

ORDINANCE NUMBER O- 20592 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 28 2016

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.1009; AMENDING AND RETITLING SECTION 27.1010; REPEALING SECTION 27.1011; AMENDING AND RENUMBERING SECTION 27.1012 TO SECTION 27.1011; ADDING A NEW SECTION 27.1012; AMENDING SECTION 27.1013; REPEALING SECTION 27.1014; AND AMENDING SECTIONS 27.1017, 27.1018 AND 27.1048, RELATING TO THE CITY OF SAN DIEGO ELECTION CODE ORDINANCE AND THE INITIATIVE PROCESS

WHEREAS, article XI, section 5(a) of the California Constitution provides that a charter city may “make and enforce all ordinances and regulations in respect to municipal affairs,” and that “[c]ity charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith”; and

WHEREAS, article XI, section 5(b) grants plenary authority to charter cities to provide laws in their charters for the “conduct of city elections”; and

WHEREAS, the San Diego Charter thus governs City elections and Charter section 8 requires the City Council to adopt an election code ordinance, “providing an adequate and complete procedure to govern municipal elections”; and

WHEREAS, Charter section 23 sets forth the percentage of registered voters who must sign a petition to place an initiative on the ballot, and requires the Council to include in the election code ordinance an “expeditious and complete procedure for the exercise by the people of the initiative”; and

WHEREAS, the Council adopted an election code ordinance in the San Diego Municipal Code that includes a chapter detailing the City's initiative procedures at Chapter 2, Article 7, Division 10, sections 27.1001 through 27.1051; and

WHEREAS, the Council now desires to amend the Municipal Code sections governing the City's initiative procedures to update and clarify the process, and to ensure more uniformity with the City's other election processes, including uniformity with amendments brought forth in a separate ordinance regarding the City's referendum laws, including those that provide more disclosures to voters signing petitions; and

WHEREAS, San Diego voters have been asked to sign initiative and referendum petitions frequently in recent years; and

WHEREAS, from January 2008 through December 2013, only three referendum petition efforts were formally initiated in the City of San Diego, but since December 2013, City Council actions have been blocked by referendum drives five times; and

WHEREAS, the number of referendum campaigns in San Diego is reportedly more than any other California city has experienced in recent years, with millions of dollars contributed by private entities to professionally organized petition campaigns; and

WHEREAS, in the recent One Paseo referendum effort, a record 26,999 requests were submitted by people asking to have their signatures removed from referendum petition signature sheets, with 3,220 such requests qualifying to remove voter signatures, with some citizens stating they did not fully understand the measure upon signing it; and

WHEREAS, San Diego's Election Code Ordinance requires an initiative or referendum petition to include the questioned legislative act in full and a statement of reasons for the petition; and

WHEREAS, the Election Code Ordinance does not require information to be shown to voters regarding the persons and entities financing a referendum or initiative petition; and

WHEREAS, the City of San Diego's campaign laws currently require the inclusion of a "paid for by" disclosure on various types of campaign advertisements, and committees formed for the purpose of supporting or opposing a City candidate or measure are required to include the identity of their top two donors of \$10,000 or more in an advertisement, as those providing major funding to the committee; and

WHEREAS, voters asked to sign referendum or initiative petitions have the right to similar information regarding the persons and entities financing a petition at the moment they are asked to sign the petition, as such information would allow a voter to make a more informed decision as to whether to sign the petition; and

WHEREAS, donor disclosures would provide more transparency and better inform the public about the measure the voter is being asked to sign before signing it; and

WHEREAS, substantive changes include: (1) adding a section requiring petition circulators to provide information to voters regarding donors to the initiative petition, including the identities of at least the top two donors that contributed cumulative amounts of \$1,000 or more, the amounts contributed, and the date the list was compiled, as well as providing the address of a website for current donor information; (2) requiring petition circulators to update the donor disclosure statement for signing voters within 48 hours of any change to the list of the five largest contributors; (3) clarifying how and when a voter may have his or her signature withdrawn from the petition, to use the same rule that applies to recall and referendum; (4) including language for circulator affidavits that is the same as that found in other sections of the

election ordinance; and (5) moving form and format rules related to initiative petitions out of the Municipal Code and into the City Clerk Administrative Guidelines, which are also available on the City of San Diego's website; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 7, Division 10 of the San Diego Municipal Code is hereby amended by amending section 27.1009; by amending and retitling section 27.1010; repealing section 27.1011; by amending and renumbering section 27.1012 to section 27.1011; by adding a new section 27.1012; by amending section 27.1013; by repealing section 27.1014 and by amending sections 27.1017, 27.1018 and 27.1048 as follows:

§27.1009 Form of Initiative Petition

- (a) Initiative *petition* forms shall be furnished by the *proponent*.
- (b) The form and format of the initiative *petition*, including the form of *voter* signature sheets and information to be included on such sheets, shall follow the guidelines as outlined in the City Clerk Administrative Guidelines, available to the public at the office of the *Clerk* and on the City's website.

§27.1010 Statement of Reasons for Initiative Petition

The statement of reasons shall set forth the reasons for the initiative *petition*. It shall contain no more than 300 words. It shall be signed by the individual initiating the proposed legislative act or, if the *proponent* is an organization, by two officers of the organization. The individual or officers signing the statement shall also affix the date of signing, and a residence, business or mailing address at which the *proponent* may be reached.

§27.1011 Signing Voter's Information for Initiative Petition

- (a) Signatures on the *voter* signature sheets shall be executed by *voters* in their own handwriting and each signer shall also affix his or her printed name, and place of residence, including street and house number, or other designation from which the location of the place of residence may be readily ascertained. Post office box numbers, business addresses, or mailing addresses that are not residence addresses are not permitted and, if used, shall make that *voter's* signature invalid. *Voters* shall also affix the date of their signature.
- (b) The form of the *voter* signature sheets shall follow the guidelines as outlined in the City Clerk Administrative Guidelines, available to the public at the office of the *Clerk* and on the City's website, as stated in section 27.1107.

§27.1012 Information Provided to Voters by Circulators

- (a) *Voters* have the right to ask *petition circulators* for information regarding the persons and entities financing the initiative *petition*. Such information shall be made available to *voters* when *voters* are asked to sign the *petition*.
- (b) Information shown to *voters* by *circulators* shall include a list of donors to the initiative *petition*, which must be conspicuous and include the identities of at least the top two donors that contributed cumulative amounts of \$1,000 or more, the amounts contributed, and the date the list was compiled. *Circulators* shall provide *voters* with the address of a

website where *voters* can find current donor information. The disclosure statement shall be updated within 48 hours of any change to the list of the five largest contributors.

§27.1013 Circulator’s Affidavit of Authenticity for Initiative Petition

Each initiative *petition* section shall have attached to it an affidavit of authenticity of the *circulator*, signed by the *circulator* under California perjury laws, of the following form:

AFFIDAVIT

COUNTY OF SAN DIEGO) } ss.

STATE OF CALIFORNIA)

Under penalty of perjury, under the laws of the State of California, I, (printed name of *circulator*), declare: That all of the signatures on the voter signature sheets of this petition section were made in my presence and were observed by me; that all of the sheets constituting this petition section were fastened together at the time such signatures were made; and that, to the best of my knowledge and belief, such signatures are the genuine signatures of the persons who have signed the petition; and that the signatures were obtained between:

(Beginning date of circulation)	AND	(Final date of circulation)
(Circulator’s Printed Name)		(Circulator’s signature)
		(Date and Place of Signing by Circulator)

§27.1017 Signatures on Initiative Petition

- (a) An initiative *petition* may be signed by any *voter* of the City of San Diego.
- (b) Signatures of individuals who are not *voters* shall be invalid and shall not be counted.

§27.1018 Withdrawal of Signature from Initiative Petition

Any *voter* signing a *petition* shall have his or her signature withdrawn from the *petition* if the *voter* files with the *Clerk* a written request to withdraw the signature, bearing his or her name, address, and signature, before the *petition* is filed with the *Clerk*. In order to be valid, the withdrawal request must also be received by the *Clerk* on or after the date the *voter* signed the *petition*. Once the *petition* is filed with the *Clerk*, no signatures may be withdrawn.

