place no later than fourteen calendar days after the discovery of the violation.

**§27.2950 Prohibitions and Limits on Contributions From Organizations**

- (a) It is unlawful for a *candidate* or *controlled committee*, or any *treasurer* thereof, or any other *person* acting on behalf of any *candidate* or *controlled committee*, to solicit or 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 a *candidate* or *controlled committee*.
- (c) It is unlawful for any *primarily formed recipient committee* to solicit or accept from any *person* other than an individual, or for any *person* other than an individual to make, a *contribution* supporting or opposing a *candidate* for *elective City office*.
- (d) The prohibitions in subsection (c) shall not be construed to prevent a *person* other than an individual from making a *contribution* to a *primarily formed recipient 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 *primarily formed recipient committee* pursues no other purpose.
- (e) For purposes of section 27.2950(d), a recall *election* is not an *election* on a *City measure*.
- (f) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual.
- (g) It is unlawful for a *general purpose recipient committee* to attribute a *contribution* to a *person* other than an individual for the purpose of supporting or opposing one or more *candidates* for *elective City office*.

- (h) This section shall not be construed to prevent a *general purpose recipient committee* from accepting a *contribution* from any *person* for any purpose, but shall be construed to limit the source of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

**§27.2951 Prohibition on Contributions From Organization Bank Accounts**

For purposes of supporting or opposing a *candidate seeking elective City office*:

- (a) It is unlawful for any individual to make, or any *committee* to accept, a *contribution* drawn against a checking account or credit card account unless such account belongs to one or more individuals in their individual capacity.
- (b) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual in his or her individual capacity.
- (c) This section shall not be construed to prevent a *general purpose recipient committee* from accepting checks or credit card *payments* from any *person* for any purpose, but shall be construed to prohibit accounts not owned by individuals from being the source of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

**§27.2953 Contributions for Recall Elections**

- (a) For purposes of making, soliciting, and accepting *contributions* under this division, the eventual occurrence of a recall *election* may be presumed upon the earlier of:
  - (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,



- (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the City Clerk or the Secretary of State pursuant to state and local law.
- (b) *Contributions* accepted for a recall *election* shall not count toward the *contribution* limits applicable to any other *election* even if ballots pertaining to the recall effort are never cast.
- (c) After the failure of a recall petition or after the recall election, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds subject to the provisions of section 27.2924(c):

**§27.2955 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) Except as set forth in section 27.2943, 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* to the contributor before the end of the filing deadline for the reporting period in which 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); 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 has been deposited into the campaign *contribution* checking account. Such amount shall be made payable to the *City Treasurer* and delivered to the *City Clerk*. The *City Treasurer* shall deposit into the *City's* General Fund any amount he or she receives under this section.

**§27.2960 Extensions of Vendor Credit**

- (a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner they extend it to *persons* for other than *political purposes*.
- (b) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under subsection (a), shall pay for those goods or services in full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For purposes of this subsection, a good faith dispute shall be presumed if the *candidate* or *committee* produces the following:
  - (1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
  - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
- (c) The provisions of subsection (b) do not apply to debt owed to a financial institution for an outstanding credit card balance.

**§27.2961 Continuing Violations — Extensions of Vendor Credit**

A *candidate* or *committee treasurer* violates section 27.2960 whenever the *candidate* or *committee treasurer* fails to make *payment* in full for rent, goods, or services within the time periods set forth in section 27.2960. Each and every calendar day any

obligation remains partially or wholly unpaid after the time periods set forth in section 27.2960 constitutes a separate violation.

**§27.2962 Suppliers of Goods and Services — Disclosure of Records Required**

It is unlawful for any *person* who supplies goods or services to a *candidate* or *committee* for use in connection with the campaign of any *candidate* for *elective City office* or for or against any *City measure* to knowingly refuse to divulge or disclose to the *Enforcement Authority* that *person's* record of any *expenditures* made by the *candidate* or *committee* as *payment* for such goods or services.