§27.1048 Referendary Provisions Applicable to Initiated Legislative Acts

Any legislative act proposed by an initiative *petition* and adopted by the *Council* shall be subject to the referendary provisions of this article.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED AS TO FORM ONLY JAN I. GOLDSMITH, City Attorney

By Sharon B. Spivak
Sharon B. Spivak
Deputy City Attorney

SBS:jdf
11/03/15
12/08/15 COR. COPY
Or.Dept:Council District 3
Doc. No.: 1160134

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 12 2016.

ELIZABETH S. MALAND
City Clerk

By Ata Reed
Deputy City Clerk

Approved: 1/12/16
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JAN 12 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 28 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Sty Chad, Deputy

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

DEC 08 2015, and on JAN 28 2016

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Sty Chad, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20592

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.1009; AMENDING AND RETITLING SECTION 27.1010; REPEALING SECTION 27.1011; AMENDING AND RENUMBERING SECTION 27.1012 TO SECTION 27.1011; ADDING A NEW SECTION 27.1012; AMENDING SECTION 27.1013; REPEALING SECTION 27.1014; AND AMENDING SECTIONS 27.1017, 27.1018 AND 27.1048, RELATING TO THE CITY OF SAN DIEGO ELECTION CODE ORDINANCE AND THE INITIATIVE PROCESS

Article 7: Elections, Campaign Finance and Lobbying

Division 10: Initiative

§27.1009 Form of Initiative Petition

- (a) Initiative *petition* forms shall be furnished by the *proponent*.
- (b) The form and format of the initiative *petition*, including the form of voter signature sheets and information to be included on such sheets, shall follow the guidelines as outlined in the City Clerk Administrative Guidelines, available to the public at the office of the *Clerk* and on the *City's website*.

~~Any *petition* initiating a proposed legislative act shall be in substantially the following form, and printed in clear, readable type no smaller than 10 point in size:~~

INITIATIVE PETITION

To the Honorable City Council of The City of San Diego:

We, the undersigned registered voters of The City of San Diego, California, by this petition hereby respectfully propose the following legislative act be adopted by the City Council or submitted to the registered voters of The City of San Diego for their adoption or rejection:

(NOTE: Here insert a copy of the published notice of intention containing the proposed legislative act in full and the statement of reasons prepared in accordance with Section 27.1010; the *voter* signature sheets prepared in accordance with Section 27.1011; and the *circulator's* affidavit of authenticity prepared in accordance with Section 27.1014.)

§27.1010 Form of Statement of Reasons for Initiative Petition

The statement of reasons shall set forth the reasons for the initiative *petition*. It shall contain no more than 300 words. The statement of reasons shall be printed in clear, readable type no smaller than 10 point in size. It shall be signed by the individual initiating the proposed legislative act or, if the *proponent* is an organization, by two officers of the organization. The individual or officers signing the statement shall also affix the date of signing, and a residence, business or mailing address at which the *proponent* may be reached.

§27.1011 Form of Voter Signature Sheets for Initiative Petition

(a) On the right hand of each *voter* signature sheet, a space at least one inch wide shall be left blank for the *City Clerk's* use in verifying the validity or invalidity of the signatures. *Voter* signature sheets shall be arranged and lined to provide space for each *voter's* signature, each *voter's* printed name, place of each *voter's* residence, and date of each *voter's* signature.

(b) Above the signature portion of each voter signature sheet, the following language shall appear in clear, readable type no smaller than 12 point in size:

“NOTICE TO THE PUBLIC
THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER
OR BY A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.”

(c) The signature portion of the sheet shall be in substantially the following form:

Name	Residence	Date	Clerk's Use Only
<u>1. Sign</u> Print			
<u>2. Sign</u> Print			
<u>3. Sign</u> Print			

§27.10121 Signing Voter's Information for Initiative Petition

- (a) Signatures on the voter signature sheets shall be executed by voters in their own handwriting and each signer shall also affix his or her printed name, ~~date of his or her signature~~, and place of his or her residence, including street and house number, or other designation from which the location of the place of residence may be readily ascertained. Post Office box numbers, business addresses, or mailing addresses that are not residence addresses are not permitted and, if used, shall make that voter's signature invalid. Voters shall also affix the date of their signature.
- (b) The form of the voter signature sheets shall follow the guidelines as outlined in the City Clerk Administrative Guidelines, available to the

public at the office of the Clerk and on the City's website, as stated in section 27.1107.