**§27.2965 Legal Defense Fund**

- (a) Every elected *City Official* and every *candidate* for *elective City office* shall be permitted to establish and maintain one legal defense fund.
- (b) In addition to *contributions* received in connection with seeking an *elective City office*, any elected *City Official* or *candidate* for *elective City office* may receive *contributions* from individuals for a legal defense fund, and may use such *contributions* solely for the following purposes:
  - (1) to defray professional fees and costs incurred in the *City Official's* or *candidate's* response to an audit of his or her campaign activity conducted by the City of San Diego Ethics Commission or the California Fair Political Practices Commission; or
  - (2) to defray attorney's fees and other legal costs incurred in the *City Official's* or *candidate's* legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an

election campaign, the electoral process, or the performance of the City Official's governmental activities and duties.

- (c) It is unlawful for any individual to make, or any *City Official* or *candidate* to solicit or accept from any individual, *contributions* totaling more than \$250 during a single calendar year to a legal defense fund in connection with an audit or a civil, criminal, or administrative proceeding identified in a Statement of Purpose filed with the *City Clerk* pursuant to section 27.2966.
- (d) An individual's *contributions* to a legal defense fund are not subject to the campaign *contribution* limits set forth in sections 27.2935 and 27.2938.
- (e) It is unlawful for any individual to make a *contribution* to a legal defense fund without accompanying the *contribution* with a disclosure form identifying the particulars of all matters, if any, that such individual has pending before the board, commission, department, or agency of which the *City Official* or *candidate* maintaining the legal defense fund is a member or employee. When filing the quarterly campaign statements required by section 29.2967, the *City Official* or *candidate* maintaining the legal defense fund shall attach to such statement a copy of each disclosure form received pursuant to this subsection.
- (f) Any legal defense fund established in accordance with sections 27.2965-27.2969 must be maintained through a *controlled committee* the *City Official* or *candidate* has organized to seek the office held or sought that is the subject of the civil, criminal, or administrative proceeding.
  - (1) It is unlawful for a *controlled committee* to accept a *contribution* for a legal defense fund unless it is accompanied by a written designation from

the contributor indicating that the *contribution* is a *contribution* for the legal defense fund.

- (2) *Contributions* collected for a legal defense fund must be deposited in the *controlled committee's* campaign contribution checking account.
  - (3) *Expenditures* from a legal defense fund must be made from the *controlled committee's* campaign contribution checking account.
- (g) Except as set forth in subsection 27.2924(c)(6), sections 27.2965-27.2969 shall constitute the sole authority for soliciting or accepting *contributions* for the costs of responding to an audit or for the defense of an action relating to an election campaign, electoral process, or a *City Official's* conduct in office.

#### §27.2966 Establishment of a Legal Defense Fund

- (a) Prior to soliciting or accepting any *contributions* for a legal defense fund, the *City Official* or *candidate* shall file with the *City Clerk* a "Statement of Purpose" identifying the specific audit or civil, criminal, or administrative proceeding for which the use of a legal defense fund is sought. A *City Official* or *candidate* seeking to establish or maintain a legal defense fund shall file a separate "Statement of Purpose" for each audit and each civil, criminal, or administrative proceeding for which the use of the legal defense fund is sought.
- (b) The legal defense fund shall be named: "The (name of the *City Official* or *candidate*) Legal Defense Fund."
- (c) Any *controlled committee* accepting *contributions* for a legal defense fund shall keep a ledger for each audit and for each civil, criminal, or administrative proceeding identified in a Statement of Purpose, detailing all of the legal

defense fund's *contributions* and *expenditures* for each proceeding. Such ledgers shall be maintained separately from the *controlled committee's* accounting of *contribution* and *expenditure* activity unrelated to the legal defense fund.

**§27.2967 Disclosure of Legal Defense Fund Activity**

- (a) The *controlled committee* of any *City Official* or *candidate* who is a *candidate* in an upcoming *City election* shall disclose its legal defense fund activity on campaign statements filed in accordance with the schedule prescribed by the Political Reform Act.
- (b) The *controlled committee* of any *City Official* or *candidate* who is not a *candidate* in an upcoming *City election* shall disclose its legal defense fund activity on campaign statements filed quarterly, as follows:
  - (1) No later than April 30 for the period of January 1 through March 31.
  - (2) No later than July 31 for the period of April 1 through June 30.
  - (3) No later than October 31 for the period of July 1 through September 30.
  - (4) No later than January 31 for the period of October 1 through December 31.
- (c) The *City Official's* or *candidate's controlled committee* shall file separate summary pages and disclosure schedules for all *contributions* and *expenditures* made in connection with the legal defense fund, and shall clearly identify the name of the legal defense fund on all such summary pages and disclosure schedules.

**§27.2968 Impermissible Use of Legal Defense Fund**

- (a) It is unlawful for a *City Official* or *candidate* to use any portion of a legal defense fund to pay a fine, sanction, or other type of penalty.
- (b) It is unlawful for a *City Official* or *candidate* to transfer any portion of a legal defense fund to any other *committee*.

**§27.2969 Termination of Legal Defense Fund**

- (a) Within six months after the conclusion of the audit or of any lawsuits or proceedings for which the legal defense fund was established or maintained, the *City Official* or *candidate* may dispose of any remaining funds in the legal defense fund as follows:
  - (1) by paying outstanding legal costs incurred in the defense of any proceeding identified in the Statement of Purpose; or,
  - (2) by repaying the contributors on a pro rata basis; or,
  - (3) by making the funds payable to the City Treasurer for deposit in the General Fund of the *City*.
- (b) Within six months after the conclusion of all proceedings for which the legal defense fund was established, the *City Official* or *candidate* shall file with the *City Clerk* a “**Legal Defense Fund Termination**” statement declaring that the legal defense fund is no longer soliciting or accepting *contributions* for the legal defense fund, will not make further *expenditures* from the legal defense fund, and has properly disclosed all legal defense fund *contributions* and *expenditures*.



**§27.2970 Mass Mailings**

- (a) It is unlawful for any *candidate* or *committee* to send a *mass mailing* for the purpose of supporting or opposing a *City candidate* or *City measure* unless:
  - (1) the name, street address, and city of the *candidate* or *committee* sending the mailing are shown on the outside of each piece of mail in the *mass mailing* in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size; and
  - (2) each mailing includes the words “paid for by” immediately followed by the name, street address, and city of that *candidate* or *committee* in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.
- (b) For purposes of subsection (a), a post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.
- (c) If the sender of a *mass mailing* is a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).

**§27.2971 Telephone Communications**

- (a) It is unlawful for any *candidate* or *committee* to engage or hire others to engage in live or recorded telephone communications with 500 or more individuals or households for the purpose of supporting or opposing a *City candidate* or *City measure* unless the communications include the words “paid for by”

immediately followed by the name of the *candidate* or *committee* paying for the communications.

- (b) The statement required pursuant to subsection (a) shall be clearly audible and at the same general volume as the rest of the telephone message.
- (c) If the telephone communication is a recording, the statement required pursuant to subsection (a) shall be played at the same speed as the rest of the message.
- (d) If the telephone communication is paid for by a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).
- (e) Any *candidate* or *committee* paying for a live or recorded telephone communication subject to this section shall maintain a transcript of the message being communicated and a record of the number of calls for each message.

**§27.2972 Billboard Advertising**

- (a) It is unlawful for any *candidate* or *committee* to place any advertising on a billboard for the purpose of participating in a *City election* campaign unless the communication includes the words “paid for by” followed by the name of that *candidate* or *committee*.
- (b) The disclosure statement required by subsection (a) shall constitute at least five percent of the height of the advertisement and be printed in a contrasting color.

**§27.2973 Paid Spokespersons — Ballot Measures**

- (a) A committee that makes an *expenditure* of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a *City measure* shall file a report within 10 days of the

*expenditure*. The report shall identify the *measure*, the date of the *expenditure*, the name of the recipient, and the amount expended.

- (b) Any advertisement subject to the provisions of subsection (a) shall include the following statement: “(spokesperson's name) is being paid by this campaign or its donors” in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message.