§27.1012 Information Provided to Voters by Circulators

- (a) Voters have the right to ask petition circulators for information regarding the persons and entities financing the initiative petition. Such information shall be made available to voters when voters are asked to sign the petition.
- (b) Information shown to voters by circulators shall include a list of donors to the initiative petition, which must be conspicuous and include the identities of at least the top two donors that contributed cumulative amounts of \$1,000 or more, the amounts contributed, and the date the list was compiled. Circulators shall provide voters with the address of a website where voters can find current donor information. The disclosure statement shall be updated within 48 hours of any change to the list of the five largest contributors.

§27.1013 Circulator's Affidavit of Authenticity for Initiative Petition

Each initiative *petition* section shall have attached to it an affidavit of authenticity of the *circulator*, signed by the *circulator* under California perjury laws, of the following form:

AFFIDAVIT

COUNTY OF SAN DIEGO) _____ } ss.

STATE OF CALIFORNIA)

Under penalty of perjury, under the laws of the State of California, I, (printed

name of circulator), declare: That all of the signatures on the voter signature sheets of this petition section were made in my presence and were observed by me; that all of the sheets constituting this petition section were fastened together at the time such signatures were made; and that, to the best of my knowledge and belief, such signatures are the genuine signatures of the persons who have signed the petition; and that the signatures were obtained between:

(Beginning date of circulation)

AND

(Final date of circulation)

(Circulator's Printed Name)

(Circulator's signature)

(Date and Place of
Signing by Circulator)

~~§27.1014 Form of Circulator's Affidavit of Authenticity for Initiative Petition~~

~~The circulator's affidavit of authenticity shall have the following form:~~

~~AFFIDAVIT OF AUTHENTICITY~~

~~COUNTY OF SAN DIEGO) } ss.~~

~~STATE OF CALIFORNIA)~~

~~Under penalty of perjury, I, (printed name of circulator), declare: That all of the signatures on the voter signature sheets of this petition section were made in my presence and were observed by me; that all of the sheets constituting this petition section were fastened together at the time such signatures were made; that, to the best of my knowledge and belief, such signatures are the genuine signatures of the individuals who signed the petition; and that the signatures were obtained~~

between:

_____ (Beginning date of circulation)	AND	_____ (Final date of circulation)
_____ (Circulator's Printed Name)		_____ (Circulator's signature)
_____ (Circulator's Residence)		_____ (Date Signed by Circulator)

§27.1017 Signatures on Initiative Petition

- (a) An initiative petition may be signed by any voter of the City of San Diego. Only voters may sign the voter signature sheets of an initiative petition.
- (b) Signatures of individuals who are not voters shall be invalid and shall not be counted.

§27.1018 Withdrawal of Signature from Initiative Petition

~~Any individual who has signed an initiative petition's voter signature sheet may withdraw his or her signature by filing a written request bearing his or her name, address and signature in the Office of the City Clerk prior to the time the petition is filed. Any voter signing a petition shall have his or her signature withdrawn from the petition if the voter files with the Clerk a written request to withdraw the signature, bearing his or her name, address, and signature, before the petition is filed with the Clerk. In order to be valid, the withdrawal request must also be received by the Clerk on or after the date the voter signed the petition. Once the petition is filed with the Clerk, no signatures may be withdrawn.~~

§27.1048 Referendary Provisions Applicable to Initiated Legislative Acts

Any legislative act proposed by an initiative *petition* and adopted by the City ~~Council~~, or any legislative act submitted to the voters by the City ~~Council~~ with or without having first received a qualifying *petition* therefor, that has been adopted by the voters, shall be subject to the referendary provisions of this article.

SBS:jdf

10/30/15

Or.Dept: Council District 3

Doc. No.: 1006334_2