**§27.2974 Independent Expenditures Supporting a Candidate**

- (a) It is unlawful for any *committee* making an *independent expenditure* to pay for an advertisement supporting or opposing a *City candidate* unless the advertisement includes the words “paid for by” followed by the name of that *committee*.
- (b) Any disclosure statement required by this section shall be printed clearly and legibly in type that contrasts with the background and is no less than 12 points in size, or, if the communication is broadcast, the information shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.
- (c) The provisions of subsections (a) and (b) do not apply to advertisements that are *internal communications*, or to advertisements that are made through e-mail communication or by placement on a slate mailer.
- (d) It is unlawful for a *candidate's controlled committee* to make *independent expenditures*, or otherwise contribute funds to any other *committee*, for the purpose of supporting or opposing a *City candidate*.

**§27.2975 Expenditures Supporting Ballot Measures**

- (a) It is unlawful for any *candidate* or *committee* to place an advertisement supporting or opposing a ballot *measure* unless the advertisement includes:
- (1) the words “paid for by” followed by the name of that *candidate* or *committee* in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size; and
  - (2) a disclosure statement identifying any *person* whose cumulative contributions are \$50,000 or more.
    - A. If there are more than two donors of \$50,000 or more, the *committee* is only required to disclose the highest and second highest in that order.
    - B. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the highest and second highest shall be selected according to the order in which the contributions were made.
- (b) The provisions of this section do not apply to advertisements that are *internal communications*, or to advertisements that are made through e-mail communication or by placement on a slate mailer.

**§27.2976 Identification of Entities Supporting Ballot Measures**

- (a) Any *committee* that supports or opposes one or more ballot *measures* shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of \$50,000 or more in any reference to

the *committee* required by law, including, but not limited, to its statement of organization filed pursuant to California Government Code section 84101.

- (b) If the major donors of \$50,000 or more share a common employer, the identity of the employer shall also be disclosed.
- (c) Any *committee* that supports or opposes a ballot *measure*, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.
- (d) If *candidates* or their *controlled committees*, as a group or individually, meet the *contribution* thresholds for a *person*, they shall be identified by the controlling *candidate's* name.
- (e) Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any *committee* that is primarily formed to support or oppose a ballot *measure*, shall, if supporting the *measure*, include the statement, "a committee for Proposition \_\_\_\_\_," or, if opposing the *measure*, include the statement, "a committee against Proposition \_\_\_\_\_," in any reference to the *committee* required by law.

**§27.2985 Duties of the City Clerk**

In addition to other duties required of the *City Clerk* 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) report, at the *City Clerk's* discretion, apparent violations of this division and applicable state law to the *Enforcement Authority*.
- (d) compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each *candidate* and each *measure*.
- (e) cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.

**§27.2990 Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers**

- (a) Any *person* who believes that a violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*.
- (b) 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.
- (c) The *Enforcement Authority* may elect to enforce the provisions of this division administratively pursuant to chapter 2, article 6, division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

**§27.2991 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 1 of this code, or if the matter is pursued by the *Enforcement Authority* as an administrative matter, any *person* found in violation is subject to the administrative penalties provided for in chapter 2, article 6, division 4.

- (b) In addition to being subject to the penalties set forth in chapter 1 of this code, any *person* found guilty of violating sections 27.2935 or 27.2950, 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 in a court of law of a violation of any provision of this division, the *election* to office of such *candidate* or officeholder 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 officeholder'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 this subsection, the vacancy shall be filled in accordance with the procedures set forth in the *City's* Charter for the filling of vacant *City* offices.
- (d) If a *candidate* is convicted in a court of law 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 in a court of law 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.

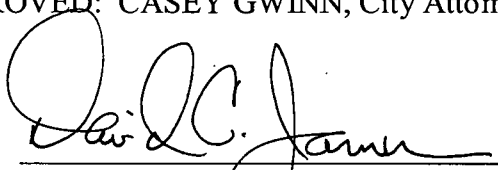
- (f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to mn until the *City's* discovery of the violation.

Section 3. 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 4. That this ordinance shall take effect and be in force on January 1, 2005.

APPROVED: CASEY GWINN, City Attorney

By

  
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David C. James  
Deputy City Attorney

DCJ:amp  
07/28/2004  
08/16/2004 COR. COPY  
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